

Testimony of Annabel Palma
Commissioner and Chair New York City Commission on Human Rights
Before the Committee on Civil and Human Rights
March 16, 2022

Good afternoon, Chair Williams, and members of the Civil and Human Rights Committee, and thank you for convening today’s hearing. I am Annabel Palma, Commissioner and Chair of the New York City Commission on Human Rights (“Commission”). Today I am joined by Sapna Raj, Deputy Commissioner of the Law Enforcement Bureau and Kajori Chaudhuri, Deputy Commissioner of the Community Relations Bureau. I have had the honor to lead this agency since October of 2021. I am proud of what our team has accomplished over the past five months – work that builds on legislative, policy, enforcement, and education advancements at the agency since 2015.

The Commission is the civil rights enforcement agency in New York City that implements the New York City Human Rights Law, one of the broadest and most protective anti-discrimination and anti-harassment laws in the country, with 27 protected categories, and which covers housing, employment, and public accommodations. By statute, the Commission has two main functions. First, the Commission’s Law Enforcement Bureau enforces the City Human Rights Law by investigating complaints of discrimination from the public, initiating its own investigations on behalf of the City, and utilizing testing to help identify violations of the Law. Second, through the Community Relations Bureau, which is comprised of Community Service Centers in each of the City’s five boroughs, the Commission provides workshops and trainings on New Yorkers’ rights and the obligations of businesses, employers, and housing providers under the City Human Rights Law, working with community partners and sister agencies. Community Relations focuses on preventing discrimination and works closely with community partners to mitigate the impacts of discrimination through restorative justice initiatives, among other innovations. In 2015, the Commission established the Office of the Chair- the agency’s legislative, communications, policy, and adjudicatory hub, which complements and supports our law enforcement and community relations work.

So far in Fiscal Year (FY) 22, the Human Rights Law has been amended twice: to add employment protections for domestic workers and to promote salary transparency in job postings. That is in addition to the 36 amendments to the Human Rights Law that the Council passed between 2015 and 2021. Today, the Law includes prohibitions on criminal history discrimination in employment, protections for survivors of gender-based violence in housing and employment, and prohibitions on source of income discrimination. Our law also prohibits retaliation against individuals who seek to oppose discrimination, file a discrimination complaint, or participate in a related investigation.

Throughout the COVID-19 pandemic, the Commission’s work has continued, expanded, and pivoted to address new challenges, including racial disparities in access to healthcare and housing; the needs of frontline workers who have disabilities or are pregnant and seek accommodations to continue to do their jobs safely, as well as the rise in anti-Asian bias, antisemitism, and violence against transgender and gender non-conforming individuals. I will

speak about the breadth of our work today but want to take a moment to highlight how our agency worked to create a comprehensive approach to the needs of New Yorkers throughout the COVID pandemic.

In FY 20, the Commission launched a COVID-19 Response Team to handle all reports related to the pandemic. Comprised of staff from the Law Enforcement Bureau and the Community Relations Bureau; this team has succeeded in efficiently tracking and supporting New Yorkers facing harassment and discrimination connected to COVID-19. The team worked diligently in advising businesses of their obligations under the law to preempt discrimination. The COVID-19 Response Team on our law enforcement side took over 300 actions in FY 21, including closing 14 rapid response inquiries, issuing over 200 advisory of obligation letters to businesses, conducting 23 successful emergency interventions, and filing 39 complaints. We will continue to work with communities and respond to discrimination as we enter a new phase of the pandemic—the City opening up.

I will focus my comments today on FY 21, starting with just a snapshot.

In FY 21, the Commission resolved 895 cases and assessed a record \$9.74 million in damages and penalties for violations of the City Human Rights Law. In addition to resolving cases for monetary relief, the Commission has shaped restorative justice remedies to repair the harm experienced by individuals and communities impacted by discrimination. For example, in instances of employment discrimination, the Commission has negotiated resolutions that require respondents to invest in employment pipeline opportunities for underrepresented groups, and to engage with community-based organizations to facilitate broader recruitment. In housing cases, settlements have included set-asides of apartments for voucher holders. Overall, the Commission has established a cooperative approach to fostering Human Rights Law compliance. In many instances involving first time violators of the City Human Rights Law, where no complainant was harmed by a violation, the Commission has sought to educate businesses about their legal obligations and work with them in creating non-discriminatory policies and practices, rather than pursuing monetary penalties.

We have also developed new trainings and initiatives that respond to the experience of a wide array of New Yorkers. In FY 21, we launched a new training on age discrimination, and we are currently finalizing a training on the Jewish experience and antisemitism. These complement our bystander intervention trainings, trainings on the Muslim experience, trainings on combatting anti-Black racism, and education and outreach through our community liaisons and lead advisors, who work specifically with LGBTQI individuals, New Yorkers of the African Diaspora, East Asian New Yorkers, transgender individuals, among other New Yorkers historically underserved and underrepresented.

The Law Enforcement Bureau

The attorneys in the Law Enforcement Bureau (“LEB”) evaluate and investigate allegations of discrimination brought to the Commission by members of the public and utilize the agency’s investigatory and prosecutorial powers to root out pattern-or-practice or other forms of

discrimination through Commission-initiated investigations. LEB and its specialized units, the Early Intervention Unit, Source of Income Unit, and Gender-Based Harassment Unit, offer the option of resolving claims in lieu of filing a complaint, leading to a quicker resolution. Resolutions through pre-complaint intervention have significantly increased over the past several years, as LEB has worked to provide timely resolutions despite an increased caseload.

In FY 21, the Commission fielded 9,055 inquiries from members of the public, in the form of phone calls, emails, letters, visits to Commission offices, and queries to mobile intake units dispatched to community sites or at Commission events. This includes 687 inquiries communicated in 12 languages other than English. For comparison, the highest number of total inquiries in recent history was 10,015, in FY 20. In contrast, in 2014, the Commission received 4,975 such inquiries, almost half the number of inquiries received in FY 21. In the first quarter of FY 22, the Law Enforcement Bureau has already received 4,162 inquiries.

The overall increase in inquiries in recent years can be attributed, in part, to the Commission's efforts to raise its visibility and inform communities about the broad protections afforded by the NYC Human Rights Law, our campaigns that affirm all New Yorkers' right to live free from discrimination and harassment, and improved access for New Yorkers regardless of the language they speak.

In FY 21, the largest number of inquiries were in the jurisdictional area of employment, with housing not far behind. We received 1373 inquiries related to employment and 924 related to housing. When looking across all areas covered by our law, disability-based inquiries were the most prevalent across all jurisdictions, followed by inquiries related to race. We received 723 inquiries related to disabilities and 529 inquiries related to race.

In FY 21, the Commission continued its efforts to provide immediate relief from harm, and facilitate quick resolutions where appropriate through pre-complaint interventions and the specialized units I have already mentioned. In FY 21, the Law Enforcement Bureau resolved 214 cases without filing a complaint. The most common pre-complaint interventions involved disability accommodations in housing (91 interventions), and lawful source of income discrimination, in which a tenant or prospective tenant was denied an apartment, or the renewal of a lease based on the use of rental assistance (13 interventions).

The Commission's authority to initiate its own investigations, without a member of the public filing a complaint, is another critical tool we use to enforce the Human Rights Law. In these cases, the Commission identifies potential widespread violations or deeply entrenched discriminatory practices and initiates an investigation. In FY 21, the Commission initiated 48 such investigations and filed 17 Commission-initiated complaints.

Testing is also a critical tool that the Commission regularly deploys to determine whether there is discrimination in housing, employment, or public accommodations. As part of an investigation, the agency may send testers to perform in-person testing or have testers conduct telephone or online testing of potential employers, employment agencies, landlords/real estate brokers, restaurants, hospitals, gyms, stores, or other public accommodations to see if they are treated

differently or are given different information because they belong to a protected class. In FY 21, the Commission tested 878 entities, in spite of COVID limitations. An entity may be tested for violations in multiple jurisdictions and/or multiple protected classes.

The Law Enforcement Bureau filed 643 public-initiated complaints of discrimination in FY 21. Sixty-three percent (63%) of those cases were in employment and twenty percent (20%) were in housing – a reduction we attribute to the pandemic and the eviction moratorium. Disability-related claims were the most common across all areas of jurisdiction at 20%. Race (15%), gender (15%), and national origin (8%) were the other highest areas of claims.

The Law Enforcement Bureau remains a venue for justice where recoveries and affirmative relief are calibrated to address the harms caused to New Yorkers. To that end, since 2015, the agency has broken records year after year with respect to damages and penalties assessed. And last year was no different. In FY 21, the Commission recovered \$9,741,100 in compensatory damages to complainants and civil penalties, the highest in Commission history for the third year in a row, and \$2.2 million more than in FY 20 (\$7,519,147). Of that, \$8,069,100 were awarded in compensatory damages to complainants and \$1,678,000 in civil penalties to the general fund of the City of New York.

In addition to securing monetary relief, the Law Enforcement Bureau continues to innovate creative resolutions that deter future harm and put restorative justice principles into practice to change the dynamics that led to harms in the first place. Many transformative resolutions come through settlements. In FY 21, 30% of cases were resolved through settlements.

Three examples illustrate the innovative approach taken by the Bureau and reflect our focus on developing meaningful resolutions that are structured to foster change.

The Commission's work to end source of income discrimination against New Yorkers has led to novel remedies in housing. Specifically, the Law Enforcement Bureau has required housing providers to set aside a number of units specifically for renters using public assistance. One landmark source of income conciliation in FY 21 resulted in a housing provider setting aside 36 units for voucher holders across their portfolio of properties. The Commission is the first local civil rights enforcement agency to secure "set-asides" in source of income conciliations, creating a path to tackle underlying systemic issues of access to affordable housing. Since implementing this strategy in 2020, the Law Enforcement Bureau has secured almost 200 set-asides for voucher-holding New Yorkers.

The agency has also focused on ameliorating discrimination and harassment in the workplace – whether related to criminal history, sexual harassment, or gender identity. A Commission initiated investigation into pervasive sexual harassment and retaliation at a major news network, led to \$1,000,000 in civil penalties and changes with respect to the network, including waiving forced arbitration in employment agreements for any claims brought under the New York City Human Rights Law.

More recently, the Law Enforcement Bureau entered into a settlement with a social networking site after an investigation into algorithmic discrimination against the LGBTQI community. The

Commission launched an investigation into a social network site's Adult Content Ban, through which an image-classifying algorithm (Classifier), identified content for removal, resulting in disproportionate removal of images and negative impact on LGBTQI users. As part of the settlement, the social networking site agreed to take steps to engage an algorithmic expert, identify sources of bias, then remove them, as well as to change the process for identifying content for removal. The site will also engage in staff training and report to the Commission on the changes the Company makes. The settlement, after a three-year investigation, is a groundbreaking agreement to address algorithmic bias issues.

The Office of Mediation and Conflict Resolution

The Commission is also equipped to address cases through mediation. For five years, the Commission's Office of Mediation and Conflict Resolution has provided a voluntary program available at all stages of a case for no cost. The Office is an independent unit staffed by a Mediation Director, and in FY 21, mediated 47 cases to resolution—the most mediations since 2009— representing, in the aggregate, damages for complainants totaling \$2,179,250. The average time from the acceptance of a case in mediation to its closure was 154 days.

The Community Relations Bureau

The Commission's Community Relations Bureau ("CRB") is charged with cultivating understanding and respect among the City's many diverse communities and raising awareness about the protections under the Law. This work continues to prove vital as New York continues to be tested by acts of hate, bias, and discrimination. In FY 21, we reached a historical number of 102,121 New Yorkers served through outreach efforts.

The Community Relations Bureau works diligently every day to foster inclusion and understanding. Through the agency's lead advisors and liaisons, and the development of targeted trainings, which I mentioned at the beginning of the testimony, we work to ensure recognition, dignity, and respect for all New Yorkers. In recent years, the Commission has built out its focus on restorative justice approaches as well, seeking input from communities affected by discrimination. For example, in the spring of 2021, the Commission convened a series of focus groups with Black New Yorkers to gain further insight into how, if at all, Commission responses that attempt to address harm at the individual and community levels, should be deployed after incidents of anti-Black racism. With a continued emphasis on a restorative justice framework, the Commission promotes both positive community relations and healing. The Commission's bias response team was resurrected in 2016, to respond to publicly reported incidents of discrimination, harassment, and bias by, where appropriate, contacting the victim to inform them of their rights, providing guidance on possible responses. During the pandemic, when the City saw an uptick in Anti-Asian and antisemitic incidents, the Bureau pivoted to a more holistic approach to combating bias and hate. An approach that focused on community solutions, solidarity building as well as a direct response to incidents.

While centering human rights in the city reopening, the Commission doubled down on its efforts to combat anti-Asian discrimination and harassment through enforcement, public education, and

community engagement. We held a series of Talking Circles to hold space for AAPI New Yorkers during challenging times. The Community Relations Bureau spearheaded bystander intervention trainings, to equip AAPI New Yorkers and allies on how to defuse bias incidents. In FY 21, the Community Relations Bureau hosted nearly 50 bystander intervention trainings in English, Mandarin, Korean, and Cantonese empowering over 3,400 New Yorkers with the tools to be upstanders against bias and violence. The Commission also piloted bystander intervention trainings in Spanish and is committed to offering this training in other languages.

In recognition of the importance of reaching our youngest New Yorkers and fostering positive and inclusive environments among young people in schools and other settings, the Commission has significantly expanded its youth programming in recent years and established a youth advisory council to inform the agency's work. Now in its third year, the Commission's Youth for Equity and Solidarity (YES) initiative, incorporates student-led community and school action plans, and expanded programming in issue areas relevant to the lives of young people in New York City today. The Lead Advisor for Youth Initiatives supports the YES council members with trainings, and other opportunities that build their advocacy and organizing skills using a human rights framework. In FY21, the YES Council held their first symposium, titled "Youth for Equity and Solidarity Symposium: Our Future, Our Right." The YES initiative has served over 8,000 youth and continues to reach diverse groups across the City.

Office of the Chair

The Office of the Chair houses the agency's policy, legislative, rulemaking, and adjudicatory functions and implements major Commission projects. As the hub of inter-agency and external partnerships; the Office negotiates legislation and promulgates rules, legal enforcement guidance, and other outward facing materials providing clarity and interpretation of new provisions of the City Human Rights Law; and serves the Commission's adjudicatory functions, including ruling on appeals of decisions from the Law Enforcement Bureau and issuing final decisions and orders in Commission cases.

In FY 21, the agency's policy and regulatory priorities continued to reflect our commitment to diverse communities. The Commission converted legal enforcement guidance on race discrimination on the basis of hair into formal rules, and also released new legal enforcement guidance addressing age discrimination in the workplace. In light of amendments to the Human Rights Law regarding employment discrimination on the basis of criminal history, the Commission launched a public education campaign with legal service providers and re-entry organizations to promote a new guidebook for workers, and updated legal enforcement guidance in this area as well.

We are extremely proud that just four days ago, on March 12th, expanded workplace protections for domestic workers went into effect. Today, domestic workers have the right to be free from discrimination, harassment, and retaliation in the workplace. The Commission has been working diligently to develop accessible materials on new employee rights and employer obligations, collaborating with local and national domestic worker advocacy groups, and will be engaging in ongoing outreach and education now that the law is in effect.

In the coming months, we will release guidelines on the new salary transparency requirements that were passed by the City Council in December to foster pay equity, which go into effect in May.

Communications and Marketing

The Commission has developed a track record of successful campaigns on social media and other digital platforms, and in community press, addressing the rights of Jewish New Yorkers, centering the experiences of Black New Yorkers, and addressing COVID stigma, as well as raising the visibility of new legal protections. In FY 21, the Commission partnered with Public Artist in Residence Amanda Phingbodhipakkiya on the “I Still Believe in Our City” campaign, which gave a voice to the city’s AAPI communities and garnered over 122 million estimated impressions, along with national and international press attention. The Office of Communications and Marketing also led a ‘You Do It With Your Heart’ campaign in partnership with the Department of Small Business Services Black Entrepreneurs NYC (BE NYC) initiative, raising awareness of the economic impact of COVID-19 on Black entrepreneurs. We are also proud that we prioritize M/WBE’s and have continuously received an A grade for spending more than 50% of eligible funds with M/WBEs.

Social media and press outreach elevate the Commission’s community relations, restorative justice, and enforcement actions, and the Commission amassed nearly 3,000 press mentions throughout FY 21. In FY 21, the Commission maintained a 100% investment in community and ethnic media print advertising. In tandem with over 5 million social media impressions, the Commission’s website had over 1.6 million visits in FY 21.

Our work has broad reach, and it reflects the commitment and diligence of our team.

Staff and Personnel

As of today, the Commission has a headcount of 136 with 101 active staff. The staff across each unit and borough is committed to working in partnership with communities vulnerable to human rights abuses, and many represent these communities as well. We are a small but diverse staff and speak over 29 languages across the agency.

Budget

The FY 22 Adopted Budget provided for a total budget of \$14,021,193. For FY 23, the Preliminary Budget provides for \$14,744,203, which consists of \$12,299,226 in Personnel Services (“PS”) and \$2,444,977 in Other Than Personnel Services (“OTPS”) funding.

In Conclusion

I am honored and privileged to have this opportunity to speak to you on behalf of an agency committed to ensuring that all of those who live in, work in, or visit New York City are treated

fairly, and with dignity and respect, regardless of race, color, age, religion/creed, national origin, disability, gender identity and expression, sexual orientation, or any other protected class. We will continue to collaborate with a wide range of stakeholders, and to promote transparency and integrity in advancing the human rights of New Yorkers with the continued support of the Adams Administration and the New York City Council.

Thank you and I welcome your questions.