

**Testimony of Carmelyn P. Malalis
Commissioner and Chair
New York City Commission on Human Rights
Before the Committee on Civil Rights
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Good afternoon, Chair Mealy, and members of the Civil Rights Committee, and thank you for convening today's hearing. I am Carmelyn P. Malalis, Commissioner and Chair of the New York City Commission on Human Rights. Today I am joined by Melissa S. Woods, my First Deputy Commissioner and General Counsel, and Dana Sussman, Special Counsel to the Office of the Chairperson. Just a few weeks ago, I celebrated my one-year anniversary as Commissioner and Chair of the Commission and I am proud of what we have accomplished in this short time. Since taking the helm of this agency, I, or a member of my executive team, have testified before the Council five times before today, and at each hearing we have taken the opportunity to update you on the latest developments at the Commission as we endeavor to transform the agency into a vital, efficient, and responsive resource to the community and a credible venue of justice for all New Yorkers. When I testified at this time last year, I did so having been at the Commission for only about three weeks. A lot has changed since then, and I am happy to describe the agency's transformation over the past year. I am also in a better position to address many of the issues raised at last year's budget hearing.

Over the past year, we have worked tirelessly to build the agency's internal infrastructure, by creating a new organizational structure focused on improved supervision, training, and staff development; staffing new departments; improving internal communication; and hiring experienced staff with specialized skills in an effort to raise standards across the board. At the same time, we have reintroduced a new Commission to the City that is committed to transparency, inclusion, and education. We have done this by hosting a series of roundtable discussions with advocates and business groups from different communities and representing different constituencies to hear about, and respond to, their concerns. We launched two major media and public awareness campaigns – unprecedented for this agency – on the Stop Credit Discrimination in Employment Act and the Fair Chance Act; dramatically expanded and increased the Commission's digital engagement with a variety of audiences; developed strategic media relations with a wide spectrum of media outlets from mainstream newspapers and TV stations to hyper-local community and ethnic media; published Legal Enforcement Guidance in three areas of the law to provide clarity to the public on how the Commission interprets the Human Rights Law, which is also a first for this agency; and undertook the Commission's first rule-making process in nearly twenty years, which I believe is also the Commission's first-ever rule-making process on a substantive protection in the law.

Infrastructure Changes

Thanks to the Council's and the Administration's support of the Commission, the Commission has been able to grow its staff significantly over the past year. When I began my tenure in February 2015, we had an approximate headcount of 56. As of today, the Commission has grown to a staff of approximately 85. We have added staff in all areas of the Commission, including the Law Enforcement Bureau and Community Relations Bureau, and we have built new departments, including the Office of Communications and Marketing, the Office of the Chair, the General Counsel's Office, Operations, and the Human Resources Department.

In the Law Enforcement Bureau, we have created a new level of supervising attorneys who have years of experience litigating anti-discrimination cases under the City Human Rights Law and other laws, and who come with particularized areas of expertise germane to the Commission's work. We have also created a new position, Assistant Commissioner for Commission-Initiated Cases, which was recently filled by Sapna Raj, a former Assistant U.S. Attorney and most recently, the managing attorney at the Memphis Fair Housing Center, to lead our expanded testing and affirmative litigation program.

In the Community Relations Bureau, we have created a new position, Director of Training and Development, which was filled by Vanessa Ramos, formerly the Senior Director for Policy at the Committee for Hispanic Children and Families. In her role at the Commission, Ms. Ramos develops content for workshops in English and Spanish, and provides training, supervision, and professional development opportunities to staff to make sure all our CRB staff are providing presentations that are professional and accessible, and reflects current, updated information. We have also created a new level of supervision under the Deputy Commissioner for Community Relations, in the form of two Zone Directors, to oversee our community service centers in the five boroughs. We have filled one of these positions, to oversee our work in Queens and Brooklyn, by hiring Steve McFarland, who most recently directed campaigns and outreach for Make the Road New York. We have hired Human Rights Specialists for all five community service centers, which are located in each borough, who bring deep connections to diverse communities throughout the City, fluency in multiple languages, and cultural competency to reflect the communities of those boroughs.

The Commission has also built a Communications team to revamp and build the agency's media relations, publications, and campaigns. The Commission on-boarded its first-ever Press Secretary, Seth Hoy, who had previously handled communications at the Brennan Center for Justice. The Communications team has successfully achieved extensive media coverage of two recent major initiatives of the Commission, the new Gender Identity and Expression Legal Enforcement Guidance, published in December 2015, and the announcement that the Commission will be accepting requests for certification of U and T visas for undocumented victims of crime, achieving nearly one hundred local, regional, and national media hits. With new staff, the Communications and Marketing Department significantly amplified the Commission's work in traditional and emergent media, reaching more New Yorkers than ever and encouraging them to inquire about the Commission's services and activities.

We have prioritized improved cultural competency and language capacity across the entire agency. We have brought in trainers from sister agencies and community organizations to train staff on cultural competency in working with different communities, including working with undocumented immigrants, limited-English proficient individuals, members of the transgender community, and individuals with disabilities. We will continue to provide trainings to Commission staff to ensure cultural competency across the spectrum of communities with which we engage. With respect to language capacity, the Commission has doubled the number of languages its staff speaks – in the Law Enforcement Bureau, our attorneys can provide services in thirteen languages, up from six one year ago. In our Community Relations Bureau, our staff can provide services in nine languages, up from five one year ago. As we continue our hiring, we will maintain our focus on increasing the Commission's language capacity so that we are engaging with the City's varied communities properly. In addition, we are translating most Commission materials into eight to ten languages, have rolled out all of our workshops in Spanish, and for the first time, provide free, regularly-scheduled workshops in all five boroughs in Spanish, with more languages to come.

As part of the Administration and the City Council's commitment of transforming communications and outreach so that we truly work and partner with ethnic and community media outlets, the Commission is setting the bar high by having invested approximately 47 percent of our radio and newspaper advertising budget in ethnic and community media, fulfilling the Commission's renewed commitment to

increase outreach and engagement with the immigrant, multilingual, and multicultural communities that make up our City. The Commission co-organized a Q&A with the CUNY Journalism School's Center for Ethnic and Community Media attended by over 25 members of community and ethnic media. The Commission has been featured on Radio Soleil in Haitian Creole, Davidson Radio in Russian, La Mega and Univision Radio in Spanish, Easy 96 in Bengali, and Multicultural Radio Broadcasting Inc. in Mandarin and Cantonese, among others. The Commission's work and staff members have also been interviewed on NY1 Noticias, Telemundo, national and local Univision, CNN in Spanish, and Sino Vision TV.

Since the last hearing before the Committee on Civil Rights in December, we have also onboarded a new Chief Information Officer who now oversees the Commission's IT department and will lead the agency's technological overhaul. To that end, as you are well aware, the Commission has been using an antiquated case tracking system that no longer serves the needs of the agency. The Commission also uses two other systems that support the work of the Commission, but the three systems cannot be integrated. We are currently working with DOITT and OMB to develop a comprehensive solution to integrate the three systems into one platform that will meet the agency's needs. As part of this process, the Commission is also working with the NYC Technology Development Corporation to undergo a deep analysis of the Commission's key business systems and the processes that surround them to identify several software options that can meet the needs of our growing Commission in one robust software solution. In the meantime, the Commission has developed a tool that will allow us to extract and preserve this information so that we can transition to a new software system while protecting our current data.

The Commission will continue to grow to its allocated capacity of 121 full-time staff. In order to do so, we are in the process of identifying a new office location for the Commission's central office, currently located at 100 Gold Street. While this space is being identified, we are anticipating moving into a temporary space in the short term, which will accommodate all of the lines we are seeking to fill in the Commission's central office. In addition, the Commission's Brooklyn Community Service Center will be relocating to a new space in April. We continue to look for an additional space for the Manhattan Community Service Center, which is currently co-located in our central office at 100 Gold Street.

Reintroducing the Commission

The Commission is a remarkably different agency than it was when I joined in February 2015, and I am very proud of the changes we have made and our plans for the future. In my testimony at last year's budget hearing, I spoke about a strategic plan that would involve input, feedback, and relationship-building with Commission stakeholders, including legal advocates, community advocates, and representatives from different communities with which the Commission has not historically engaged. I also spoke about creating an agency that is responsive to the needs of the different communities we serve. To that end, we have hosted a series of roundtable discussions with advocates representing different communities, including transgender rights community advocates, Muslim community leaders, disability rights legal advocates, advocates working with individuals with criminal histories, the credit check coalition, anti-discrimination legal advocates, and others, to discuss opportunities to partner on both law enforcement initiatives, policy, or community outreach and education. Through these meetings, we have identified particular areas of focus, addressing the needs of some of the cities' most vulnerable populations. We have also partnered with issue experts to develop and pilot new trainings addressing additions to the City Human Rights Law – such as employment protections related to the Fair Chance Act and the Stop Credit Discrimination in Employment Act – and key communities that the Commission identified as particularly vulnerable, such as immigrant and transgender communities. We have partnered with the Mayor's Office of Immigrant Affairs to create materials and conduct outreach with

immigrant communities around the city, with a particular focus on outreach to undocumented immigrants. And we recently announced that the Commission is the first human rights or civil rights agency in a major U.S. city to become a U visa and T visa certifier for undocumented immigrants of crime. Finally, to fulfill our agency language access plan and reflect our commitment to language access for New York's diverse communities, the Commission's Community Relations Bureau is offering regularly scheduled workshops throughout the five boroughs in Spanish and conducting targeted outreach to deliver workshops in other languages to immigrant communities.

Small businesses are a crucial constituency – and ally – in the Commission's mandate to protect the rights of all New Yorkers and ensure compliance by employers, housing providers, and providers of public accommodations. To that end, we have engaged with the business and housing provider communities in unprecedented ways, and have met with such groups as the Partnership for New York City, the New York City Hospitality Alliance, the New York State Association of Realtors, the Brooklyn Chamber of Commerce, and others, to develop relationships and ensure that we are providing the necessary programming and information that small businesses need to learn how to comply with the City Human Rights Law. We have also partnered with Small Business Services and several Council Members to reach small businesses across the City. We strive to be a resource and a partner to small businesses and housing providers to ensure that they have the tools they need to not only comply with the Human Rights Law but to create practices that ensure the dignity and respect of all employees, tenants, and customers.

At the hearing last year, I also spoke about improving transparency and communication at the Commission both for individuals who may have claims under the City Human Rights Law and entities that have legal obligations under the Law. To further that goal, the Commission published legal enforcement guidance on the Stop Credit Discrimination in Employment Act, the Fair Chance Act, and protections against discrimination on the basis of gender identity and expression. These documents, a first for the Commission in its history, provide clear direction and examples of the kinds of practices and activities the Commission considers unlawful under the Human Rights Law. Our goal in releasing these materials is to put all New Yorkers on notice of their rights and obligations under the City Human Rights Law. The Commission will be publishing legal enforcement guidance in additional areas throughout the next year. In addition, we are currently undergoing the Commission's first rulemaking process in nearly twenty years on proposed rules relating to the Fair Chance Act and will be hosting a public hearing on March 21, 2016. These detailed rules will provide New Yorkers with further clarity on the law and how to comply.

Commission Highlights

In 2015, the Commission reached millions of people in New York and beyond, through citywide public information campaigns composed of both earned and owned media, the latter in the form of multilingual subway, newspaper, social media, and radio ads. In addition, the Commission made digital communications and social media a top priority in 2015 by actively researching and implementing tools and techniques to increase online visibility and engagement, and expanding relationships with digital strategy teams at the Mayor's Office, sister agencies, offices of elected officials, and community partners. As a result, the Commission has seen a significant rise in its social media following and engagement – increasing its Twitter followers ten-fold, its Facebook following five-fold, and creating new Instagram and YouTube pages. For the first time ever, New Yorkers are reaching out to the Commission using social media to ask questions about our services. The Commission also made strides with its online, Taxi TV, and NYC TV video presence by producing features on two new amendments to the law, the Stop Credit Discrimination in Employment Act and the Fair Chance Act, and a piece on services offered by the Commission entirely in Spanish which was launched during Hispanic Heritage Month last October.

As a result of our increased outreach, we have seen a sharp increase in the number of complaints the Commission received in 2015. The Law Enforcement Bureau opened investigations in 824 cases in 2015 alleging a variety of often overlapping discriminatory activities: a thirty-one percent (31%) increase from 2014, and quadrupled the number of investigations into allegations that landlords and brokers discriminated against tenants who seek to use government-funded rental assistance, filing 90 source of income cases in 2015, up from 22 in 2014. This type of complaint made up eleven percent (11%) of all cases filed in 2015. The Commission more than doubled the average amount of damages and civil penalties ordered in the previous year. The monetary resolutions averaged \$21,806 per case in 2015, up from \$9,725 per case in 2014, which demonstrates our commitment to making this agency a credible venue of justice for New Yorkers. The Law Enforcement Bureau is focused on strategic and comprehensive enforcement of the City Human Rights Law, which includes ensuring that, before a case is resolved, all business practices and policies at a respondent's locations are in compliance with the law. This is a major change in the enforcement strategy at the Commission. Under the prior administration, cases were resolved narrowly, only addressing the specific issue or incident brought to the Commission. The Commission will now require broad compliance, policy changes, and training before resolving cases. For example, as part of a Commission settlement agreement with food retailer Pret A Manger involving denial of service to a customer with a service dog, the company agreed to train all 75 managers in its 41 restaurant locations across all five boroughs on the City Human Rights Law.

In 2015, the Law Enforcement Bureau was able to resolve over one hundred cases through conciliation. Here are just a few examples:

- The Law Enforcement Bureau negotiated a resolution for a current employee against a large housing complex who alleged discrimination on the basis of disability and religion. The settlement involved paying the complainant \$240,000 (\$190,000 in front pay and \$50,000 in emotional distress damages); developing anti-discrimination policies that comport with the Human Rights Law's protections against discrimination in employment, housing, and public accommodations; training all employees and Board members on the new policies; posting the new policies on its website; posting the Commission's "Notice of Rights" and "Fair Housing" posters in each of the 14 buildings in its complex; and posting the Commission's "Pregnancy and Employment Rights" poster in its business office.
- In a case involving a Queens woman who was refused an apartment due to her Section 8 housing voucher, the Law Enforcement Bureau negotiated a settlement that required the landlord and real estate company to accept the woman's Section 8 voucher, offered her a two-year lease at a lower preferential rent, agreed to renew subsequent lease renewals pursuant to NYC's Rent Stabilization Laws, and agreed to post the Commission's "Fair Housing" posters in the apartment building and realty offices for two years and undergo City Human Rights Law training.
- On behalf of a job applicant who was refused employment due to her pregnancy, the Commission ordered the employer to pay the applicant \$20,000 in damages as well as \$2,500 in civil penalties. The employer was also ordered to attend anti-discrimination training.
- In a case involving a tenant with disabilities who did not have reasonable access to her building, the Law Enforcement Bureau required the building owners, management company, and apartment owners to install a lift in the building lobby, level the floors at the bathroom and apartment entrance doorways, widen the bathroom doorway, install an accordion door, and make a cutout in the bathtub. The tenant with disabilities also received \$10,000 in emotional distress damages and the parties were ordered to attend anti-discrimination training.

In 2015, the Law Enforcement Bureau expanded the use of Commission-initiated investigations. The Law Enforcement Bureau currently has a total of 198 active Commission-initiated complaints and/or pre-complaint investigations across 19 different protected categories in employment, housing, and public accommodations.¹ This figure includes investigations in which an individual complainant comes forward and the Commission expands the investigation to address systemic pattern and practice violations beyond the particular issue raised by the complainant, or investigations of discriminatory advertisements or job applications limiting opportunities based on criminal history, for example, or other protected categories. By contrast, almost all of the Commission-initiated complaints filed in 2014, under the Commission's previous leadership, were against businesses posting job advertisements expressing a gender limitation, such as "waitress" or "hostess."

The Commission has also expanded its testing program. Since October 2015, the Commission has conducted nine housing paired tests (lawful source of income), one employment paired test (pregnancy), and four unpaired housing tests.

In 2015, our Community Relations Bureau offered 1,271 workshops, presentations, and trainings on the City Human Rights Law, educating more than 70,000 New Yorkers and businesses. The Community Relations Bureau unveiled new training and workshop content on transgender inclusion, sexual harassment, the Fair Chance Act, the Stop Credit History Discrimination Act, and a Human Rights Law 101 workshop geared towards employers, businesses, and housing providers. The Community Relations Bureau has partnered with the LGBT Community Center to co-lead trainings on transgender cultural competency and inclusion, co-led by peer educators from the Community Center and Commission staff, and has launched its workshops in Spanish in partnership with the Hispanic Federation.

The Commission will build on the work of the past year through several planned initiatives addressing the City's most vulnerable, and acting responsively to the needs of the communities we serve, including, among others, programming and training to address anti-Muslim harassment, inter-agency collaborations to tackle source of income discrimination, strategic enforcement to address discriminatory tenant harassment, the further development of the Commission's Office of Mediation and Conflict Resolution, and the rollout of the new caregiver protection added to the City Human Rights Law earlier this year, which goes into effect in May.

Budget

As you are aware, the Commission's annual budget for Fiscal Year 2016 was approximately \$10,980,437, up from just over \$7.6 million in Fiscal Year 2015. The budget is made up of \$10,816,637 in City tax-levy money and \$163,800 in additional grant funding through a contract with the EEOC pursuant to our workshare agreement. The Mayor's Preliminary Budget (tax-levy) for Fiscal Year 2017 remains consistent with Fiscal Year 2016, which baselined the additional positions added by the City Council in the Fiscal 2016 budget.

The additional staff lines and budget increase over the past year have allowed us to revitalize an agency that had been underfunded and under-resourced for years. As I have described, this agency has changed significantly in size, scope, and budget over the past year. Under my leadership, and with this Council's and the Administration's support, the Commission is interpreting the City Human Rights Law more broadly and enforcing more protections than ever, the Law Enforcement Bureau is mandating

¹ Many of these cases involve investigations of more than one protected category.

comprehensive compliance from respondents before agreeing to resolve claims, the Law Enforcement Bureau's testing and affirmative litigation program is expanding, and the Community Relations Bureau's outreach and education are reaching far broader and more diverse audiences with content and materials relevant to their needs. We hope to continue this transformation with a budget that reflects the Commission's revitalization, relevance, and responsiveness over the next fiscal year.

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Thank you for convening this hearing, and thank you for your support of the Commission as we continue to rebuild and reinvigorate it. I look forward to your questions.