

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON AGING JOINTLY WITH
COMMITTEE ON CIVIL AND HUMAN RIGHTS

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October 8, 2019
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HELD AT: Council Chambers - City Hall

B E F O R E: Margaret S. Chin
Chairperson

Mathieu Eugene
Chairperson

COUNCIL MEMBERS: Diana Ayala
Chaim M. Deutsch
Ruben Diaz, Sr.
Deborah L. Rose
Mark Treyger
Paul A. Vallone
Daniel Dromm
Brad S. Lander
Bill Perkins
Ydanis A. Rodriguez

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

Marisol Salceda, Journalist

Vivian Lee, Reporter and Anchor at New York 1

Amanda Farinacci

David Gotleib, Wigdor LLP Attorneys for Amanda Farinacci & Vivian Lee

Julia Elmaleh-Sachs, Wigdor, LLP, Attorneys for Amanda Farinacci and Vivian Lee

Edgar J. Yu, Chief of Staff, New York City Department for the Aging on behalf of Commissioner Lorraine Cortes Vazquez

Maria Serrano, Director, Senior Employment Unit Department for the Aging, DFTA

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

Sapna V. Raj, Deputy Commissioner for Law Enforcement Bureau, City Commission on Human Rights, CCHR

Bobbie Sackman, Radical Age Movement and New York State Alliance for Retired Americans

Ruth Finkelstein, Executive Director of Hunter College's Brookdale Center on Aging

Christian Gonzalez Rivera, DFPCirector of Strategic Policy Initiatives, Hunter College's Brookdale Center on Aging

Jenna Gladfelter, Representing Live on New York

Karen Cacace, Director, Employment Law Unit, Legal
Aid Society

Katie Malkatarski, Teacher & Coach, Department of
Education's Office of Adult and Continuing
Education

Lila Malamute, Paralegal, Employment Law Project
New York Legal Assistance Group

2 [sound check]

3 CHAIRPERSON CHIN: Good afternoon. I'm
4 Council Member Margaret Chin, Chair of the Committee
5 on Aging. Thank you for joining us today for our
6 joint oversight hearing on age discrimination in the
7 workplace held by the Committee on Aging and the
8 Committee on Civil and Human Rights. Just last fall
9 the Commit—the Committees held the first ever hearing
10 on age discrimination in the workplace, and today's
11 hearing is a follow-up on a number of pressing issues
12 and critical pieces of legislation to protect our
13 city's seniors from age discrimination in the
14 workplace. Today the committee will hear testimony on
15 introduction No. 1693, 1694 and 1695 all of which I
16 am proud to sponsor. We will also hear testimony on
17 Introduction No. 1684 and 1685 sponsored by Council
18 Member Ayala. During last year's hearing on age
19 discrimination in the workforce, we heard
20 disheartening stories from older adults about their
21 experience being discriminated in the workplace.
22 Sometimes this discrimination happens while an older
23 adult is employed. Sometimes it happens before they
24 can even get their foot in the door. Unfortunately,
25 their experiences are not unique. According to the

2 United States Equal Employment Opportunity Commission
3 or EEOC, during Fiscal Year 2018 age discrimination
4 accounted for more 22% of complaints made to the EEOC
5 with nearly 17,000 total complaints filed. The New
6 York City Commission on Human Rights or CCHR reported
7 that in 2017 about 2% of just 193 of the inquiries
8 fielded by frontline staff at the Commission were age
9 discrimination inquiries. Of these 193 queries, 119
10 were related to age discrimination in employment.

11 Despite the large number of inquiries received, CCHR
12 filed only 29 claims of age discrimination related to
13 employment that same year. These figures are
14 incredibly low for a city of over 1.1 million adults
15 over the age of 65. As acknowledged by the

16 Administration last year, these lone figures may be
17 because age discrimination often occurs during the
18 hiring stage, which is very difficult for victims to
19 prove. They may also be due to the fact that many

20 older adults are simply unaware of their rights or
21 who to turn to in order to file a complaint. At last
22 year's hearing, the committee learned that the

23 Department for the Aging of DFTA and CCHR engaged in
24 a number of programming to increase awareness of age
25 discrimination in the workplace including providing

2 frequent know your rights information at community-
3 based organizations and senior centers. Despite the
4 Administration's efforts citywide seniors are
5 enduring age discrimination in the workforce and many
6 of them are still not reporting these injustice. We
7 cannot allow the current trends to continue. This is
8 why I am proud to sponsor critical legislation that
9 will move our city forward by providing important
10 protection for older workers—older adult workers and
11 aspiring workers. Along with Council Member Ayala, I
12 am proud to support and sponsor the Age
13 Discrimination package. First, Introduction No. 1684
14 sponsored by Council Member Ayala will require the
15 City Human Right Commission to create a poster on
16 age discrimination including how to identify it and
17 how to file complaints, and require every city agency
18 to display this poster. Introduction 1685 also
19 sponsored by Council Member Ayala, would require CCHR
20 to provide age discrimination training to city
21 agencies. City employees would be required to make
22 this training through their agency annually.
23 Introduction No. 1693, which I sponsored would create
24 a task force to study age discrimination in the
25 workplace. This task force would be staffed by

2 members of CCHR and DFTA, the Department of Small
3 Business Services and other advocates and members of
4 the business community. This bill requires the task
5 force to issue recommendations within 12 months about
6 how the city can help to address and eliminate age
7 discrimination in the workplace. Introduction No.
8 1694 would create an office of older adult workforce
9 development, which would be tasked with coordinating
10 and centralizing city efforts of connecting older
11 adults to jobs and careers. And finally,
12 Introduction No. 1694 would require CCHR to conduct
13 investigations of age discrimination in the workplace
14 in an employment testing program. I look forward to
15 having a thoughtful conversation about the
16 comprehensive package of age discrimination bills put
17 forth by the committee and about how they might be
18 made stronger. I also look forward to learning about
19 the progress DFTA and CCHR have made since last
20 year's hearing with ensuring that instances of age
21 discrimination are reported by older adults and such
22 discrimination is effectively addressed. I'd like to
23 thank the committee staff for their help in
24 organizing this hearing, our Counsel Nuzhat
25 Chaudhary; Policy Analyst Calima Johnson, and Final

2 Analyst—Finance Analyst Daniel Kroop, and Finance
3 Unit Head Dohini Sompura. I'd also like to thank my
4 Legislative Director Marina Guerra, and also like to
5 thank the other members of the committee who have
6 joined us today. We have Council Member Vallone,
7 Council Member Diaz, Council Member Rose, Council
8 Member Perkins, and now I would like to turn the
9 floor over to my Co-Chair Council Member Eugene for
10 some opening remarks. Thank you.

11 CHAIRPERSON EUGENE: Thank every much
12 Council Member Chin. Good afternoon. My name is
13 Mathieu Eugene, and I am the Chair of the Civil and
14 Human Rights Committee. I would like to thank my
15 colleague Chairman Margaret Chin of the Committee on
16 Aging for making this joint hearing possible. Today
17 our committees will be hearing testimony on five
18 bills that aim to tackle the issues of age
19 discrimination against older workers. Even though
20 New York City has some of the strongest anti-
21 discrimination laws in the country, we still hear
22 stories about older workers being discriminated
23 against while either working or trying to gain
24 employment. Some of these issues were highlighted at
25 the previous joint oversight hearing we held on this

2 topic last year. We have identified the range of
3 legislation measures that gave us instructing
4 protection for these workers. Three of the five
5 bills that the City Commission on Human Rights to
6 give up give valuable measure to tackle age
7 discrimination in the workplace. While we are
8 acknowledging the good work that the Commission
9 already does, we believe that this bill can give the
10 city more tools to tackle the problem. For example
11 Introductory Bill No. 1684 would require the
12 Commission to create a poster that explains age
13 discrimination and provides examples of forbidden
14 conduct. These posters will then have to be
15 displayed by every city agency, and introductory No.
16 1685 also focuses on education materials. If passed,
17 it would require the Commission in conjunction with
18 the Department for the Aging to give opportunity and
19 material on age discrimination. In addition to
20 making this available on their website, the
21 Commission would also provide annual tuning to each
22 city agency. Lastly, under the Introductory Bill No.
23 1695, the Commission would be required to conduct
24 testing especially the way to identify cases of age
25 discrimination. The Commissioner will then undertake

2 this step of investigation for other forms of
3 discrimination, and he has helped detect many bad
4 actors. The final...the final two bills 1693 and 1694
5 would respectively establish a task force and Office
6 of Older Adult Workforce Development to ensure that
7 this issue remains the focus for the city action. We
8 look forward to hearing testimony on this bill today
9 from the Commission on Human Rights, the Department
10 for the Aging, advocates and stakeholders. Before we
11 begin, I think that my colleagues have been
12 recognized already, but now I would like to thank the
13 Committee staff, Becky Nouri (sp?) Senior Counsel to
14 the Committee; Leah Skrzypiec, Policy Analyst, and
15 Nevin Singh, Finance Analyst as well as my staff
16 David Wise and Dean Fagan. Now, I would like to turn
17 it back to our-my Co-Chair Margaret Chin.

18 CHAIRPERSON CHIN: Thank you, Chair
19 Eugene. We would like to call up our first panel,
20 Amanda Farinacci-Farinacci; Marisol Salceda, Vivian
21 Lee, David Gotlet, and Julia Almatti-Sack.
22 [background comments/pause].

23 CHAIRPERSON CHIN: Please identify
24 yourself before you testify. You may begin. Thank
25 you.

2 MARISOL SALCEDA: Sorry. Good afternoon.
3 Buenos tardes. My name is Marisol Salceda and I am
4 52 years old. [background comments/pause] Thank you
5 for inviting us on the record Council Member Margaret
6 Chin, members of the Women's Caucus, all of you for
7 the introduction of this historic legislative
8 package. I came here to cover your work, but I never
9 imagined having to be on this side. I know by
10 experience how essential and vital is your work. I
11 have no doubt that this is needed and the need is
12 urgent. I hope that other cities follow your
13 leadership, your commitment with senior workers, our
14 livelihood and how it consequently affects our
15 families, and even the economy. I also want to
16 publicly thank my larger client Heller and Dan
17 Coville from Schwartz, Perry and Heller for their
18 commitment to justice. When researching gender and
19 more specifically age discrimination, what I have
20 found has been appallingly and discouraging. Here
21 are some phases, and you can find them all over the
22 Internet. Proving age discrimination is difficult.
23 While you might think you have an air-tight case, the
24 odds against winning could be low. What's more, you
25 could wind up paying a high price not just

1 monetarily, by going to court. More phrases. Even
2 if you have grounds for a suit, career experts say
3 going to court could be a mistake. Suing your
4 employer for age discrimination is basically playing
5 Russian roulette for your career future. You burned
6 your bridges and may never get hired again. Imagine
7 this: You're in your 50s. You have kids in college
8 with student loans. The situation is so difficult
9 the that when they graduate you tell them that it is
10 okay to come back and live in your basement, but then
11 you're discriminated by age and gender. I heard this
12 story multiple times, too many times. Our society is
13 aging. The system is broken, and not only for senior
14 workers but for young workers who have recently
15 graduated with intense debt student loans while
16 watching their parents suffer a huge life change not
17 being able to fulfill their basic living needs. I'm
18 going to say some things in Spanish as well if you
19 allow me to. [Speaking Spanish] And this is basically
20 a translation. I graduated from the university of
21 Puerto Rico School of Public Communications my cum
22 laude in 1990. I founded the Association of
23 Journalists—Journalists and Students and was awarded
24 a leadership award on my graduation. But I started
25

1 working in 1989 at one of the main media in my
2 beloved Puerto Rico. My country has extraordinary
3 journalists. I have worked as a reporter
4 investigative reporter on their tanning (sic) for
5 news, news director for these service—these directors
6 and I mean they are first are journalists, too. I've
7 been a senior leader journalist. I have supervise
8 news rooms. I've been accountant strategies,
9 consultant, speaker at the Excellence in Journalism
10 Convention on how to establish an investigative and
11 consumer unit. I have multiple nomination for NATAS
12 (sic) and I can keep going. I have something else.
13 As I've been—I have served as a member of the
14 National Academy of Television Arts and Sciences in
15 two boards in Chicago Midwest Chapter and for the New
16 York Chapter. I'm a journalist at heart and to the
17 core, and I have never in my life seen the bold
18 manner in which my former employer destroys careers
19 based on genders and age. Furthermore and worst of
20 all, how they choose to close their eyes and ears to
21 the loud multiple cases asking them only to
22 investigate and to change their ways it's been
23 ignored. [Speaking Spanish] They went effect in good
24 faith [Speaking Spanish] That is why I was—I also
25

2 want to thank Romato Ray, Janine Radiess (sp?)
3 Christian Shaughnessy, and Janine Ramirez, Christian
4 Shaughnessy, and Julie Farinacci. Vivian Lee, you
5 Pelia Paris, Mitchell Greenstein, you have exposed
6 yourself. You have been vulnerable. You have had to
7 ensure great distress to also pave the way for a new
8 future. Thank you. You're courageous, brave,
9 seekers of truth, which is who we are as journalists.
10 Your actions are shedding light to what needs to be
11 exposed, discussed, resolved and in Spanish [Speaking
12 Spanish] I mean my invitation to other broadcast
13 journalists to come out to expose injustice and
14 advocate for change in our industry, and to other
15 people because this is epidemic. May corporations
16 and institutions have beautiful statements about
17 their core values. They talk about integrity,
18 respect, about diversity and diversity is also great,
19 but it is also only a pretty statement to show on
20 paper not demonstrated in actions. Finally, I want
21 to remind American Civil Rights activists and poet
22 Maya Angelou's words: Each time a woman stands up
23 for herself, she's stands up for all women. Thank
24 you.

2 VIVIAN LEE: Thank you Marissa. [off mic]
3 Thank you Marissa. [on mic] My name is Vivian Lee.
4 [background comments/pause]

5 AMANDA FARINACCI: My name is Amanda
6 Farinacci.

7 DAVID GOTLEIB: I'm David Gottleib from
8 Wigdor, LLP, Attorneys for Ms. Farinacci and for Ms.
9 Lee.

10 JULIA ELMALEH-SACHS: I'm Julia Elmaleh-
11 Sachs from Wigdor, LLP, attorneys for Ms. Farinacci
12 and Ms. Lee.

13 VIVIAN LEE: Good morning, good
14 afternoon. [laughs] It's been a long day so far.
15 Thank you to Council Member Margaret Chin and the
16 entire City Council Committee on Aging for inviting
17 us to speak to you today. We are very grateful to
18 this committee for choosing to shed light on the
19 critical issue of age discrimination in our city. I
20 am 44 years old. I am a reporter and anchor at New
21 York 1. For nearly 20 years more than half of them
22 at New York 1, I've covered issues revolving around
23 or stemming from the work of this City Council and
24 its committees. I sit before you with my long-time
25 colleague and friend Amanda Farinacci, and Marisol

2 Salceda, and as you well know, Amanda and I along
3 with three of our colleagues: Roma Torre, Christian
4 Shaughnessy and Janine Ramirez have filed a lawsuit
5 alleging systemic age and gender discrimination
6 against New York 1, which owned by Charter
7 Communications. Charter employs thousands of
8 employees in New York State and tens of thousands
9 across the U.S. Starting in the fall of 2017, a
10 movement occurred in this country. Women started
11 coming forward with allegations of sexual misconduct
12 against numerous powerful and seemingly untouchable
13 men. These courageous women helped give others the
14 strength to come forward who in turn gave even more
15 women the courage to speak out. Of course, I am
16 talking about the Me, Too Movement, which has been
17 life changing to women here and around the world.
18 More on why this informed our commitment to fighting
19 ageism in a moment. During the same time period I
20 began experiencing latent age and gender
21 discrimination at New York 1. I soon realized I was
22 not alone. My co-plaintiffs and I are all anchors
23 and reporters and we have been there for ten years
24 ranging 11 to 27 years. So, collectively more than a
25 century. However, after Charter took over New York 1

1 from Time Warner Cable in 2016, we became
2 marginalized in every imaginable way, New prime time
3 anchoring positions were created and given
4 exclusively to younger women and men. Prime
5 anchoring slots, which previously been ours were also
6 given to younger women and men. Promotional efforts
7 were focused entirely on younger women and men. The
8 list goes on and on from there. The complaint we
9 filed in court is more than 80 pages long with
10 examples. We made numerous complaints to management
11 about this conduct, and were all repeatedly told
12 essentially to stop complaining. Many people have
13 asked us whether we were scared to file a public
14 lawsuit, and the answer is yes. Without a doubt we
15 all love what we do information New Yorkers about the
16 important issues of the day, what to think about,
17 what to care about, what's happening down the street
18 from you, and over many years we had all gotten very
19 good at our jobs. We never expected to become the
20 news, but what was scarier is what would have
21 happened if we did nothing, and the lessons of the
22 Me, Too Movement helped to give us the courage to
23 come forward, and tell our story. Media coverage of
24 our case and support from various organizations who
25

2 fight for gender equity have expressed how the issues
3 raised in our lawsuit while different from
4 allegations raised in numerous Me, Too stories are
5 undeniably related, separate but linked. The common
6 denominating factor between our case and Me, Too, as
7 is that women are not treated as equals. It is not
8 secret that TV news has long disfavored older women,
9 but perhaps naively felt it wouldn't happen to us. I,
10 Amanda and my fellow colleagues naively thought
11 things would change by the time we approached middle
12 age, but men are still allowed to age with dignity,
13 and grace. Gray hair and wrinkles give them more
14 gravitas while it makes us more disposable. I only
15 wish that when I was in my 20s I wasn't lulled into
16 thinking ageist would never affect me, and we know
17 our industry is not the only ones where these
18 stereotypes are felt. We sympathize with all women
19 who are looked down upon and treated as second class
20 citizens as they age.

21 Thank you Vivian. Good afternoon again.
22 My name is Amanda Farinacci. I am also a reporter
23 and fill in anchor sometimes at New York 1. I am 40
24 years old. As Vivian stated, we are so grateful to
25 the City Council and to the Committee on Aging for

2 introducing legislation that will help combat age
3 discrimination in the workplace. We are honored and
4 eternally grateful to be given the opportunity to
5 testify before you today, and hope that our lawsuit
6 has helped to shine a light on this serious and
7 pervasive problem. I can tell you that in 19 years
8 of work at New York 1, I have covered literally
9 dozens of these hearings standing right over there on
10 the other side of this room. I never, ever in my
11 wildest dreams imagined that I would be any place
12 else in this room besides on that riser reporting on
13 the issues, and obviously because of the urgency and
14 the weight and importance of this issue is the reason
15 why I'm not part of this testimony. By creating a
16 task force to study the consequences of
17 discrimination in the workplace and requiring the New
18 York City Commission on Human Rights to investigate
19 ageism, the City Council is sending a powerful,
20 powerful message to employers like New York 1 that
21 ageism has a very real impact on employees like
22 Vivian and me and Marisol and our three other co-
23 plaintiffs. In addition, the bill's mandate for the
24 city's Commission on Human Rights to develop training
25 materials that would help identify, prevent and

2 eliminate age discrimination in the workplace, gives
3 us hope that New Yorkers will become increasingly
4 aware of—aware of and sensitive to this problematic
5 and unlawful form of discrimination. As Council
6 Member Ayala noted in her statement, that age
7 discrimination disproportionately impacts women, and
8 as Vivian mentioned, we've witnessed this first hand.
9 It is personal for each of us who have come forward
10 with this suit, and I can guarantee that if you bring
11 this issue home to your families, to your friends to
12 women co-workers, to anyone in this room, you will
13 find a woman who can identify with this problem, and
14 you're shaking your heads, and this is personal for
15 all of us. So, this is a conversation that is far
16 too long in—in being spoke about. . Clearly, this
17 issue at its core is a women's rights issue because
18 it especially affects women. The problem really if
19 you dumb it down is that nobody gets younger, but we
20 all get older. Those 20-year-old women who are
21 replacing me on air today will one day be me.
22 They'll be 40 and they will be thrust aside in favor
23 of men and women younger than themselves if we don't
24 take a stand and highlight this issue now. So once
25 again we'd like to express our thanks to this

2 committee for doing just that for giving us an
3 opportunity to speak about this and thank you to
4 everyone who is here today sharing their inspiring
5 and their brave personal stories.

6 It is. You'd think I'd know about
7 microphones by now right? [laughter] It is truly
8 unfortunate that our society continues to be
9 reluctant to place value on older workers and
10 especially on older women. As the number of working
11 older adults continues to grow in our city, it is our
12 hope that we as a community will increase our
13 respect, our appreciation for both men and women of a
14 certain age ,and that employers will learn they
15 cannot discriminate against someone for their age.
16 We commend Council Member Chin for leading the fight
17 against age discrimination, and introducing this
18 crucial legislation, which will help to destigmatize
19 aging by bringing it further into the public
20 discourse. Thank you for your passion and hard work
21 and we look forward to seeing our city lead the
22 country on this issue.

23 CHAIRPERSON CHIN: I wanted to really
24 thank the panel especially all of you who testified
25 and thank you for your courage, and thank you for

2 supporting our fight because we have to once and for
3 all eliminate age discrimination. Ageism should not
4 exist in our city, and I look forward to continue to
5 work with you for justice, you know, and older
6 workers our numbers are growing. So, we thank
7 everyone for joining us today, and—and thank you for
8 testifying. We are also joined by Council Member
9 Lander. We—we're not asking any questions.

10 COUNCIL MEMBER LANDER: Okay. I won't
11 ask a question then. I will just say thank you to the
12 chairs and thank you to the panel for your courage in
13 bringing this testimony forward. You know I just—I
14 turned 50 a few months ago, and my wife is turning 50
15 shortly, but we're, you know, not as young as when we
16 started, but I can feel distinctly the difference in
17 the ways that aging affects how the two of us are
18 related to in the workplace, and the ways in which
19 age and gender discrimination compound. It gets
20 clear and clearer and we have a responsibility then
21 especially to stand up and join in the cause, and I
22 just want to say thanks to all of you and thanks to
23 Margaret, and I will be signing onto all five of
24 these bills.

25 CHAIRPERSON CHIN: Thank you very much.

2 CHAIRPERSON EUGENE: I just want to take
3 the opportunity also to thank all of you on the pane
4 for your courage, and also for you advocacy because
5 you are speaking for many other people who cannot be
6 here to speak. You are speaking on their behalf, but
7 there is something very important that I believe that
8 Ms. Marisol Salceda (sic) say that at first the
9 difficulty to go forward and to fight against the age
10 discrimination when you are working, and also you
11 mentioned something very important that, and I was
12 thinking about that. Also you say it in Spanish. You
13 say that the children when the see the-the path for
14 us so freely, and you say also that then there are
15 consequences—consequences to all of us. So, that
16 means the impact or the result of fighting for your
17 right as a worker can be really a big challenge that
18 will affect people not only financially, but also
19 emotionally and mentally and this is a big issue that
20 I believe that all of us we have to come together to
21 fight against. Thank you again for your courage and
22 your testimony. Thank you so much.

23 CHAIRPERSON CHIN: Thank you. We would
24 like to invite up the Administration, and thank you
25 to the Administration Department for the Aging and

2 the New York City Civil Rights Commission. We have
3 Maria Serrrano from DFTA, Edgar Yu (sp?) from DFTA;
4 Dana Sussman, Deputy Commissioner of New York City
5 Human Rights, Sapna V. Raj, yeah, New York City Human
6 Rights, Deputy Commissioner of Law Enforcement. Oh,
7 we've been joined by Council Member Rodriguez. Thank
8 you. The Counsel will swear you in.

9 LEGAL COUNSEL: Please raise your right
10 hand. Do you affirm to tell the truth, the whole
11 truth and nothing but the truth in your testimony
12 before this committee, and to respond honesty to
13 Council Member questions?

14 MARIA SERRANO: Yes.

15 EDGAR YU: Good afternoon Chair Chin,
16 Chair Eugene and members of the Aging and Civil and
17 Human Rights Committees. I'm Edgar Yu, Chief of
18 Staff at the New York City Department for the Aging.
19 I'm joined today by Maria Serrano, Director or DFTA's
20 Senior Employment Unit. On behalf of Commissioner
21 Lorraine Cortes Vazquez, I'd like to thank you for
22 this opportunity to provide testimony again on the
23 important subject of age discrimination in the
24 workforce. I'm also joined this afternoon by Dana
25 Sussman, Deputy Commissioner for Policy and

2 Intergovernmental Affairs and Sapna Raj, Deputy
3 Commissioner for Law Enforcement both at the City
4 Commission on Human Rights. CCHR. DFTA recognizes
5 the broad intersectionality of age-based
6 discrimination, with other protected classes
7 including gender, gender identity, race, citizenship
8 and disability just to name a few. We also
9 acknowledge that this type of discrimination
10 unfortunately transcend sector and industry. Thus it
11 is grateful for CCHR's partnership in our ongoing
12 work in this area and their enforcement of the
13 country's most robust human rights law. As DFTA
14 testified in September of 2018 before these two
15 committees on this very topic, combatting ageism is
16 among the department's top priorities, and remains an
17 important part of our commitment to serve the 1.64
18 million older adults who call New York City home.
19 Rather than simply reiterating last year's testimony,
20 which in detail describe our Senior Employment
21 Programs and services. I will provide a brief update
22 on those services and then share the Commissioner's
23 commitment and efforts in combatting ageism across
24 all the ways we work to ensure older adults are safe
25 and thriving. As you know, beyond the wide range of

2 DFTA programs and services including our network of
3 congregate centers, case management, home delivered
4 meals, caregiver resources, geriatric mental health
5 services, older adults can avail themselves of
6 services through our Senior Employment Services Unit.
7 This includes the Title V Senior Community Service
8 Employment Programs, CSEP, and the reserve program.
9 Through the federal grant funded CSEP, income
10 eligible New Yorkers age 55 and older can access job
11 training, job placement assistance and other
12 invaluable services all while earning a wage. The
13 program has partnership contracts with 400 community
14 based organizations, non-profits, and city government
15 agencies to offer our Title V participants subsidized
16 placements for up to four years. Additionally, our
17 job development staff worked with 300 business
18 entities to facilitate unsubsidized placement of our
19 participants, which is the ultimate goal of this
20 program, direct employment. Through these critical
21 partnerships, participants are directly integrated
22 into workforce, and offered real live professional
23 training opportunities and experiences. Among the
24 most common job types are home health aid, security
25 guard, and administrative assistant. In Fiscal Year

'19 a total of 440 Title V participants were placed in community assignments or direct employment. For over a decade DFTA has also partnered and been a partner in the Reserve Program through which retired professionals referred to as reservists can be placed in short-term assignments to help one of our employment partners fill critical gaps. Reservists often have background in law, social work, teaching, accounting, foundation outreach and IT administration. The term for these assignments typically range between three months to 12 months with the option to expand it based on the need of the assigned agency. At present the city has 242 reservists. Beyond these core senior employment services DFTA also puts it—provides opportunities for older adults to engage in meaningful civic causes through our foster grandparent program. New Yorkers age 55 and older are offered a paid non-taxable stipend to serve as mentors or tutors or caregivers for children and youth. Some of them have special needs. Our foster grandparents serve 20 hours per week at community based organizations, such as daycare centers, after school programs, elementary schools, and hospitals. In FY19, we had 321 foster

2 grandparents placed at host sites across the city.

3 While the city has—is home to 1.64 million older New
4 Yorkers as I mentioned earlier. We are keenly aware

5 that this population is project to reach 1.86 million
6 by 2040, which represents a little mere than 20%

7 growth. This workforce and civic engagement programs
8 intend to increase opportunities for these other

9 adults to remain in the workforce. With the growing
10 population, however, there is an increased need to

11 ensure we have the right approaches and supports to
12 first prevent ageism, and then address instances that

13 occur. Moreover, since DFTA's employment—senior
14 employment population is overwhelmingly women, older

15 women of color that need and the other related
16 factors at the root of discrimination is

17 exponentially larger. In our ongoing effort to
18 combat this problem all of our employment

19 participants in addition to job retention and career
20 advancement support receive annual mandated equal

21 employment opportunity trainings, and on identifying
22 ageism and how to get help if faced with age-based

23 discrimination. Equally important is our work with
24 our participating employers, which are carefully

25 screened, and selected to ensure that they are case—

2 rather age sensitive, age competent and recognize the
3 incredible value and benefits older workers bring to
4 their organizations. We firmly believe that this
5 exposure and experience with older workers benefit
6 our employers far beyond just the Title V placement.
7 The City of New York is itself a participating
8 employer. The New York City Department of Education,
9 Human Resources Administration, Department of Parks
10 and Recreation and over a dozen other city agencies
11 serve as partners in our CSEP and offer placement to
12 our participants. Additionally, DFTA regularly hosts
13 public forums and presentations on ageism awareness
14 and prevention. Our Commission—our Commissioner sees
15 combatting ageism and making New York a city for all
16 agencies are core tenants of her vision. She has
17 since stepping into her role work not only to
18 maintain important interagency partnerships, but to
19 consider new avenues to support older adults through
20 our sister agencies. Most recently Commissioner
21 Cortes Vazquez participated in CCHR's stakeholder
22 roundtable, which convened community-based
23 organizations and advocates from across the city to
24 discuss the subject of age discrimination. These
25 interagency collaborations underscores the

2 Administration's years long commitment to combatting
3 ageism. On behalf of Commissioner Cortez Vazquez,
4 thank you for this—for your advocacy. We are
5 incredibly grateful to the Commission on Aging as
6 well as the Commission on Civil and Human Rights for
7 championing this important issue. The Council's
8 partnership is a critical part of the city's response
9 to ageism. We also acknowledge the Council's intent
10 in the package of these bills introduced to address
11 age discrimination particularly Intro 1693 and 1694,
12 which directly implicate DFTA and our work in this
13 area. There is great alignment it seems with—between
14 DFTA and Council in this regard, and we look forward
15 to our continue dialogue with the Council to discuss
16 the nuances, practicality, and implementation
17 implications of these bills. Thank you and following
18 Deputy Commissioner Sussman's and Deputy Commissioner
19 Raj's testimony, Maria and I are happy to answer any
20 questions you may have.

21 DEPUTY COMMISSIONER SUSSMAN: Thank you.
22 Good afternoon. Before I begin I'm must going to go
23 a little bit off script, and just convey our
24 appreciation to the panelists before us who really
25 crystalized for us some of the—the core work that the

2 Commission is doing and-and just personally
3 dedicating my career now over a decade of working on
4 gender just related issues and anti-discrimination
5 issues and seeing how there is a true intersection
6 and vulnerability for workers based on gender, based
7 on race, based on disability, and other protected
8 categories, and that there's a recognition that while
9 we've had age protections in the City Human Rights
10 Law for decades, sometimes law proceeds culture
11 shift. Sometimes it's-it's the-it's the standard
12 there and-and society needs to catch up, and other
13 ways the law needs to catch up to society, and I
14 think we are in one of those moments where this has
15 been the law on paper for a very long time, and we
16 are in a moment and thanks to many of the people in
17 the room here today, we are understanding in some
18 ways for the first time the depth and the complexity
19 of this problem, and I think we need to think very
20 creatively and strategically about how we address it.
21 So, that was not in my remarks, and I'm sure my
22 colleagues are-their pulses are racing, but I will
23 now go back to the scripted remarks. So, good
24 afternoon Chairs Chin and Eugene and members of the
25 Committee on Aging and Civil and Human Rights. I am

2 Dana Sussman Deputy Commissioner for Policy and
3 Intergovernmental Affairs at the New York City
4 Commission on Human Rights, and I am honored to be
5 joined today by my colleague Sapna V. Raj, Deputy
6 Commissioner for the Law Enforcement Bureau at the
7 agency. I'm also honored to be sitting next to my
8 colleagues Edgar J. Yu and Maria Serrano from the
9 Department for the Aging, key partners and
10 collaborators in this work. Thank you for convening
11 this hearing on Intros 1684, 85, 1693, 94 and 1695,
12 five pieces of legislation that seek to address age
13 discrimination in the workplace. Before I turn to
14 the legislation, I want to highlight some of the
15 Commission's recent work. As you know, the
16 Commission is a local civil rights enforcement agency
17 that enforces the New York City Human Rights Law one
18 of the broadest and most protective anti-
19 discrimination and anti-harassment laws in the
20 country now totaling 26 protected categories across
21 nearly all aspects of city living, housing,
22 employment, and public accommodations in addition to
23 discriminatory harassment and bias based profiling by
24 law enforcement. Over the past 4-1/2 years since
25 Commissioner Carmelyn P. Malalis took the helm of the

2 agency, the Commission has implemented 28 changes to
3 the New York City Human Rights Law including seven
4 new substantive areas of protection and other
5 statutory expansions of the agency's mandate and
6 scope. At the same time the Commission is
7 increasingly becoming the preferred venue for victims
8 of discrimination. In Fiscal Year 2019, the
9 Commission fielded nearly 10,000 inquiries from
10 members of the public via calls, emails, and in-
11 person intakes, the highest in commission history
12 resulting in 785 complaints filed and 396 pre-
13 complaint interventions. Also in Fiscal Year 2019,
14 the agency obtained over \$5.3 million in damages for
15 complainants, and nearly \$800,000 in civil penalties
16 paid to the general fund of the city of New York for
17 a combined total of over \$6 million, the highest in
18 the Commission's history and over five times the
19 amount of damages and penalties recovered in 2014 the
20 year prior to the start of Commissioner Malalis'
21 tenure. In the past two fiscal years, age
22 discrimination case accounted for nearly \$1.3 million
23 in damages and penalties assessed. Over the past two
24 years the Commissioner has filed 110 cases on behalf
25 of individuals alleging age discrimination, and the

2 vast majority of those cases are in the employment
3 context. In one case, an employee alleged that eh
4 head been terminated because of a policy that stated
5 that the company could not hire or employ anyone over
6 65 years old. The Commission's Law Enforcement Bureau
7 investigated the matter and tried the case at a
8 hearing before of Office of Administrative Trials and
9 Hearings or OATH. After considering the ALG's report
10 and recommendation, the Office of the Commissioner
11 and Chairperson at the Commission issued a final
12 decision and order awarding over \$70,000 in
13 compensatory damages including back pay, interest and
14 emotional distress damages, imposing a civil penalty
15 of \$30,000 and ordering respondents to modify their
16 policies, and undergo training on the city Human
17 Rights Law. The Commission's Community Relations
18 Bureau, which engages in outreach and education on
19 New Yorkers' rights and obligations under the City
20 Human Rights Law, has partnered with community-based
21 organizations throughout New York City to provide
22 information to older New Yorkers on their rights, and
23 as you may be aware, the Commission regularly
24 publishes material-materials in multiple languages
25 and conducts training and outreach on discrimination

2 and other protected categories to audiences across
3 the city. In Fiscal Year 2019, the Commission
4 conducted 38 trainings focused on the rights of older
5 New Yorkers in partnership with organizations such as
6 SAGE, DASHI (sp?) Senior-Senior Centers, Saint
7 Jerome's Hands, Community Center, Wayne Senior
8 Center, Gria Circle and many others. In addition,
9 Commission leadership spoke at several forums and
10 events on age discrimination throughout the year.
11 Most recently, as my colleague mentioned on September
12 16th the Commission along with our-along with DFTA
13 convened a round table with age justice stakeholders
14 and experts to discussion how the Commission and DFTA
15 can work more effectively to combat age
16 discrimination in the workplace. Many of the
17 advocates and stakeholders here today were present
18 for a rich conversation highlighting the protections
19 offered by the City Human Rights Law, and discussions
20 on how the Commission can best serve communities most
21 vulnerable to discrimination and harassment, and
22 finally later this month attorneys from the
23 Commission's Law Enforcement Bureau will be training
24 DFTA staff on the city Human Rights Law to ensure
25 that any potential discrimination cases they come

2 across are properly identified and directed to the
3 Commission. Turning now to bills that are the
4 subject of today's hearing, Intro 1684 mandates that
5 the Commission create a poster addressing age
6 discrimination and requires that all city agencies
7 post it in common areas from employees. I'll note
8 that the Commission has created a notice of rights
9 that includes information about one's rights broadly
10 under the City Human Rights Law covering all 26
11 protected categories, and is updated whenever we—we
12 adopt a new protected category. As part of all case
13 resolutions against both private and public entities
14 we require respondents to post this notice of rights
15 in areas visible to employees and/or tenants or
16 customers. Intro 1685 requires that the Commission
17 create a training that city agencies must complete
18 once per year, and post information on the
19 Commission's website about age discrimination, how to
20 report violations on the—on the commission and—excuse
21 me—and available venues for relief and action. Intro
22 1693 establishes a taskforce to study age
23 discrimination in the workplace chaired by the
24 Commissioner of the Commission or her designee and
25 Intro 1695 establishes a testing program targeting

2 age discrimination in the workplace. The Commission
3 supports the intent of the bills and in recognition
4 of the facts that age discrimination is pervasive,
5 the Commission is actively engaged in policy making,
6 enforcement and outreach to further—to highlight the
7 protections und the City Human Rights Law with
8 respect to age discrimination in the workplace.

9 Further, many of the Commission's current efforts and
10 future initiatives reflect many of the bill's goals.

11 As I mentioned, the Commission regularly provides
12 training to different audiences in dozens of
13 languages across the city and conducts workshops and
14 outreach to older New Yorkers. The Commission's
15 outreach continues to expand. In Fiscal Year 2018 the
16 Commission served nearly 100,000 people through these
17 outreach activities. In addition, the Commission is
18 already mandated to publish an annual report every
19 year on September 30th, and our latest annual report
20 is here, and our website, and we encourage you to
21 read it. In that, we are required to report on the
22 number of public inquiries receives and in what
23 language, Commission initiated investigations,
24 complaints filed, Commission's education and outreach
25 efforts during that Fiscal Year. We welcome the

2 opportunity to work with Council-to-to further our
3 shared goals of aggressively promoting the rights of
4 and protecting older New Yorkers in the workplace and
5 my colleague Deputy Commission for the Law
6 Enforcement Bureau Sapna V. Raj will now highlight
7 some of the Commission's law enforcement efforts and
8 after that we welcome your questions. Thank you.

9 DEPUTY COMMISSIONER RAJ: Thank you.

10 Good afternoon. My name is Sana Raj, and I'm the
11 Deputy Commissioner for the Law Enforcement Bureau at
12 the Commission Human Rights. I currently oversee a
13 team of 71 attorneys and supporting staff who on a
14 daily basis receives hundreds of calls, email
15 inquiries, walk-ins, scheduled appointments and to
16 take investigations, litigate cases and test for
17 discrimination on behalf of New Yorkers who have
18 experienced discrimination and harassment. First,
19 it's important to note that the New York City Human
20 Rights Law offers far more protections than the
21 Federal Age Discrimination and Employment Act, which
22 is also know as the ADEA. Under the ADEA, plaintiffs
23 must prove that their age was the but for cause of
24 their discrimination. That is, it is not enough for
25 a plaintiff to show that age discrimination

2 contributed the adverse action. Rather, they much
3 show that age discrimination was such a motivating
4 factor that the adverse action would not have
5 occurred absent the discriminatory motive. This is a
6 standard that is purposefully difficult to meet and
7 unlike the standard under the New York City Human
8 Rights Law is not aimed at completely eliminating
9 discrimination from the workplace. The heightened
10 federal standard only exists with the respect to age
11 discrimination claims, so that individuals alleging
12 age discrimination have a higher bar to meet than
13 members of other protected categories who allege
14 discrimination under federal law. By contrast, the
15 New York City Human Rights Law treats age
16 discrimination the same as every other protect
17 category, and as mentioned earlier, there are 26 such
18 protected categories under our law. The New York
19 City Human Rights Law protects against mixed motive
20 discrimination, meaning that a plaintiff may prevail
21 if age discrimination contributed in any way to the
22 adverse action. Notably the New York City Human
23 Rights Law protects both employees and job applicants
24 from age discrimination whereas under federal law
25 there is a circuit split on whether the ADA covers

2 job applicants. More importantly, for hostile work
3 environment claims under the ADEA, the conduct must
4 be sever and pervasive versus the New York City Human
5 Rights standard of simply being treated less well
6 because of someone's age or other protected status.

7 In addition the ADEA has several affirmative defenses
8 written into the statue that employers can use such
9 as a bona fide occupational qualification of the job
10 or that the or that the policy differentiates among
11 workers based on some reasonable factor other than
12 age such as seniority. The New York City Human

13 Rights Law does not have any such affirmative
14 defenses codified in the law, but New York City Human
15 Rights Law also offers more comprehensive remedies to
16 plaintiffs. Those who have been unlawfully

17 discriminated against based on their age under the
18 law and entitled to many kinds of relief including
19 economic damages, emotional distress damages and

20 depending on the forum, punitive damages. Unlike
21 under the Human Rights Law, claimants under the ADEA
22 are not entitled to receive emotional distress or
23 punitive damages. As you know, the Commission has

24 the power to initiate its own investigations when
25 entities are suspected of engaging in discriminatory

2 policies or practices. In addition to filing
3 complaints and deploying testers, the Commission
4 sends cease and desist letters, and also uses a range
5 of investigative methods such as requests for
6 information on data and policies and practices,
7 demands for documents and interviews o key witnesses.
8 In our experience, each of these investigative tools
9 sere an important role in detecting and proving
10 claims of discrimination. Under Commissioner Malalis
11 the Commission has significantly expanded it
12 commission initiated actions. For example, in Fiscal
13 Year 2019, the commission initiated 56 actions
14 compared to 33 in 2015. All commission initiated
15 actions are referenced and explained in each annual
16 report issued every September. We welcome
17 information about possible targets of these
18 commission initiated actions from Council members,
19 community groups and other—any other entities
20 concerned that discriminatory practices may be taking
21 place. Thank you for the opportunity to—about our—to
22 speak about our work, and we look forward to your
23 questions. Thank you.

24 CHAIRPERSON CHIN: Thank you for your
25 testimony. We just want to follow up from last

2 year's testimony that we were only able to get
3 statistics for 2018. So, maybe you could tell us in
4 terms of the commission how many age discrimination
5 claims has the Commission received in 2018 from year
6 to date, and then can you disaggregate all the claims
7 for us, and also highlighting whether, you know, how
8 many of them are related to age discrimination?

9 DEPUTY COMMISSIONER RAJ: [off mic] Well,
10 um-[on mic] Sorry. I'm sorry. So, actually are you
11 just talking about the number of claims that we've
12 gotten, the type of discrimination? In Fiscal Year
13 2019, we had 68 claims that involved age
14 discrimination that we set—we conciliated or settled.

15 CHAIRPERSON CHIN: Sixty-eight.
16 [background comments/pause]

17 DEPUTY COMMISSIONER RAJ: I'm sorry, yes.
18 Settled, yes.

19 CHAIRPERSON CHIN: That were settled.
20 Can you just give us a little bit more in terms of an
21 example? I think that's really important for the
22 public to hear this in your testimony. Then in your
23 testimony you talk about one of the case, one of the
24 complaints where you actually, you know, got a
25 settlement on the... But that was kind of blatant.

2 They're saying that their policy is that they can't—
3 they don't hire people over 65. I mean that is so
4 blatant obvious, right, but in terms of some of the
5 other cases that you have received and investigated,
6 can you maybe just give us a couple of highlights?

7 DEPUTY COMMISSIONER RAJ: So, age
8 discrimination cases as has been said before are
9 historically difficult to—to prove, and I think
10 that's where the Commission initiated actions that we
11 can take other than testing would actually be more
12 effective in my opinion. I came to the Commission
13 and joined the Commission about three years ago, and
14 started the testing program, and made it pretty
15 robust where we've done about 900 tests last year.
16 Age discrimination typically is very difficult to
17 prove through testing. I think it will be easier for
18 us to investigate age discrimination through other
19 tools that the Commission—that the Commission has
20 like sending out requests for information where you
21 get to ask how many people do you have that you
22 employ in this, you know, what are the age ranges,
23 and then you can ask what was—what has it been in the
24 last five years. So, you get a feel for how many
25 people have been hired? How many people are

2 currently working there? Why people left, and
3 through interviewing witnesses, you would get more
4 information than from just testing, and testing can
5 really be done only at the hiring stage not while
6 people are actually working at the companies.

7 CHAIRPERSON CHIN: I mean how many
8 testing case have the Commissioner, I mean the
9 Commission done focusing on age discrimination?

10 DEPUTY COMMISSIONER RAJ: So we have not
11 actually done a lot of age discrimination testing.
12 Like I said, I think it's more effective to do—use
13 other tools that the Commission has in its—in the
14 laws that we can use. So, we haven't actually done a
15 lot of testing but we've planned to actually do some
16 testing to see how it progresses as the—in this
17 fiscal year.

18 CHAIRPERSON CHIN: Well, that's one of
19 the bills is to ask the Commission to do a certain
20 number of—of testing, and in this way at least we
21 could get some information at the front end where
22 people are prevented from even getting the job,
23 right? I mean some of the other tools that you
24 mentioned that's great that if people have concern
25 about when they're working and if they know that the

2 Commissioner can actually do some investigations,
3 there's other ways of doing it.

4 DEPUTY COMMISSIONER RAJ: So the
5 investigative tools can also be used to find out what
6 happens at the hiring stage. So, you can find out
7 how many folks have applied for jobs, applicants have
8 applied for jobs and what their age ranges were, and
9 what happened to the people who applied for jobs.
10 So, it's not just for—for the employees who are
11 currently employed or who were employed, but for the
12 job applicants, too .

13 CHAIRPERSON CHIN: Would it be difficult
14 for the Commission to do a testing program based on
15 findings about age discrimination?

16 DEPUTY COMMISSIONER RAJ: So,
17 historically, it's been very difficult not just at
18 the Commission, but any other enforcement agency to
19 actually find discrimination or to determine if there
20 is discrimination through testing for age
21 discrimination more than any other category. For
22 example, if you're testing for the Fair Chance Act
23 discrimination, it's easier to find that out. As you
24 know, discrimination is very subtle, and with age
25 discrimination what happens is that there may be

2 other factors and other protected categories that may
3 influence why a person is hired or not that may not
4 make it very clear whether it's age itself that's the
5 reason for someone not being hired.

6 CHAIRPERSON CHIN: But would the
7 Commission be able to start doing a program to do
8 testing on this that since you already have a testing
9 program wo we're—we're not asking you to put in
10 additional resource, but like a special focus, you
11 know, for targeting investigating on discrimination
12 against older workers?

13 DEPUTY COMMISSIONER RAJ: So, we can. I
14 just am not sure whether that would be something that
15 would give the—the correct idea of what's going on
16 with the hiring. As someone who's done a lot of
17 testing for the last ten years of so, I think the
18 other tools that we have would actually be more
19 effective in determining whether there is age
20 discrimination in the workplace.

21 CHAIRPERSON CHIN: Okay. I mean we will
22 continue to discuss with you on that, but I—I just
23 want to follow up what I asked earlier in terms of
24 some other examples--

25 DEPUTY COMMISSIONER RAJ: Sure.

2 CHAIRPERSON CHIN: --that you were able
3 to investigate and get--and get settlements for people
4 who were discriminated against.

5 DEPUTY COMMISSIONER RAJ: Um, so age
6 discrimination is not always as--as you said that it's
7 not always very clear and overt. So there have been
8 other cases. I can't--I can't tell you the exact
9 details of each, but the--to our investigation we have
10 had investigations. We've found that the--they were
11 discriminated against because of age, and maybe
12 another category, but under the New York City Human
13 Rights Law, it doesn't matter if it wasn't just age.
14 So, unlike the federal law as I said, it doesn't
15 matter. So, we did find after investigations that we--
16 after the investigations that there was
17 discrimination, and then the case is settled because
18 our--our evidence was pretty strong, and people did
19 not want to take it trial.

20 CHAIRPERSON CHIN: So, you can't give us
21 kind of some real life story that can--that people can
22 understand and--and take back and say, oh, wow, this
23 happened to me, or this happened to my friend that I
24 can actually do something about to go to the
25 Commission and file a complaint?

2 DEPUTY COMMISSIONER RAJ: I can
3 highlight, um, just one that I'm aware of so we—we
4 post settlement highlights on our website every two
5 months and we put pretty detailed case summaries up
6 on the website, and again I'll—I'll try to summarize
7 from my recollection, but there is that highlights
8 the intersection of age and gender in which a
9 working, an older worker I believe a woman was facing
10 some remarks in the workplace, was also I think
11 forced to—essentially forced out or forced out of her
12 position, was replaced with someone younger. The
13 remarks mostly focused on her gender, but that I
14 think was—there was also sort of a mixed motive
15 behind that, and that case resolved in a—a settlement
16 for the complainant where there were sort of gendered
17 remarks, but we think she was also targeted
18 potentially based on her age, and the fact that her
19 position was replaced with someone younger sort of
20 demonstrated that for us. But, if you'd like more
21 detail I can, um, I can get that case summary to you.

22 CHAIRPERSON CHIN: Yeah, I mean it's
23 great to know that you do have it on—on the website
24 so we can let people know that they can look for
25 these examples. So, you—what are some of the other

2 tools that you use, and you could highlight to really
3 do the investigation?

4 DEPUTY COMMISSIONER RAJ: So the request
5 for information is I think one of our most effective
6 tools. Where we will ask to find out what the
7 policies and practices are and what the data is in a
8 particular company. So, that's not just with age
9 discrimination. We've done that, we've used that for
10 sexual harassment. We've used that for gender
11 discrimination. We've used it for disability
12 discrimination where we ask an employer or a provider
13 of public accommodations or a housing provider to
14 give us that information. Once we get that
15 information, we may ask for more information or we
16 may determine that we want to file a complaint on
17 behalf of the Commission. Those--that information
18 comes from the--it's from the tips that we get either
19 from the public or from elected officials or from
20 advocacy organizations that we start the--initiate the
21 Commission initiated investigations. So, that's one,
22 too. The other is we--if we know that a specific
23 employer is engaging in discrimination, we send out
24 cease and desist letters and tell the employer to not
25 only stop doing what they're doing, but tell them to

2 respond to us within a certain time period. Usually
3 it's five days and then to change their practices and
4 we set out how they need to change the practices.
5 Once they come in—once they have a dialogue with us,
6 then once we settle the case we will enter into
7 stipulation and order, which is then signed off by
8 the Commissioner. Of course, we can always file a
9 complaint and then investigate further if that's—if
10 that is warranted.

11 CHAIRPERSON CHIN: Great. I have one more
12 question before I turn it over to my Co-Chair. You
13 heard the first panel--

14 DEPUTY COMMISSIONER RAJ: Yes.

15 CHAIRPERSON CHIN: Right? I that
16 situation is this something that the Commission can
17 do with the tools that you mentioned earlier? I mean
18 it's so blatant that it's happening there so--

19 DEPUTY COMMISSIONER RAJ: Yes. So,
20 what's important to note is that the New York City
21 Human Rights Law is available for people to use
22 whether they come to the agency to the Commission or
23 not. So, people can take the—a claim under the New
24 York City Human Rights Law and file it in state
25 court. They can file a federal claim under the Age

2 Discrimination Employment Act, and add a state claim—
3 a city claim, a local civil rights claim in federal
4 court, and so there are—this allows—is available to
5 people whether they come to the Commission or not.
6 From what I understand there earlier panelist's case
7 is not at the Commission, but filed in court, and
8 that is an option for people to choose their venue to
9 choose to come to a agency. It could be the City
10 Commission on Human Rights, the State Division on
11 Human Rights or the EEOC. There are options for
12 people and so, that is certainly—if—if the panelists
13 had come to us with those allegations we would
14 absolutely accept that complaint and investigate that
15 case, and—and work to either resolve it through a
16 conciliation or a—or to prosecute it and litigate it
17 through the Office of Administrative Trials and
18 Hearings. It's really an option for complainants to
19 decide how to proceed with their claim.

20 CHAIRPERSON CHIN: What I'm trying to get
21 at is that because the complaint they want to know
22 the route, but the Commission, right, can you do your
23 own investigations because of certain, you know,
24 information that you have gotten that things are, you
25 know, happening that shows that there were signs of

2 gender discrimination, age discrimination. So, can
3 you call up or like request from the company
4 information about how many people they hire, age and
5 promotion and all that?

6 DEPUTY COMMISSIONER RAJ: We can and we
7 have in other cases where we had determined that the
8 Commission wants to step in. We have investigated
9 companies on that basis, yes.

10 CHAIRPERSON CHIN: But in this case?

11 DEPUTY COMMISSIONER RAJ: In this
12 particular case we did not. It's something that we
13 will consider.

14 CHAIRPERSON CHIN: Okay, good. Thank
15 you. I'll pass it over to my Co-Chair. Thank you.

16 CHAIRPERSON EUGENE: Thank you very much
17 to your team. We know that it is very difficult to
18 justify crime, you know, to say that that--this is a
19 discrimination, you know, case. So, you know that.
20 What's the decision? What step has been take to
21 address this particular issue. We know that it is
22 difficult to explain and to justify that this is
23 truly the age discrimination, you know, case? What
24 step you have been taking, decision or strategy or

2 planning that you are doing in order to be able to
3 better justify the claim?

4 DEPUTY COMMISSIONER SUSSMAN: I'm not
5 sure I understand the question. What on the law
6 enforcement side or in individual cases or--?

7 CHAIRPERSON EUGENE: On the law
8 enforcement side or is it, you know, the-the
9 Commission of Human Rights. We all know that is very
10 difficult justify that when somebody comes to you and
11 say, you know what, I've been discriminated because
12 of my age. So, we know that it is difficult to
13 justify that especially I think that federal
14 government has taken-passing legislation to make it
15 more difficult. What are you doing to have the
16 necessary tool to make sure that you are able to-to
17 justify the cases?

18 DEPUTY COMMISSIONER SUSSMAN: Sure so
19 the-as, um, my colleague mentioned, age protections
20 under the city's Human Rights Law are as strong as
21 any other protected category. We know that the Age
22 Discrimination Employment Act pursuant to a Supreme
23 Court case has-its protections have been gutted
24 essentially, and, you know, we want people to know
25 that they can avail of the City Human Rights Law's

2 broad protections if they work in New York City or
3 are seeking a job in New York City. So, that allows
4 us to apply that same standard of treated less well
5 than, and as we've talked about in many other
6 protected categories, that may mean that you think
7 that you're not getting a job because of your age or
8 membership in another protected group, you can come
9 to our agency and we will ask the employer for
10 information about their hiring practices, about their
11 recruitment practices, about the—the numbers, the age
12 breakdown of their current staff. All—most—more
13 often than not discrimination cases are difficult to
14 prove. They are fact specific. Sometimes when we
15 don't have overt what we call stray remarks or
16 actions that are overtly discriminatory or words that
17 are overtly discriminatory, we have to look at sort
18 of all of the—the—the environment in which the—the
19 work place and the hiring and the retention exists
20 and that may—that may require that we look at the
21 demographic information of—of the people in—in that
22 workplace, again their hiring practices, their
23 recruitment practices, and their—and their retention
24 practices. So, it—these are not easy cases even with
25 a generous standard that the City Human Rights Law

2 has, and every case is unique and involves sort of
3 different dynamics that—that are fact specific and
4 will come out through and investigation.

5 CHAIRPERSON EUGENE: You mention in your
6 testimony, Miss-Deputy Commissioner, you mention in
7 your testimony that you—the Commission has been
8 working with other partners in the community and a
9 non-profit organization. Can you—you give us some
10 more detail about the partnership, what you are doing
11 together, and how successful has been the
12 partnership?

13 DEPUTY COMMISSIONER SUSSMAN: Sure. So,
14 our partnerships with community-based organizations
15 really run the gamut across all five boroughs. It
16 may be that we—we have our law enforcement intake
17 team out at a community-based organization on a
18 particular evening or a weekend to meet with
19 community members on specific issues whether it's
20 discrimination based on LGBTQ status or sexual
21 harassment, or source of income discrimination in
22 housing. We do a lot of Know Your Rights and know
23 your obligations outreach in communities. So we
24 often will partner with the Mayor's Office of
25 Immigrant Affairs, Department of Consumer and Worker

2 Protection. Other agencies to get out in communities
3 at community-based events, at tabling events, at
4 community forums, and provide information materials,
5 on-site intake to ensure that we are meeting
6 communities where they are at. If Council Members
7 know of communities that would want us to be present
8 for a particular even or even in district offices, we
9 are always available to be there. We almost—I am not
10 aware of times that we've had to say not to an event.
11 We are wherever we are needed in communities and
12 building community trust has been incredibly
13 important to us. So, we have hired staff from the
14 communities that we hope to serve from the community-
15 based organization that we partner with to host
16 different events and convenings to share information
17 about their rights under the city Human Rights Law.

18 CHAIRPERSON EUGENE: So, so you say that
19 you have hired the staff from the community, and
20 could you tell us what is the process to hire the
21 staff, and what is the process also to select the
22 community-based organizations? How do you select
23 them?

24 DEPUTY COMMISSIONER SUSSMAN: So,
25 selecting community-base organizations it's really

2 just we sort out staffs who is doing the work in the
3 communities that we want to have a presence, and it's
4 building those relationships. Many of our staff come
5 with key relationships to community-based
6 organizations, and that's one of the sort of many-one
7 of many prerequisites is to have, you know,
8 relationships in communities that we hope to serve to
9 speak languages that the communities speak, and we
10 either invite those community-based organizations in
11 for round table discussions to build partnerships and
12 collaborations, or we meet them at their offices and
13 locations throughout the five boroughs, and we just
14 build our relationships from there and work to ensure
15 that we are present. We—we rarely— it is our hope
16 and aspiration that we rarely meet you once that we
17 create a sustained and long-term relationship and
18 continue to show up. So, there isn't really a
19 specific selection process with respect to the
20 community-based organizations with which we work.
21 It's just building relationships and building trust
22 and credibility in communities that might not had—
23 have had relationships with government before.

24 CHAIRPERSON EUGENE: I know that the
25 commissioner's office we are—we are partners and we

2 have had civil even in the community, and that was
3 successful and I commend you for that, and I
4 appreciate that, but for DFTA and also the
5 Commission, we know that the—the older workers when
6 they are discriminated because of their age, the
7 impact is not only financial, it is emotional also.
8 It is mental, but what do you have, you know, DFTA or
9 the Commission, what do you have to help the older
10 workers go through these very difficult moments in
11 terms of, you know, support services, training to
12 help them cope with this very difficult situation?

13 EDGAR YU: Thank you for that. Yeah, you
14 know, you're—you're exactly right. It's a—it's a
15 difficult situation, and a support to someone that is
16 very connected to our sister agencies and other
17 services throughout the communities is incredibly
18 helpful but before I—I proceed, I—I really sort of
19 want to give context a little bit as far as our
20 universe of senior employ—employment participants.
21 We have, knock on wood, yet to receive any age-based
22 discrimination claims. Now, that doesn't necessarily
23 mean none have happened, but, um, in fact none have b
24 been formally brought to DFTA's attention. None of
25 our participants in our CSEP Program has brought that

2 to our attention. Is that because of the employers
3 that we've worked with, our trainings and are age-
4 friendly? Perhaps, but this universe of folks our
5 seniors are older workers that we work with through
6 these programs are trained annually on identifying
7 ageism, and understanding how to seek assistance if
8 they're faced with discrimination. So, I just wanted
9 to sort of preface our response with that sort of
10 context. As far as again coping I think it's
11 incredibly important to avail yourself of all the
12 services at DFTA. I listed—I rattled off a series of—
13 of services and programs including geriatric mental
14 health. So, these are and whereas you probably know,
15 as you all know, we're expanding our Geriatric Mental
16 Health Program across our—our network of senior
17 centers. So these things are available for folks,
18 and we have again a very strong interagency
19 partnership. So, if—if one is to claim—make a claim
20 of age discrimination, we'll make sure we see that
21 going to the appropriate agency including CCHR.

22 MARIA SERRANO: Yes, good afternoon

23 CHAIRPERSON EUGENE: Good afternoon.

24 MARIA SERRANO: Maria Serrano. I'm

25 Director of the CSEP Certified program also known as

2 the Senior Community Services Employment Program, and

3 I want to thank you very much for the opportunity to

4 Madam Chair Chin and members of the City Council for

5 this wonderful opportunity to help and battle the

6 problems of age discrimination in—in the workplace.

7 Having the opportunity to manage the CSEP Certified

8 program is one of the most wonderful experiences that

9 I've had. Also as a senior worker we feel that we are

10 granting a lot of education to our participants in

11 the program so they can identify, and they can know

12 that they are protected, and they cannot be

13 discriminated. We also are promoting information in

14 basically every area of the program to make sure

15 that they know that they—they—we are working with

16 employers who are very, very well knowledgeable—

17 knowledgeable that this Title V program is for

18 seniors that are seeking to re-emerge in the city's

19 workforce. To that event, we are also working with

20 the State Office on Aging to make sure that the non-

21 discrimination policies are clearly stated throughout

22 the handbooks and material that the participants

23 receive. We also work with partners throughout the

24 city or close over 300 community-based employment

25 agencies as well as non-profit organizations that are

2 very much well aware that our participants have this
3 level of protections. So, more so the employers are
4 very much aware that the Department for the Aging is
5 promoting a safe workplace for their workers and a
6 safe work the seniors that they will be hiring during
7 the process.

8 CHAIRPERSON EUGENE: Thank you very much.
9 This is my last question. I will be back to you
10 before I turn it back to my co-chair. We know that
11 there is a clear partnership between DFTA and the
12 Human Rights Commission, right? You are working
13 together. Could you give us more detail about this
14 partnership, and what each one you are doing, how you
15 cooperate, how you help each other in order to be in
16 a better position to help those, all the workers who
17 are facing discrimination?

18 DEPUTY COMMISSIONER SUSSMAN: Sure. I'm
19 happy to. We—our partnership kind of spans different
20 areas of what we do. So, on the policy making side
21 we are in the—we are consulting with DFTA on really
22 saying legal enforcement guidance on the—on the era
23 of age discrimination in the workplace. We convened
24 a stakeholder roundtable just last month co-led by
25 Commission Malalis at the Commission on Human Rights,

2 and the DFTA Commissioner as well to bring together
3 experts and stakeholders to talk about age
4 discrimination in the workplace, and what information
5 we should be putting out in the world to make clear
6 what the protections are in the city and how
7 employers can comply and not only comply, but-but
8 promote best practices for employers in fostering a
9 multi-generational workforce. On our outreach and
10 education, we partner with DFTA in making sure that
11 we are out in senior centers that DFTA sort of
12 oversees across the five boroughs and-and they help
13 us identify senior centers that might be appropriate
14 for different programming and outreach. We also
15 partner by—we are now training DFTA's frontline staff
16 and believe later this month our Law Enforcement
17 Bureau will be training DFTA's staff on New York City
18 Human Rights Law, and specific areas of focus so that
19 they have the tools that they need to identify
20 potential cases and-and forward them onto us.

21 EDGAR YU: In addition to that, clearly
22 we have a really strong partnership between like two
23 agencies. There are a lot of other agencies with whom
24 we partner very regularly particularly in this area
25 SBS in particular. We have a direct MOU with Small B

2 Business Service and DYCD, also an incredible partner
3 in this pace, and we would be offering slots for our
4 CSEP participants, just a lot of interagency working
5 happening and all coordinated, all really with a
6 shared goal. [background comments]

7 MARIA SERRANO: And I'd like to add that
8 we also, the Department for the Aging it's sponsoring
9 what is called the New York Regional CSEP Providers
10 in New York and we meet quarterly to sort of promote
11 the best—these practices on the support of the
12 seniors in the city. These partners have really
13 committed to also support the fact our seniors cannot
14 be discriminated during the job search process, and
15 just to mention some of those they're Easter Seals
16 they donate for all of the workers, the Workplace
17 also the Urban League and a few more.

18 EDGAR YU: Community based?

19 MARIA SERRANO: Are not, [laughter] and
20 they're doing community services.

21 CHAIRPERSON EUGENE: I know that the DFTA
22 and also the Commission of Human Rights know that you
23 are doing all the effort, you know, that you—you can
24 to help with people you know the—all the workers, you
25 know, in terms of, you know, discrimination in the

2 workplace, but the language barrier in New York City
3 is a reality. This is something that we see every
4 single day and everywhere and we can not expect you
5 to hire people from—who speak all the different
6 languages in New York City, and I have seen some of
7 the time in public forum people who don't speak
8 English properly and sufficiently, they go to those
9 forums with the hope they are going to have some
10 assistance, but after the forum they don't have a
11 clue some of the time of what we were talking about,
12 but some of the time they go to offices, they go to
13 city agencies with the hope they are going to have to
14 receive assistance for their issues, but, you know,
15 they didn't get what they were expecting. How do you
16 handle this very important issue, you know, when you
17 have people who don't speak English or when you are
18 providing or hosting a public forum when there are
19 people who are not proficient in English?

20 DEPUTY COMMISSIONER SUSSMAN: Sure.

21 CHAIRPERSON EUGENE: Becuae you have
22 people in your staff who speak several languages, I
23 believe.

24 DEPUTY COMMISSIONER SUSSMAN: Absolutely.
25 This is a key priority of Commission Malalis. When

2 she arrived 4-1/2 years ago, staff at the agency
3 spoke less than 10 languages. Currently, staff at
4 our agency speak over 30 languages. For an agency of
5 our size that is quite significant, and we know that
6 that is, you know, but a fraction of the languages
7 spoken in New York City. So, we always have our
8 staff trained and ready to call language, our-our
9 language line vendor so that they are served
10 immediately in the language they speak. We are
11 always working to improve, but this is a key priority
12 area for-for our agency and our Commissioner and we
13 have prioritized hiring staff that speak the
14 languages of New Yorkers so that they can learn about
15 their rights and then realize their rights with
16 someone who can speak their language. And when we do
17 host public events, we always ensure that we have
18 staff who speak the language of the-of the community
19 that were-in which we're situated, and also that we
20 have on-site in-ear contemporaneous interpretation in
21 the language of the community so that even if we have
22 one or two staff members who speak that language, we
23 ensure that they are able to access that information
24 in-in their language immediately and we, you know,
25 used some of our budget several years ago to

2 prioritize the purchase of those-those-that-that-the-
3 the technology in order to be able to do that and
4 have that, and not always, you know, borrow it from
5 MOIA or borrow it from other partners. So, we have
6 that capacity in-house.

7 CHAIRPERSON EUGENE: Thank you very much.
8 Thank you to each one of you. Let me turn it back to
9 Co-Chair Chin. Thank you so much.

10 CHAIRPERSON CHIN: Thank you, Chair and
11 oh, we've been joined by Council Member Treyger.
12 Council Member Lander, you've got questions.

13 COUNCIL MEMBER LANDER: Thank you to both
14 Chairs and-and thank you to the panel for this work
15 and again thank you for the-for the first panel for
16 really calling our-our attention. It's-so you guys
17 have-have testified very well, both about what we're
18 doing to get at discrimination and with the model
19 programs, DFTA has. In between our City agencies
20 themselves and those non-profit partners we contract
21 with where there is like an opportunity for people to
22 be affirmative employers and I wonder, you know, what
23 are we doing both to make sure that we don't have
24 discrimination in our own city agencies and in the
25 many, you know, wonderful non-profit and human

2 service and for profit agencies that the city
3 contracts with. Are there thing we're doing there
4 both to push them to be affirmative employers
5 participating in these programs, but also make sure
6 that we are making people, you know, making sure
7 people comply with the law and are—are, you know, are
8 affirmative as employers to the full extent of that
9 they can be.

10 DEPUTY COMMISSIONER SUSSMAN: So, if the
11 question is around sort of raising standards across
12 city agencies and those entities we contract with?

13 COUNCIL MEMBER LANDER: Yes.

14 DEPUTY COMMISSIONER SUSSMAN: Sure. I can
15 speak a little bit to the Commission's work on
16 education and outreach with our sister agencies. We
17 have a catalog of trainings not only sort of Know
18 Your Rights or Know Your Obligations trainings, but
19 also building inclusive workplaces and affirming
20 workplaces in a whole host of different areas, and we
21 often ask our sister agencies if we can come in and
22 present, and sometimes we are asked and we welcome
23 those opportunities to come in and talk to our sister
24 agencies not only as employers frankly but as public
25 accommodations as providers of services to the public

2 and how to do so in a—in an inclusive and culturally
3 competent way. So, we offer those opportunities to
4 sister agencies all the time, and, um, and we have
5 created to that end a statutorily mandated training
6 on sexual harassment that city agencies can use. They
7 can also use the DCAS developed training, which is
8 now a statutory requirement to be completed every
9 year. So, we have a history of doing, well, a recent
10 history of doing this work, and we continue to build
11 out that catalog of training that we use both for
12 private entities, non-non-city employers, and also
13 with sister agencies, and I—and we've partnered I—I
14 believe as well with—with DFTA on ensuring that folks
15 who are entering the workforce that DFTA who worked
16 with DFTA in getting placed know what their rights
17 are with respect to—to city Human Rights Law
18 protections as well.

19 EDGAR YU: Yes, she's exactly right. In
20 addition some of these interagency partnerships, we
21 as I mentioned earlier work with hundreds of private
22 businesses to also really create a culture shift in
23 many ways in their organizations. So, the—this
24 direct exposure and experience of older workers
25 really as I mentioned is having a much greater

2 impact, so a grassroots or organic impact on the
3 organization as a whole. We continue to work and
4 identify other partners. If you have any private
5 entities that—that are, um, interested in working
6 with mature workers, we're happy to do that. We
7 actually have a job fair, if I may just quick one
8 plug, on October 18th we're actually hosting a job
9 fair where more than 200 seniors or older adults are
10 looking for employment. We'll be directly engaged
11 with dozens of employers looking to—to hire them on.
12 So, we're really excited about that.

13 COUNCIL MEMBER LANDER: And we want to
14 push a little more on the agencies we contract with,
15 you know, where we might have opportunities through
16 how we write those contracts or what we ask them to
17 look at. You know, in some instance those wouldn't
18 be civil service, um, positions. They have, you
19 know, somewhat more flexible hiring that can be good,
20 but it can also be bad. I just wonder to what extent
21 whether we're looking at the network of-of
22 organizations the city contracts with both as an
23 opportunity to participate in the DFTA programs, but
24 also, um, you know, push them to be really, you know,
25 to engage in best practices.

2 MARIA SERRANO: I can say that the CSEP
3 Program it's basically contracted with over 300
4 community, 400 community-based organizations to
5 deliver employment and training support to the
6 seniors in the programs. To that end, the commitment
7 is also that they practice with practices of
8 employment. We educate them. Each year we're
9 meeting with them. We are sort of expanding the
10 resources that we have with them to avoid any form of
11 discrimination in the workplace to educate them as
12 well while-while they are supporting the Title V
13 participants at these locations that they understand
14 the protections that they are driven by. So, all
15 this information it's made available on to the host
16 agency partners that are in contract with the SCSEP
17 Title V Program. Yes.

18 COUNCIL MEMBER LANDER: So, that's great,
19 but I guess my question is so those organizations
20 that have decided to be SCSEP partners seem like they
21 would be the ones that would be most inclined to want
22 to partner here and I'm asking about, you know, the
23 agencies that contract with the city for the wide
24 range of other service provisions who we-you know,
25 would be a good audience with which to push a little

2 harder. If they don't yet—have not yet become SCSEP
3 partners or, you know, what things could we do to use
4 that great opportunity to keep moving people along?

5 EDGAR YU: You're absolutely right,
6 creative ways to sort of impose these things on folks
7 that we wouldn't ordinarily have the opportunity to.
8 I think you're right and sort of the RFP process
9 might be a perfect opportunity to do some—to think
10 through some of those things, and we're absolutely
11 open to that

12 COUNCIL MEMBER LANDER: For—two questions
13 for the Commission. You—you've since, you know, since
14 Commissioner Malalis started done a lot of—built a
15 lot of testing work that didn't exist before in
16 housing and employment. Some out of legislation this
17 Council has passed, and some that you've decided to
18 do on your own. Have you learned some things in
19 building up the practice and the testing work in
20 housing and employment that would be useful to apply
21 in the situation of rooting out age discrimination,
22 you know, what—what are, you know what are some of
23 the things we're learning in that work that we would
24 want to apply here?

2 DEPUTY COMMISSIONER RAJ: So I think one
3 of the good things about the testing program is that
4 we've found that in the vast majority of tests that
5 we have done, there hasn't been evidence of
6 discrimination, which is a good thing.

7 COUNCIL MEMBER LANDER: Yes.

8 DEPUTY COMMISSIONER RAJ: But there is
9 enough discrimination that we need to address and
10 handle. I just also wanted to answer quickly a
11 question that Councilwoman Chin had about the cases
12 that we have. I just want to talk a little bit about
13 a couple of cases. One of them was where a person
14 was asked when they were interviewed. Most of the
15 people who work here are in their 20s. Would that be
16 a problem for you? Another person who came to us was
17 told she was already in her job and she was told that
18 you don't seem to be very good at computers, and
19 learning the software. So, she was kind of eased out
20 of her position because of that. So, those are still
21 more blatant than--than the subtle forms. I think the
22 subtle forms are more--can be--can be determined more
23 easily when we do the Commission initiated work than--
24 than doing the, um, the complainant based work.

2 COUNCIL MEMBER LANDER: I guess one
3 question on the testing work, you know, I can imagine
4 some--some things that would be discovered by
5 applicants in person like what you just said about
6 are you comfortable with all the 20 somethings. I can
7 imagine, you know, comparable resumes. Like things
8 are about does an older worker get in the door? So,
9 might the testing work include preparing comparable
10 resumes where the age was all that was different, and
11 seeing over time whether, you know, older applicants
12 don't get the--the interview.

13 DEPUTY COMMISSIONER RAJ: So, we haven't
14 done the age discrimination testing actually--

15 COUNCIL MEMBER LANDER: Yes.

16 DEPUTY COMMISSIONER RAJ: --but, um--

17 COUNCIL MEMBER LANDER: [interposing]

18 That's why we have to do it.

19 DEPUTY COMMISSIONER RAJ: --historically
20 what has happened is that kind of testing has been
21 done as projects by different groups sometimes
22 academic institutions, and they've sent out like
23 1,300 resumes to different companies to see what
24 comes back, but that just--they've found actually that
25 may show a trend but does not necessarily show that

2 there is discrimination as to a specific company
3 discriminating against a person because as I said
4 before, it's difficult to separate out age—whether
5 it's age discrimination or whether is one of the
6 other protected classes that may have had and
7 influence on it. When you're doing testing, you're
8 trying to do it almost like a scientific experiment.
9 We are trying to isolate whatever it is that you're
10 testing and everything else remains equal. It's
11 harder to do that with age than with other protected
12 categories. For example the Fair Chance Act it's
13 easier to do that because someone, you send in as a
14 pair test if you're doing a pair test, or you can
15 even do it as a telephone test. Someone says oh, by
16 the way, I've got a criminal record. Is that going
17 to be a problem? It's kind of hard to say, oh, by
18 the way, I'm 55. Is that a problem or not? People
19 are not going to respond to you in the same way is
20 what we've found, is what people have found as they
21 would say in a Fair Chance Act Testing because if you
22 say you have a criminal record you get a response
23 saying no that's not an issue or it depends when
24 really that should not be the answer that you get
25 depending on what the job is or someone who says

2 yeah, that is a problem. You know, I don't think
3 that employer wants someone who has a criminal
4 record.

5 COUNCIL MEMBER LANDER: Okay well then I
6 guess assuming that we pass--no I can't. I've lost the
7 numbers, but the Intro program what, I mean what are
8 the testing models that we would use. You know I
9 understand the reasons why this would be more
10 complex, but, you know, I think if we--if our
11 suspicion is there are employers who are less likely
12 to interview older applicants, you know, what are the
13 things that we're going to do through testing to try
14 get it?

15 DEPUTY COMMISSIONER RAJ: So, we would do
16 the pair testing where we would send somebody who
17 has--who is much younger and someone who presents as--
18 as older, and give them similar resumes and see
19 whether there is a difference, but you're going, you
20 know, whether there's a difference in who's hired. I
21 still think that the request for information is a
22 much better tool for us to use, but I mean we could
23 do the test and--and I'm not sure what we would--what
24 would come out of those tests.

2 COUNCIL MEMBER LANDER: When then I
3 wonder and then I'll ask my last question and turn it
4 back over. I--what we would learn and where we would
5 have an enforceable case might be different
6 situations, but that doesn't mean we should do the
7 testing. So, I--I could imagine we might, you know, if
8 we did 1,500 resumes across some companies and they
9 came back in ways that, you know, were not
10 surprising, but were disturbing, it might be that we
11 didn't have a case against any of the particular
12 employers, but if it shoed us a big trend and, you
13 know, it might be worth doing the testing with an eye
14 not only to bringing enforcement claims, but I mean
15 you could still publish the list of employers. We
16 send, you know like we sent out 1,500. They came
17 back. It is, you know, here's the, the evidence
18 collectively of discrimination. Here's the 14
19 employers that we sent it to. We are getting more
20 serious about age discrimination even if we don't
21 have, as you say, you know a slam dunk case on some
22 tech company that, you know, we think is--

23 DEPUTY COMMISSIONER RAJ: Right.

24 COUNCIL MEMBER LANDER: --needs to--needs
25 to evolve on age discrimination.

2 DEPUTY COMMISSIONER RAJ: So, I think
3 that we should be careful about publishing the names
4 of people that we sent the test to, because it may
5 not be really clear that it' because of age. There
6 may be many other factors. When you go in for an
7 interview it may not necessarily be because of your
8 age. It may be like you didn't come across as a good
9 interview. You, you know, there are many reasons that
10 someone may not be chosen. So, I would be a little
11 reluctant to-

12 COUNCIL MEMBER LANDER: Well, what all I
13 would say here is I hear you using your-enforcing
14 your law enforcement powers judiciously, and I agree
15 that if you don't-if you're not ready to say a
16 particular employer engaged in particular actions
17 that are evidence of discrimination, but, you know,
18 let's imagine the world where we did the study and it
19 came back with clear evidence across the entirety of
20 the field that there was discrimination. I don't
21 know why it wouldn't be bad to say here's the 20
22 employers that we sent applications to. We're not
23 going to tell you which one. We're not-we're not
24 bringing enforcement claims, but across the group
25 there was that issue. We'd encourage the people that

2 care about those employers to say to them what are
3 you doing on this issue. There might be ways I think
4 this just goes to your point that this is a challenge
5 on the one hand, this is a challenging field around
6 which to make the same kinds of cases that we
7 sometimes can in other areas, but if we know there
8 is pervasive discrimination we want to push on, then
9 we need to be creative and come up with some ways to
10 push employers collectively. So, I guess then we
11 just—I'll—I'll leave it here, but I think there would
12 be some ways to use testing methodologies, and to use
13 tools that are somewhere in between a very broad
14 education that everyone should be better and we've
15 got a case right here the we shine a spotlight on the
16 issue and kind of push us all forward. So, I'll
17 just—I'll ask my last question now, which is I was
18 peaking at the 2019 Annual Report, which looks great,
19 and really speaks to increasing work in a lot of
20 different ways. It speaks to really good work dealing
21 with caseload management and some creative solutions
22 to trying to settle things earlier, to close old
23 cases. Like it really reflects doing all you can
24 with the resources that you have while we keep
25 assigning you more work to do and you want to do more

2 work and, therefore, kind of informing like you said
3 responsibility keeps growing. Despite all of that,
4 it does ring true that the average case processing
5 time was up again last year and the year before,
6 which is not surprising when we assign you more
7 responsibility and don't give you enough resources to
8 have more people to process all the cases even if you
9 are taking a lot of steps to try to address caseload
10 management with the resources you have. But to me,
11 looking at the numbers in the Mayor's Management
12 Report and the 2019 Report, it remains the case that
13 despite all you're doing because we're assigning you
14 more and not giving you more resources, it takes
15 longer on average to process a complaint, and if
16 we're going to give you more work, which I'm in favor
17 of doing and these bills, it would be incumbent on us
18 to give you the resources to do that work in a way
19 that didn't lead to lengthened processing times. So,
20 would like to take the opportunity to talk me out of
21 that perception or—or not?

22 DEPUTY COMMISSIONER SUSSMAN: No comment.

23 [laughter]

24 COUNCIL MEMBER LANDER: You know,
25 obviously, Mr. Chair, you've been—you've been a good,

2 you know advocate on this as well, but I just think
3 every time we add a responsibility to the Commission,
4 even if it's a really good and important one, that we
5 are mindful that unless we put more budget time get
6 them more staffed to process the complaints then what
7 that means is people the bring complaints are going
8 to be waiting longer for justice. So, that's not a
9 reason not to do more. It's just a reason for us to
10 all work together as you have been a leader on, but
11 I'm just saying for the public and for all of us when
12 we do these things we've got a responsibility to make
13 sure we get more resources to keep doing this work.

14 CHAIRPERSON EUGENE: Well, thank you very
15 much Council Member Lander. You know, you inspire me.
16 You know, you bring a cushion to my mind right now.
17 So, I know Council Member Lander has been talking
18 about budgets, and I think that previously in one of
19 the public hearings I did ask the question and I'm
20 going to ask it again: What is your biggest
21 challenge in addition to this very, very important
22 issue? What is the biggest challenges that you are
23 facing?

24 DEPUTY COMMISSIONER SUSSMAN: So, I think
25 that in an effort, you know, there are certain

2 evident enforcement agencies, as a law enforcement
3 agency, we are governed by our statute and our
4 statute and our rules create a process and that
5 process can be really lengthy, and it can be lengthy
6 for good reasons. It ensures due process, time for
7 respondents to respond and answer, a rebuttal to be
8 submitted, for the evidence to be weighed and
9 assessed and gathered, but for people who are either
10 in crisis situations need—because they are about to
11 lose out on a housing opportunity because they have a
12 voucher or because they have a disability and are
13 unable to use their bathroom in their building—in
14 their apartment because they have a disability or a
15 pregnant worker who is about to be terminated because
16 she's not getting the accommodations she needs to
17 maintain a healthy pregnancy, we—the tools, the
18 sort of the—the process that is built into our
19 statute doesn't account for those crises and
20 immediate interventions that we often are faced with.
21 And so, what we've done is we've created this pre-
22 complaint intervention process, and we've filled,
23 we've identified—we've moved staff to—to respond to
24 those cases more urgently. We have created an entire
25 process for that so, if we get a call from someone

2 who is still currently employed and facing, you know,
3 a disability accommodation issue or a religious
4 accommodation issue or pregnancy accommodation issue,
5 and they need an urgent intervention, we have created
6 the mechanism by which we can get on the phone and
7 start making—start doing advocacy and saying are you
8 aware employer that you must provide a reasonable
9 accommodation unless you can show that it proves—I
10 provide—it causes an undue hardship, and in many— In
11 some of those situations we are able to keep that
12 person employed. The last thing we want to is, you
13 know, someone to go through a full process with us
14 only to learn that had—that we could have maybe done
15 and early intervention and kept them employed rather
16 than get them damages after the fact once they've
17 lost a job due to discrimination or the failure to
18 get a reasonable accommodation. So, I think we
19 struggle with addressing systemic discrimination,
20 which we know exists on a large scale, which requires
21 long-term investment in complaints and
22 investigations, and issuing decisions and orders that
23 state broad policy and take bold positions with also
24 this need to address the urgent needs of New Yorkers
25 every single day who are facing unstable housing or a

2 complete lack of housing because of discrimination or
3 the fact that they may be pushed out of their job at
4 any moment because of-or are facing a daily onslaught
5 of harassment in the workplace. So, it's really the
6 struggle to balance those two things, and
7 historically the agency had not done that rapid
8 response, but our Commissioner and the staff really
9 felt strongly that we needed to be more creative and
10 be more nimble to respond to the needs of New
11 Yorkers, and so that's what we're-what we're doing,
12 but it's this constant balancing to ensure that we're
13 doing both. We're doing the long-term sort of
14 addressing sort of systemic patterns and-and taking
15 those bold positions and also working to meet the
16 urgent needs of New Yorkers everyday.

17 CHAIRPERSON EUGENE: Thank you. Thank
18 you very much. I do understand your answers, but
19 there's in here I didn't catch at all. Let me get
20 back to Council Member Lander. In order to provide
21 the best services possible, some of those, you know,
22 resources are necessary. Efficient staffing is
23 necessary. So, that means that my question to you:
24 Do you believe that if you have more resources in
25 terms of budget, increase of budget, would be in a

2 better position to address those issues? And I think
3 I asked this—this question before, but nobody, you
4 know, gave me the answer because we do know to be in
5 a better position to provide good service, we need
6 staff. We need resources. Have you been able to
7 identify any budget needs in the Commission that
8 would allow you to better serve those people that are
9 facing age discrimination in the workplace?

10 DEPUTY COMMISSIONER SUSSMAN: Well, we
11 are grateful that, you know, 4-1/2 years ago when we
12 before all these committees, we had a staff of about
13 55 at the agency and thanks to the support of the
14 Council, and the Administration, our staff members
15 have nearly tripled, and so the work of the agency as
16 reflected in our remarks, you know, we have recovered
17 almost five times the number of damages and penalties
18 at this agency in Fiscal Year 2019 than we did in the
19 year prior to Commission Malalis' start, and that is
20 in large part due the incredible work of Deputy
21 Commissioner Raj's team, the increased staffing and
22 resources, and the, you know, the—the increase of
23 rising of the standards of investigations and
24 prosecutions, and thinking more creatively about how
25 we look at how win practice cases. We look at broad

2 investigations. Those also take time, and so, I
3 think that for every additional attorney that joins
4 Deputy Commissioner Raj's team, that's a caseload of
5 cases that can move because we have more attorneys to
6 move those cases. So, again it is a struggle. We
7 want to be a visible presence, and I think our
8 presence and visibility has grown as we have grown
9 and that's, you know, also dedicating efforts to do
10 community outreach and education, to be present on
11 social media, but that results in more people coming
12 to the agency. So, again, it is—it is something that
13 we—that we struggle with. We know case processing
14 times are lengthy. We are constantly working to
15 address that without giving up doing good and
16 thorough investigations. So, I guess to answer you
17 question, every new attorney we bring in gets a
18 caseload, and—and we—and—and that allows more cases
19 to move along in-in-in the process.

20 CHAIRPERSON EUGENE: Thank you very much
21 for that also. Thank you. Let me turn it back now
22 to Council Member Chin. Thank you.

23 CHAIRPERSON CHIN: Okay, I guess during
24 budget time we have to get it out of you. [laughter]
25 Council Member Treyger had a question.

2 COUNCIL MEMBER TREYGER: Yes, thank you
3 to both chairs I think for a very important timely
4 hearing and just a couple of question and I think
5 there's a lot of learning follow-up work that is a
6 part of process, but just a quick question. I'm a
7 big believer that we need to model the behavior that
8 we expect others to follow. Would you agree that the
9 city as a significant employer itself needs to model
10 the behavior that we expect to see? Now is that—is
11 that fair?

12 DEPUTY COMMISSIONER SUSSMAN: Yes.

13 COUNCIL MEMBER TREYGER: Thank you. Do
14 we know how many seniors serve as commissioners in
15 New York City government?

16 DEPUTY COMMISSIONER SUSSMAN: I guess
17 the—well, I—I wouldn't—I'm not sure I have the number
18 off the top of my head, but it would also depend on
19 how you define senior.

20 COUNCIL MEMBER TREYGER: But that's —that
21 is my next kind of question.

22 DEPUTY COMMISSIONER SUSSMAN: Okay.

23 COUNCIL MEMBER TREYGER: Is there—is
24 there a definition of senior—do we have—do we have
25 that?

2 EDGAR YU: Sure, a senior from DFTA's
3 perspective on a variety of our programs is 60 and
4 older. There are a whole number of programs
5 including those we described today where it's 55 and
6 older.

7 COUNCIL MEMBER TREYGER: Right.

8 EDGAR YU: So-so, depending on which
9 particular program we're talking about.

10 COUNCIL MEMBER TREYGER: It's an
11 interesting question about how many folks who are 60
12 and over have served in senior positions in
13 governments, commissioners, deputy commissioners and
14 so forth because again that's a part of modeling and
15 expectations and I look at for example one agency's
16 policy. I'm going to share with you very briefly
17 this was written in a publication The Gothamist in
18 June of 2019. So, earlier this year. It says: A
19 high ranking NYPD Officer took his own life on
20 Wednesday just a few weeks before he was set to face
21 mandatory retirement because of his age. According
22 to reports, the 62-year-old police chief had
23 submitted his retirement papers one day earlier after
24 39 years on the job. The NYPD's mandatory retirement
25

2 age is 63. Are you familiar with the NYPD's
3 mandatory retirement age?

4 DEPUTY COMMISSIONER SUSSMAN: Yes. I
5 think generally speaking we're aware that certain
6 uniformed agencies I think primarily have statutory
7 from what I understand mandatory retirement ages.

8 COUNCIL MEMBER TREYGER: And what are we
9 doing? I mean this is a chief that served the city,
10 continued to serve the city until his last breath,
11 and they according to a published report they believe
12 that the reason—a big reason why he chose to
13 painfully take his own life was because he was told
14 by the government he had to put in his retirement
15 papers because he was turning 63.

16 DEPUTY COMMISSIONER SUSSMAN: I'm not
17 sure we can sort of comment on the intricacies of
18 these. I think they are longstanding statutory
19 requirements. I think we are open certainly to being
20 part of the conversation with our sister agencies and
21 the uniformed agencies around sort the historic
22 justification for these, and re visiting them.

23 COUNCIL MEMBER TREYGER: But in your—in
24 your professional opinion do you believe someone at
25

2 the age of 63 can serve in the NYPD and serve in the
3 agency?

4 DEPUTY COMMISSIONER SUSSMAN: Again, I
5 can't comment about the NYPD's processes, their job
6 expectations, but what I can say is that the vast
7 majority of--of positions in the private sector and in
8 the public sector do not have mandatory retirement
9 ages, and I do think that the presence of mandatory
10 retirement ages in certain sectors does contribute to
11 I think this sort of accepted notion that we are now
12 challenging that you get to a certain point in your--
13 in your age, in your career and you are no longer a
14 useful member of the workforce, and I think--So, I
15 think we are open to having this dialogue around--
16 around these--the notions that we are here to
17 challenge and to talk about today. And I think in
18 the case that I highlighted in my testimony where
19 there was that policy, that they wouldn't hire or--or
20 employ anyone over the age 65, that was a private
21 sector employee, but I think because there has been
22 this sort of longstanding in certain sectors
23 mandatory retirement age that employer didn't think
24 it was so overt. It was sort of just accepted
25 principle in--in the-- minds that you could--that at a

2 certain point you are no longer useful quote/unquote
3 "useful." So, I think that this is part of the
4 conversation today.

5 COUNCIL MEMBER TREYGER: Well, I mean and
6 that's—I think you've kind of made my point because
7 how can the government point fingers at the private
8 sector when we have such problems in our government?
9 I mean that's exactly what I was getting at. I think
10 this policy is outrageous. I think this policy does
11 discriminate based on age. This person according to
12 what I'm reading did not have—it was a stalwart
13 public servant, and—and I—I think that we need to
14 look across the board at all agencies and all levels
15 of government to make sure that we are not hurting
16 people because of their age. It's outrageous, and so
17 I—I and I would venture to assume—I don't know, do
18 you know the year of that statute when that was
19 written?

20 DEPUTY COMMISSIONER SUSSMAN: I'm not
21 aware of that of the year, but I believe it is
22 pursuant to state law.

23 COUNCIL MEMBER TREYGER: Right.

24 DEPUTY COMMISSIONER SUSSMAN: So, you
25 know, I think it's a—it's a conversation that we're

2 happy to engage with, with our counterpart, you know,
3 our partners in the Administration that handle state
4 legislative affairs, and think about--

5 COUNCIL MEMBER TREYGER: [interposing]

6 But I will share with you respectfully that I'm a
7 part of the process every year with--with City Hall
8 and the Council and the Mayor's side on our opening
9 agenda. Not once did I ever read this issue on the
10 agenda to go up to Albany and advocate for a change
11 in that law. Maybe I missed it. I like to read. I
12 didn't see it. Maybe the Chair saw it. I didn't see
13 it, but I think this needs to be a part of our agenda
14 to go up to Albany and not just shake hands and take
15 pictures but actually effectually change. Because I
16 think this policy is hurting people and actually in
17 this case I think contributed to the chief's death,
18 which is preventable. And so I-I-I appreciate your
19 work. I think it's not--this is an important job. It's
20 not easy, but I think that we need to self reflect in
21 city government. Are we doing enough internally to
22 make that our policies are aligned to the
23 expectations that we have of the private sector as
24 well, and I thank the Chairs for their time. Thank
25 you.

2 CHAIRPERSON CHIN: Thank you Council
3 Member Treyger. I just want to ask a couple of
4 follow-up questions. So how many in the Commission
5 ow many staff do you have that conduct investigations
6 and then what are the caseload per staff?

7 DEPUTY COMMISSIONER RAJ: So, the Testing
8 Unit has four testers at this point and one testing
9 coordinator, and I'm the one who oversees the
10 testing. So usually testing programs have 50 to 60
11 testers, and you pull from that testing pool
12 according to the tests you want to do. That's not how
13 the city sets it up so we have only four testers. At
14 this point we have slots so we're going to be filling
15 in those slots, but there are six tester slots for
16 us.

17 CHAIRPERSON CHIN: Don't you train
18 volunteers or recruit testers? Because I remember
19 doing fair housing testing. Well, a long time ago.
20 We recruit testers and train them and then send them
21 out into the field, but if you only have four testers
22 you can't do that much.

23 MARIA SERRANO: So I think and, um, we
24 can get back to you on the details on this but I
25 think it poses some challenges to have volunteers

2 due to civil service issues, you know concerns around
3 taking on work that might be done by people that we
4 would hire through civil service titles.

5 CHAIRPERSON CHIN: But then when you
6 contract with community-based organizations, they-
7 they train volunteers. I mean not new volunteers.
8 They give them a stipend or whatever. They do train
9 people to be testers because that's where you get the
10 variety, people with different, you know, ethnic
11 backgrounds, language and all that. But what I'm
12 asking is investigation not just testing.

13 DEPUTY COMMISSIONER SUSSMAN: Okay.

14 CHAIRPERSON CHIN: You know all the staff
15 that does complain that comes in and-and how many
16 like all the attorneys that you have.

17 DEPUTY COMMISSIONER RAJ: Right.

18 CHAIRPERSON CHIN: So, how many do you
19 have and how many cases do we have to handle.

20 DEPUTY COMMISSIONER RAJ: Right. So our
21 attorneys are our investigators. We don't have
22 separate investigators and the attorneys take the
23 cases. When the case come sin at intake we have an
24 info line that does an initial intake but if there is
25 jurisdictional-if it's found to be jurisdictional,

2 then they get an—the person gets an appointment with
3 an attorney and that attorney then carries the case
4 all the way to trial or if we bring it to
5 conciliation, or if the case is dismissed because
6 there is no claim there. We have—I think at this
7 point we have 71 staff and out of that, 45 I think
8 are attorneys. The rest are administrative staff.

9 CHAIRPERSON CHIN: And in your—in your
10 testimony you're talking about over the past two
11 years that you filed—the Commission filed 110
12 complaints on behalf of an individual alleging age
13 discrimination. How many of those cases were
14 resolved and then what happened to the cases that are
15 still open or not resolved?

16 DEPUTY COMMISSIONER SUSSMAN: I'm sorry.
17 I'm sorry. [background comments/pause] So, six. If
18 I—if I may sorry. The numbers, it's a little bit
19 apples to oranges because the cases that were opened
20 in the past two years are not necessarily the cases
21 that were resolved in those same years. Many of the
22 cases take more than one year or if they were, you
23 know, opened six months into the fiscal year. So, we
24 had—in fiscal year 19 we had 68 age discrimination
25 cases that were closed, and we and I mentioned in our

2 testimony over the past two years that resulted in
3 \$1.3 million in damages and penalties in age
4 discrimination I believe in the workplace cases that
5 were closed in those two years.

6 CHAIRPERSON CHIN: I think the number is
7 higher than last year. I mean that's 2017, which is
8 great. I think what we are looking at, you know,
9 along with the advocates and why we're proposing this
10 legislation, even on-on a simple thing like a poster
11 I mean in your testimony or your answer you were
12 talking about you have the Know Your Right Poster
13 that lists all the category. We want to highlight
14 age discrimination, and we want the public to see
15 that, you know, age discrimination is not acceptable
16 in New York City. I think there is, whether it's
17 social media, on the subway, bus stop, I think
18 that's where we want to see more focus on this
19 because as you say, you know, you were doing testing
20 programs. You don't even do testing. There's not
21 enough emphasis, and this problem is growing, and we
22 really want to bring more awareness and that's why
23 we're talking about, you know, a simple thing as a
24 poster, more training, focusing on a special task
25 force that can come up with, you know, some solutions

2 and recommendations for us to tackle this issue and
3 also to really focus on providing resources for older
4 workers, and that's why we're talking about the
5 Mayor's Office, you know for older workforce
6 development for older worker. Because even with
7 DFTA, you know, they—they—the program, the—the, um,
8 the program that, you know, you provide for age 55
9 and older in your testimony I mean the jobs that you
10 list are low-paying jobs. It's not—it's not enough
11 for someone to survive on. It's also part-time. It's
12 20 hour. It's sort of like a training, but a lot of
13 the older workers that do need to work and support
14 themselves and their families, they want increased
15 opportunity, and that's why we want DFTA to really
16 coordinate with other agency to focus on workforce
17 development specifically for older workers so that
18 they can get back into workforce, get better paying
19 jobs. I mean that's our goal. We don't want to just
20 settle for low-paying jobs, and we've hear for—heard
21 from, you know, workers, yeah they work at our senior
22 center. They work at our childcare center, but a lot
23 of them, you know, maybe they are immigrant or
24 they're older, they really don't have opportunity.
25 But we have workers that are truly are well educated

2 and they need a better, you know, chance to get a
3 better job, and we need to really start focusing, and
4 that's why I wanted the legislation. We wanted the
5 Mayor's Office to really focus, on, you know, older
6 worker. That's why we want to focus on Workforce
7 Development for older workers. We've got to start
8 paying attention to this population because that
9 number is going to continue to grow--

10 DEPUTY COMMISSIONER SUSSMAN: Yes.

11 CHAIRPERSON CHIN: --right and
12 discrimination happened as you heard from the first
13 panel even as young as 40, right? But we want to
14 make sure that workers that have to work that still
15 want to contribute to society get the opportunity and
16 get this training and support. We want it to be
17 like--I mean that's what the advocate is fighting for.
18 We want to fight ageism and it has to be something
19 that's very, very visible. So, whether it's the
20 poster that should be in all city agencies, we want
21 to see, you know, posters in the subway, bus stop.
22 Everybody should be talking about that because even
23 though a workers who's 20 now, they better pay
24 attention because that could happen to them 20 years
25 later. So, I mean the--the legislation that we put

2 together in this package to really focus more
3 attention on this issue, and we want to make sure
4 that both, you know, the Commission on Human Rights,
5 and DFTA have the resources to do that, and DFTA
6 cannot be just providing senior centers service.
7 Okay. It's got to be much more because the senior
8 population are older worker. The older adult
9 population is growing. So, DFTA's budget has to go-
10 grow, right? We've been fighting on that every
11 single year. The same thing with the commission. You
12 have an important job to do. So, we want to work
13 with you and we want to grow that support, grow that
14 budget so that you can help us tackle these critical
15 important issues. So, I hope that we will get support
16 from the-for the legislation, and we can follow up
17 with your agency, you know, to-to work out if there's
18 other suggestions you have to make it better, and how
19 we can really coordinate on this.

20 DEPUTY COMMISSIONER SUSSMAN: Thank you
21 and we look forward those conversations and, you
22 know, we are committed we know that, you know, while
23 we have cases and we're prosecuting and investigating
24 those cases there are far more experiences of
25 discrimination whether it's overt or implicit, and

2 there is a solution, and we know that there is
3 societal, you know, there's--this is--this is larger
4 than cases file with the Commission. This is a
5 bigger conversation that we should all be having and
6 we are committed to engaging with you, and many of
7 the advocates in the room to continue this
8 conversation and think about ways to really shift the
9 conversation on this both through using the law, but
10 also through, you know, having conversations with the
11 business community and, you know, and other
12 stakeholders as well.

13 EDGAR YU: Yes absolutely right. I think
14 we've said a few times now that we have a shared goal
15 in this regard and I think that's a really important
16 first step and we're happy to have--continue dialogue.
17 Just really quickly about sort of the--the wage you
18 might know, and I'm sure you do that these SCSEP jobs
19 are minimum wage jobs--

20 CHAIRPERSON CHIN: I know.

21 EDGAR YU: --which they are \$15.00 We
22 actually are really proud of that minimum wage here
23 in the city. Across the country you know is very
24 different. The federal minimum wage has been
25 stagnant for years. I'm so incredibly proud of that.

2 Obviously, we want to continue to engage the Council
3 and thinking through how best to sort of leverage
4 that money that we're getting from the federal
5 government to implement this program, and we're happy
6 to have those discussions.

7 CHAIRPERSON CHIN: Definitely. I mean,
8 but what I'm hearing, you know, from some of the
9 worker that there's no benefits and no pension. So,
10 when you're talking about somebody age 55 they might
11 be around for a long time.

12 EDGAR YU: Sure.

13 CHAIRPERSON CHIN: So, if there is no
14 benefit and then no pension plan, you know, that
15 doesn't really help them.

16 EDGAR YU: Yes.

17 CHAIRPERSON CHIN: So, we really got to
18 work on that, that is a good paying job with benefits
19 that they can live on and--

20 EDGAR YU: And that's something called
21 direct employment. So, we want to open their network
22 and get them to these--these jobs so that that these
23 age competent employers are hiring them on. So, yes
24 exactly right.

2 CHAIRPERSON CHIN: Yeah, and that's why
3 we all—we have to work together to make sure that the
4 older workers are visible--

5 EDGAR YU: Yes.

6 CHAIRPERSON CHIN: --and they still a lot
7 to contribute: Experience, work ethic, all that's
8 got to be promoted. So that's why we really need to
9 work together and with the advocates. So thank you
10 to the panel today and I'm going to call up the next--

11 -

12 DEPUTY COMMISSIONER SUSSMAN: Just one
13 quick--

14 CHAIRPERSON CHIN: Yes.

15 DEPUTY COMMISSIONER SUSSMAN: --and just
16 quick housekeeping. My colleague Deputy
17 Commissioner's Raj's testimony we have a slightly
18 updated version than the one that you have. Just
19 like with that there's a couple of little things that
20 we retracted (sic) and we have already handed it out
21 to Committee Counsel I believe. So, I just wanted to
22 put that on the record. Thank you very much.

23 CHAIRPERSON CHIN: Thank you. Jenna
24 Gladfelter from Live On New York; Bobbie[background
25 comments/pause] Sackman, Radical Age Movement;

2 Christian Gonzalez-Gonzalez Rivera; and Ruth
3 Finkelstein [background comments/pause] Regina, why
4 don't you come up, too. Regina Maxon from also
5 Radical Age Movement. [background comments/pause]
6 Oh, Regina left. Okay. Well, Bobbie will take care of
7 it.[background comments/pause] We're going to have to
8 put you on a clock, but I-give us the highlights, and
9 hen we can also ask questions. Thank you.

10 BOBBIE SACKMAN: Okay, thank you. Good
11 afternoon.

12 CHAIRPERSON CHIN: Hi.

13 BOBBIE SACKMAN: I'm Bobbie Sackman with
14 Radical Age Movement, but I'm also here as you'll see
15 in my testimony testifying on behalf of the New York
16 State Alliance for Retired Americans, which just
17 briefly began as a union based retiree group, but has
18 opened up to all retirees and has over 400,000
19 members across the state, and this-and Radical Age is
20 actually a member of theirs, and they're very
21 interested in-in this work discrimination issue. So,
22 really what's in my testimony is-is going through the
23 bills. So, first of all, I do want to, you know,
24 thank you, Chairs of these committees and
25 Councilwoman Chin and Ayala in particular for

2 introducing the bills. The testimony by the—the
3 female reporter I think was moving to all of us, and
4 for sure. So, I think we—we were given the
5 opportunity over the summer. Different, you know,
6 advocates came together to review a draft of—of the
7 bills, and we thank you for that. It's a little
8 collaboration and, you know, as usual the legislative
9 process. Some of our recommendations were accepted
10 and some of our recommendations weren't. So, we're
11 back, and we've had a further discussion where we've
12 had some other I think good ideas come up. So, I
13 thought what I would do really quickly. I don't have
14 to go through each one. I've highlighted where, you
15 know, either you put in some new language, which we
16 appreciate, but one of the key recommendations I'd
17 like to raise is the bill that talks about the task
18 force and the bill that talks about the older worker
19 development office. In our discussion, we realized
20 that the task force in a way should be tasked with
21 coming up with the blueprints that will become the
22 Older Worker Development Task Force. Now, maybe that
23 seems obvious, maybe it doesn't, but it wasn't so
24 obvious until we started talking about. That could
25 be done. Again, we're not the legislators. I don't

2 write bills. It could be done in one bill together
3 or if now that are two bills adding some legislative
4 language and that's what's in the testimony something
5 about that this shall be a blueprint because then the
6 time that's needed to go through the task force it
7 rally gives it teeth, and then you do need, and we
8 appreciate the language about the six-month interim
9 report because we were concerned about the year-long
10 process, but then it gives it really teeth that you
11 do need a year to really produce what we hope will
12 now become something real. The other thing about
13 that development office is, which by the way is a
14 great idea. I mean terrific. You know, it's long
15 been needed. Just to consider that rather than it
16 being a separate office, there is the [bell] Mayor's
17 Office of Workforce Development, and there's a model
18 there, the Youth and-Oh, I'm sorry. Center for Youth
19 Employment, and perhaps making an older worker
20 development piece part of that already existing
21 office rather than off on its own. Again, just out
22 of concern that it could get lost. It may not get the
23 attention it needs, and it seems like the Youth
24 Employment Office has had some substantial money put
25 into it, which is, of course, what we're hoping for

2 older workers. I have \$12 million in my testimony. I
3 just found out that actually the updated number is
4 that City Council has put in \$19 million. Now, I'm
5 around long enough to know that that's a good chunk
6 of change, and—and good that you guys are that, but
7 boy wouldn't we like to see that for older workers,
8 and also the Fund for City of New York is involved
9 and private businesses. So, again, maybe thinking of
10 it instead of a separate office part and parcel of an
11 already existing mayor office, um [bell] and—and I
12 think it's fine, and I'm trying to see if there's
13 anything. We went through everything and everything.
14 You're going to hear more about the testing piece.
15 I'm not going to—not going to go on about that. The
16 only thing I—I do want to add quickly is—is the
17 fiscal impact. Yes, there's a fiscal impact, and we
18 all live with the fact that nobody think it takes any
19 money or it takes very little money, but it takes the
20 Department for the Aging or other city agencies to do
21 these kinds of programs. This is new. We need to
22 build the capacity as you just heard with DFTA, the
23 Human Right Commission, the testing. We're very
24 pleased that a fifth bill was added about anti-ages
25 in training. That could be done within a city

2 department. It could be done on a contracted out
3 basis, but that takes money. To develop a curriculum
4 and doing ongoing training, developing a database.
5 So, we shouldn't cheat ourselves from the get-go and
6 maybe that's something we could work with your office
7 and the city's, you know, Finance Committee to come
8 up with some numbers so we really go into this saying
9 this is what will make this real. Thank you.

10 CHAIRPERSON CHIN: Thank about.

11 BOBBIE SACKMAN: Oh, and also, I'm sorry.
12 I'm submitting Regina Maxson's testimony. The guard
13 has it just on her behalf. She couldn't stay.

14 CHAIRPERSON CHIN: Okay, thank you.

15 BOBBIE SACKMAN: Okay. Oh, I'm sorry.

16 RUTH FINKELSTEIN: Good afternoon, good
17 late afternoon. I'm Ruth Finkelstein and I'm the
18 Executive Director of Hunter College's Brookdale
19 Center on Aging, and with me I'm honored to introduce
20 my colleagues Christian Gonzalez Rivera, our Director
21 of Strategic Policy Initiatives. Since we're both
22 experts in this area and came to it kind of by
23 separate routs and have different areas of expertise,
24 I'm very appreciative of your allowing us each to
25 briefly summarize our testimony, and we will both be

2 brief. I want to just frame one thing. Obviously,
3 we're in strong support of the effort that both of
4 you are putting in in leading the Council forward
5 into this incredibly important areas of having New
6 York City lead the nation in how can we enact and
7 monitor and enforce the strongest possible age
8 discrimination laws, and we are eager to be of
9 service to make that effort successful. I want to
10 frame it in a reminder that currently the full age of
11 Social Security claiming is 70 years old. Therefore,
12 when we have a situation where people are losing
13 their jobs or having diminutions in their work status
14 because they're 40 and they're 50, and they're 60,
15 and they're 65, we are literally pushing them over a
16 cliff where they can't possibly age in a helpful or
17 productive way or even pay their rent. So, this
18 issue I was interested to hear the Human Right
19 Commissioners talk about areas that are emergencies
20 and in some ways I think this area, too, is another
21 emergency in human rights because we've come so far
22 apart between how antiquated our cultural
23 expectations and laws are and our actual life
24 expectancy and needs and they're really far apart at
25 this point, and we have to play catchup. Now, that's

2 enough. Let me turn not to saying nice things about
3 all the bills we support 100% and completely, but cut
4 to the chase of a couple of modifications. We'll
5 both be doing that with different pieces of the
6 legislation. First of all, we love—the—the poster is
7 brilliant and beautiful and wonderful. The training
8 ditto, but at Brookdale we have a lot experience
9 training frontline government workers, and our
10 experience is that experiential hands-on training is
11 so much more effective than click, click, click
12 through these mandatory online trainings, which we
13 all know we do while we're multi-tasking, we're on
14 the phone and we're making dinner for the kid and
15 we're going click, click, click, but yet, if you get
16 into a room with skilled trainers and they're role
17 playing and doing exercises and giving you the
18 experience of what they're trying to train you about,
19 you learn it in a whole different way. So, maybe
20 that can at least be an additional component. Maybe
21 it's prescribed for those agencies and employers that
22 are having some trouble, right, but I wouldn't want
23 such a wonderful thing to be a punishment. But then
24 we need to have a separate longer conversation about
25 the whole concept of how is this situation going to

2 be monitored, evaluated and tested. Because while
3 the intention of requiring five testers to go out
4 every year and do age discrimination is absolutely
5 laudatory. The methodology is insufficient, and we
6 know some stuff about that. We know it as academics.
7 We know it from experience. We know the body of
8 research that other people have done about those
9 methods, and we would be happy to be like a low
10 threshold, low pay advisor to anybody who wants to be
11 improving that, and I believe that as we are
12 successful in expanding awareness, we have to have a
13 very sensitive monitoring mechanism that doesn't make
14 the mistake of saying expanded reporting means
15 expanded problem. It's just like when we expanded
16 awareness of, you know, domestic violence and
17 reporting went up. Well, that didn't mean—that
18 wasn't bad. That was good because it meant that more
19 of the violence that existed was being reported. So,
20 first we're going to see more reporting because
21 awareness is going to go up, and then we want to see
22 more prosecution and then we want to see more
23 prevention, and so we need very delicate monitoring
24 each step of the way so that we can see each step of
25

2 our progress and see where we need to improve our
3 practice to get the progress great. Thank you.

4 CHRISTIAN GONZALEZ: Hi again. Christian
5 Gonzalez from the Brookdale Center. So, I'm going to
6 focus my comments on Bills No. 1693 and 1694 so the
7 task force and the Office of Workforce Development,
8 and I'll keep them brief because they reflect the fact
9 that Bobbie and I have discussed this. [laughter] But
10 we do believe very strongly that the task force and
11 the Office of Workforce Development do need to be
12 linked. I mean just—I mean the fact that if you have
13 a task force, the very best way to ensure that they
14 stay on task and the report issues recommendations
15 that somebody can use is to give them somebody to use
16 it, and so in this case, I mean it's a group. You're
17 already having the good idea of having both this task
18 force and this office. This office, I mean basically
19 this task force should create the blueprint for—that
20 this office should use and again I mean there is
21 precedence in this. I mean it's like I, as you know
22 very well, when de Blasio came into—into office he
23 convened the jobs for New Yorkers' Task Force, and so
24 the job of this task force was to create a blueprint
25 for the Mayor's Office of Workforce Development. I

2 mean it's created in the report Career Pathways, one
3 City Working Together that ended up being the
4 blueprint for this office, and you know, while not
5 all of its aims have been realized in the—in all of
6 this period of time, at least that put, that made
7 that report so much more effective than it would have
8 been had it just been issued out into the ether, and
9 not given a place to—to land. Similarly. I mean again
10 following that same theme as the Mayor Office of
11 Workforce Development, within that office as—as
12 Bobbie mentioned, there is the Center for Youth
13 Employment, and that Center for Youth Employment has
14 been extremely successful in increasing the number of
15 young people who go through employment programs in
16 New York City creating new partnerships that have
17 resulted in new programming and one great example is
18 actually the \$19 million that the Council has
19 invested in the Work, Learn and Grow Program. That
20 is now being run through DYCD, and that is in part
21 because of the efforts of the Center for Youth
22 Employment and all of its partners including the fund
23 for the City of New York, including private
24 employers, including the Council and including the
25 administration as well. So, that kind of model where

2 it's not just on one office at DFTA or it's not just
3 on one commission to do this work or one office that
4 might be isolated. That work done in partnership is
5 so much more powerful. So, along those lines, I—we
6 believe we—we recommend that the Office not be—that
7 the Office of Older Adult Workforce not be isolated
8 on its own, but rather be included in the existing
9 Mayor's Office of Workforce Development as a special
10 program that work—works across sectors. So, thank
11 you. Thank you for the opportunity to testify and
12 again I mean I think we think this is a great follow
13 up to the historic hearing that you had last year.
14 You know, for the first time really putting age
15 discrimination on the map. It was great to be out in
16 the rally and see so many people, you know, really
17 support, that put support behind this and it's time
18 to put ageism on the map, and this is a great place
19 to start. We're seeing that effects a lot of people
20 and so many older adults. Thank you. [bell]

21 CHAIRPERSON CHIN: Thank you.

22 JENNA GLADFELTER: Hi. My name is Jenna
23 Gladfelter and I'm here representing Live on New
24 York. We are a non-profit organization and our
25 members consist of community-based organizations that

2 provide really core services to older adults such as
3 senior centers, home delivered meal, caregiving
4 services, et cetera, and on one hand I feel like what
5 else can I say after so many strong voices and
6 advocates and persona stories that we've heard today
7 that really just reinforce the need for this
8 conversation. So, I think you so much or the
9 opportunity to testify. I just want to say that from
10 Live On New York's perspective we echo a lot of the
11 recommendations that are here and it's outlined in
12 our testimony, but first and foremost we just want to
13 say thank you again so much to Council Members Chin
14 and Ayala for putting together this legislative
15 package. We see it as just such a necessary thing
16 and like I said, I just want to say Live On New York
17 believes that it is critical that we view aging as
18 the normative life process that is it. In other
19 words we are all aging. We find ourselves in an
20 exciting time in which the future of aging itself is
21 dynamic and evolving. Perhaps like never before
22 there is no one size fits all for the aging process.
23 While previous generations may have live by a more
24 consistent set of milestones, today we all experience
25 life and aging differently and, therefore, deserve

2 the opportunity to thrive in accordance with our own
3 desire, drive and values regardless of our age. For
4 some this may mean an early and long awaited
5 retirement. For others in a second act in an
6 unexplored career path. For most, however, it means
7 the continued economic pressures of an often unequal
8 society. This economic reality means that many older
9 adults simply cannot afford fiscal implications of a
10 frequently age base and at times discriminatory
11 society and workplace. Even beyond economic
12 pressures older adults should not be shunned to the
13 opportunity to fulfill the innate desire to have
14 utility, be productive and contribute. According to
15 the U.S. Department of Labor by the year 2024, worker
16 55 of older will represent 25% of the workforce. By
17 contrast, in 1994 those 55 and older represented just
18 11%, and yet today while many people are working
19 longer, age discrimination and particularly in the
20 workforce is still very real. It is engrained in the
21 stereotypes of how older adults live, behave and
22 work, which can have a seriously damaging effect on
23 their job opportunities and overall wellbeing, and
24 while we heard about how age discrimination is highly
25 under-reported, we've also heard that the most common

2 cases that are filed involve an individual not being
3 hired due to age followed closely by those being
4 passed over for job promotions. So, these
5 occurrences have a clear fiscal impact on the
6 individual and it may be more common than those
7 enumerated given the aforementioned lack of
8 reporting. For already marginalized populations such
9 as women, immigrants and minority communities, these
10 age related injustices often serve to exacerbate
11 existing inequalities, inequalities such as lost
12 wages due to caregiving, persistent wage gaps within
13 communities of color and lack of pension options for
14 a multitude of workers. [bell] It means that the
15 financial margins that are so slim that the effects
16 of age discrimination can be devastating. Again, we
17 just want to reiterate some of the—the
18 recommendations that my colleagues said here. We
19 support those, specifically Intro 1694, which is
20 Housing the Center for Older Workers and the Office
21 for Workforce Development just to enable employees
22 to capitalize on existing resources. Yes, and that's
23 all I will say about it. Thank you so much for the
24 opportunity to testify.

2 CHAIRPERSON CHIN: Thank you very much to
3 this panel, and thank you for your advocacy in
4 helping, you know, with our bills. Okay, one more
5 panel. AARP, Chris Lidello (sp?); Lila Malamute, New
6 York Legal Assistance Group. [background
7 comments/pause] Karen, the Legal Aid Society, Kakago
8 (sp?) [background comments] Okay. Greg Waltman and
9 Katie Naptoski, Naptoski (sp?) Sorry if I
10 mispronounced your name, but please come up. If
11 anyone else wants to testify, please fill out a slip
12 with the sergeant.

13 KAREN CACACE: Hi. I'm Karen Cacace,
14 Director of the Employment Law Unit, the Legal Aid
15 Society. The Employment Law Unit represents low-wage
16 workers throughout New York City with most types of
17 employment claims including discrimination claims and
18 including age discrimination claims. So, we want to—
19 we want to thank for—for holding this hearing. We
20 want to thank you for advancing this legislation.
21 It's extremely important and we're—we're—we're happy
22 to support all of the—all of the bills that have been
23 introduced. We did want to point out a few things,
24 and one is that while the New York City Human Rights
25 Law is very broad in its protections, as it was

2 discussed it has like 26 categories where it is
3 providing protection, but it does not cover anyone
4 who works at a small employer. You need four
5 employees to be covered by the New York City Human
6 Rights Law, and that is—that is a problem because
7 there are lots of—there are lots of workers out there
8 many of them older workers who work at a place there
9 are less than four employees. So we would encourage
10 the City Council to focus on that issue, and all that
11 needs to be done is to eliminate the number 4 in the
12 definition of an employer. An employer should be
13 defined as somebody who has workers working for them,
14 not somebody who has four or more employees working
15 for them. So, that's one issue we just—we did want
16 to highlight. Another issue is—is—is enforcement and
17 the City Commission testified about their efforts,
18 and we appreciated all of the—the questioning about
19 them about do they need more resources, and to—to the
20 extent that they get additional resources, we would
21 really encourage the Commission and encourage the
22 City Council to encourage the Commission to put—to
23 put those resources toward the Mediation Program.
24 Their mediation program is excellent. We have filed
25 many cases at the Commission. We have had the

2 Commission refer workers to us who filed pro se and
3 then we represent them in mediation and they have one
4 mediator there. She is wonderful. She is very
5 capable of bringing about a resolution in difficult
6 cases, but she's one person and so we have waited
7 more than a year to get before her for a mediation.
8 So, it is just, you know, particularly in the case of
9 older workers it's too long to wait, and it is—it
10 would be a great alternative rather than having to go
11 through the entire investigation process, which takes
12 one to two years to be streamlined into a mediation
13 process. So, if they were able to hire several more
14 competent mediators, I think you would see a lot of
15 resolution—resolutions reached—reached much quicker
16 and with good results for the workers who are
17 experienced in discrimination. So, again, thank you
18 for—for holding this hearing, and in advancing the
19 legislation. [bell]

20 CHAIRPERSON CHIN: Thank you.

21 KATIE MALKATARSKI: [off mic] Hello, my
22 name is Katie Malkatarski--

23 CHAIRPERSON CHIN: Can you press the
24 button.

25

2 KATIE MALKATARSKI: [on mic] Hello. My
3 name is Katie Malkatarski (sp?). Thank you for
4 taking my testimony. I'm here on behalf of myself.
5 I worked as a teacher and teacher coach for the
6 Department of Education's office of Adult and
7 Continuing Education for more than 25 years, and did
8 my time there four years ago in June 2015 when I
9 transferred to another DOE division. During the 2013
10 to 2018 Superintendency of the former OACE, the
11 former OACE Superintendent Rosemary Mills, scores of
12 staff members were forced out through harassment and
13 intimidation, a toxic work environment and the
14 targeting of staff including teacher support and
15 administration. The majority of those who left were
16 older employees 50 plus. In fact, 12 staff members
17 filed an age discrimination complaint and I can
18 [coughs] tell you more about that later if you'd
19 like. It was dismissed. This forced exodus weakened
20 the fabric of OACE immeasurably. Over of the course
21 of about three years a vast store of accumulated
22 institutional and educational knowledge was wiped out
23 as senior staff was purged from the rolls. In the
24 light of this experience I welcome this legislation a
25 safeguard to the intents to impose. I thank the

2 Council Members and the Council for putting forth
3 these initiatives as I believe that workplaces across
4 the city should be well informed of the law as
5 applies to age discrimination. I would also like to
6 request the following: That in whatever means
7 possible during training or in print that the worth
8 of seniors is also conveyed in ways that cannot be
9 legislated, that our culture needs to treasure and
10 appreciate elders for their knowledge, experience and
11 wisdom, all of which are invaluable components of a
12 workplace home and world, and that this should be
13 communicated. Perhaps part of the trainers (sic)
14 could explore the value of elders within various
15 cultures in order to strengthen our own cultures'
16 appreciation of our seniors' wonderful gifts. These
17 qualities for the years 2013 to 2018 were not valued
18 within OACE to the detriment of all. I welcome this
19 legislation and the beneficial effects it can have
20 within city workplaces and our culture at large.
21 Thank you. I just also would like to add that the new
22 [coughs] OACE Administration is a vast improvement,
23 and thank the Council, the school Chancellor and the
24 city for [coughs] and the City Council especially
25 Dromm and Treyger for bringing about this change.

2 Thank you, and I'd just like to say that the
3 complaint, which was made by 12 or 14 [coughs]
4 teachers, was not dealt with by the Commission as a
5 whole. They dealt with it individually rather than
6 looking at it holistically [coughs].

7 CHAIRPERSON CHIN: So, they didn't look
8 at it as a trend--

9 KATIE MALKATARSKI: No.

10 CHAIRPERSON CHIN: --happening and they
11 didn't investigate.

12 KATIE MALKTARSKI: No.

13 CHAIRPERSON CHIN: They just did it the
14 individual cases?

15 KATIE MALKATARSKI: Uh-hm.

16 CHAIRPERSON CHIN: Okay, because I mean
17 DOE, I mean, you know, we've heard other incidents
18 where more, you know, mature teacher or a teacher who
19 had more experience had been in the system a long
20 time are sort of forced out or forced to retire early
21 because it costs more. Because a lot of principals
22 use that, well, I can hire two-two teachers if I let
23 got of the-the one that's been there a long time.

24 KATIE MALKATARSKI: Yes, and there was a
25 definite-if you looked at the information and the

2 data, there was a definite relationship there between
3 the senior teachers, how they were rated and, um, and
4 forced out often, but that wasn't looked at by the
5 Commission. They only looked at the case
6 individually not holistically.

7 CHAIRPERSON CHIN: Okay, we could
8 probably follow up with them on that. Thank you.

9 KATIE MALKATARSKI: Okay.

10 CHAIRPERSON CHIN: Thank you for your
11 testimony.

12 KATIE MALKATARSKI: Thank you.

13 LILA MALAMUTE: Hi. My name is Lila
14 Malamute, and I'm here today on behalf of the New
15 York Legal Assistance group. I'm a Paralegal with
16 the Employment Law Project, and I have with me a list
17 of evidences from attorney with the Employment Law
18 Project. NYLAG is a non-profit organization that
19 provides free legal services to low-income New
20 Yorkers who can't afford private attorneys and our
21 Employment Law Project does a variety of types of
22 cases, and the majority of which are discrimination
23 and a lot of them are age discrimination cases.
24 NYLAG and the Employment Law Project really commends
25 the City Council for holding this hearing and

2 addressing this really pressing issues. Many people
3 have mentioned before me more and more Americans are
4 choosing to stay in the task force—in the workforce
5 longer than they used to, which is why it's
6 imperative that we strengthen our legislation
7 protecting older workers. Through our work with
8 NYLAG's Employment Law Project, we've become
9 intimately familiar with the fact patterns of the
10 incidents of age discrimination. I think it's worth
11 just going into some of them to bring to light what
12 this looks like really on the ground. For example,
13 often times our clients will describe supervisors who
14 make overt comments targeting their age saying
15 they're too old to be doing this job especially if
16 it's a physical job or often times also asking them
17 when they plan to retire. Other clients experience
18 ageism in more subtle way by for example receiving
19 unwarranted negative performance evaluations or being
20 disproportionately disciplined compared to younger
21 workers. We have client for example who was age 70
22 and he was fired after 25 years of service at an
23 advertising sales company for not meeting the sales
24 revenue quota, but upon further investigation, we
25 found that the company was utilizing a phased-in

2 (sic) neutral policy that required workers with more
3 years of experience to meet a higher monthly quota in
4 order to unfairly penalize and get rid of the older
5 workers, and we settled his case after demonstrating
6 that significantly younger workers who had also
7 consistently missed their quota were not being
8 similarly disciplined. Despite the pervasiveness of
9 age discrimination, clients have an especially hard
10 time proving their claims because of the higher
11 causation standard under the ADA, and assessing this
12 particularly exacerbating failure to hire cases where
13 well qualified applicants are passed over for a job
14 because of their age. In these cases, applicants
15 often lack access to the kind of evidence they really
16 need to prove, to make a but for showing, which is
17 evidence that other older and qualified applicants
18 were also rejected or that younger applicant-
19 applicants were hired in their places. I think this
20 is why the work that you're doing here and the
21 legislation that you've proposed is so vital
22 especially-we're especially enthusiastic about
23 Introduction No. 11695, which will require the
24 Commission on Human Rights to conduct regular age
25 discrimination testing program, and I think these

2 testing programs could be really vital to generate
3 the much needed evidence and the failure to hire
4 cases where applicants don't usually have the kind of
5 evidence they need to make out those claims. So,
6 thank you again for inviting me to testify. [bell] I
7 appreciate it.

8 CHAIRPERSON CHIN: Well, thank you very
9 much for staying so long and for testifying. We look
10 forward to working with you, and if you have any
11 other suggestions in terms of the legislation, please
12 let us know because we are pushing to get these
13 legislations passed as quickly as possible. Is there
14 anyone else that want to testify? If not, I want to
15 thank everyone for being here today, and the hearing
16 is 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 October 17, 2019