

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON COURTS AND LEGAL SERVICES

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HELD AT: Council Chambers - City Hall

B E F O R E:

RORY I. LANCMAN
Chairperson

COUNCIL MEMBERS:

Vanessa L. Gibson
Ben Kallos
Carlos Menchaca
Paul A. Vallone

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

Alex Crohn
General Counsel
Mayor's Office of Criminal Justice

Jamison Blair
Counsel
Management and Operations
Mayor's Office of Criminal Justice

Sara Zuiderveen
Deputy Commissioner
Legal Services and Rental Assistance
Initiatives
NYC Human Resources Administration

Robin Steinberg
The Bronx Defenders

Tina Luongo
Attorney-in-Charge
Criminal Practice
The Legal Aid Society

Lori Zeno
Director
Queens Law Associates

Lisa Schreibersdorf
Brooklyn Defender Services

Matt Knecht
Neighborhood Defender Service of Harlem

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

Amy Barasch
Executive Director
Her Justice

Raun Rasmussen
Executive Director
Legal Services NYC

Adriene Holder
Attorney-in-Charge
Civil Practice
The Legal Aid Society

Beth Goldman
Attorney-in-Charge
New York Legal Assistance Group

Randal Jeffrey
Director
General Legal Services
New York Legal Assistance Group

Jonathan Fox
Supervising Attorney
Storm Response Unit
New York Legal Assistance Group

2 [gavel]

3 CHAIRPERSON LANCMAN: Good afternoon
4 everyone. We'd like to get the hearing started. If
5 you could please find a seat, we'd like to get the
6 hearing started. [background comments] Thank you.

7 Good afternoon everyone; I am Council
8 Member Rory Lancman, Chair of the Committee on Courts
9 and Legal Services. We're here today to discuss
10 Intro. 0958, which would afford clients of city-
11 funded indigent criminal defense and civil legal
12 services providers the opportunity to offer an
13 assessment of the representation provided to them.

14 New York City has a deep commitment to
15 legal services; we spend \$250 million a year on
16 providing representation to approximately 300,000
17 indigent criminal defendants through six legal
18 services organizations employing a thousand lawyers,
19 as well as social workers, investigators and
20 paralegals. Additionally, where these institutional
21 providers have conflicts, a cadre of over 1200
22 private practitioners represents thousands of
23 criminal defendants in serious cases.

24 On the civil side our city has also risen
25 to meet the challenge of low-income New Yorkers'

2 legal needs to counsel; with Speaker Mark-Viverito
3 enthusiastic leadership, has doubled its annual
4 funding of civil legal services to approximately \$23
5 million and the administration spends an additional
6 \$50 million.

7 Our civil legal services providers
8 represent New Yorkers in almost every kind of civil
9 case imaginable; assisting domestic violence victims,
10 tenants facing eviction, veterans and immigrants.
11 Given the hundreds of millions of taxpayer dollars we
12 spend a year on legal services, it is crucial to
13 evaluate the quality of the representation provided
14 from the client's perspective.

15 Almost a year ago the committee held a
16 hearing on evaluating indigent defense providers; we
17 heard from the Mayor's Office of Criminal Justice
18 about the current oversight process and efforts to
19 create a new evaluation system which will focus on
20 the ten metrics outlined by the National Legal Aid
21 and Defenders Association, such as attorney
22 qualifications, training and caseloads. The
23 providers also discussed their conception of what
24 zealous and effective representation looks like and
25 methods to evaluate their attorneys' success.

2 I introduced this bill because I believe
3 strongly that client satisfaction should be used as
4 an indicator of success in the provision of legal
5 representation. In any other business or in any
6 other field of legal practice client satisfaction is
7 the key motivating factor animating the
8 organization's operation; it certainly was during my
9 own nearly two decades of private practice.

10 Fortunately, we are not painting on a
11 blank canvas; The Legal Aid Society has a client
12 advisory board and seeks to involve former and
13 current clients in policy issues; The Bronx Defenders
14 perform client satisfaction surveys after
15 arraignments and via phone calls, and as I understand
16 it, just recently the organization held focus groups
17 with current clients.

18 I know that all providers, both criminal
19 and civil have robust and well thought out systems
20 for handling client grievances. And moreover, the
21 State of North Carolina recently completed a set of
22 metrics to evaluate indigent defense system
23 performance of the state and client satisfaction
24 measured via surveys was included as one of 11 key
25 indicators.

2 The numbers are important in evaluating
3 legal services -- how many clients represented, how
4 many cases closed, how quickly and at what cost. But
5 clients are not mere numbers; this legislation aims
6 to empower clients and give voice to their
7 experiences -- Are they satisfied with their level of
8 participation in their case; are they satisfied with
9 their attorney's investigation of their claims or
10 defenses; with the communication and information
11 offered throughout the representation, and anything
12 else that a client might deem important. Our
13 indigent criminal defense and civil legal services
14 providers are already some of the best in the country
15 and this information can only help them be better and
16 maximize the taxpayers' bang for the buck.

17 I look forward to hearing the
18 perspectives of the administration and our legal
19 services providers on this issue and in particular,
20 on Intro. 0958.

21 With that we'd like to swear in our first
22 witnesses, I understand representing MOCJ and HRA.
23 And so if you would please raise your right hand. Do
24 you solemnly affirm that testimony that you're about
25 to give is the truth, the whole truth and nothing but

2 the truth? Thank you very much. If we could put
3 five minutes on the clock for each witness, that
4 would be terrific. You're up.

5 ALEX CROHN: Good afternoon, Chair
6 Lancman. My name is Alex Crohn and I am the General
7 Counsel of the Mayor's Office of Criminal Justice or
8 MOCJ. Thank you for the opportunity to testify
9 today; I am joined by colleague, Jamison Blair,
10 Counsel for Management and Operations at MOCJ.

11 The Mayor's Office of Criminal Justice
12 advises the Mayor on public safety strategy and,
13 together with partners inside and outside government,
14 develops and implements policies aimed at reducing
15 crime, reducing unnecessary arrests and
16 incarceration, promoting fairness and building strong
17 and safe neighborhoods.

18 New York City is proud of its robust
19 system for providing indigent defense which serves
20 the vast majority, over 90%, of the people who go
21 through the city's criminal justice system. Several
22 indicators distinguish New York City's indigent
23 defense system; every defendant is assigned a lawyer
24 at arraignment, which is not the case in other
25 jurisdictions, both within the state and nationwide,

2 and our city's innovative providers have developed
3 comprehensive wraparound services, including
4 dedicated immigration lawyers and social workers who
5 assess needs and connect a client to available
6 support.

7 Such services, coupled with high-quality
8 legal representation, serve as a lifeline for many
9 New Yorkers who come from chronically disadvantaged
10 neighborhoods and face significant housing,
11 employment and immigration challenges, some of which
12 can be exacerbated by contact with the criminal
13 justice system.

14 Additionally, the City's Assigned Counsel
15 Plan is currently working on a cutting edge case
16 management technology tool to support the City's
17 hundreds of 18B lawyers. The high-quality
18 representation that exists in New York City's
19 indigent defense services is attributed to various
20 quality control measures that are already in place;
21 these include vigorous, rigorous hiring standards,
22 extensive and ongoing training, performance reviews
23 and constant supervision for attorneys.

24 The City invests significantly in high-
25 quality indigent defense. In Fiscal Year 2015, New

2 York City will spend over \$225 million on indigent
3 legal representation. Of this total, \$150 million
4 goes to Legal Aid and other institutional providers
5 in each borough. Additionally, New York State
6 government will add \$55 million to the annual budget
7 to indigent providers as part of a recent effort to
8 fund reduced caseloads for indigent defense attorneys
9 throughout New York City.

10 The Assigned Counsel Plan, or the 18B
11 attorneys, will receive \$75 million in city and state
12 funding for indigent representation in Fiscal Year
13 2015.

14 We take these investments seriously and
15 just as we approach every other part of the criminal
16 justice system, we are committed to effectively
17 measuring what works and what needs to be improved.
18 Effective evaluation allows us to ensure that funding
19 supports evidence-based practices and to track or
20 find an increased accountability [sic].

21 In January we testified before this
22 committee that measuring the quality of indigent
23 legal defense services is widely acknowledged to be
24 difficult and most existing evaluations are limited.
25 For example, some performance metrics only evaluate

2 one-time snapshots of a public defender office, have
3 access to limited data or do not allow for evaluation
4 of changes in policies, practices or procedures.

5 Most existing evaluations also fail to provide
6 information about the most effective resource
7 allocation and do not always tell you what is or is
8 not working or why. The challenges associated with
9 evaluating indigent defense systems exist nationwide.

10 In the months since, our office has taken
11 important steps toward improving how we evaluate
12 indigent defense to ensure that we are not just
13 counting outputs, but truly capturing the quality of
14 representation. On October 1st of this year, we were
15 awarded a Smart Defense Initiative Grant by the
16 Department of Justice. Under this grant, we are
17 working with the Center for Court Innovation to
18 improve case management capabilities and attorney
19 oversight for the City's Assigned Counsel Plan and to
20 lay critical groundwork for extensive system-wide
21 evaluations in the future. The lessons we are
22 learning in implementing this grant will have
23 spillover effects, helping us to more effectively
24 measure the quality of all indigent defense providers
25 in the city; specifically, we are identifying key

2 performance indicators that correspond to articulated
3 best practices, using methods ranging from
4 quantitative analysis to individual focus groups.
5 Although not yet finalized, we anticipate indicators,
6 such as whether or not specific motions were filed,
7 certain appearances were made, the number of visits
8 conducted by the attorney, all vital aspects of
9 attorney practice to be highly relevant in
10 determining the quality of attorney representation.

11 Accordingly, the City generally supports
12 the spirit behind Intro. 0958, because at its core,
13 the bill aims to improve the way we evaluate the
14 quality of legal representation. However, we think
15 the mechanism the City develops to evaluate these
16 services must comprehensively measure the quality of
17 services and identify system-wide area of
18 improvement; therefore, legislation may be premature
19 at this time. We hope the current research we are
20 conducting with CCI will inform this process and the
21 extent to which clients see that as an [sic]
22 effective measure of quality of legal defense.

23 Thank you for the opportunity to testify
24 here today and I'd be more than happy to answer any
25 questions you may have.

2 CHAIRPERSON LANCMAN: Thank you. In
3 fact, you know what; just give me one minute; there's
4 a Public Safety Committee hearing next door and I'm a
5 member -- Are they ready for the vote? I'm gonna go
6 in there; I'm gonna vote and I'll be right back; I
7 think about a minute.

8 [pause]

9 False alarm. I will have to pop out in a
10 few moments, but I think we should be able to get
11 your testimony in, so..

12 SARA ZUIDERVEEN: 'Kay.

13 CHAIRPERSON LANCMAN: please proceed.

14 SARA ZUIDERVEEN: Good morning. Thank
15 you, Chairman Lancman. I'm gonna read highlights
16 from this testimony and submit... I'm gonna read
17 highlights from this testimony and will submit a full
18 testimony.

19 My name is Sara Zuiderveen and I am
20 Deputy Commissioner for Legal Services and Rental
21 Assistance Initiatives at NYC Human Resources
22 Administration. We are here to discuss the role a
23 civil legal assistance plays in providing access to
24 justice and to testify about Intro. 0958 in relation
25 to client satisfaction surveys designed to measure a

2 client's satisfaction with representation in a civil
3 legal matter by city-funded attorneys.

4 As part of HRA's reform efforts over the
5 past 23 months to carry out the Mayor's priority of
6 addressing poverty and preventing homelessness, HRA
7 created the Homeless Prevention Administration. In
8 this new program area we streamlined existing
9 programs targeted at homeless prevention and with the
10 Mayor's support established two new programs to
11 enhance our ongoing efforts to provide low-income New
12 Yorkers with access to legal assistance, regardless
13 of whether they are HRA clients.

14 These two programs are Anti-Eviction
15 Legal Services, which when fully implemented during
16 FY17 will have \$25.8 million in annual funding and
17 will serve 19,000 households each year.

18 The Anti-Harassment Tenant Protection
19 Program, when fully implemented, will have \$36
20 million in annual funding and will serve over 13,000
21 households each year. This program is aimed at
22 preventing tenant harassment in communities that will
23 be designated for rezoning and was announced by the
24 Mayor in a 2015 State of the City.

2 By way of comparison, the \$62 million in
3 legal services funding to prevent evictions and
4 tenant harassment is more than 10 times the \$6
5 million spent in Fiscal Year 2013; it's by far the
6 largest initiative of its kind in the nation, enough
7 to give more than 113,000 New Yorkers each year legal
8 services to protect against harassment and eviction,
9 which also has the benefit of protecting our
10 affordable housing stock.

11 When all these programs are fully
12 implemented in FY17, New York City will be allocating
13 over \$70 million annually in our baseline budget to
14 provide access to justice for low-income New Yorkers.

15 As illustrated by the summary of
16 available legal assistance programs that have been
17 consolidated at HRA, we will oversee essential legal
18 assistance programs for all New Yorkers, but
19 particularly for low-income New Yorkers. These
20 programs emphasize the provision of preventive legal
21 assistance that can avert or reduce the need for
22 litigation and highlight the need for the provision
23 of comprehensive services that require a seasoned,
24 well-trained civil legal services staff to address
25 the often complex interrelated legal matters.

2 Bringing all services together at HRA enables the
3 City to utilize existing HRA mechanisms to claim
4 available state and federal reimbursement for legal
5 services, streamline the contract management process
6 to avoid duplication of effort and maximize resources
7 for the direct provision of legal assistance and
8 enhance planning to address services.

9 Now I'd like to return to results we've
10 seen since the consolidation of the City's legal
11 services at HRA.

12 Since the consolidation, we can point to
13 real successes that we can attribute to this
14 consolidation and the historic investment in the
15 City's indigent civil legal services. Clients
16 routinely report that these services are invaluable,
17 help keep them in their homes and help level the
18 playing field against landlords. So far 16,745 New
19 Yorkers have received eviction prevention legal
20 assistance, including working heads of households and
21 as noted, this will increase to almost 33,000
22 households each year, which include well over 113,000
23 people.

24 Additionally, the City's saving money
25 because of this investment in civil legal services.

2 A legal service case averages about \$2,000 compared
3 to \$37,000 a year for shelter; investing in legal
4 services gives us a powerful tool to address the
5 deep-rooted and complex challenges that low-income
6 New Yorkers face and allows the City to advance its
7 efforts to provide access to justice in civil legal
8 matters.

9 In light of the Mayor's commitment to
10 address the injustice as evidenced by the
11 unprecedented municipal commitment of resources for
12 civil justice efforts, we are pleased to highlight
13 HRA's civil legal services programs and support the
14 concept contained within Intro. 0958. Transparency
15 and ensuring that government services are working for
16 the residents of New York is paramount to our work at
17 HRA. The Introduction would require HRA to develop
18 client satisfaction surveys and assess patterns with
19 respect to quality of services rendered by civil
20 indigent legal services provided by city-funded
21 attorneys. The quality satisfaction surveys would
22 inform and allow HRA to make recommendations for
23 systematic changes to improve client service, trust
24 and overall satisfaction with civil legal services
25 providers based on client feedback. We agree that

2 there should be deliberate efforts to regularly
3 obtain feedback from clients in regard to
4 satisfaction with HRA's legal services and to respond
5 swiftly and recommend appropriate responses based on
6 the result of such surveys. We believe the client
7 satisfaction surveys are consistent with our shared
8 vision of ensuring that every client receive the
9 highest possible client-centered [bell] legal
10 assistance; however, while the administration has
11 increased its investment in legal services, resources
12 are still finite and every penny that we spend on
13 surveys is one less penny available to HRA to keep
14 low-income New Yorkers in their home.

15 To that end, we suggest an amendment to
16 require that survey responses be submitted to HRA
17 electronically over the internet. Requiring HRA to
18 bare the cost of submission of surveys by regular
19 mail is unnecessary use of limited resources when
20 such surveys could be submitted electronically in a
21 mobile-friendly format, accessible in English and the
22 six local law languages. We also have concerns about
23 a lack of clear mechanism to investigate claims made
24 by clients so that recommendations to the Council
25 based on the surveys are grounded and verified

2 information. Likewise, there is no mechanism to
3 compare client satisfaction with city legal services
4 with client satisfaction with non-city-funded legal
5 services. We also have concerns about potential
6 impact the collection of surveys may have on
7 attorney-client privilege.

8 We're looking forward to continue to work
9 with the Council as Intro. 0958 moves through the
10 legislative process. In particular, we would like to
11 work with the Council and experts in the field in
12 client satisfaction surveys in measures to develop a
13 process to obtain useful client feedback to inform
14 our programs and services.

15 Thank you for the opportunity to testify
16 today; the City has made an historic commitment in
17 indigent civil legal services and reporting annual
18 data to the Council is consistent with the Mayor's
19 goal of agency transparency and accountability and is
20 critically important to ensuring every New Yorker is
21 provided with access to justice in civil legal
22 matters. We have accomplished a great deal over the
23 past 23 months, but we know we have more work to do
24 and look forward to partnering with you on the

2 provision of legal services during the coming year.
3 I'm happy to answer your questions.

4 CHAIRPERSON LANCMAN: Got it, very good.
5 You're almost like an auctioneer at the end there; we
6 appreciate it.

7 So listening to your testimony and
8 reading through it, I can identify three specific
9 concerns that you have. But before we get to that,
10 what's the status of the Office of Civil Justice
11 coordinator; where are we with that?

12 SARA ZUIDERVEEN: Well there are 19 staff
13 that are already in the office that are processing
14 contracts; doing audits in the field, and so that is
15 all up and running, and then the coordinator will be
16 named very soon.

17 CHAIRPERSON LANCMAN: 'Kay. Now you went
18 over the very many programs that HRA is overseeing,
19 you know, since the consolidation and we know that
20 MOCJ has been working on some quantitative;
21 qualitative metrics, which we'll talk about in a
22 little bit, but what does HRA currently do to
23 evaluate and measure whether or not the services that
24 are being.. are supposed to be provided are being
25 provided; being provided well, and is feedback or

2 input from the clients receiving those services any
3 part of that currently?

4 SARA ZUIDERVEEN: Sure. So currently a
5 lot of the contracts require periodic site visits, so
6 we're actually going, interviewing staff and looking
7 through files. We certainly have ways that clients
8 can call HRA with any issues or concerns and we're
9 looking to add actually client satisfaction into our
10 regular work, but we haven't done that yet.

11 CHAIRPERSON LANCMAN: Alright. Okay.
12 Well I'm heartened by your support, with a lowercase
13 "s" of what we're trying to do here. So let's look
14 at each of the concerns that you raised. One was
15 suggesting an amendment to require that survey
16 responses be submitted to HRA electronically over the
17 internet. We certainly don't wanna burden the
18 agencies, MOCJ or HRA by needless and evermore
19 paperwork, so I think that that's kind of an easy
20 one. The issue of there's no mechanism to compare
21 client satisfaction with city-funded legal services
22 with client satisfaction with non-city-funded legal
23 services; meaning, I assume someone just goes out and
24 hires a private attorney. What do you mean by that
25 and why is that important?

2 SARA ZUIDERVEEN: Well there's also a lot
3 of state investment in civil legal services and other
4 funding sources and so while it's important to look
5 at ours, it would also be important to compare these
6 results similar to all types of civil legal services
7 programs for indigent tenants.

8 CHAIRPERSON LANCMAN: Alright. Well
9 that... Okay, they'll have to wait a few minutes here.
10 Fool me once; shame on me.

11 But you would agree that wouldn't be a
12 reason not to have client satisfaction surveys; that
13 we couldn't also do the same thing for the state-
14 funded programs; right? I mean, it'd be nice to
15 have, but that's not a reason not to... it wouldn't be
16 a reason not to do it for the city-funded program; I
17 mean there's like, you know, almost \$350 million of
18 City money going to these programs.

19 SARA ZUIDERVEEN: Yeah and if we just... it
20 would be part of I think talking to the providers and
21 other people in the field about what they have been
22 doing and see how we can provide a valuable
23 comparison for what we're finding.

24 CHAIRPERSON LANCMAN: Okay. And then the
25 last concern you raised had to do with attorney-

2 client privilege; is there something in particular
3 that you're concerned about? We had contemplated
4 that the data would be submitted anonymously; we're
5 not looking to identify a particular problem in a
6 person's case and then call that attorney in, admit
7 [sic] what happened; there are other mechanisms for
8 that. So I assume if the data were collected
9 anonymously that would avoid any concern you had
10 about attorney-client privilege?

11 SARA ZUIDERVEEN: Well that would be one
12 solution, but then if you do find things that you
13 want to address, you wouldn't be able to reach out to
14 the client. So I think we would wanna talk to people
15 that do these, experts that do these surveys to see
16 if there's ways to identify people and make them
17 understand that it's purely voluntary, and I think
18 just in general it's always important; when a
19 tenant's being provided a service that's so important
20 and it's a lawyer and they might possibly be
21 intimidated by the process, for them to understand
22 that this is purely voluntary and it's not something
23 that they have to fill out and they have to submit,
24 so I think that's also part of it; making sure it's
25 voluntary for them to do it and it's also... they can

2 voluntarily identify themselves, which would be
3 helpful for us to address specific issues.

4 CHAIRPERSON LANCMAN: Right. So you
5 would be concerned if we somehow made this mandatory?
6 I mean I don't know that that would even be...

7 SARA ZUIDERVEEN: Yeah.

8 CHAIRPERSON LANCMAN: feasible, but if it
9 were framed that way, that would be a concern of
10 yours? Okay. MOCJ folks, just give us a little
11 update; what's the timetable? Congratulations on
12 getting the grant. What's the timetable for your, as
13 I understand, rolling it our first with the 18B
14 world; right; that's the plan, you're gonna roll it
15 out with the 18B world and then I guess when the RFPs
16 come up for the institutional providers, hopefully by
17 then you'll have something.

18 ALEX CROHN: So the funding is
19 specifically for the 18B panel and it's over the next
20 two years; it's a grant of \$400,000, and what it
21 really is; it's to identify the metrics that we want
22 to capture, and then once we know what metrics are
23 important, we're gonna create the infrastructure in
24 order to capture those metrics. So right now there's
25 really not too much of a case management system that

2 exists for the 18B panel and before making one we
3 wanted to make one that made sense, so CCI's work is
4 going to inform just sort of what data we capture.

5 CHAIRPERSON LANCMAN: So do you know the
6 timetable when you'll have that?

7 ALEX CROHN: So it's over the next two
8 years; it's a pretty lengthy process, because there's
9 focus groups with judges and then there's quite a lot
10 of analysis that goes into that. I think that two
11 years encompasses the case management system as well,
12 but you know, obviously everything in government is
13 easier said than done, so I think we're optimistic
14 it'll be completed in the next two years.

15 CHAIRPERSON LANCMAN: Right. Okay. And
16 the institutional providers, their RFPs are up when?

17 ALEX CROHN: There will be new RFPs
18 issued at the beginning of next year.

19 CHAIRPERSON LANCMAN: The beginning of
20 2017?

21 ALEX CROHN: 2016.

22 CHAIRPERSON LANCMAN: 2016? Oh.

23 ALEX CROHN: So soon.

24 CHAIRPERSON LANCMAN: Okay; that's sooner
25 than I had thought in my head.

2 ALEX CROHN: It comes sooner than we
3 thought too.

4 CHAIRPERSON LANCMAN: Yeah. Okay. Do we
5 still think... I don't wanna mischaracterize what we
6 were told back in January, but do... it was my
7 understanding that this new metrics system would be
8 ready for the next round of institutional providers'
9 RFPs.

10 ALEX CROHN: It was really focused on
11 sort of the grant that was in the mix in order to get
12 18B; how long it will take to and sort of how and
13 whether to extent an institutional provider I think
14 is sort of an open question and a lot of that does
15 depend on sort of the results of the RFP, so I think
16 may be a little bit early to tell, but I think we're
17 very eager and enthusiastic to see, you know, how we
18 can extend it.

19 CHAIRPERSON LANCMAN: Okay. So what is
20 MOCJ's view on the important value and role of the
21 client input side of that evaluation system and if
22 not through these surveys, then I haven't heard or
23 I'm not reading through the lines that you don't
24 support this concept, but what are the agency's
25 thoughts on... the office's thoughts on client input?

2 ALEX CROHN: So I think you're gonna get
3 a deeply unsatisfying answer from me, which is, we
4 don't know, and that's precisely why we want CCI to
5 help us. They may be a very valid metric to measure
6 the effectiveness of counsel, but we simply don't
7 know and there just aren't that many great models;
8 you mentioned one, you know, elsewhere, which, you
9 know, could be a good model, but we just don't for
10 New York City how much that may or may not
11 contribute. We think it may be very valid, but how
12 to capture the information; what information to
13 capture; I think these are all open questions and
14 ones we're eager to kind of find out during this
15 process with CCI.

16 CHAIRPERSON LANCMAN: So let's talk about
17 your eagerness to find out. So how do you find out
18 whether or not you... How do we get from here to where,
19 in MOCJ's view at least, you either think client
20 surveys are good or not good?

21 ALEX CROHN: So I think, you know, CCI
22 will be looking at people that had a similar outcome
23 in a case, but you know, one was very happy and one
24 was not happy at all or you know, this many motions
25 were filed by this attorney and not this many and

2 then it turns out, oh actually, more motions are
3 better and that makes a happier client. So you know,
4 a client could be unhappy and still get good service
5 and you know, you may have a very happy client who
6 has a very bad result. You know, it just... they're
7 all kind of open questions, so...

8 CHAIRPERSON LANCMAN: I know, but see, I
9 deal with that, you know, myself, as a council
10 member, where someone will call our office and
11 they'll want us to intervene on their behalf with
12 Department of Parks about something or they want a
13 stop sign and we will do an excellent job, but
14 ultimately they may not get their stop sign. So I
15 mean I, you know, I get that, and I was a lawyer in
16 private practice and certainly had clients who didn't
17 appreciate my brilliance and outstanding advocacy for
18 them, but you know, I would never think that that
19 would be a reason to discount the value of that and..
20 [crosstalk]

21 ALEX CROHN: No, and certainly it's not
22 discounting...

23 CHAIRPERSON LANCMAN: again, I... I guess
24 [sic] what I'm saying is; I can't imagine a scenario
25 where a good overall system of evaluating the quality

2 of legal services doesn't include in some way input
3 from the client. And you know, a lot of your
4 concerns are about the mechanics of that and..
5 [interpose]

6 ALEX CROHN: Sure.

7 CHAIRPERSON LANCMAN: you know, we put
8 the bill out; now we wanna hear people's feedback on
9 it. But at some point you've gotta, like what are
10 you... are you happy with the representation you got?

11 ALEX CROHN: I think the question for us
12 is, one; how and then two, how much of that is the
13 factor, so how... it had to be part of a comprehensive
14 system evaluation and we wanna make sure that all
15 those different metrics are sort of feeding each
16 other... [crosstalk]

17 CHAIRPERSON LANCMAN: [background
18 comments] Alright. My two counsels here say that
19 that's enough; right? Alright. Thank you very much...

20 ALEX CROHN: Thank you.

21 CHAIRPERSON LANCMAN: we look forward to
22 working with you on this; we're gonna probably
23 schedule some follow-up and I... [background comment] I
24 know that the folks here, the legal services
25

2 providers, have their own ideas and issues, and as we
3 always do, we'll work together on this.

4 ALEX CROHN: Great.

5 CHAIRPERSON LANCMAN: Alright? Thanks.

6 ALEX CROHN: Thank you.

7 CHAIRPERSON LANCMAN: Alright now, give
8 me one minute; I'm gonna go vote.

9 [pause]

10 [background comments]

11 CHAIRPERSON LANCMAN: Who do we have
12 next, sir? [background comments] Oh let me just
13 mention also, we've been joined by Council Member Ben
14 Kallos, a member of committee, from Manhattan.

15 Alright, Tina Luongo, Lisa
16 Schreibersdorf, Lori Zeno, Robin Steinberg and Matt
17 Knecht. What a lineup. What a lineup.

18 [pause]

19 Alright, let me also mention that we have
20 been joined by Council Member Paul Vallone from
21 Queens, who is also a member of the committee.

22 If you would all raise your right hand.

23 Do you affirm that the testimony that you're about to
24 give is the truth, the whole truth and nothing but
25 the truth? Terrific. Who's going first? Good.

2 [background comments]

3 ROBIN STEINBERG: Thank you. Fourteen
4 years ago, at a noisy lunchroom table at The Bronx
5 Defenders, our lawyers and advocates debated a very
6 simple question -- What was the most important to
7 clients during the arraignment process; getting to
8 see the judge quickly so as to be released at their
9 earliest possible moment or sitting in a windowless
10 jail cell with an open toilet longer just to have the
11 chance to tell their full story to their public
12 defenders? As you can imagine, our staff had a wide
13 range of smart, interesting and well-constructed
14 arguments to answer that question, but did we really
15 know?

16 Most of us don't come from our clients'
17 communities and we haven't been arrested; wrapped in
18 the privilege of race or class or law degrees, how
19 could we possibly know? So right there in that
20 lunchroom we decided to embark on a simple but kind
21 of radical path; we decided to begin to ask questions
22 of clients themselves about what they wanted,
23 empowering them to help us deliver meaningful
24 services to this over-policed and chronically silent
25 population.

2 So in 2001, The Bronx Defenders became
3 the first public defender office in New York City to
4 conduct systematic and comprehensive client
5 satisfaction surveys. We interviewed hundreds of
6 clients as they exited the arraignment part; each had
7 just spent a harrowing 24 hours in jail; they were
8 hungry, tired and dazed by the experience and we had
9 actually no idea whether clients would even stop to
10 do the surveys or whether freedom in sight they would
11 bolt out of the courthouse to go home to loved ones,
12 warm food and a hot shower. Who wouldn't? As it
13 turns out, our clients. What we learned then and
14 what we know far more deeply now is that people
15 directly impacted by the criminal justice system want
16 to be heard, they wanna tell their stories, they
17 wanna have a say in how their lawyers defend them,
18 and they wanna be well-informed participants in the
19 legal process. We've conducted client satisfaction
20 surveys every year since 2001; they are just one of
21 the many structural mechanisms we use at The Bronx
22 Defenders to elevate client voices and honor their
23 experiences. One client put it like this: It'll
24 make you feel like you have a voice, if your lawyer

2 actually represented you in a way that you wanted;
3 otherwise, it's like you don't even matter.

4 Capturing client voices through client
5 satisfaction surveys has helped us pioneer new and
6 responsive ways to represent them, and deeply
7 understanding their experiences has been an
8 extraordinary engine for change in both our systemic
9 priorities and the way we practice as public
10 defenders on a daily basis. From the most granule
11 issues; like how many clients received a business
12 card after their arraignment was over, to whether
13 your attorney communicated in a clear and respectful
14 way, to tracking the largest systemic issues, like
15 how many clients experienced trauma while in custody
16 or were informed by our advocates about available
17 community resources like food pantries and shelters
18 before leaving the courthouse with only a MetroCard
19 in hand.

20 We have for 14 years aggressively
21 compiled and tracked our performance metrics, ever
22 mindful of the ways we can improve internally, and
23 every year we gain new insight, every year we ask new
24 questions so that we can as an organization remain
25 nimble and flexible and innovative and responsive to

2 the rapidly changing realities of our clients' lives
3 and their communities.

4 Traditional metrics like arrest to
5 arraignment time, time to case disposition and case
6 outcomes are understandably important to system
7 stakeholders and to funders, but creating metrics to
8 measure client satisfaction enhances relationships
9 between defenders and clients, helps identify the
10 area for training and growth and additional services
11 and improves public perception of the criminal
12 justice system. Suddenly, instead of being part of
13 an intrusive governmental apparatus designed to crush
14 them, public defender offices become a place where
15 clients can turn, a place that gives them voice and
16 whose lawyers and advocates will fight for them in
17 ways that they value, and that is the crucial first
18 step in engaging marginalized clients and communities
19 in criminal justice reform and our march towards a
20 more justice in New York City.

21 Client satisfaction surveys are
22 transformative; clients are not longer passive
23 recipients of public defense services, but rather
24 become agents for their own change; that's why it
25 matters and that's why I'm here today to support in

2 theory the use of client satisfaction surveys as a
3 valuable metric of success. But to best achieve the
4 stated goals of the bill, much more needs to be done.
5 Designing thoughtful surveys that ask meaningful
6 questions and allow clients to fully comment on their
7 experience will be critical. Further, the
8 information gathered should be shared only with those
9 people in our organizations best suited to reflect on
10 internal practice issues and promote internal change
11 and culture. And finally, the process should
12 encourage and support collaboration and mutual
13 learning among public defender offices in New York
14 City. We have come a long way... [interpose]

15 CHAIRPERSON LANCMAN: Just say that
16 second one again.

17 ROBIN STEINBERG: About encouraging
18 collaboration?

19 CHAIRPERSON LANCMAN: No, the one before
20 that.

21 ROBIN STEINBERG: Uh-huh; I knew you'd
22 point that one out. Further, the information
23 gathered should be shared with those people in
24 organizations best suited to reflect on internal
25 practice issues and promote internal change.

2 CHAIRPERSON LANCMAN: We'll do it a
3 little bit differently 'cause there are a lot of you
4 and I don't... [crosstalk]

5 ROBIN STEINBERG: Sure.

6 CHAIRPERSON LANCMAN: I don't wanna
7 forget things. Everything else you're saying is
8 important, but this got my attention. So who should
9 it be shared with and who should it not be shared
10 with? Who should not be seeing this; it sounds like
11 you're telling us, here's who doesn't need to see
12 this information, so who is that?

13 ROBIN STEINBERG: So here's what I think
14 needs to be done. I think that we need to establish
15 a workgroup to think about where that information
16 goes and the way that we deliver it to funders, if
17 we're going to deliver it to funders; it should not
18 go... [crosstalk]

19 CHAIRPERSON LANCMAN: And the City... the
20 City being one of the funders?

21 ROBIN STEINBERG: Sure.

22 CHAIRPERSON LANCMAN: Okay.

23 ROBIN STEINBERG: But it should not go
24 directly from our clients to funders and it certainly
25 shouldn't be used as a mechanism to generate [sic]

2 funding. You could imagine ways, if we put a
3 workgroup together where we decided the mechanism to
4 do this where we might have reports, but the point of
5 it really is to inform our practice and make us
6 better defenders, right; that's the point of client
7 satisfaction surveys; it's to improve and educate us
8 about what we can be doing better, rather than
9 providing it as, you know, a metric that's tied to
10 funding or a way to further, sort of create distance
11 between the defender offices in a community that has
12 finally come together and coalesced around wanting to
13 do more and better for our clients.

14 CHAIRPERSON LANCMAN: It might help the
15 funders; I mean, the City, so in how... what we're
16 asking the providers to do and how we measure how
17 well they're doing it, though; no? I mean...

18 ROBIN STEINBERG: I'm not suggesting that
19 the information... [crosstalk]

20 CHAIRPERSON LANCMAN: Yeah.

21 ROBIN STEINBERG: won't ultimately wind
22 up, you know, being talked to with the City or
23 sitting down and having it explained to the City; I'm
24 simply saying that the way the mechanism should go is
25 not just from clients responding to surveys and that

2 information going directly to funders; there is a way
3 to talk about what we're gathering, how we're
4 gathering it and what the purpose is I think with
5 funders and amongst ourselves that will lead to
6 positive change.

7 CHAIRPERSON LANCMAN: Yeah, okay. Thank
8 you.

9 ROBIN STEINBERG: Like slightly different
10 mechanism.

11 You know, way back in 2011 we finally put
12 to rest forever the question that was so highly
13 debated at the lunch table 14 years ago; what do
14 clients want. Eighty-six percent of our clients
15 responded in a clear, unified and unequivocal voice;
16 even if it meant spending a few more voice in a
17 stinky overcrowded, windowless jail cell, that what
18 they wanted was to be heard. So let's not be afraid
19 to be measured by the people that we serve, but let's
20 do so cautiously, carefully and collaboratively with
21 the defenders at the table.

22 TINA LUONGO: Hi; how are you? I'm Tina
23 Luongo, the Attorney-in-Charge of the Criminal
24 Practice and I'm joined actually with my colleague,
25

2 Adriene Holder, who's the Attorney-in-Charge of the
3 Civil Practice, and thank you very much.

4 The first thing I wanna say is; it's sort
5 of unprecedented to actually be sitting in this room
6 actually thinking and talking and finally being asked
7 how do we actually include client voices. So for
8 many decades, under different administration and
9 different City Council, that was never even factored,
10 so the fact that we're actually even debating this
11 move is enormous and it's a proud moment I think for
12 the City and for those of us have been doing this
13 work sort of quietly for years to finally be able to
14 stand and sort of shout it from rooftops a little
15 bit. But I think the heart is in the right place,
16 but we have to stop a minute and think about some
17 critical issues. So I actually wanna sort of raise a
18 few; some of which I think my other colleagues who
19 are at this table and those other defenders who
20 thought the tables are too crowded, so New York
21 County Defenders is here and obviously the 18B
22 attorneys are here representing those people.

23 I think sort of we all can say together,
24 unified, no matter how big our organization is, how
25 old we are, how many attorneys we have and what

2 boroughs we practice or whether we're citywide, that
3 client engagement, client empowerment and the respect
4 for their voices at the table is crucial and to wish
5 there was a way actually to have them start to talk
6 at hearings like this about maybe what they think
7 about this and maybe it's a moment where we should
8 probably include that.

9 So what I'm going to say is; as written,
10 The Legal Aid Society opposes it because; one, I
11 think there should be a taskforce that not only
12 includes us, but includes representatives from
13 community-based organizations that do wanna have
14 clients have voices in the court system, but they're
15 not here and sort of simply rolling out this bill may
16 actually not give them enough; Robin just said, they
17 spoke to the clients to figure out what it is they
18 wanted. So we should actually do that for this bill.

19 The second thing, and I think Lisa will
20 talk about it a little bit more is; there is a huge
21 waiver of confidentiality, privilege and.. because
22 there's a post-conviction world, and I'm going to
23 allow her to talk about that.

24 So I wanna focus on why I think it
25 shouldn't only be a survey about us and our

2 colleagues in the civil legal services. When we meet
3 our clients, either in criminal court or when they
4 walk in our office hysterical, panicked and anxious
5 that they have an eviction notice or they've lost
6 their food stamps or they've been thrown out of their
7 shelter, they are at their worst, lowest moment in
8 many of their lives and it's through that moment that
9 attorneys have to build relationships, but what you
10 all have to realize is; we don't do that in a vacuum;
11 there are other things that are happening in that
12 client's life not about the case that are creating
13 issues; they're suffering sometimes with mental
14 illness or substance abuse and they've lost their
15 benefits to get treatment, they have been
16 discriminated or abused by the police officer right
17 before we see them and maybe through the process of
18 their case, because if they're out in the community
19 they're getting discriminated and abused over and
20 over again through broken windows. So to sort of
21 just place the focus on us creates a risk that the
22 response to the surveys will actually have most of us
23 shouldering the brunt of other ills in our court
24 systems and in the way in which the people we
25 represent find their ways into the court system.

2 So I can imagine, for instance, that a
3 client, and I've had this and I consider myself an
4 excellent public defender, would be mad at me because
5 I didn't share the evidence in the case with them and
6 they think that I never asked for it, when in fact
7 New York City discovery laws are so antiquated and
8 unfair that despite my numerous attempts to get it,
9 my bills of demand, my motion practice, my motions to
10 preclude, the law simply doesn't allow it and if my
11 client who's incarcerated chooses to plea out before
12 the eve of trial when I finally get the discovery,
13 they're gonna be upset when you ask them whether or
14 not I did everything I could to get that evidence and
15 their answer will probably be that they didn't feel
16 like I worked hard enough. Well they don't
17 understand that actually I did and I think that that
18 might've been the point that Mr. Crohn was trying to
19 make about we have to be very careful of the matrix
20 in which we ask and whether or not it is tied to
21 outcome, and while this language seems to try to
22 strike a balance where you're not factoring outcome;
23 [bell] outcome gets factored in.

24 I sort of wanna touch upon civil legal
25 services; there is information in our testimony about

2 this, but I think what you also heard is; that there
3 are actually client satisfaction surveys that our
4 civil practice does send out and do in fact get
5 responses, but again, because in those cases often
6 civil legal services, the advocate who gets in the
7 moment where there's most critical, like eviction,
8 the person ties their answer to the advocate's
9 presence in their life as opposed to the legal
10 representation and there you might actually see the
11 reverse happen with maybe false positives or too many
12 false positives and so we did that to show you that I
13 think the process by which you're going about this
14 right now needs to step back.

15 So we ask for two things; one, a
16 taskforce, and believe you me, we all sit through a
17 lot of meetings together, so one more meeting, I'm
18 loathe to ask for it, but I think a taskforce that
19 includes actually people who would represent the
20 clients we're talking about having voices be at the
21 table. And the second thing is; to get funding, to
22 secure funding from the City Council to actually
23 bring in a research company, because the one thing we
24 need to make sure is; whatever we roll out, whatever
25 feedback mechanism is rolled out, the data must be of

2 value. Last point, what you're really sort of
3 forgetting in this bill is our jailed clients.
4 Telephone, costs money for people in jail or collect
5 calls, right, or it's taken from their commissary.
6 Internet, not an option and mail costs. So what this
7 bill doesn't factor in is you have a population that
8 actually -- the most voiceless, by the way --
9 actually being excluded and you will have an
10 overrepresentation of those people who have access to
11 a telephone, access to a computer and internet
12 services and access to postage, which means you're
13 actually not counting the most vulnerable. Thanks.

14 CHAIRPERSON LANCMAN: Let me just ask you
15 a quick couple of questions before we move on. The
16 issue of the taskforce, and by the way, you might've
17 heard that the Council getting a pay raise is under
18 consideration now; I always thought, just pass by the
19 meeting; we'll do fine, so another one, you know, but
20 it would include advocacy organizations, not just the
21 legal service providers and other stakeholders, and
22 that is something that would get us towards a bill
23 that people would be comfortable supporting of being,
24 you know, as you put it, not just having its heart in

2 the right place, but getting us, you know, the kind
3 of information that we need.

4 And also, as I understand it, the idea
5 that maybe these surveys, in whatever format they
6 take place, should also try to gather information
7 about people's satisfaction with the courts and the..
8 I don't wanna start getting, you know, across the
9 street crazy, but their interaction with the police,
10 etc., etc.. [interpose]

11 TINA LUONGO: Right.

12 CHAIRPERSON LANCMAN: So I think if we
13 did that narrowly [sic], that's something that would
14 be valuable, certainly within the framework of the
15 legal adjudication side of what they're confronting.

16 Off the top of your head, is there a
17 preferred mechanism for getting your jailed clients
18 to be able to provide their input in these surveys?

19 TINA LUONGO: Off the top of my head, I
20 mean you could have people go into the jails and
21 actually interview people, but again, I think it goes
22 back to, you know, sort of a point that Robin made,
23 which is, you have to sort of, first of all, attack
24 the problem sort of broadly and then you need
25 somebody to sort of say what does all this mean, you

2 know, because even between sort of a jailed client
3 and an out client you might imagine that despite the
4 fact that the lawyer might be doing exactly the same
5 thing, the fact that somebody is out during the
6 pendency of their case versus the fact that they
7 weren't sort of will skew results, so that's why I
8 think funding needs to be sort of secured here, at
9 least for this year, to bring in sort of the data
10 wonk policy organizations that exist to sort of help
11 this council and help all of us think through, how do
12 you capture it in the right way to secure the answers
13 that you're getting are valid to actually help those
14 of us who need to implement the change implement the
15 change.

16 CHAIRPERSON LANCMAN: Right. Well I'm
17 optimist about working through all the issues that
18 you mentioned, although not the funding one; it
19 might... I think it could very well end up that... we
20 have met the data wonk and he is us, so we'll have to
21 come up with the best that we can. Yes, next. Oh
22 let me also mention we've been joined by Council
23 Member Vanessa Gibson from the Bronx and Carlos
24 Menchaca from Brooklyn.

2 LORI ZENO: Thank you. I'm Lori Zeno,
3 one of the directors of Queens Law Associates. I
4 actually wanna thank you also for bringing this topic
5 up and as Tina said, finally joining the conversation
6 about how can we make things better for our clients;
7 like Robin said, the same conversation we've all been
8 having for many years. So I appreciate where your
9 heart is; I agree however with my colleagues when
10 they say that unfortunately the bill that you have
11 presented, in my view as well, is not the answer.
12 You know, I do agree with you, Councilman, when you
13 say that New York City's indigent defense system is
14 already the best in the country.. [interpose]

15 CHAIRPERSON LANCMAN: Yeah, I wasn't
16 expecting much opposition to that one.

17 LORI ZENO: Good, because I totally agree
18 with you and I will tell you, as somebody.. as Tina
19 said, she is, you know, one hell of a public
20 defender; I will tell you that.. and, you know, I have
21 spent my entire career of over 30 years, you know,
22 dedicated to indigent defense and I am very proud of
23 the difference that I and other people that I have
24 worked with over the years, the difference I've made
25 in thousands and thousands of lives in Queens County.

2 You know and... however, just, you know, just like it
3 was pointed out already and I don't wanna keep
4 reiterating, is that, you know, we're all concerned
5 about the voice that our clients have; we've been
6 their voice, frankly, you know, for all of these
7 years, both in and out of court, you know, and like
8 Robin said, we also wanna find out, you know, are we,
9 you know, advocating in the way that they want us to
10 advocate, you know. However, you know, without going
11 over again, I believe that we should have a taskforce
12 and I believe that these are the wrong questions and
13 we need to figure out what they are. I'm gonna just
14 say I, you know, we all... I agree with what my
15 colleagues have already stated, but what I do also
16 wanna say is that there... you know, to some extent our
17 clients do have a voice right now, so I don't want
18 you to think that, you know, this is the end all if
19 this bill doesn't go through that our clients don't
20 have a voice. One, they have a voice like, you know,
21 by way of how Robin was saying, when we all
22 collaborate and we do ask them questions and then we
23 change and we evolve and we grow based on information
24 that we find out, but just so that you know, you
25 know, we all have supervisors in our office, our

1 clients always, you know, have one, the lawyer that
2 they can talk with, but if they're not satisfied with
3 something they know how to come to the office or call
4 and ask for a supervisor and then it's a supervising
5 attorney that gets involved and then, you know they
6 also have the opportunity to tell the judge, which
7 they do, and also, you know telling the Bar
8 Association, which they do. So I want you to know
9 that we already have oversight, I think; as to
10 whether or not each of our offices provides quality
11 representation, we give reports to the City on a
12 quarterly basis and it's not all just about numbers.
13 But I think the one thing that is really crucial,
14 because I believe maybe when the taskforce, in
15 dealing with how do we ask, you know, our clients how
16 can we be their voice, this is gonna be lost, the
17 point that Tina touched upon, which is, you know,
18 many of our clients are unhappy, whether it's with
19 the result or with the process in which they've just
20 lived through; certainly those that are convicted,
21 you know, or are in jail are more unhappy than those
22 who are not, okay? But, you know, a lot of the
23 things that they're unhappy about we get blamed for
24 and it's not our fault and there's nothing that we
25

2 can do about it, you know, and that I would really
3 love to see, you know, this City Council introducing
4 bills for and changing the laws, especially on
5 discovery. You know, not only does our client not
6 have a voice, but the voice that we give them is not
7 complete and that's because we don't have any of the
8 information and it's funny that you lumped civil
9 [bell] processes and criminal processes together with
10 indigent defense, you know, with this thing, because
11 in civil court -- you said you practiced, you know,
12 yourself in private practice, so I'm sure you know in
13 civil court, before somebody walks into a courtroom
14 and there's, you know, an actual trial, there's been
15 depositions, there's been, you know, discovery up the
16 wazoo; everybody knows what everybody's gonna say; I
17 almost don't even know why they have a trial;
18 however, in a criminal case when somebody is charged
19 with a crime and they're facing, you know, jail,
20 we're not allowed to know anything.. [interpose]

21 CHAIRPERSON LANCMAN: Yeah, but well,
22 that's not always the case, because it's...

23 LORI ZENO: Well that is the case.

24 CHAIRPERSON LANCMAN: No, no; it's not
25 always the case on the civil side, because depending

2 on what's at stake, there may or may not have been
3 depositions; there may... [crosstalk]

4 LORI ZENO: Okay.

5 CHAIRPERSON LANCMAN: or may have been a
6 lot of resources invested in investigating the case
7 before you finally get to the, you know the moment of
8 truth and I'm sure the folks on the civil side can
9 talk about that. Let me just... [crosstalk]

10 LORI ZENO: Well it might not be.. It
11 might not be the case in all civil cases, but I will
12 tell you it is the case in all criminal cases..
13 [crosstalk]

14 CHAIRPERSON LANCMAN: Yeah, I understand.
15 So... [interpose]

16 LORI ZENO: And the money... let me just
17 say the money that you were talking about that you
18 spend on indigent defense..

19 CHAIRPERSON LANCMAN: Uhm-hm.

20 LORI ZENO: a larger part of that money
21 is spent on investigations, right; we have to hire
22 investigators to go out and find out what this case
23 is about because, even though the District
24 Attorney's Office already knows, 'cause they have all
25 the police reports and they have all the names of

2 witnesses, they don't have to give that to us, so we
3 have to reinvent the wheel and spend City money going
4 and finding that out ourselves.. [interpose]

5 CHAIRPERSON LANCMAN: I get it, and we
6 may yet have a hearing on open file discovery in this
7 room, but... [crosstalk]

8 LORI ZENO: That I would love.

9 CHAIRPERSON LANCMAN: maybe, but that's
10 not what we're here to talk about today. I
11 understand... [crosstalk]

12 LORI ZENO: Okay.

13 CHAIRPERSON LANCMAN: that you may have
14 clients who are dissatisfied with the outcome in
15 their case or with other factors, or other aspects of
16 the case have nothing to do with the lawyers; I'm not
17 sure... and I don't think you're quite saying this, but
18 I just wanna be clear; I'm not sure that your clients
19 aren't able, if we do it right, to distinguish
20 between the result and the services and effort that
21 you provided on their behalf.. [crosstalk]

22 LORI ZENO: Well I...

23 CHAIRPERSON LANCMAN: not every client
24 and every circumstance, but...

25 LORI ZENO: Right. Right.

2 CHAIRPERSON LANCMAN: I think there's a
3 way for people to understand.

4 LORI ZENO: I agree, I do agree; I think
5 that, you know, there is a way to get to the answer
6 to that, but, you know, I'm just looking at, you
7 know, some of the... even the question that you pointed
8 out, you know, were you happy with, you know the
9 investigation that was done in your case. That might
10 sound like a very, you know, benign question to ask,
11 but honestly, there's a lot that goes involved in an
12 investigation in a case and there are many things,
13 there expert witnesses that you can get, there are,
14 you know, lie detector tests that your clients can
15 take... [interpose]

16 CHAIRPERSON LANCMAN: Right, so that
17 might be a question of how is the question put to the
18 client and how are they able to provide a response,
19 but am I correct; you don't disagree that there's a
20 value, both to improving the quality of
21 representation and for the Council and the City to
22 know that our money is being well spent for there to
23 be a mechanism for clients, an appropriate and well
24 thought out mechanism for clients to express and
25 record their satisfaction with the services that

2 we're providing to them, right? I mean it's just a
3 matter of how do we do this thing right?

4 LORI ZENO: Well the answer to... my
5 answer; I can't speak for others, but my answer to
6 your question is, there is absolutely a value for our
7 practice to learn from our clients, you know, what is
8 their experience and what kind of voice do they wanna
9 have and where do they wanna have it and how can we
10 better their experience in the criminal justice
11 system. Absolutely, I agree that there is a value in
12 that. Do I agree that these results need to be used
13 by City Council to feel comfortable that the money
14 that you are spending is being put to good use and
15 that it somehow reflects the quality of indigent
16 defense? Frankly, no, I don't think... I think...
17 frankly, if you want the answer to that, you're not
18 spending enough on indigent defense. You know, when
19 you talk about the cost per case, you know when you
20 look outside this issue, if the va... [crosstalk]

21 CHAIRPERSON LANCMAN: I get it, but why...
22 why don't you think it's of value for the Council to
23 know whether or not the people that we're providing
24 so much money to be served are happy with the service
25 that they are getting?

2 LORI ZENO: Well in New York City, if I'm
3 correct, approximately what the City provides per
4 case is about \$400; now you were in private practice,
5 so my guess is you probably charged more than \$400
6 for your clients if you represented them in a
7 criminal... [interpose]

8 CHAIRPERSON LANCMAN: I typically only
9 got paid if we won, so it's a different metric..
10 [interpose]

11 LORI ZENO: Well, you know... if... anyway.
12 You know, I think that we could all agree that, you
13 know, it probably would cost a lot more than \$400 in
14 a private practice to represent a client and I think
15 you get like \$400 an hour in private practice; I
16 don't know, I've never been in it, I've always
17 dedicated my life to indigent defense, so I don't
18 really know what it is out there, but I will tell you
19 that as a director of an organization that prides
20 itself in providing excellent, not just quality,
21 frankly, but excellent representation to our clients,
22 I don't like having to say to my client, you know
23 what, I can't, you know, I can't get this expert
24 because, you know, it costs this amount to pay them
25 to fly in and it costs this amount to pay them, you

2 know, to testify and you know, thank God, frankly, in
3 20 years of Queens Law Associates being in existence
4 we've never done that, we have always found the
5 money, but you know, the reality is, when you find
6 money for one thing there's not something for
7 something else; right?

8 CHAIRPERSON LANCMAN: Those... Those
9 constraints exist on the civil side as well, but that
10 can... [crosstalk]

11 LORI ZENO: Can I... No, I'm not even
12 speaking on the side of the civil side...

13 CHAIRPERSON LANCMAN: Yeah.

14 LORI ZENO: what I'm saying is -- your
15 question to me was; how can City Council feel
16 comfortable that the money that you are spending on
17 indigent defense is, you know, providing people with
18 the best, you know, representation that they can have
19 and what I'm saying is... [interpose]

20 CHAIRPERSON LANCMAN: No it's not; it's
21 whether or not what their level of satisfaction is
22 with what we are providing, but go ahead... [crosstalk]

23 ROBIN STEINBERG: Can I just... [sic] Yeah.
24
25

2 LORI ZENO: Right. Well as their voice,
3 I must say, I'm not satisfied with the quality of
4 funding.. [crosstalk]

5 ROBIN STEINBERG: May... Maybe... Uhm may..

6 CHAIRPERSON LANCMAN: Right.

7 LORI ZENO: but... Go ahead, Robin...

8 [crosstalk]

9 ROBIN STEINBERG: Maybe I can put to bed
10 a couple of concerns; right... [crosstalk]

11 CHAIRPERSON LANCMAN: Sure.

12 ROBIN STEINBERG: after 14 years of doing
13 these surveys every single year, I can lay to rest a
14 couple fears. One is that clients do not measure
15 what we do based on the outcome of their case or
16 whether they get jail time or don't get jail time;
17 that we have seen consistently for 14 years. Two is
18 that they do not blame us for the actions of police
19 in the street or prosecutors in courtrooms or
20 corrections officers or judges; they are very capable
21 of distinguishing between what we are doing and what
22 other actors in the system are doing. But here is --
23 it goes back to what you said; if we do it right. So
24 our experience for 14 years, we know that those

2 things won't be conflated if we do it right and I
3 think that's really... [crosstalk]

4 LORI ZENO: That's the point. Yes.

5 ROBIN STEINBERG: what everybody around
6 this table agrees about, which is; this is an
7 important... [crosstalk]

8 LORI ZENO: Yes. [sic]

9 ROBIN STEINBERG: thing to be doing to
10 elevate clients' voices if we do it right and if we
11 gather the correct metrics in the correct way by
12 asking the questions in the proper way and getting
13 some help from researchers who know best how to do
14 this and to get the answers that we're all looking
15 for; I don't think there's any disagreement here.

16 One of the ways about getting to do it
17 right; I know it's something that Lisa's concerned
18 about, about confidentiality, so I'm gonna turn it
19 over to her.

20 CHAIRPERSON LANCMAN: Great. Thank you.

21 LISA SCHREIBERSDORF: So I'm Lisa
22 Schreibersdorf from Brooklyn Defender Services; nice
23 to see you, Council Member; thank you for being here.

24 I wanted to concentrate on one issue that
25 hasn't been addressed yet and although, of course I

2 do agree with what my colleagues have already said;
3 that is the issue of the waiver of confidentiality as
4 part and parcel of this survey. Now the bill does
5 not specifically state that the people you're going
6 to collect surveys from, that their cases are
7 finished, that their appeals have finished or that
8 they don't have collateral consequences, for example,
9 so many of the people who may be asked to fill our
10 surveys in the future, because the bill doesn't
11 specify how it will work, could have pending cases,
12 they could have collateral matters pending, they
13 could have appeals pending. The bill specifically
14 states that the survey instrument must say, in very
15 big letters, that by filling out this survey you are
16 waiving your privilege with your attorney, including
17 the fact of representation. Now I've been an
18 attorney for 30 years and I fight very hard to
19 protect every conversation that I have with my
20 client; the privileged nature of our communications
21 is the very bedrock of our relationship with our
22 clients; the thing that you're trying to measure is
23 about this level of trust and concern and honesty
24 that an attorney and a client can have. Once a
25 client waives that confidentiality, that privilege,

1 that can go a lot further than just what's in the
2 survey. If this survey's gonna go back to MOCJ, as
3 it seems that this bill would have it do, what's to
4 stop a prosecutor from subpoenaing that survey to see
5 possibly what that person said about their case or
6 their attorney in that survey, which by the way, is
7 very possible that it could happen. And if the
8 client waived confidentiality just by filling out the
9 survey; by the way, which I don't think probably
10 would be a valid waiver, it also could waive the
11 assertion of privilege by the other party in that
12 conversation. So for example, if somebody says, well
13 I had a conversation with my attorney where I told my
14 attorney I was innocent, I think a prosecutor could
15 argue that the attorney can now be subpoenaed to say
16 what happened during that conversation and I would
17 obviously fight that with all that I have, but I
18 don't understand why we are setting up a rift in the
19 very relationship that you're trying to evaluate, and
20 that is the piece of this legislation that I just
21 think is unacceptable and I don't exactly understand
22 why it's even in there, because we have multiple
23 evaluations of different aspects of the criminal
24 justice system done by clients all -- you know, done
25

2 with our clients all the time. And I'll just give an
3 example of drug court; many, many studies happen in
4 Brooklyn all the time about drug court, about
5 **[inaudible]** court and oftentimes the Center for Court
6 Innovation or Vera or one of the other respected
7 agencies that I think my colleagues are referring to,
8 what they do -- John Jay -- when they wanna do a
9 survey, they decide who they decide who they wanna
10 speak to; for example, it could be people walking out
11 of arraignment or it could be people prearraignment,
12 and what they do is, they come to the defenders and
13 they say we would like to talk to this group of
14 people about this aspect of their experience; we're
15 trying to find out how many of the women have been
16 victims of domestic violence; we'd like to talk find
17 a way to get extra services. Now of course their
18 right to counsel is already attached once they've
19 been arrested and the accusatory instrument was
20 filed, so therefore the law says that nobody is
21 allowed to speak to them except their attorney, so in
22 order for somebody to actually have conversations
23 with our clients about their cases, which by the way
24 this is, even our representation is about their case;
25 that conversation can only be had after we give

2 permission on an individual basis, which we only do
3 if we think that it benefits our client in general.
4 When they're trying to do surveys about broader
5 topics, what they do is, the come to us, we discuss
6 with them what their process is -- universities have
7 something where they can get a certificate of
8 confidentiality, they have a very involved process by
9 which they do research; they use anonymous -- they
10 get the information up front, then they take, in a
11 very complex, you know, technological mastery, they
12 actually take it and create unique identifiers for
13 each individual, which then strips the name and any
14 other identifying characteristics from that
15 information and then put -- they actually take that
16 information, the name, and they put it actually in a
17 hard drive somewhere where only that one person can
18 ever look at it again and they then use the data, the
19 broad data to analyze in broad strokes, let's say for
20 example, how many people are a victim of domestic
21 violence; what did people think about their drug
22 court experience; did they get help, you know, from
23 this defender or whatever it was they were trying to
24 do. We sit down and we have these conversations
25 about what that's gonna look like and I've been on a

2 lot of committees with this in New York and outside
3 of New York and there's no reason why, if this is
4 gonna happen, where there's gonna be a independent
5 evaluation of client experience with their attorneys;
6 that that is not gonna be done in this kind of a
7 manner respectfully to the ability [bell] of our
8 clients to speak in an anonymous way and respectful
9 of the relationship that we have with them and their
10 legal right to have a privilege with their attorney
11 that should not be waived for something as trivial as
12 whether they liked or didn't like the services that
13 they got, because that privilege -- while that is not
14 a... [crosstalk]

15 CHAIRPERSON LANCMAN: You had me until
16 you said our survey is trivial... [crosstalk]

17 LISA SCHREIBERSDORF: Well that's not a
18 trivial matter, but it is trivial when you compare
19 it... [crosstalk]

20 CHAIRPERSON LANCMAN: Which is it?

21 LISA SCHREIBERSDORF: to why they have
22 the privilege in the first place. They have the
23 privilege so that they can get good legal
24 representation facing very serious crimes. If
25 somebody's charged with an attempted murder, for

2 example, and they need an attorney to help them in
3 that case, should they waive their privilege so that
4 they can say, you know I kinda like my attorney or I
5 wish he would do a little more? No. The privilege
6 is so important to the future of their life that the
7 survey, the goal here really pales in comparison to
8 the waiver that is inserted into this survey. And my
9 point is that there are other ways to do this where
10 it could be anonymous, where there could be a
11 research certificate which we could sit down and we
12 could look at, but in no way, with or without a
13 research certificate, should there be any
14 consideration where our clients should need to waive
15 their confidential conversations with their attorney,
16 the most sacred thing that exists in the criminal
17 justice system for this matter.

18 And I wanted to... I'll leave it at that.

19 Thank you.

20 CHAIRPERSON LANCMAN: Is there another
21 point?

22 LISA SCHREIBERSDORF: No. Uh-uh.

23 CHAIRPERSON LANCMAN: Okay.

24

25

2 TINA LUONGO: Can I just add one aspect
3 to the confidentiality issue and then I think...
4 [crosstalk]

5 CHAIRPERSON LANCMAN: Sure. Sure.

6 TINA LUONGO: I'll turn it over to my
7 colleague? And that is that, suppose a client is
8 actually dissatisfied; the requirement of this law is
9 that the attorney who's the attorney on the case, to
10 which maybe the client is dissatisfied, has to
11 actually give the survey to the client; well we have
12 an ethical duty to actually say that there's a
13 waiver, so now there's a conflict of interest. So
14 sort of, there's another problem; right, which is,
15 there's an ethical duty for us to actually explain
16 that waiver to the client that we may think would
17 actually give us a dis... so there's a conflict. So
18 you can't... And so for instance, I'll give you an
19 example, there's actually going on right now an
20 ethics sort of debate about the sort of -- can the
21 lawyer who thinks a client is gonna make an
22 ineffective assistance of counsel have the client
23 waive a waiver of appeal before taking the plea;
24 right? It has to be a neutral attorney giving a full
25 waiver, so even the mechanism by which you're trying

1
2 to push this out through attorneys with a waiver
3 creates actually a huge conflict of interest. So
4 again, it's another reason for us to step back and
5 sort of really sort of chart this thing in a way
6 that's going to protect clients while actually
7 empowering them to have a voice.

8 [background comments]

9 MATT KNECHT: I'm Matt Knecht; I'm here
10 representing the criminal practice from the
11 Neighborhood Defender Service of Harlem. Like my
12 colleagues, I'd like to thank the committee for
13 having us here to testify and for raising this
14 important issue regarding the client's voice and
15 their experience with their defender.

16 The Neighborhood Defender Service of
17 Harlem was founded on some core principles which
18 include a client-centered approach, the importance of
19 the client relationship and we are located in the
20 community with our clients so that our clients do
21 have easy access to their lawyers and their legal
22 team. So we do recognize the importance of the
23 client experience and the quality of their
24 interactions with their attorneys is important.

2 And I don't wanna just rehash everything
3 my colleagues said; I think they did a great job in
4 sort of laying out sort of the concerns, but just to
5 highlight, and yes, there's issues with the bill as
6 it's laid out. Any valid instrument that would
7 measure client satisfaction has to be able to
8 separate out, just as my colleagues said, that the
9 satisfaction with the attorney from the outcome of
10 the case and the satisfaction that a client has with
11 their attorney from the other actors in the larger
12 criminal justice system, which in many ways our
13 clients often feel treats them overall unfairly. And
14 I also agree that this data should be collected by
15 the organizations; not by MOCJ. The organizations
16 are in the best position to under... [interpose]

17 CHAIRPERSON LANCMAN: Collected by or
18 provided to; I didn't...

19 MATT KNECHT: The client survey should be
20 [background comment] sent to us, collected by... I
21 mean, we should get... [crosstalk]

22 CHAIRPERSON LANCMAN: Oh...

23 MATT KNECHT: the results of the surveys;
24 we're in the best position to understand what the
25 results of the surveys say and we're also in the best

2 position to understand what we can feasibly do within
3 our offices to address the concerns of the client.

4 [interpose]

5 CHAIRPERSON LANCMAN: Well so let me ask
6 you; the folks at MOCJ are pretty smart, with
7 glaziers like ten times smarter than me and I think
8 I'm reasonably bright; you don't think that MOCJ,
9 with all their expertise and experience is capable of
10 interpreting these surveys, which would hopefully be
11 completed with a product as a result of the
12 collaboration of everyone here and taskforce or
13 whatever you wanna call it; you don't think that they
14 are capable of interpreting that data and you know,
15 making some judgments or?

16 MATT KNECHT: I think they are capable of
17 interpreting it and making some judgments, but I
18 think that the organizations who are familiar with
19 their communities, their client bases, the issues
20 that their clients face day in and day out are in a
21 better position to understand the data and in a
22 better position to understand what they can really...

23 [interpose]

24 CHAIRPERSON LANCMAN: What about the
25 council members who represent your clients?

2 MATT KNECHT: The organizations are in
3 court every day, understand the system; the process I
4 think better probably than our council members. I
5 just feel as though the organizations know the work,
6 they know the clients and they know what they can do
7 within their offices and they can best interpret the
8 data and best know what they can do about the data..
9 [crosstalk]

10 CHAIRPERSON LANCMAN: Well I don't
11 dispute that, let's say for the sake of argument that
12 your organization is better equipped to make use of
13 this data than the Committee on Courts and Legal
14 Services or the Mayor's Office of Criminal Justice;
15 are you saying that there's no utility in our having
16 access to that data as we make funding decisions,
17 make policy decisions; oversee other aspects of the
18 criminal and civil justice system?

19 MATT KNECHT: I mean certainly there's
20 some value if... I mean, if you just published it
21 publicly there'd be value for a lot of people to have
22 that information, but then we go back to the issues
23 that Lisa raised involving privacy, privilege,
24 confidentiality... [crosstalk]

2 CHAIRPERSON LANCMAN: We're gonna solve
3 those. Despite her comments about the triviality of
4 this bill, we're gonna solve those. The data gets
5 collected; it's gonna be collected in a way that the
6 people in this room are gonna contribute to that
7 process; it's gonna be collected in a good way, it's
8 gonna be good data. You don't think that that should
9 be shared with the City's elected representatives?

10 MATT KNECHT: What I'm saying is that I
11 think that at the data can best be used within the
12 organizations...

13 CHAIRPERSON LANCMAN: Okay.

14 MATT KNECHT: The organizations are
15 independent; one important aspect of public defender
16 organizations is that they're independent and able to
17 make the decisions within their offices that are best
18 for their clients and for their practices and
19 allowing us to receive the data and use the data and
20 use it in the way that we think can best address the
21 needs of our clients maintains the independence that
22 has made us some of the best public defender offices
23 in the country right here in New York City.

24 So our recommendation would be, go with a
25 taskforce, make sure we have an instrument that

2 actually measures what it is that we want to measure,
3 provide the information to the organizations to make
4 the changes and if needed, we could certainly affirm
5 to the City that we are employing the, or deploying
6 the surveys; we are considering the data and we're
7 making changes as needed, [bell] based on the
8 results.

9 CHAIRPERSON LANCMAN: 'Kay. I took a lot
10 of your time; is there anything else that you wanted
11 to... [interpose]

12 MATT KNECHT: That's it; thank you for
13 your time.

14 CHAIRPERSON LANCMAN: Okay. It's not
15 required.

16 COUNCIL MEMBER MENCHACA: Okay. Thank
17 you, Chair.

18 So thank you so much; this has been a
19 really great dialogue and I actually am encouraged by
20 the kinda dialogue that we're having that's honest
21 about this bill, but also just about how we're gonna
22 actually get information that's important, and the
23 only thing that I'll add to this conversation and the
24 dynamic of getting information is that this is what
25 we're asking on so many different levels, on so many

1
2 different service-related issues, not just in our
3 public defender system, but in so many other places
4 -- participatory budgeting, we're trying to
5 understand like how are we actually impacting
6 people's lives. Does the survey itself play a role
7 as an actual vehicle or, and this is back to Matt's
8 point, just in your testimony, there are people who
9 understand this well and activating the kinda
10 infrastructure that exists that are kinda impacted by
11 direct client relationships, because I think what I'm
12 hearing too is; is it's a complicated web of
13 opportunity for us to understand information by
14 asking a client directly, so there's a... you know,
15 there's company maybe is a suggestion or just bring
16 the right people into a room to understand that
17 information because they already have it, and this is
18 a sense -- and maybe I'm getting this as a taskforce
19 work first -- and so if that's... I see a lot of heads
20 nodding, so maybe that's where we start, with a
21 taskforce conversation where we have people who are
22 knowledgeable of the work and then think about
23 solving the survey issues later, but getting
24 information now that can still create new laws, new
25 policies, new funding streams and take our time with

2 a sense of direct, but I don't wanna shy away from
3 direct client voice and that's the only thing that I
4 hesitate in this conversation. So if you can answer
5 that dynamic.

6 TINA LUONGO: So I don't think there's
7 anybody here nor in our offices who is more dedicated
8 than sort of client-centered representation that are
9 going to say clients' voices don't matter; right? It
10 is why Robin's been doing it for 14 years, we're all
11 rolling it out; we implemented a community justice
12 unit and working on a client advisory board; we
13 started to work with victims of exploitation; it is
14 why we do what we do and regardless of whether
15 something passes that requires a survey, that's gonna
16 still happen; right, and it's gonna happen at our
17 offices, and when a client complains, I don't want
18 just a survey to go to MOCJ, I wanna tell a manager
19 to pull a file, to review it, to talk to the client
20 to make the change, so that's the real outcome;
21 right? So what's the outcome; is it for funding?
22 Because if it's about funding, then that's about
23 motion practice and showing up at court and how many
24 investigators do we have and did you do your social
25 work referral and by the way, we track all that data;

2 right? And actually, we're working with MOCJ right
3 now and actually just provided all of our data
4 dictionaries to them, because I'm anticipating that
5 they're gonna roll out a new reporting in the new
6 RFP; right; am I right? Okay. [background comments]
7 Jami from MOCJ is sort of smiling. Okay.

8 So that right... And by the way, the first
9 department does this -- for those of us who practice
10 in the Bronx and Manhattan every two years and they
11 ask us about enormous matrix of practice and then
12 they evaluate us and by the way, the City gets those
13 evaluations and so does the state, and you know what
14 actually it helps us do when you actually make us
15 look at data; we actually worked on a survey that
16 actually got them to actually recognize for the first
17 time in a decade that a 1:10 ratio of social worker
18 to investigators now has to be 1:3; that's what
19 looking at your data gets you and that's about
20 funding. But if we wanna have a real conversation
21 about including clients' voices, then it's not -- you
22 sort of have to parse it out from funding; it's
23 really about clients' voices. So then the goal of
24 that taskforce might have to be twofold; what data do
25 you need to evaluate whether or not the funding,

2 right, is sufficient for us to continue to do client-
3 centered representation and a part of that may be
4 asking about data that actually does get you what you
5 want, which is client voices in the mix, so maybe
6 it's about should we all have client advisory boards;
7 right? Okay. Verse [sic] the goal of the taskforce
8 is to get clients' voices, in which case, yes, you
9 might wanna roll out a survey, but again, it should
10 be by us and for us, because it's different than
11 funding, is my I'm hoping not so short answer,
12 Council Member Menchaca, to your question.

13 COUNCIL MEMBER MENCHACA: Thank you. And
14 I think this is the ongoing dialogue that we're gonna
15 have to really understand and separating the funding
16 question; that's an important question; getting the
17 client voice in, respecting that, but also creating a
18 vehicle that we can all agree is -- including the
19 clients -- respectful even in giving and getting. So
20 thank you; this is I think good enough for me as a
21 member of the committee and really understanding the
22 intentions to move forward, so thank you.

23 CHAIRPERSON LANCMAN: Okay. Thank you
24 all very much. Next we will hear from another all-
25 star panel; all our panels are all-stars, the City

2 Council of Lake Wobegon. Amy Barasch, Beth Goldman,
3 Randal Jeffrey, Jonathan Fox, Raun Rasmussen.

4 [background comments]

5 [pause]

6 Good afternoon everyone. Are you getting
7 paid by the panel? Are you getting paid per panel?

8 [background comments] Good answer. Alright, all
9 raise your right hand. Do you affirm that the
10 testimony that you are about to give is the truth,
11 the whole truth and nothing but the truth? Who's
12 going first?

13 AMY BARASCH: So... Good afternoon. Thank
14 you, Chair Lancman [bell] and members of the
15 Committee on Courts and Legal Services for inviting
16 testimony today regarding your Intro. No. 0958.

17 I'm Amy Barasch; I'm the Executive
18 Director of Her Justice, a nonprofit organization
19 that takes a pro bono first approach to the provision
20 of legal services to low-income women in crisis in
21 New York City. Our staff of 17 lawyers and legal
22 assistants ensures that over 3,000 women and their
23 over 4,000 children receive legal assistance in
24 family, divorce and immigration matters every year.
25 Our clients are the working poor with very limited

2 resources; they live in all five boroughs of the
3 city, half of them are Latina, a quarter of them need
4 interpreters to be understood in court; most are
5 victims of domestic violence and most of them are
6 mothers who are or become the heads of their
7 household; they're all looking for help with family,
8 divorce or immigration law matters that directly
9 affect the safety, economic security and well-being
10 of themselves and their children.

11 Her Justice offers a full range of legal
12 services -- information, advice, grief services and
13 full representation in order of protection, support
14 and custody matters in family court, divorces and
15 immigration matters under the Violence Against Women
16 Act. Given our practice, I'll be addressing the
17 proposed amendments to Chapter 10, Civil Indigent
18 Legal Services today.

19 The majority of our cases, about 80%, are
20 handled by volunteer attorneys from the city's
21 premier law firm with rich assessment, triage,
22 mentoring, training and support from our staff. The
23 remaining 20% of the cases are handled in-house to
24 ensure that we retain the necessary flexibility to
25 respond to emergency client situations, navigate

2 particularly complex or lengthy legal issues and
3 ensure that our attorneys continually refresh their
4 knowledge of the court and the cases on which we
5 train and provide support.

6 We recognize a severe shortage of lawyers
7 available for low-income New Yorkers. In the civil
8 courts, that burden often falls a disproportionate
9 weight on women who represent the bulk of the
10 unrepresented in family and divorce matters and in
11 particular, on victims of domestic violence. The
12 representation we offer from the private bar often
13 match with expert witness testimony from volunteer,
14 private sector forensic accountants, results in fair
15 child support awards, more favorable decisions
16 without trial in most cases and seriously reduced
17 stress and strain for our clients.

18 Pro bono services are necessary and
19 important compliments to legal services in our view
20 and we work to identify the best places to offer help
21 on matter types best suited to volunteers and where
22 legal services may be stretched too thin to respond.

23 In our Fiscal Year 2014, our legal staff
24 trained and mentored 2,400 volunteer lawyers,
25 paralegals and law students who provided 7800 hours

2 of service, valued by them at more than \$34 million.
3 We put the power of the private sector behind our
4 clients to ensure that they have access to justice in
5 our civil courts.

6 Her Justice supports your desire to
7 ensure that poor litigants in New York City receive
8 quality legal representation; Her Justice was created
9 with just that goal in mind. We often make
10 adjustments to our work in order to stay responsive
11 to client needs.

12 While essential, collecting informed
13 client feedback is not easy; you've heard a lot about
14 this today. The challenges to obtaining litigant
15 feedback I feel fall into two basic categories -- the
16 mechanism you use to elicit the feedback and the
17 questions you ask to obtain the information sought.
18 Like many of our colleagues, we use a survey to
19 obtain feedback from clients after the conclusion of
20 their case and that information is essential to how
21 we design our program. We use a survey instrument to
22 obtain feedback, but we actually administer it
23 through phone calls to clients when they indicate
24 that calling them is safe. At a basic level we get a
25 better response rate if we take the burden of

2 completing the survey away from the client and take
3 it upon ourselves to reach out to them for the
4 information. In addition, it provides us with an
5 opportunity to inquire as to whether clients have
6 additional unaddressed barriers with which we might
7 assist.

8 We have found that sending survey links
9 to clients is less successful, because many clients
10 do not have easy access to computers, receiving
11 emails from us may be unsafe -- about 85% of our
12 clients are victims of domestic violence --
13 responding to our survey is not a priority for
14 clients facing innumerable life challenges and
15 because binary answer options are always less
16 informative than narrative ones. By switching to an
17 in-person follow-up approach, our response rate has
18 improved, along with the quality of the information
19 we receive. We're also able to distinguish in a
20 conversation between a client's response to the legal
21 outcome they received versus the quality of the
22 representation they received from their lawyer.

23 Based on our experience, we are concerned
24 that a survey alone may be an incomplete and possibly
25 misleading way to obtain the feedback sought by the

2 Council. The rate of return could be very low, it
3 places a burden on clients who do not need additional
4 burden and it is possible that those who are least
5 happy with their treatment will be the most likely to
6 respond. [bell] We suggest that any survey be
7 approached carefully, with expert input and
8 considerations given to how to make completion of the
9 survey as easy for litigants as possible.

10 The second challenge is ensuring that
11 feedback is really about the quality of the legal
12 representation, separate from the overall experience
13 with the court system. As you've heard before,
14 unfortunately good lawyering does not always result
15 in good outcomes, litigants surveyed may not have had
16 strong cases, may have experienced system delays or
17 worse or the litigant may have had unrealistic
18 expectations of what the court could accomplish for
19 them. Evaluating the quality of a lawyer based on
20 subjective reports as to whether the client received
21 the outcome they were looking for or other subjective
22 assessments of attorney performance may result in
23 negative responses that have more to do with the
24 court system, the quality of a client's case and the

2 reality of life as a poor litigant in New York City..
3 [interpose]

4 CHAIRPERSON LANCMAN: Okay.

5 AMY BARASCH: than the quality of the
6 representation.

7 CHAIRPERSON LANCMAN: Thank...

8 AMY BARASCH: I know I'm out of time; I
9 just would like to suggest if I could briefly,
10 Council Member, similar to what some of the other
11 folks up here have talked about, is that I think we
12 wanna know both if the clients received quality legal
13 representation as well as their subjective
14 observations about the process; both are essential
15 pieces of information, but questions that ask for
16 concrete information like; did your attorney meet
17 with you before and after court appearances; was your
18 attorney responsive when you needed to get
19 information; did you understand explanations given to
20 you, go to best attorney practices for attorneys and
21 I think will give us more reliable information than
22 some of the questions outlined in the legislation.
23 So I also support the idea of creating a taskforce of
24 stakeholders and constituents, including academics,
25 to come up with the best way we can elicit the

2 information that is vitally important to the Council
3 and to those of us who represent the low-income
4 people of New York.

5 CHAIRPERSON LANCMAN: Got it. It's a
6 matter of doing it the right way.

7 AMY BARASCH: Absolutely.

8 CHAIRPERSON LANCMAN: Thank you.

9 AMY BARASCH: Thank you.

10 CHAIRPERSON LANCMAN: Raun.

11 RAUN RASMUSSEN: Thank you. My name's
12 Raun Rasmussen; I'm the Executive Director of Legal
13 Services NYC. Thanks for this opportunity to testify
14 today and let me just start by saying that we all I
15 think appreciate this opportunity to engage with the
16 City Council and the new Office of Civil Justice
17 about ways to improve the stability of the funding
18 and the efficacy of the services that we deliver.
19 And we, like my colleagues who have testified already
20 and will testify, are strongly supportive of
21 eliciting, soliciting information from our clients
22 about how satisfied they are with the services that
23 they have received, and we do that work ourselves.
24 But we also have some observations about the

2 challenge of collecting that information and are
3 cautious about what can be learned.

4 So surveys, as you know, of any kind have
5 an extremely low response rate, less than 5% is
6 typical, and this number may be even smaller given
7 the challenges of the particular survey that's being
8 proposed here. Our clients have numerous challenges
9 brought on by poverty that will make response rates
10 challenging, the surveys are to be returned to the
11 City and not to someone the client knows; there may
12 be language and literacy obstacles; there's a
13 provision that requires clients to waive
14 confidentiality and in addition to all the reasons
15 that were discussed earlier, that's gonna provide an
16 additional obstacle for a client who might otherwise
17 want to respond. Some of the questions that are
18 suggested in the legislation are gonna be beyond the
19 knowledge of the client, you know, those having to do
20 with the investigation of the case, the efficiency of
21 the attorney's use of time, etc.

22 The results, if you get them, will
23 therefore be spotty, anecdotal and therefore somewhat
24 unreliable and difficult to draw conclusions from and
25 we know you will have experts who will be assessing

2 the data who will be able to tell that, so I'm not
3 saying anything you don't know.

4 You know, the literature shows that folks
5 who respond to surveys tend to be those who are
6 either really, really unhappy with the services or
7 very, very happy with the services and so that too
8 will make the use of the information that's received
9 through this single methodology that's proposed here,
10 you know, challenging.

11 Of course and we believe that the most
12 important indicators of the effectiveness of the
13 services that are delivered, and this gets to the
14 question that Tina was pointing out earlier about
15 what is the intention of the survey; if it's to
16 illuminate the effectiveness of the services, we
17 think that you've got lots of ways in place already,
18 measurements that we already collect -- was an
19 eviction prevented; were conditions restored; was a
20 survivor of domestic violence provided with safety;
21 was an applicant for federal disability assistance
22 successful in getting those benefits; those go to the
23 heart of the matter in terms of the effectiveness of
24 the services, so it may be that there are other kinds
25 of metrics, qualities that you're looking for, but

2 those are the best ways we think to determine
3 effectiveness of services, which is not to say that
4 the client's views about the process, the
5 professionalism; how they were treated by the
6 providers is not irrelevant, but it's less important
7 to a measure of effectiveness than some of the other
8 things that I just mentioned. We have recently
9 completed... [crosstalk]

10 CHAIRPERSON LANCMAN: I don't know, I...

11 RAUN RASMUSSEN: Yeah.

12 CHAIRPERSON LANCMAN: I get the sense
13 that's just a false dichotomy; getting information
14 from clients about their experiences can inform many
15 different decisions, right; how effectively they're
16 being represented by their lawyers; that might be an
17 issue of whether or not those lawyers have the
18 resources that they need to investigate cases and
19 deal with their other ancillary issues and make the
20 motions they need to make; it also, you know, might
21 deal with the organization and operation of that
22 particular... [crosstalk]

23 RAUN RASMUSSEN: Well absolutely...

24 CHAIRPERSON LANCMAN: Yeah.

2 RAUN RASMUSSEN: I'm not... I'm not... I am...
3 I'm not debating [sic] the dichotomy... [crosstalk]

4 CHAIRPERSON LANCMAN: I don't get... [sic]
5 I really get the difference between funding and
6 represe... the information that comes from the client,
7 if done right, with the input of everybody who has
8 something smart to offer, which is everyone who's
9 testified today and others, will help us make lots of
10 different... [interpose]

11 RAUN RASMUSSEN: It's part of the story
12 and I'm not suggesting otherwise; what I'm saying is
13 that, you know based on the work that we've done for
14 years and years and years with the City Council and
15 others, what has always been the primary
16 conversation, and I'm not saying it should be the
17 only conversation, [bell] is; are you guys stopping
18 evictions; are you guys getting the goods for your
19 clients, and the goods being evictions, conditions,
20 disability assistance, that sort of thing; I'm saying
21 that that's been the heart of the matter. Client
22 satisfaction is something we care deeply about, we
23 care deeply about it because it's part of delivering
24 professional, effective services for clients, so I'm
25 not trying to say that it's irrelevant, I'm just

2 saying that if you're really looking at, you know,
3 what we have been paid to do, it's those other kinds
4 of results for clients.

5 So I'll just conclude by saying, you know
6 we have recently conducted kind of an assessment of
7 our client assessment system with NYU's Capstone
8 Program, and you know, there's a vast literature
9 about this stuff, as I'm sure you know, and we'd be
10 happy... I'm happy to hear that there is an openness to
11 developing some kind of a taskforce and we'd be very
12 interested in participating in that. So thank you
13 again for the opportunity to testify today.

14 ADRIENE HOLDER: I don't wanna
15 necessarily rehash what has already been said, but I
16 would like to make sure that we are clear and you
17 understand what it is that I am about to say.

18 I'm A... [crosstalk]

19 CHAIRPERSON LANCMAN: Mic a little bit
20 closer.

21 ADRIENE HOLDER: Okay. I'm Adriene
22 Holder and I'm the Attorney-in-Charge of the Civil
23 Practice of The Legal Aid Society.

24 And so I wanna make sure that we're
25 clear, because there's two things I wanna talk about

2 and the first is the assessment of the services that
3 are provided that the City is paying for, that you
4 are very interested in; you all know that The Legal
5 Aid Society worked with and commissioned The Wagner
6 School, a public service, to help develop a survey
7 tool and to look in what was our delivery of
8 services; it helped to inform the evaluation of
9 services that we then provide to IOLA, Interest on
10 Lawyers Accounts. What you also know is that those
11 types of evaluations and whether it's the Capstone
12 report or, Raun Rasmussen of Legal Services NYC and I
13 sit on the Permanent Commission on Access to Justice
14 that Chief Judge Lippman had started; all of the
15 efforts that we have done are all too inform how we
16 would measure the actual quality of the legal
17 services and I'm happy to report that in the 20 plus
18 years that all of our organizations as civil legal
19 services providers, and I know Raun's organization,
20 as a recipient of LSC funding, what it's shown and
21 has brought our communities together is that we been
22 able to also evaluate how many cases any of our staff
23 or advocates can actually handle given particular
24 practice area, even within a particular practice
25 area, the different types of cases and what the mix

2 of those would be. I think it has shown for us how
3 much actually are the costs per case of perhaps like
4 in an eviction case; that in real time in 2015 we as
5 a legal services community all agree that it's
6 between \$3,000 and \$3,500 for a full representation
7 case, and it has also helped to inform those very
8 tools that the very agencies that administer our
9 dollars use to evaluate us. And so I submit that the
10 City as well as the state and federal government
11 already have at their disposal a lot of the result of
12 how to measure the actual quality of our legal
13 services; we, under some of our grants with various
14 agencies, have to report monthly, quarterly, twice a
15 year or yearly on the different levels of services;
16 what those outcomes were. I know just with some of
17 the new initiatives that we're very proud that the
18 City Council has supported, the New York Immigrant
19 Family Unity Project (NYIFUP) for detained
20 immigrants, the Vera Institute has tens and tens of
21 indicators that we have to fill out for each and
22 every case, giving you real graphic and real specific
23 information about what is going on in those cases and
24 so I submit that a lot of this is available,
25 especially in the civil legal services realm,

1 available to be evaluated and has informed agencies
2 and all the other stakeholders, as well as us as
3 providers on how we can improve, how we can measure,
4 how we can be very sure about the cost and also, so
5 that we can plan, as we have to raise money sometimes
6 to cover those gaps in the resources that are
7 actually provided to make sure that we have a really
8 robust and effective legal services system.

10 It doesn't surprise you also, and you
11 know, we'll say it, is that surprisingly, or perhaps
12 not surprisingly, there is a low response rate on
13 satisfaction surveys that we've done on the civil
14 side, but of the surveys that do come back to us,
15 they are overwhelmingly highly favorable. But again,
16 and I'm very happy for that and with the client's
17 permission we sometimes submit those surveys for
18 funding and marketing purposes, but that doesn't tell
19 the story of what actually happened in the case, it
20 just means that in a world where only 20% of the
21 folks who need civil legal services actually are able
22 to get an advocate that those folks so desperate and
23 so appreciative that they finally have been able to
24 get one are just appreciative of any type of service
25 that they're able to get from us, and I submit that I

2 think that they are uniformly great services, again,
3 that are measured and that you see in the reports
4 from the various agencies that administer our grant,
5 the level of service, the quality and the percentage
6 of full rep versus similar limited scope services
7 that are provided, but it's not getting to that other
8 issue.

9 So if we talk about client empowerment,
10 which is so exciting; as Tina said and at The Legal
11 Aid Society there's some major revolution going on
12 right now to think about how we're actually able to
13 have the resources and the time to continue to talk
14 to our clients and bring them in, representing them
15 in various capacities as groups as we [bell] come
16 together and coalition to talk about what it is that
17 they see that they need in the community; the client
18 empowerment piece very separate and very different
19 and I think something that we all continue to do very
20 well and that we will continue to do well and with
21 your assistance through taskforce, we can figure out
22 the best ways in which to constantly engage their
23 voice and make sure that they're seen and heard, but
24 it's two very separate things. And I do submit to
25 you that you have so much of this information already

2 at your fingertips and when you read the Permanent
3 Commission's report on Access to Justice; when you
4 read a lot of the reports from the IOLA fund; when
5 you read a lot of the reports coming from the various
6 city agencies that administer our grants, you have
7 that information right there. Thank you.

8 CHAIRPERSON LANCMAN: Thank you.

9 BETH GOLDMAN: Chairman Lancman; staff,
10 good afternoon; thank you so much for the opportunity
11 to speak about the proposed legislation providing for
12 development and implementation of a client
13 satisfaction survey for clients of New York City
14 legal service providers.

15 My name's Beth Goldman; I'm the Attorney-
16 in-Charge at the New York Legal Assistance Group; I'm
17 accompanied today by my colleagues, Randal Jeffrey,
18 who is the Director of the General Legal Services
19 Unit and Jonathan Fox, who is a Supervising Attorney
20 in our Storm Response Unit.

21 I won't belabor the points that have been
22 made, but I do wanna talk a little bit about our own
23 experiences with client satisfaction surveys. NYLAG
24 has for many years been conducting these surveys to
25 obtain feedback on the quality of the services

1 provided, to determine where there are areas for
2 improvement and at times to comply with funder
3 obligations. While individual client responses are
4 useful for program management purposes, we've been
5 unable to draw broader conclusions about our services
6 because of the consistently low response rate. Even
7 with the inclusion of self-addressed stamped
8 envelopes, response rates are extremely low and
9 certainly below the 5% number that was mentioned.

11 Further, we have found that the survey
12 response rates come from, as Raun said, either from
13 clients who are exceedingly displeased or those who
14 were very, very happy with the services. So while
15 they're useful to us, and we do use them, we do not
16 feel that the survey responses are representative of
17 the services that NYLAG provide and the overall
18 experience that clients have and we continue to fine-
19 tune it to try to simplify it with the hope of
20 improving it, but we are concerned that the process
21 that's being proposed here is going to cause even
22 lower response rates, and I think the first thing is
23 the fact that they're being sent to the City rather
24 than the legal services organizations that provide
25 the services, but also we're going to provide the

2 surveys to them; we think that that's gonna create
3 some confusion on the part of the client when they
4 see that they are getting it from our organization,
5 but it's supposed to be sent... [interpose]

6 CHAIRPERSON LANCMAN: So is that an
7 observation about a better way to do the mechanics,
8 meaning it would be better if they sent it to the
9 legal services provider and then you sent it along to
10 the City or do you, as a previous witness seemed to
11 indicate, have an objection to this ever getting to
12 the City?

13 BETH GOLDMAN: I don't think we have an
14 objection to this ever getting to the City, but if
15 the City is going to be issuing reports based on the
16 data, they have to have data and we are quite
17 concerned that you're not gonna get representative
18 data and then there are gonna be conclusions drawn
19 from them that aren't going to be really of great
20 value and then we're concerned about what it's going
21 to be used for.

22 CHAIRPERSON LANCMAN: How else do you
23 think we can get more representative data, better
24 data, more data...

25 BETH GOLDMAN: Well...

2 CHAIRPERSON LANCMAN: one would be return
3 the surveys or whatever format it's gonna be, to the
4 legal services provider; any other ideas in your
5 experience...? [crosstalk]

6 BETH GOLDMAN: Well we're gonna talk
7 about some other things; one of the things is
8 language access; when we do it ourselves, we know who
9 we're sending it to and we can figure out what
10 language it is; now you are going to have us do it,
11 but it hasn't been provided for in the legislation
12 who exactly within the organization's gonna do it;
13 you have the attorneys; what stage in the litigation.
14 I think all of this has to be discussed and I think
15 we have heard today that, you know, we are not
16 experts in surveys; surveys are a complicated -- I
17 think we have low response rates and we haven't had
18 the benefit of an outside consultant, which might
19 have helped us, but it's hard to get them to be done
20 right and we think that the idea of a taskforce to do
21 it right.

22 I also wanna add that we are concerned
23 though that the waiver of confidentiality that's been
24 mentioned before contained in the current proposal
25 may also discourage people from answering and it will

2 -- because the promise of confidentiality that we've
3 given them is suddenly being taken away and then
4 they're going to wonder what that's about and we're
5 also concerned that just giving something to the City
6 when many of our clients have complaints against the
7 City, they're seeking benefits from the City; we're
8 representing them against the City; it's a very odd
9 position to put them in and again, likely to
10 discourage them from complying with the survey.

11 And then there's the chance of
12 inadvertent waiver of attorney-client privilege, so
13 that even if the point here is they're gonna check a
14 few boxes, it appears that there's gonna be an
15 opportunity for them to say more if they want to in
16 the survey and we could imagine a situation where
17 somebody would start to talk a little bit more about
18 their case and who they are and who it was against
19 and all of a sudden the privilege is waived entirely.

20 We are also a little bit concerned about
21 our own surveys; we do use these; we wanna have the
22 opportunity to get [bell] information from our
23 clients; we're not gonna be in a position to send two
24 surveys to a client, one for the benefit of the City
25 and one for our own benefit. So what we wanna makes

2 sure we do is come up with a scenario here that works
3 for the City but also works for us and works for our
4 client.

5 CHAIRPERSON LANCMAN: You're up; anyone
6 else? [background comments] Oh you came with a
7 team? [background comments] Terrific. Anyone else
8 have anything to add based on what they might've
9 heard someone else mention; otherwise that'll be it.
10 [background comments] 'Kay. Is it on?

11 RAUN RASMUSSEN: It's on. Just two
12 things; as part of the work that we did with the
13 Capstone Program at NYU, we conducted; actually, they
14 conducted, students, 556 phone call surveys and with
15 phone surveys only got a 20% response. So that was
16 an excruciating effort for a better than simply
17 sending out a paper survey to folks, but and as I
18 mentioned, there's vast literature on this stuff that
19 goes into -- my testimony lists some of the things
20 that I didn't go into, actually in my oral testimony,
21 but some of the questions that get asked and ways to
22 improve response rates, etc., etc., etc. And I
23 think, I guess, you know the thing that we will
24 discuss if there is a taskforce is the two thing that
25 I think are most important, and that is that you've

2 got to, you know, weigh the utility of the
3 information that you're trying to get against the
4 cost in getting it and that's, you know, just the
5 balance that's gotta be foremost I think,
6 particularly, and is for us; when we say, oh we're
7 really like to know what every client thinks about
8 our work and then we say, yeah, and how many people
9 is it gonna cost to get that information from the
10 more than 20,000, you know, cases that we close every
11 year. So that's one of our concerns and I know it's
12 gonna be a concern of the Office of Civil Justice
13 going forward, is how do we maximize the amount of
14 resources that are available for the direct legal
15 services work and gather the information that's
16 necessary to assess the efficacy of the work.

17 CHAIRPERSON LANCMAN: Okay. Thank you
18 very much; we will have a lot of work ahead of us and
19 I hope that when we call you up and ask you to sit in
20 a room and start hammering this out and start
21 thinking it through that you all will embrace the
22 challenge and help us get to a point. [background
23 comments] Good. Also, before we conclude, let me
24 just publicly recognize Josh Hanshaft, the Committee
25 Counsel and give a special thank you to Molly Cohen,

2 my Counsel; this is Molly's last hearing; next month
3 this time she will probably... probably next month this
4 time... thereabout, she will be on the other side of
5 the table, working for MOCJ. So Molly, thank you
6 very much. That concludes our hearing. [gavel]
7 Thank you.

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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 December 12, 2015