

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON CIVIL RIGHTS

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June 30, 2011
Start: 10:20 am
Recess: 11:48 am

HELD AT: 250 Broadway - Committee Room
14th Floor

B E F O R E:

DEBORAH ROSE
Chairperson

COUNCIL MEMBERS:

Margaret S. Chin
Julissa Ferreras
Larry B. Seabrook
James G. Van Bramer

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

COUNCIL MEMBERS:

Jimmy Van Bramer
Mark Weprin
Margaret Chin

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

Cliff Mulqueen
Deputy Commissioner
New York City Commission on Human Rights

Amardeep Singh
Program Director
The Sikh Coalition

Rajinder Singh Khalsa
President
Sikh Recognition Trust

Kevin Harrington
Vice President
Transit Workers Union Local 100

Karen Cacace
Supervisor, Employment Law Unit
Legal Aid Society

Angelica Hernandez
Member
Domestic Workers United

Robin Roland Levy
Assistant Director, New York Region
Anti-Defamation League

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2 CHAIRPERSON DEBORAH ROSE: Good
3 morning. You can say good morning back. I like
4 that. It's like an old-school teacher's thing.
5 Okay. Good morning. I'm glad to see all of you
6 here today. And we are now convening the hearing
7 of the Civil Rights Committee. Good morning. My
8 name is Debbie Rose, and I am the Chair of the New
9 York City Council's Committee on Civil Rights.
10 This morning we are hearing two bills that would
11 amend the city's human rights law, in relation to
12 workplace discrimination. New York City's human
13 rights law is one of the most expansive human
14 rights laws in the country, and is intended to be
15 more liberally construed than similar state and
16 federal laws. The law provides protections to
17 employees, and prospective employees from
18 discrimination in the workplace. It has come to
19 our attention, however, that the law is not, in
20 fact, being construed liberally, and that there
21 are people who are not afforded protection from
22 discrimination. The first bill, intro number 632,
23 was introduced by Council Member Mark Weprin, who
24 is with us this morning, and who will give remarks
25 in a few minutes. In an effort to protect and

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2 accommodate religious observance in the workplace,
3 intro number 632, would strengthen the city's
4 human rights law in cases of religious observance
5 by defining undue hardship as significant expense
6 or difficulty, and providing factors for an
7 adjudicator to consider when determining whether
8 an employer met its burden of proof. I know that
9 sounds really garbled, so I'm going to say that
10 again. City human rights law, in cases of
11 religious observance, by defining undue hardship as
12 significant expense or difficulty, and providing
13 factors for an adjudicator to consider when
14 determining whether an employer met its burden of
15 proof. I am the sponsor of the second bill that
16 we are hearing today, intro 625, which would amend
17 the city human rights law by changing the
18 definition of the word employer, for the purposes
19 of workplace discrimination claims. The human
20 rights law prohibits employers from engaging in
21 workplace discrimination, but this prohibition
22 only applies when an employer has four or more
23 employees. The proposed legislation would
24 eliminate the exemption for employers with three
25 or fewer persons in their employ. Both of these

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2 bills will provide New Yorkers with protections
3 from discrimination in the workplace. I would
4 like to thank everyone for attending this
5 morning's hearing, and providing testimony. And
6 before going any further, I would like to
7 acknowledge my colleagues at the dais with me this
8 morning. And so, we have Council Member Van
9 Bramer, Council Member Weprin, Council Member
10 Chin. And I'd like to thank Julene Beckford, my
11 Counsel, and Damien Butvick, my policy analyst,
12 for helping to prep with this hearing this
13 morning. And now, I will relinquish the mic to
14 the Council Member Weprin, the sponsor of the next
15 bill, of this bill.

16 COUNCIL MEMBER WEPRIN: Thank you
17 very much, Chair Rose, and members of the
18 committee. Thank you for having me here today.
19 It is a pleasure. And thank you for having this
20 important hearing on this issue. As many of you
21 know, I represent an area in Queens, as does my
22 colleague, Council Member Van Bramer, sitting next
23 to me, and Queens is known as the most diverse
24 county maybe in the country. And that diversity
25 is more than just a bumper sticker. It is really

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2 amazing how people from different cultures, and
3 different religions, and different parts of the
4 world live and work together. They pray together.
5 They play soccer together. They try to make a
6 community better, together. And I'm very proud of
7 that. And if you don't mind me getting on my
8 soapbox a little bit, Madam Chair, it's one of the
9 reasons I went into politics, is the idea of
10 people who come to this country need to be treated
11 fairly. My mother came to this country when she
12 was eight years old. She didn't speak a word of
13 English, suffered a lot of discrimination, was
14 picked on, and beat up, and she did some beating
15 up herself in response, but it is something that
16 really is important to me, and is one of my core
17 beliefs, is that people who take the chance to
18 come to this country, and sometimes I don't think
19 they get the credit they deserve; the idea that
20 you leave everything you know behind, every
21 person, every job, to take a chance to go
22 overseas, either on a boat, or a plane, or some
23 other way, to get there, and to not know what
24 you're going to, really. Just taking your family
25 with you, on occasion; sometimes without them,

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2 even, and taking, really, what is an incredibly
3 gutsy decision, to come to this country. So why
4 do they do that? Why do they take that chance?
5 Why do they leave behind all their friends, their
6 family? Because this is the country of
7 opportunity. This is the country of freedom,
8 where you can practice the religion you want, you
9 can pray to any god you want, you can wear your
10 clothes the way you want, you can dress the way
11 you want, you can cut your hair the way you want.
12 It's an amazing place. You can even say whatever
13 you want, and not get punished for what you say.
14 It's not that common in this world, and it's
15 something that people come to. And it really is
16 something that we need to respect, and honor, and
17 really, I think there's no braver souls than those
18 immigrants who came here, just looking for a
19 chance. And too often, we hear about people
20 treating immigrants as the enemy, and not giving
21 them the credit they deserve for understanding
22 that this is the country you want to be in. This
23 is the country you want to raise your family in.
24 And that's one of the reasons we're here today, on
25 this piece of legislation. And while that may be

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2 overstating the entire, the specific legislation,
3 it is the core belief that I have, that has me
4 here today, and sponsoring this legislation. I'm
5 proud to be sponsor of intro 632, which would
6 ensure that the legal standard by which we judge
7 religious accommodations is consistent throughout
8 the state. Unfortunately, currently, New York
9 City is guided by the federal law. As many of you
10 know, Title 7, or the Federal Civil Rights Act of
11 1964, requires an employer to reasonably
12 accommodate religious practices of an employee.
13 That's under the TWA v. Hardison standard. And
14 what it does is it defines undue hardship, what an
15 employer has to accommodate. And federal law has
16 a status that anything more than a de minimus cost
17 or burden, meaning if the employers says there's a
18 de minimus burden here. I don't have to
19 accommodate your religious freedom. I don't have
20 to accommodate your request. They can do so. And
21 this leaves a lot of room for discrimination, and
22 it happens every day of the week. We're joined
23 this morning, I see, by a lot of members of the
24 Sikh community, in particular. I represent an
25 area that has a very large South Asian population,

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2 many of whom are Sikh, so good morning to you,
3 ladies and gentlemen. [foreign audio]. And we've
4 heard a lot of stories, in particular, from the
5 Sikh community by me, but it's not just the Sikh
6 community affected by this. It's the people of
7 Muslim faith, of Jewish faith, and other faiths,
8 who have certain articles of faith that they wear,
9 or things that they do, or believe, that make them
10 different. And some employees have discriminated
11 against them because of that. And that standard,
12 that federal standard, is so broad, that it has
13 really allowed this discrimination to go on. So
14 this bill gives what I think is a more appropriate
15 definition of undue hardship. It is founded in
16 the state law, executive law, section 296, which
17 defines the hardship as a significant difficulty
18 or expense, meaning you have to, it has to be
19 shown to be a significant problem for you, not
20 just a deminimus one. And that little change in
21 standard not only, in our opinion, will make it
22 easier to people to have their religious freedom,
23 but also send a message. And that message to
24 people, and the Commission on Human Rights, - - ,
25 and judges adjudicating religious accommodation

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2 claims at the New York City Office of
3 Administrative Trials and Hearings, that the city
4 residents deserve greater protection for respect
5 of religious accommodations, not less protections.
6 The issue with the Sikh community, as many of you
7 know, is the idea that the gentlemen wear turbans,
8 and beards. They have not been allowed to serve
9 the city, and other places, just because of that.
10 And can you think of a more outrageous outcome for
11 people who took that chance that I described
12 before, that chance of coming to this country, and
13 their raising their families here, and someone
14 wants to join our police force, or serve our city
15 in some way, and protect my family, or help my
16 family with their commute, or their lives, or
17 their health, and they're being denied? Why?
18 Because they have a religious belief that may be
19 different than somebody else's? That, to me, is
20 an outrage, and that is why we're here today. So
21 we've made some progress in New York City since
22 this issue has come to light. I want to thank the
23 Sikh Coalition, in particular, who I know is here
24 today, and they're going to be testifying later,
25 for all their efforts on this issue, and for

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2 continuing to advocate on behalf of the Sikh
3 community across this country. This type of
4 advocacy has led the New York City Police
5 Department to make an accommodation just recently,
6 and allow a gentleman named Mr. Govinder Singh to
7 become the first Sikh police officer in the city
8 to wear a turban. This accommodation is historic
9 for New York, and for my constituents.

10 Unfortunately, it's simply a single accommodation,
11 and I look forward to working with the NYPD, as
12 well as other city agencies, to seek permanent
13 policy change. And I believe this law will be an
14 important step towards reaching that result.

15 There are still many employers in many city
16 agencies that have yet to make similar
17 accommodations, and I am confident that when this
18 bill becomes law, it will improve the lives of New
19 Yorkers who ask for nothing more than to exercise
20 the freedom of religion, and their constitutional
21 rights. The reason they came to this country, the
22 reason they took their chances, and the reason
23 they left behind everything they know, wherever
24 they came from, was to come for that type of
25 religious freedom. So I will step off of my

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2 soapbox for a second, and thank again the Chair,
3 for allowing me to support and propose this bill.
4 Thank you.

5 CHAIRPERSON ROSE: Thank you,
6 Council Member Weprin, and we really appreciate
7 your tenacity in making sure that this bill came
8 to fruition, and we really support your passion.
9 And with that said, we will now have the testimony
10 of Deputy Commissioner

11 MR. CLIFF MULQUEEN: Madam Chair,
12 Council Members, good morning. Thank you for
13 giving the Commission the opportunity to testify
14 regarding intro numbers 625 and 632, proposing
15 changes to the New York City human rights law,
16 specifically intro 625 seeks to remove the
17 jurisdictional minimum for human rights law
18 coverage in employment cases, and intro 632 seeks
19 to more clearly define undue hardship, when
20 evaluating religious accommodation cases in
21 employment. The Commission has no issue with
22 either of these proposals, however the
23 administration has submitted some language for
24 your consideration, and I hope you will consider
25 that. We look forward to working with you in the

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2 future to make the human rights law stronger, and
3 protect the residents of the city. Thank you.

4 CHAIRPERSON ROSE: Thank you.

5 MR. MULQUEEN: Very brief.

6 CHAIRPERSON ROSE: I was going to
7 say, that's a record for brevity.

8 MR. MULQUEEN: I held the previous
9 record, as well.

10 CHAIRPERSON ROSE: Okay. But that
11 doesn't mean that human rights law is something
12 that we take very lightly.

13 MR. MULQUEEN: Absolutely not.

14 CHAIRPERSON ROSE: Okay. In your
15 statement, in your prepared statement, you refer
16 to the Commission not having any issue with these
17 proposals, and I thank the Commission for that.
18 You say, however, that the Commission has
19 submitted some language for our consideration, in
20 regard to intro 632. So in regard to 632, that we
21 feel will avoid any future confusion between the
22 two definition of undue hardship, and that will
23 exist should this proposal become law. Could you
24 explain to us what this confusion is, and what
25 this confusion has been?

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2 MR. MULQUEEN: Sure. I don't know
3 if there has been any confusion. It was the Law
4 Department that thought there may be some
5 confusion in the future. As you are aware,
6 reasonable accommodation as part of that undue
7 hardship is already defined in the law in 102-18.
8 And then, this provision, dealing with religious
9 accommodations is found in 8-107 subsection 3. So
10 if we're now going to have a definition of undue
11 hardship when it comes to disability, and arguably
12 religious accommodations that were previously
13 covered in the definition in 8-102, and assuming
14 this proposal passes, there would now be a second
15 definition of undue hardship, with regard to
16 religious accommodations in 8-107 sub 3. So the
17 language just clarifies that 8-107 sub 3 is for
18 religious accommodations in employment, and 8-102
19 sub 18 is for disability and domestic violence
20 accommodations in employment.

21 CHAIRPERSON ROSE: So your change
22 to the language, is it a change to the amended
23 language of our bill?

24 MR. MULQUEEN: No. Absolutely not.
25 That language stays the same. It's a change to 8-

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2 102, just specifically stating that when dealing
3 with religious accommodations in employment, you
4 have to look at 8-107 sub 3 for the definition of
5 undue hardship. I believe a copy of the language
6 was sent to the Council, at least this morning.

7 CHAIRPERSON ROSE: Yes. It was,
8 and we were just not sure where the confusion was.

9 MR. MULQUEEN: Well, again, the Law
10 Department felt there could be some confusion in
11 the future. I don't know that there's confusion.

12 CHAIRPERSON ROSE: So, it's sort of
13 like, for clarity's sake?

14 MR. MULQUEEN: Correct. It's just
15 a drafting issue. It's got nothing to do with the
16 substance of the proposal.

17 CHAIRPERSON ROSE: Okay. Thank
18 you. Okay, could you tell me how the Commission
19 responds to complaints from employees who feel
20 that they've been discriminated against because of
21 the employer's failure to provide a reasonable
22 accommodation for religious observance?

23 MR. MULQUEEN: Actually, the
24 Commission is very proactive in getting
25 accommodations for people because of their

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2 religious observance. We were the ones that got
3 the Police Department to allow a Sikh traffic
4 enforcement agent to wear his turban while on
5 duty. We did that. And that's probably why there
6 is a Police Officer now, who's being appointed.
7 We've always had a standard that the employer has
8 to show that this really creates an interference
9 with the business. Not just a de minimus
10 interference, but a major interference. And
11 that's the way we viewed these cases all along.

12 CHAIRPERSON ROSE: And is that
13 basically the same response that you have to other
14 complaints relating to failure to accommodate for
15 other purposes, such as disability.

16 MR. MULQUEEN: Sure. Absolutely.
17 I mean, the onus is on the employer to show that
18 this is really going to harm that person's
19 business. Otherwise, we require that they do it.

20 CHAIRPERSON ROSE: So could you
21 explain the process?

22 MR. MULQUEEN: I'm sorry?

23 CHAIRPERSON ROSE: The process,
24 when you receive a complaint, from an employee who
25 feels that they've been discriminated against, in

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2 terms of reasonable accommodation for religious
3 observance?

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MR. MULQUEEN: We would... It
5 depends. We've had... Let's take an example with
6 the Tennis Association in Queens. They routinely,
7 every year, have their interviews for the ball
8 boys and ball girls on a Saturday, which
9 eliminates the opportunity for Orthodox Jews to
10 apply for those positions. I believe they've
11 changed it. So the first thing we might do, in a
12 situation like that, is call, and say, hey. What
13 are you doing? The law requires that you
14 accommodate religion. There doesn't appear to be
15 any reason why doing so would create any sort of
16 hardship. Is there a hardship? And if not, you
17 have to do it. A lot of times, they'll agree to
18 do it. Oh, I didn't understand. I didn't know
19 what the law was. I'm applying to federal law,
20 not the city law. So once we explain it, a lot of
21 people will do it.

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CHAIRPERSON ROSE: When you ask
23 them, is there a hardship, what are the parameters
24 of that hardship?

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MR. MULQUEEN: Again, it has to

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2 create a major hardship for the business. It's
3 not just deminimus. It has to be a serious, major
4 hardship for the business.

5 CHAIRPERSON ROSE: Is there some
6 standard that you have to determine?

7 MR. MULQUEEN: No. I mean, I guess
8 the standard will be written into the law now,
9 which we don't have a problem with. But I'm just
10 pointing out that this is the standard that we've
11 been applying, at least in the last nine years
12 that I've been at the commission.

13 CHAIRPERSON ROSE: And based on
14 your understanding in enforcement of human rights
15 law, can an employer segregate an employee as part
16 of the reasonable accommodation?

17 MR. MULQUEEN: No. That would be
18 wrong.

19 CHAIRPERSON ROSE: Okay. And when
20 an employer reinstates an employee, how does this
21 ensure that the accommodation does not result in
22 the employee being resegregated?

23 MR. MULQUEEN: Well, again, if, for
24 instance an employee was terminated, we would make
25 the employer ideally pay the employee back for any

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2 pay that they lost. They should receive any
3 seniority that they would have received, had they
4 worked continuously, and not been discriminated
5 against. If they would have gotten a promotion,
6 we would try and make the employer give them that
7 promotion upon reinstatement. When you say
8 segregate, I'm not... If you give me an example,
9 I can probably explain myself better. I'm not
10 quite sure what you're talking about.

11 CHAIRPERSON ROSE: If, in fact,
12 intro 632 and 625 become law, how will the
13 Commission educate the staff about the changes,
14 and how will you educate the public?

15 MR. MULQUEEN: I would educate the
16 staff. We'd have discussions. I would send
17 memos. And we'd educate the public the way we
18 educate the public in every instance. We'd
19 probably create some pom [phonetic] cards, or
20 something to hand out at the different work force
21 places that we go to.

22 CHAIRPERSON ROSE: So you would
23 feel that it could be explained in a memo?

24 MR. MULQUEEN: I think, in these
25 instances, sure.

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CHAIRPERSON ROSE: Okay.

MR. MULQUEEN: And we'd put something on our website, obviously.

CHAIRPERSON ROSE: And implemented?

MR. MULQUEEN: Oh, absolutely.

CHAIRPERSON ROSE: Because the memo came from you? Right? Mark, would you like to ask some questions?

MR. WEPRIN: Just as an example of segregation that, I don't know how you would feel about, but if some customer service-type of business, or a business where someone sits out front, and is the first one that someone was to greet, if a business said, well I don't think we should have the guy in the turban out front, and said that you have to sit in the back of an office, where people don't necessarily see you, would you see that as a problem?

MR. MULQUEEN: Yes.

MR. WEPRIN: Okay. Because that's an issue that has come up in the past.

MR. MULQUEEN: Usually these cases come--

MR. WEPRIN: [interposing] They

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don't necessarily come to you.

MR. MULQUEEN: --and they refer to it as customer preference. My customers don't want to walk in and see this person there. Customer preference is not a defense to the human rights law. So that's not an issue for us.

MR. WEPRIN: I just want to be clear that we're not here to, I really do appreciate the fact that you guys have been so proactive in your policy, and we're glad we could put into statute what you say you've been doing already. The problem is that sometimes people don't understand that, people don't know it. And one of the reasons we're hoping to do this, and to codify it, is to send that message out there, that what you're saying shouldn't happen doesn't happen. Okay. Yes. Thank you, Chair.

CHAIRPERSON ROSE: You're welcome. I don't believe that you went into any detail about how the public will be educated to the changes in the law, especially the employees that are being impacted by the law, or its non-existence, into the law now.

MR. MULQUEEN: Well, again, our

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2 Community Relations Bureau is working with various
3 communities every day of the week, all year. I
4 mean, we see, we interact with almost 100,000 or
5 more people a year, giving presentations, talking
6 about the law, and educating people about the law.
7 So these things would be incorporated into all of
8 those presentations. We have our website, which
9 would be changed to reflect these changes.
10 Obviously, we have a copy of the law on our
11 website, which would be changed to reflect these
12 changes. And again, something like this,
13 especially with regard to the removal of the
14 minimums for coverage under the law, the four down
15 to basically zero, that's something that we would
16 really have to make an effort, probably prepare
17 pom cards, and other literature, and actually go
18 out in the community, and explain to people that
19 there's no longer this prohibition.

20 CHAIRPERSON ROSE: That's what I've
21 been waiting to here.

22 MR. MULQUEEN: Okay.

23 CHAIRPERSON ROSE: And because, in
24 most jobs, there's an employee bill of rights,
25 somewhere, or at least, HR has a copy of things

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that the employees--

MR. MULQUEEN: [interposing] Right.

If you're dealing with an employer of this size, there's probably no HR Department, so...

CHAIRPERSON ROSE: Sometimes.

Although, no. Yeah, the smaller ones.

MR. MULQUEEN: Right.

CHAIRPERSON ROSE: Yeah, but they also should then have access to the change, and what an employee's rights are.

MR. MULQUEEN: Absolutely.

CHAIRPERSON ROSE: And so, does the Commission, as a practice, distribute those, that kind of information to local employers, to all employers?

MR. MULQUEEN: Absolutely. We do a lot of work with employers, as part of our normal training and education, and we have pom cards about employment rights, and things that employers have to do, and the rights of the employees, and the obligations of the employers. We have forums, a couple of times a year, particularly focused on immigrant employers, and employees, explaining what the rights and obligations are under the law.

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CHAIRPERSON ROSE: And these are
small businesses?

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MR. MULQUEEN: Yeah. Generally,
yes.

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CHAIRPERSON ROSE: I'd like to
recommend that you also meet with the Chamber of
Commerce in the different Boroughs, and make
this...

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MR. MULQUEEN: I think in Staten
Island, there's a business association we met with
a few times, where we talk about, I've gone and
spoken to them about the law, and explained the
law to them. But absolutely.

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CHAIRPERSON ROSE: We're unique, in
Staten Island.

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MR. MULQUEEN: It's a whole
different world.

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CHAIRPERSON ROSE: So I would like
to see that sort of become a standard, where at
least the Chamber of Commerce also is apprised of
the changes.

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MR. MULQUEEN: Sure.

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CHAIRPERSON ROSE: In the human
rights law. Okay? Council Member Chin?

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COUNCIL MEMBER MARGARET CHIN:

Thank you, Madame Chair. Mr. Mulqueen, can you talk about, like, how many cases, in terms of complaints, have you gotten, regarding private sector employers discriminating?

MR. MULQUEEN: Based on religion?

COUNCIL MEMBER CHIN: Yeah.

MR. MULQUEEN: I'm sorry, but I did not prepare those numbers, coming here today, and I should have. 65% of our cases are employment discrimination. I would say a small percentage of those are religious discrimination in an employment setting.

COUNCIL MEMBER CHIN: I guess the other question is how do you get the word out? I mean, you're doing a lot of workshops, and community, and website. But really, to the general public, in terms of through the local media, or the mainstream media, when you have a victory in a case, to get it out in the public, that it's against the law to discriminate, or they have to provide reasonable accommodation?

MR. MULQUEEN: Every time we have a decision in a case, we pitch it to both the local

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2 community media, as well as, depending on the
3 situation, the mainstream major media. We do that
4 all the time. I think we usually have 2 or 300
5 appearances in the media, in a given year. That's
6 about our average.

7 COUNCIL MEMBER CHIN: What about
8 the public service announcement, to sort of use
9 that opportunity to educate the public?

10 MR. MULQUEEN: I know that we had
11 some public service announcements on NYCTV, in the
12 past. We have a Commissioner who has a television
13 show for the Southeast Asian community. So we use
14 those resources as much as we can. We're very
15 active, because we're such a small agency. We're
16 very active in trying to use the media to get our
17 message out.

18 COUNCIL MEMBER CHIN: But do you
19 get help from the administration, in terms of the
20 Deputy Mayor, or the Mayor, to really help
21 publicize, and get the word out?

22 MR. MULQUEEN: Yeah. Again, we've
23 had some PSA's where WNYC TV, or radio, has helped
24 us create those. Yes.

25 COUNCIL MEMBER CHIN: But I think

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2 that the administration should really help kind of
3 get it widespread out there, because it's so
4 important for the general public to know about the
5 human rights law, but also to see the victories.
6 I mean, every time you win a case, it will give
7 confidence to people in the community who is
8 discriminated, to come forward. Yes. It's
9 winnable, or it's achievable.

10 MR. MULQUEEN: Absolutely. And
11 we've seen it happen, whenever we have appeared in
12 the media, that that generates more people to come
13 forward. And again, every time we have some sort
14 of victory, there is a press release that goes
15 out, and gets distributed.

16 COUNCIL MEMBER CHIN: Yeah, I mean,
17 whatever, the City Council, we can help. We
18 definitely would love to do that. But I think I
19 would also encourage the administration to sort of
20 give you a little bit more attention, to help
21 spread the word.

22 MR. MULQUEEN: Well, we had our
23 city campaign that we had posters on bus shelters,
24 and city vehicles, and buses themselves. So, I
25 mean, we think we've reached millions of people a

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2 day, based on just the traveling of those
3 vehicles, and the bus stops, and telephone kiosks,
4 that don't exist anymore, but...

5 COUNCIL MEMBER CHIN: Well, you
6 know, our Committee is on record, in terms of
7 urging for more resources for your Commission, so
8 we're there.

9 MR. MULQUEEN: Thank you.

10 COUNCIL MEMBER CHIN: Thank you.

11 CHAIRPERSON ROSE: Thank you,
12 Council Member Chin. Along those same lines,
13 would the Commission consider working with other
14 city agencies, like DCA, who issues licenses to
15 small businesses, and include it in their
16 information packages?

17 MR. MULQUEEN: I believe we already
18 do that.

19 CHAIRPERSON ROSE: Do you?

20 MR. MULQUEEN: And of course, we
21 would do that here. We work with a lot of
22 different agencies. Again, we have between 70 and
23 80 employees, and we have a very large job to do.
24 So we lean on community groups, we lean on other
25 agencies as much as possible.

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2 CHAIRPERSON ROSE: Being that both
3 of these bills would be effective immediately, do
4 you anticipate any problem with making the
5 employers and the general public aware of this,
6 within that time frame?

7 MR. MULQEEN: Well, obviously, it
8 won't be immediate.

9 CHAIRPERSON ROSE: Right.

10 MR. MULQEEN: It's going to be a
11 process. And it will take time.

12 CHAIRPERSON ROSE: How long do you
13 think it would take before the general public and
14 employers would be informed of these changes?

15 MR. MULQUEEN: I can't answer that.
16 But I mean, I'm assuming that this is going to be
17 a six-month to a year process. And then, even
18 continuing after that, to really try and reach as
19 many people as possible, to educate them about the
20 changes.

21 CHAIRPERSON ROSE: So, is this sort
22 of the usual turnaround time, in terms of public
23 information, when there's changes made to law,
24 or...? Because six months to a year could mean a
25 big difference, in terms of how someone who's

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2 suffering from the inability for religious
3 observance. That would be a long time for an
4 employer not to know that they were breaking the
5 law.

6 MR. MULQUEEN: I understand. But
7 even if I walked out of here today, and we were on
8 every major network television station, and we
9 were in every daily newspaper, it still wouldn't
10 reach everybody. It would reach a lot of people,
11 but it takes a long time to...

12 CHAIRPERSON ROSE: I'm talking
13 about optimal response, in terms of getting the
14 word out.

15 MR. MULQUEEN: As soon as this is
16 passed, we will start printing cards, we will
17 change the website, we will start doing our
18 presentations immediately. I mean, the work will
19 start immediately. Whether, you asked how long it
20 will take to reach everyone, that's going to take
21 longer.

22 CHAIRPERSON ROSE: All right. So
23 you could, in fact, though, you will, in fact,
24 change your website immediately, and you could do
25 an email blast to those folks that you have on

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your email list?

MR. MULQUEEN: Absolutely.

CHAIRPERSON ROSE: Okay. Are there any other questions? No?

MR. MULQUEEN: Thank you.

CHAIRPERSON ROSE: Okay. Thank you. The next panel will be Rajinder Singh Khalsa, President of the Sikh Recognition Trust, Amardeep Singh, The Sikh Coalition, and Kevin Harrington, also from TWU Sikh Coalition. Could I ask the Human Rights Commission to leave someone behind, to hear the testimony? Okay. Thank you. And when you're ready, would you please identify yourself for the record, and speak into the mic. Thank you.

MR. AMARDEEP SINGH: My name is Amardeep Singh. I am the Program Director of the Sikh Coalition. I'd like to wholeheartedly thank the Committee on Civil Rights for the opportunity to appear before you today, and I'm also thankful for Chair Rose's leadership of this committee, and Council Member Weprin's introduction of this very important bill. I am the Co-Founder and Director of Programs of the Sikh Coalition. We're the

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2 nation's largest Sikh civil rights organization,
3 based here in New York City. Since our founding
4 on the night of 9/11, we have been working to
5 ensure that all New Yorkers, and people living in
6 the United States, enjoy their full rights and
7 liberties. As a community-based civil rights
8 organization, we deeply appreciate the work of the
9 New York City Commission on Human Rights, and we
10 have a stake in insuring that the Commission is
11 fully empowered to protect workplace religious
12 freedom, not only for Sikh Americans, but for all
13 people of faith in New York City. As you may be
14 aware, members of the Sikh community suffer high
15 levels of employment discrimination because of
16 their Sikh identity. In particular, the Sikh
17 turban and beard have often become objects of
18 societal rejection or derision after 9/11.

19 According to a research report issued by the Sikh
20 Coalition in 2008, called "Making Our Voices
21 Heard: A Civil Rights Agenda for New York City
22 Sikhs," one in ten Sikhs in New York City reported
23 suffering discrimination in employment here in the
24 city. Most egregiously, right here in the most
25 diverse city in the world, as a matter of

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2 department policy, Sikhs may not serve as police
3 officers in the New York City Police Department,
4 unless they remove their religiously mandated
5 turbans. While the NYPD recently has made a
6 single exception, for one Sikh to serve as a
7 police officer in the city, its general policy is
8 to force Sikhs to make the false choice between
9 gainful employment, for which they are qualified,
10 and their faith. In this regard, I would add
11 that, as I speak, two proud turban Sikh Army
12 Officers are serving with their fellow Sikh
13 soldiers in Afghanistan. Both those Sikh soldiers
14 were honored for their service by City Council
15 Speaker Christine Quinn, Mayor Michael Bloomberg,
16 Council Member Weprin, last year. While we are
17 encourage by signs that the NYPD is open to
18 changing its policy of telling qualified Sikhs to
19 remove their turbans, it's a travesty that this
20 policy still exists. If Sikhs can serve in the
21 heart of combat operations in Afghanistan, as we
22 speak, they can serve right here in the city,
23 where many were born and raised as proud members
24 of the NYPD. Beyond the NYPD, which is one of the
25 city's largest employers, the Metropolitan Transit

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2 Authority has also singled out Muslim and Sikh
3 workers for discrimination. As I speak, Sikh and
4 Muslim workers who currently work for the MTA are
5 forced to brand their religious headwear with an
6 MTA logo. The MTA began imposing and enforcing
7 this job requirement only on Sikh and Muslim
8 workers a few years after 9/11. Amazingly, one of
9 the MTA workers, being forced to brand his turban,
10 Kevin Harrington, who is two people to my right,
11 received an award from the MTA as a hero of 9/11,
12 for his genuine heroism in leading passengers to
13 safety, as the operator of the Number Four Train
14 on that fateful day. The idea that he would now
15 need to brand his turban, to do his job, and be
16 recognizable as an MTA employee, particularly
17 given his heroism on 9/11 is very disturbing. So
18 I am sure this committee can appreciate the
19 challenges our community faces here in the city.
20 While private employers discriminate, the actions
21 of government employers like the NYPD and MTA is
22 more troubling. If government can discriminate
23 unfairly, if government can force qualified
24 workers to choose between their faith and their
25 jobs, what kind of message does that send to the

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2 private sector? What kind of message does that
3 send to our children? So today, we're asking
4 every member of this committee, and the City
5 Council, to support intro 632, or what I call the
6 Workplace Religious Freedom Act. Why support the
7 act? In short, it would close a big gap between
8 the protections afforded by state law, and city
9 law, for religious freedom in the workplace.
10 Under current city law, employers are required to
11 make a reasonable accommodation for the religious
12 practices of their employees. However, employers
13 like the NYPD and the MTA can easily bypass this
14 requirement by showing that such accommodations
15 would impose a minimal, or what Council Member
16 Weprin referred to as a deminimus difficulty or
17 expense on the employers' business. State law,
18 however, says that an employer can only reject a
19 religious request for accommodation if the request
20 would cause a significant difficulty or expense.
21 The gap between a minimal difficulty and a
22 significant difficulty or expense is wide. In a
23 city as diverse as New York, it's not right that
24 the state law on the books is more protective of
25 religious freedom in the workplace than city law.

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2 What we ask of you today, what this introduction
3 will make happen if enacted, is to simply close
4 the gap, so that our city law and our state law
5 just match each other. In doing so you will
6 ensure that employers like the NYPD and the MTA
7 cannot support irrational job discrimination in
8 the city's law. All we therefore ask is that the
9 city law matches the state's law. That's it.
10 Finally, some may question the need for this
11 introduction, since state law already provides
12 strong protections for religious freedom in the
13 workplace. It's important, nonetheless, that this
14 council support this introduction for two reasons.
15 First, it sends a clear message to the public that
16 our city law will be at least as welcoming to
17 workplace religious freedom as state law. This is
18 an important message to send to the public from
19 this legislative body. Second, passage of the
20 bill will ensure, make crystal clear, that the
21 city's Commission on Human Rights, and the judges
22 of the Office of Administrative Trials and
23 Hearings are applying a significant difficulty or
24 expense standard to religious accommodation
25 claims, and no other standard. It's critically

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2 important that the standards to which our Human
3 Rights Commission and city judges are applying are
4 clear. The rights of city employees who use city
5 agencies as an avenue of relief hangs in that
6 balance. I would note that today, the proposed
7 changes to city law tracks a national movement to
8 enhance federal employment discrimination law for
9 religious accommodation claims. Every year,
10 Senator John Kerry from Massachusetts introduces a
11 federal Workplace Religious Freedom Act. So New
12 York City would not be alone in this fight for
13 ensuring the law is welcoming of religious freedom
14 in the workplace. There is national support for
15 this movement. Lastly, there is a gap in the
16 introduction that I'd like to make note of for the
17 record, and it's one that we implore the City
18 Council to address, either in this introduction,
19 or at a later moment. This bill does not address
20 what we call the emerging issue of workplace
21 segregation. Under current interpretations of
22 employment discrimination law by some courts, not
23 all, but by some, and employer can lawfully
24 segregate employees of faith out of public view if
25 their articles of faith violate workplace uniform

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2 rules, as long as they offer the employee similar
3 pay and similar benefits. So consider the example
4 of a New York City retail store with grooming and
5 a corporate image policy forbidding facial hair.
6 If a qualified Sikh or Muslim man applies for a
7 sales position, the employer must reasonably
8 accommodate the employee's religious-mandated
9 beard. However, under the city's current human
10 rights law, the employer can lawfully refuse to
11 hire the Sikh or Muslim man for a sales position,
12 and instead only offer a position in the stock
13 room, away from public view. This transfer would
14 be completely legal, because the current law says
15 that an accommodation is reasonable if it
16 eliminates the conflict between the employment
17 requirements and the religious practice. I would
18 note, in this regard, that Mr. Harrington, who is
19 sitting two seats from me, his employer put him in
20 the back, out of the public view, and they have
21 cited this federal law, to say that we can
22 lawfully put him in the back, because we are
23 giving him similar pay or benefits. And they've
24 relied upon that in their briefings to the federal
25 court, in which his case now rests. So sadly, I'd

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2 note, that even the MTA has argued that it can
3 lawfully segregate Muslim and Sikh workers from
4 the general public, unless the workers brand their
5 religious headdress with its logo. The MTA says
6 that the law allows it to force these workers back
7 to the rail yards, and out of public view, if they
8 do not fit the MTA's corporate image. The spirit
9 of the city's anti-discrimination law is to
10 integrate, integrate, integrate, integrate the
11 workplace, not segregate religious minorities. We
12 therefore ask that the city enact a law that
13 explicitly forbids segregation of employees from
14 customers and the general public on the basis of
15 image policies, uniform policies, and actual or
16 perceived customer public preference. I hope you
17 agree, and I know you agree that our great city,
18 in our great city, separate but equal is always
19 inherently unequal, not only in schools, but also
20 in the workplace. Please support the millions of
21 city residents of faith, and make it clear that
22 separation and segregation are not reasonable in
23 New York City. I thank you for allowing me to
24 appear before you today. New York City is a
25 shining example of religious diversity in America,

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2 and we should honor that diversity by
3 strengthening our human rights law without delay.
4 Please pass intro 632, what I call the Workplace
5 Religious Freedom Act. Thank you.

6 CHAIRPERSON ROSE: Thank you so
7 much.

8 MR. RAJINDER SINGH KHALSA: My name
9 is Rajinder Singh Khalsa. I am a proof of
10 discrimination in New York City. I am an
11 engineer, mechanical engineer, and driving cab in
12 New York City. Like me, so many doctors, so many
13 ingenious, they are driving cab, and they are
14 working like self-employed, because they have
15 turban on their head. Because already this bill
16 is - - to pass, to amend, so many members of my
17 community, they remove their turban, their beard,
18 and they working in the workplace. So I request
19 the Chair, so the bill by Council Member Mr.
20 Weprin should be amended to the local law,
21 Administrative Court of the city of New York, in
22 relation to unlawful discriminatory practices.
23 And so, we are ready to work here. We came here,
24 because we've been discriminated in so many other
25 countries. So what is the difference between

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2 world capital and Indian capital? In 1984, they
3 kill us, 42,000 Sikh, they kill there in four
4 days, because of our turbans, they were choosing
5 us, and killing us. And now, here in New York
6 City, people choosing us, beating us, I was beaten
7 and left unconscious on the sidewalk in Queens.
8 So what's the difference? America and other
9 countries, third world countries. So I want, the
10 world should know there is a difference between
11 other world, and American law. So American
12 lawmakers and American city, New York City, it
13 cannot stop discrimination, this is world capital.
14 If we cannot stop the discrimination in world
15 capital, we cannot hope anybody in the world going
16 to stop the discrimination. Thank you very much.
17 God bless you all.

18 MR. KEVIN HARRINGTON: Good
19 morning. My name is Kevin Harrington. I am a
20 Sikh of American birth. I am a transit worker,
21 for 30 years. I am a train operator for over 26
22 years, and I'm also the Vice President of the
23 Transport Workers Union Local 100 for train
24 operators, conductors, and tower people. What
25 brings me here today is I'd like, first of all,

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2 like to thank you, as my colleagues have, for
3 passing this bill, which, if it was in place, I
4 would not have suffered religious discrimination
5 and hardship for a very long period of time, where
6 even the Chief Executive Officer of the New York
7 City Transit Authority, Larry Reuter, threatened
8 to fire me for refusing to give up my religion,
9 instead of obeying his orders that would make me
10 violate my religion. I was a train operator for
11 23 years when Larry Reuter, the Chief Executive
12 Officer, decided to take exception to my turban.
13 I was hired with a turban. I was promoted with a
14 turban. And the Transit Authority took exception
15 to it, and tried to fire me, even after I was
16 honored as a hero for 9/11, for evacuating
17 hundreds of people from Brooklyn who had no
18 problem identifying me as a train operator. The
19 Transit Authority, on several occasions, tried to
20 fire me. I received threats to be discharged if
21 I, first, wouldn't stop wearing my turban, or
22 second, wouldn't give up my seniority, and be sent
23 to work in the yards, which would have been a
24 considerable loss of pay. It was a type of work I
25 didn't want, and I felt it was a restatement of

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2 the separate but equal policy that I thought
3 America had left behind. Okay? So I'd like to
4 thank you for trying to pass this bill. It'll
5 make a big difference in the Sikh Community. The
6 Transit Authority has sort of sent the word out to
7 the Sikh community that, don't apply at the
8 Transit Authority. There are many people of South
9 Asian origin working for the Transit Authority,
10 but not many Sikhs, because they feel that the
11 Transit Authority will not hire them, will not
12 accommodate them, and will discriminate against
13 them when they work there. Thank you.

14 CHAIRPERSON ROSE: I thank you all
15 for your testimony, and as a person who, a person
16 of color, who has experienced discrimination, I
17 truly understand what you're going through. And
18 this committee is working really hard to make sure
19 that no one experiences discrimination,
20 segregation, based on religion, color, ethnicity,
21 nationality. So I appreciate your testimony. I
22 have just a few questions. Mr. Singh, you heard
23 the Deputy Commissioner testify that language
24 already exists, in terms of the customer
25 preference, was the term used, and that this is

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not a defense. What is your response to that?

MR. SINGH: Yeah. This is a really technical issue, so there's really well-settled law, and the Commissioner was absolutely right in saying something is out and out identified as customer preference will always be unlawful. If an employer actually says my customers prefer not to look at this person with a turban on their head, can you work in the back, that is clearly unlawful, and there's lots of great guidance at the federal, state, and city level on that issue. What the technical trick, that savvy employers are using is to say that there is a uniform policy, that it is not based on customer preference, it's just a uniform policy that applies equally to everyone. And if you run afoul of that uniform policy, then we can't have you out front. We'll just put you in the back. And what ends up happening is, that uniform policy, even though it doesn't have anything to do with your ability to interact with customers, and sell an item of clothing, for example, it puts you effectively, it creates a place in the back where the workers of faith work. So that's the real issue. It's not

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2 so much customer preference. It's the sort of
3 facially neutral uniform policies that effectively
4 put people in the back.

5 CHAIRPERSON ROSE: Thank you. I'm
6 sure we're going to address that. And I'd like to
7 know: how do you view the effectiveness of the
8 Commission's enforcement of the city's human
9 rights law?

10 MR. SINGH: That's a great
11 question. You know, my sense is that the
12 Commission is 110% committed to ensuring that the
13 city's human rights laws, and in particular, law
14 with regard to religious accommodation are
15 enforced, as well as they can. There is a
16 restoration act from 2005 that basically commands
17 the commission to have the most liberal
18 interpretation of the law, and up to, at the very
19 least, the state and federal law. That being
20 said, the challenge, and the reason why we need
21 this particular law, is that, beyond the
22 Commission enforcing the law, we know that there
23 are private employers, and the like, who need good
24 guidance from the law. Even if the Commission's
25 on our side, the employers might not be. That's

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2 one. We need that guidance for our private, and
3 in the case of Mr. Harrington, state employers.
4 Second, the reason why we need this bill, despite
5 the good work of the Commission, is that the
6 standard that a judge, at the Office of
7 Administrative Trials and Hearings is using should
8 be crystal clear as to the framework they're
9 deciding a religious accommodation claim. There
10 are, right now, in the last ten years, two
11 reported decisions on the Office of Administrative
12 Trials and Hearings, involving claims of religious
13 accommodation. Both those cases applied a
14 deminimus cost or burden standard. Both of them
15 did. But if you guys enact this law, they'll be
16 duty-bound to apply a significant difficulty or
17 expense standard. So despite what the
18 Commission's doing, and they're great, and they're
19 the most liberal interpretation, we need good
20 guidance for our judges, and we need good guidance
21 for our employers. And that's what this bill
22 would do.

23 CHAIRPERSON ROSE: Actually, that
24 was part of my next question. Do you have clients
25 who have suffered because adjudicators interpret

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undo hardship as de minimus cost or burden, rather than as significant difficulty or expense?

MR. SINGH: Yeah. Absolutely. And it's, the two entities that I discussed in my testimony, the MTA and the NYPD, and Mr. Harrington's a current client of mine, but I'd also add that there are scores of people who don't apply for these jobs. They're never clients because the message is out. You want to work in the NYPD? Give up your faith. You want to work with the MTA? You might work in the back, or your might have your turban branded.

CHAIRPERSON ROSE: So the public information part of this, that Council Member Chin and I are so concerned about, is really important. And the turnaround time would be very important, in terms of people applying, or making employment decisions, would it not?

MR. SINGH: It's absolutely critical, and as Mr. Mulqueen was speaking, I made a note to myself that we're going get him, once this bill passes, with God's grace, up on Punjabi TV, which is the Punjabi TV station that plays, and actually has penetration in the city. We're

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2 going to have Council Member Weprin on there
3 pretty soon, to talk about this bill. But the way
4 you actually get into the community, when you
5 really want to get word out, is in the community
6 ethnic press. Nobody in Richmond Hill or
7 Bellerose is reading the New York Times. They're
8 reading Sharia [phonetic] Punjab, and Jess
9 [phonetic] Punjabi. And they're watching Jess
10 Punjabi TV, and they need to get, these are the
11 people who need to hear that message. And that's
12 the way you get it out. So I'm happy they have a
13 Community Relations Unit, and I've already made a
14 note to myself to work with them, to get them into
15 the ethnic media.

16 CHAIRPERSON ROSE: Thank you so
17 much, and we will make that recommendation to
18 them, also. And I know my colleague has a
19 question, but before I relinquish the mic, I'd
20 like to ask Mr. Harrington about the branding of
21 your turban, to reflect your employer. Are you
22 asked to brand your own clothing, your own article
23 of clothing?

24 MR. HARRINGTON: Yes. They give
25 you a patch, with a pin on it, and you pin it to

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your turban, as part of your uniform.

CHAIRPERSON ROSE: Do you...

MR. HARRINGTON: I have one with me. I still have one.

CHAIRPERSON ROSE: You are given a uniform allowance, are you not, for, no, no, no, for, as an MTA worker?

MR. HARRINGTON: No.

CHAIRPERSON ROSE: No. Okay. Is there a standard uniform that's issued, for MTA workers?

MR. HARRINGTON: There is, but the policy is not strictly adhered to. Like, for 23 years, I wore my turban, just my turban, and no one ever said anything to me.

CHAIRPERSON ROSE: And I'm definitely, I'm appalled, that you are requested to put an MTA sticker on your personal article of clothing. And so, I'm trying to ascertain whether or not there is a standard uniform that is given, or there's an allowance for, and if everyone complies with the wearing of this uniform?

MR. HARRINGTON: All the uniforms we receive are issued by the Transit Authority.

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2 Not everybody complies with the uniforms.
3 Baseball hats are really popular, Met and Yankee.
4 The day I was taken out of service, one of the
5 days I was taken out of service for wearing my
6 turban, in the room was a gentleman with a
7 yarmulke, a stocking cap, a Yankee hat, and a
8 balaclava, and nobody in the room who were train
9 operators had the uniform hat on. And they only
10 came after me.

11 CHAIRPERSON ROSE: Thank you. You
12 made my point. Council Member Weprin?

13 COUNCIL MEMBER WEPRIN: Thank you,
14 Chair Rose. Gentlemen, thank you for being here.
15 I really do appreciate it, and you really all are
16 heroes in your own right for standing up. Mr.
17 Harrington, I know, I just want to be clear, for
18 people who are listening, you do wear a uniform
19 when you work, correct?

20 MR. HARRINGTON: Yes.

21 COUNCIL MEMBER WEPRIN: And you
22 don't have a problem having a logo like the one
23 that was just handed to me on your uniform?

24 MR. HARRINGTON: It's all over my
25 uniform.

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2 COUNCIL MEMBER WEPRIN: Okay. So
3 it's just the fact that you have the turban, but
4 you're still wearing the rest of your uniform?
5 Anyone who was to see you would see you wearing a
6 uniform, that has the MTA logo on it.

7 MR. HARRINGTON: That's correct.

8 COUNCIL MEMBER WEPRIN: Okay. We
9 had this problem; I know it was discussed, about
10 the military. The gentlemen who are serving in
11 the military with their turban and their beards,
12 wear a uniform, wear the Army uniform. And it
13 would be obvious to anyone who saw them, that they
14 were members of the military, who happen to be
15 Sikh. And that's an important point to make. I
16 also wanted to just mention a couple things.
17 Amardeep, I again, I want to thank you for all the
18 work you did, and work with me on this. And also,
19 I think it's important for the public to know just
20 how upsetting it is, and I remember how upsetting
21 it was that so many people, after 9/11, were beat
22 up, or hurt, just because people thought they were
23 Muslim, or Sikhs were Muslims, and the mere fact
24 that people were being beat up, because they were
25 Muslim. I mean, people were out searching for

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2 people because of their religion in New York City.
3 This isn't some faraway place. This is in New
4 York City, where, as I mentioned before, people
5 came to this country, just for that religious
6 freedom. I know it was a big issue in the Sikh
7 community, where it was commonplace. Mr. Singh
8 Khalsa, I know, had an incident. It was one of
9 the reasons I'm very proud of the fact that my old
10 job, I used to be in the state legislature, I was
11 a cosponsor of the hate crimes law in New York
12 State, which I was shocked how much opposition we
13 had to passing that. But it's precisely for this
14 type of behavior, that we have that hate crimes
15 law. And Queens, our District Attorney has been
16 very strong on it, if we catch somebody. We go
17 after them for the full extent of the law on a
18 hate crime, because it is not the same. If I go
19 up, and I punch you because I don't like you, I'm
20 attacking only you. If I'm attacking you, because
21 of your religion, or that turban, I'm attacking a
22 whole group of people, and it's a different crime,
23 in my mind. And I felt very strongly about that,
24 and I just want you to know, that was sort of a
25 counter act, terrible things that were happening

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2 in that hate crimes law, this law, indeed, is
3 counteracting, but I'm looking at it more as a
4 step forward, and working with you, working with
5 the chair, and the members of this committee, it
6 is our hope that we can send a message, and
7 educate people. Because as we all know, so much
8 of discrimination is just ignorance. Certainly, I
9 know he left, but members of the LGBT community
10 know that, and people of all faiths and religions
11 have been discriminated against in some way or
12 another. And it's very often, I don't know anyone
13 like that. And once you get to know people, and
14 once we learn to love each other, and realize
15 we're all God's children, people tend to treat you
16 differently. And that's our goal here, today. It
17 is a small step, I understand. I won't overstate
18 it, but it's a small step to sending that message
19 out to the general public, and to educating. And
20 a lot of people in the Sikh Coalition have been
21 out there educating people about Sikhism, in
22 general, and what it is. I know myself, I have
23 learnt a lot, over these last couple of years,
24 about Sikhism, and spent more time in [foreign
25 audio] than I had been before in my life. And

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2 it's been great for me, but it should be great for
3 everyone to learn about each other's faiths, and
4 realize that we all want the same things in this
5 world, and that's to have a safe place to live,
6 work, and raise a family. And so I thank you for
7 your work. And I'm really very excited; I
8 actually got choked up, listening to you, before,
9 a little bit, thinking about all those people who
10 came before you, and just how we need to make a
11 statement here today. And I'm very proud to be
12 part of it. Thank you.

13 CHAIRPERSON ROSE: Thank you,
14 Council Member Weprin. I have one more question
15 for the panel. Do you feel, or have you found
16 that the Commission takes affirmative steps to
17 prevent discrimination in the workplace?

18 MR. SINGH: You know, I'll be
19 honest. I don't necessarily feel completely
20 comfortable answering that question. The reason
21 is because...

22 CHAIRPERSON ROSE: It's okay.

23 MR. SINGH: All right. Let me just
24 amend this. So, as I noted before, it's
25 absolutely critical for any entity that wants to

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2 be relevant in the community that they actually
3 are in the spaces where community resides. So
4 Council Member Weprin just mentioned that he's
5 been in more [foreign audio] than he could
6 imagine. Have members of the Commission, their
7 staff come to a [foreign audio]? Have they been
8 on Jus Punjabi TV? Have they been in Shari
9 Punjab, the paper that's in every single [foreign
10 audio], where folks go to? Not yet. Not yet. I
11 don't think it's for lack of intention. Perhaps
12 we just need to give them a little bit of a push.
13 But I think they'll do it, particularly with your
14 good leadership.

15 CHAIRPERSON ROSE: Thank you so
16 much. Any other comments?

17 MR. HARRINGTON: Yeah, I would like
18 to say, to reiterate, is that Sikhs don't apply
19 for the Transit Authority, because they don't
20 think they can get the job, and they don't think
21 that they can be protected on the job.

22 CHAIRPERSON ROSE: Okay.

23 MR. HARRINGTON: And there's a very
24 large disparity between Sikhs and other South
25 Asians employed by the New York City Transit

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2 Authority in entry positions. So people just
3 don't apply, and as Amardeep Singh said, there's a
4 lot of that, people just sort of don't make those
5 choices, because they don't think they're a
6 possibility. And I think that we have to change
7 the powers that be in the city's Civil Rights
8 Commission has to be more affirmative in actually
9 helping people get these jobs. Do you know what I
10 mean? Like, actually going with people to apply
11 for these jobs, as they would when they did the
12 voter registration in the south, because people
13 just feel that the obstacles put in front of them
14 by the Transit Authority and other agencies, and
15 other employers are just insurmountable. And so,
16 as a result, most of the Sikhs I know who wear
17 turbans are self-employed, or professionals, and
18 that's about the size of it.

19 CHAIRPERSON ROSE: Thank you.

20 MR. SINGH: And I just wanted to
21 note one thing for the record. I'm sorry. Is it
22 okay, Chair Rose?

23 CHAIRPERSON ROSE: Yes. It is.

24 MR. SINGH: I just wanted to make
25 sure for the record that I thanked Council Member

1
2 Weprin, but also noted that his brother initially
3 introduced this bill in 2005, and so this has been
4 a six-year journey with his family. And I wanted
5 to note, for the record, how grateful we are.

6 CHAIRPERSON ROSE: Duly recorded
7 and noted. And I'm sure Mark will relay that
8 message to David. And so, I wanted to make a
9 comment. Oh. It is my hope that you utilize your
10 ethnic papers and television, and media that you
11 have to get this message out, that the message
12 that long existed, that Sikhs, no need to apply,
13 is about to change, and that, please now know that
14 you are also protected by the law, and that you
15 maybe might be more effective utilizing your media
16 sources to get the word out. But we are going to
17 hold the Human Rights Commission to a level where
18 they get the word out as soon as possible.

19 MR. SINGH: Thank you.

20 CHAIRPERSON ROSE: Okay. Oh, I'm
21 sorry. Council Member Chin has some questions.

22 COUNCIL MEMBER CHIN: Yes. Thank
23 you.

24 CHAIRPERSON ROSE: I'm sorry,
25 Council Member.

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2 COUNCIL MEMBER CHIN: Just on the
3 point that you're raising, I think, about getting
4 the Commission, and also City Agency to
5 affirmatively really get the word out, is
6 something we might have to think about. How do we
7 work with the City Agency so that when there are
8 job openings, it's not just published in the
9 newspaper "The Chief," and that's it?

10 CHAIRPERSON ROSE: Right.

11 COUNCIL MEMBER CHIN: That there's
12 got to be an effort to get it out into ethnic
13 media in all our community. I think that will
14 send a very strong message, that the city is
15 welcoming everyone to apply. Because right now,
16 you don't even know about which job is open,
17 unless you know where to look, what newspaper, and
18 websites, and things like that. I think that's
19 something that we need to continue to work on.
20 And I do want to thank the panel for coming to
21 testify, and all your hard work, and definitely
22 for Mr. Harrington, for your heroism on 9/11. And
23 I hope that we will get this law passed as soon as
24 possible. Thank you.

25 CHAIRPERSON ROSE: Thank you so

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much. Have a good day.

MR. SINGH: Thank you.

CHAIRPERSON ROSE: We are now going to call our last panel. And I'd like to call, okay, Karen Cacace. Thank you. I was trying not to butcher your name. Did I? Okay. Thank you. And Angelica Hernandez, and Robin Levy, from the Anti-Defamation League.

MS. KAREN CACACE: I'm sorry. I probably didn't sign in. Alicia Bruno is also with the Legal Aid Society, if she could.

CHAIRPERSON ROSE: Okay. As long as she identifies herself.

MS. CACACE: We'll fill out a card. Sorry about that.

CHAIRPERSON ROSE: Okay. Thank you. Whenever you're ready, just identify yourself for the record.

MS. CACACE: Yes. Good morning. I am Karen Cacace, and I'm here representing the Legal Aid Society. I am the supervisor for the Employment Law Unit at the Legal Aid Society. And I would like to thank you for giving us the opportunity to testify here today, and for

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2 bringing both these important bills, for drafting
3 them. We are, the Legal Aid Society is in favor
4 of both of them, and greatly appreciates the
5 efforts that have been made to get to this point.
6 Since people have already spoken very eloquently
7 about the religious accommodation bill, we'll
8 focus our comments on your bill, and then...

9 CHAIRPERSON ROSE: Thank you.

10 MS. CACACE: And Angelica Hernandez
11 is here, who is a former client of the Legal Aid
12 Society, who will speak after me. She's going to
13 speak in Spanish, if that's all right, and then I
14 can translate her remarks. So as I said, we are
15 here to speak in favor of Council Member Rose's
16 proposal to remove the four-employee requirement
17 from the New York City human rights law. This
18 change will have particular import for many
19 clients of the Legal Aid Society who are currently
20 outside the city's discrimination protections
21 because their employer has fewer than four
22 employees. At the Legal Aid Society, we have seen
23 numerous cases in which employers had only two or
24 three workers, and treated them each very
25 differently because of their status in a protected

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2 class. As an example, we have had two cases on
3 behalf of domestic workers where the employers
4 employed one white worker and one or two Latino
5 workers, and provided the white worker with
6 significantly better terms and conditions of
7 employment, compared to the terms and conditions
8 of employment for the Latino workers, even though
9 they were all doing the exact same work. The
10 employers also made routinely derogatory comments
11 about the Latino workers. For cases where there
12 is a discrimination based on race, these workers
13 may have federal claims under 42 USC, Section
14 1981, pre-Title 7 statute, however the
15 discrimination would be legal under the New York
16 City, and under New York State law. And if
17 discrimination was based on something other than
18 race, it would be legal under all laws. Domestic
19 workers, under the recently enacted state human
20 rights law, a domestic worker's bill of rights now
21 have a cause of action for sexual harassment, but
22 the city law, as you know, is more expansive than
23 the state law, and has significantly more
24 favorable standards and remedies. Other employees
25 whose employers have fewer than four employees are

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2 vulnerable to hostile work environments, because
3 if they're not domestic workers, they're not
4 protected by that. And so, there is no sexual
5 harassment protection, if you have fewer than four
6 employees, currently. And there's also no
7 protection for accommodation for disabilities, for
8 discrimination based on criminal records, and for
9 discrimination based on the other categories that
10 are protected under the city law. Accordingly, we
11 strongly urge you to make this much-needed change.
12 And I think that that's, I'll try to be brief. It
13 seems like a lot of people waiting. So I would
14 introduce Angelica Hernandez, who, as I said, is a
15 former client of the Legal Aid Society, and can
16 talk about her situation. And then, I'll...
17 Would you like her to read her whole statement,
18 and then translate the whole thing at the end?

19 CHAIRPERSON ROSE: Yeah.

20 MS. CACACE: Yeah, I think that
21 would be best. Okay. Go ahead.

22 MS. HERNANDEZ: [foreign audio]

23 MS. CACACE: Okay. Good day. My
24 name is Angelica Hernandez. I am a member of
25 Domestic Workers United, and a former client of

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2 the Legal Aid Society. I am here to speak in
3 favor of the proposal to assure that the city's
4 discrimination laws cover all employees, and
5 remove the four-employee requirement. This is a
6 good proposal, because it will especially benefit
7 domestic workers. Unfortunately, often our
8 employers don't see us as employees, because we
9 work in the house. Discrimination and sexual
10 harassment are common. Now, because of the
11 domestic workers bill of rights, we have
12 protection against sexual harassment. However,
13 under the city law, we don't have that protection.
14 We also have to right to accommodation for
15 disabilities or protection for other kinds of
16 discrimination. In my case, my employers hired me
17 and another worker from another country, to work
18 as nannies. They treated me differently. I was
19 discriminated against, because of the country I am
20 from. They paid her more, and gave her time to
21 rest, and time to sleep, while they treated me
22 like the girl, the servant. The change in the law
23 that you are considering today will also help
24 expand protection against retaliation, which is
25 critical for domestic workers. Threats and

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2 intimidation are common. Many immigrant domestic
3 workers stay in abusive situations because their
4 employers tell them that they could be reported to
5 immigration if they make any claim. Many workers
6 do not have information about their rights, and
7 continue working in fear. It is difficult to
8 stand up for yourself when you are in the middle
9 of this situation. It is very important to extend
10 the discrimination law to cover all employees for
11 these reasons. Thank you for your consideration,
12 and I hope you take this action.

13 MS. ROBIN ROLAND LEVY: Good
14 morning. My name is Robin Roland Levy, and I'm
15 here today on behalf of the Anti-Defamation
16 League. I want to thank you, members of the New
17 York City Council, for inviting the Anti-
18 Defamation League to testify today, at this very
19 important hearing. I'd also like to thank members
20 of the Sikh Coalition for letting us know about
21 this, and participating in coalitions with us. We
22 are here today to provide our support to bill
23 0632, a local law to amend the administrative code
24 of the city of New York, in relation to unlawful
25 discrimination practice. The Anti-Defamation

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2 League was founded in 1913 to stop the defamation
3 of the Jewish people, and to secure justice and
4 fair treatment for all. Now, one of the nation's
5 leading civil rights and human relations agencies,
6 ADL fights all forms of bigotry, defends
7 democratic ideals, and protects civil rights for
8 all. Religion in the American workplace is among
9 the most contentious and difficult areas for
10 employees and employers to navigate. In our
11 increasingly diverse and religiously pluralistic
12 society, conflict is bound to occur, and if the
13 Equal Opportunity Employment Commission's
14 statistics are correct, it is occurring at an
15 ever-quickenning pace. The risks of getting it
16 wrong, and we believe, the rewards of getting it
17 right are powerful motivators to businesses to pay
18 careful attention to this issue. Last year, the
19 ADL, along with numerous civil rights
20 organizations, wrote to Speaker Quinn, encouraging
21 the passage of the Workplace Religious Freedom Act
22 in New York City. The concerns we raised then
23 remain, namely the segregating of observant
24 employees should not be considered a reasonable
25 accommodation in the most religiously diverse city

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2 in the country. Although this bill falls short of
3 addressing this issue, it represents an important
4 step in eliminating the religious discrimination
5 in New York City workplaces, warranting your
6 approval. As you know, Title 7 of the Civil
7 Rights Act of 1964 prohibits employers from
8 discriminating against individuals because of
9 their religion in hiring, firing, and other terms
10 and conditions of employment. Title 7 also
11 requires employers to reasonably accommodate the
12 religious practices of an employee, or prospective
13 employee, unless to do so would create an undue
14 hardship upon the employer. Reasonable
15 accommodation is defined in both federal and New
16 York State law with the state definition being the
17 stronger of the two. New York City has yet to
18 adopt this state standard. This law will make New
19 York City consistent with state law. New York
20 Employees have the right to be free from religious
21 discrimination on the job, curtailing unwarranted
22 restrictions on individuals religious observance
23 is consistent with religious freedom and equality.
24 For the foregoing reasons, we urge you to support
25 this amendment. Thank you.

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2 CHAIRPERSON ROSE: Thank you very
3 much. It interesting to me, to find out how, at
4 one point does Legal Aid become involved with
5 workers who are the subject of discrimination?

6 MS. CACACE: Well, our clients,
7 they find us, the employment law unit has a
8 hotline, so people can call us directly, and then
9 Aisha Bruno [phonetic], who's one of our
10 paralegals, we have three paralegals in our unit,
11 will return those calls. And then, we will meet
12 as a group, and figure out what type of case
13 people have, if it's something we can help them
14 with, or we'll bring them in for an appointment.
15 And then, if it's a representation we can take on,
16 we will do it. We also get many clients through
17 community groups, Domestic Workers United; we work
18 closely with many other community groups who will
19 refer clients directly to us. And then, we do our
20 own outreach, to go into communities, and give
21 "know your rights" presentations, and we will get
22 a lot of clients from those, as well.

23 CHAIRPERSON ROSE: So have most of
24 the people who come to you, have they already
25 approached, or been involved with the Human Rights

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Commission?

MS. CACACE: Sometimes. Sometimes people do go there on their own. And often, what happens is will file their charge of discrimination on their own, and then when the employer submits a response, and it's time for the employee to submit a rebuttal, they realize that it would be a lot easier if they had legal representation, and then they will find us that way. A lot of times, people come before they've done anything, before they've gone to the Commission, or anywhere else.

CHAIRPERSON ROSE: And so, would you say that the people who come to you before they've gone to Human Rights Commissions is a larger percentage than those that have gone to the Human Rights Commission first?

MS. CACACE: I think that that's right. You feel like a lot of people go to the Commission first? Right. I think that they have not gone to the Commission first.

CHAIRPERSON ROSE: And what would you attribute that to?

MS. CACACE: Yeah. I don't think

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2 that people necessarily know that that's somewhere
3 they can go. A lot of our clients don't speak
4 English, and so it just may be a matter of
5 penetrating their communities, that this is a
6 possibility, where they could get a remedy.

7 CHAIRPERSON ROSE: So if there was
8 a stringent, a more robust public information
9 campaign, do you think more people would go to the
10 Human Rights Commission first, as opposed to
11 seeking out Legal Aid.

12 MS. CACACE: They might. I mean, I
13 think the most important thing is for people to
14 know what their rights are. And this really, both
15 of these bills, I think, are going to make a
16 significant impact. And so, especially for where
17 you're going to be protected now, regardless of
18 how many employees your employer has. There are a
19 lot of people that that is going to cover, and
20 they may not be aware that this is happening. And
21 for that kind of information to get out, I think,
22 is imperative, and to let them know that if
23 they're suffering any type of discrimination, now
24 they will be protected, and they can go to the
25 Commission, they can come to Legal Aid, there will

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be legal remedies available for them.

CHAIRPERSON ROSE: And so, now, if, or when, I'm saying when, these bills pass, will you now incorporate that in your "know your rights" campaigns?

MS. CACACE: Absolutely. I think that this is something that we would want to do a lot of outreach about, because we do have any clients, certainly the domestic workers, are often in the situation of working with less than four employees. But lots of, even doctors, we see a lot of small doctors office, could only have one or two employees. There are lots of our clients that this will cover, and we would want to try and reach as many as possible.

CHAIRPERSON ROSE: And how many clients do you think would benefit from intro 625?

MS. CACACE: It's hard for me to put a number on it, but I think that we would want to think about exactly which types of work that we want to target, which community groups will most closely with those workers, and then go out and do the "know your rights" presentations with those community groups.

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2 CHAIRPERSON ROSE: Do you have a
3 relationship now, a working relationship, with the
4 Human Rights Commission, where you both talk about
5 workshops, and how this information's being
6 disseminated.

7 MS. CACACE: We do try and work
8 with all the administrative agencies, and I think
9 that we have in the past had people from the
10 Commission come to Legal Aid, and actually, we
11 have a low-wage workers task force that involves
12 lots of legal services providers, and we meet on a
13 monthly basis, to talk about new issues, better
14 ways to serve our clients, and at those meetings,
15 we often have a guest speaker, and I think in the
16 past, we have had someone from the Commission come
17 and so we would like to continue that relationship

18 CHAIRPERSON ROSE: I'd like the
19 Human Rights Commission representative to take
20 note that I really would like to see that
21 relationship solidified, because you have access
22 to poor people, working poor, who often don't seek
23 out other services, are not part of some of these
24 other groups that the Human Rights Commission
25 works with, maybe on an ongoing basis. They're

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2 not at the more traditional groups that might be
3 at a "know your rights" seminar, or at an event
4 that's hosted by the Human Rights Commission. You
5 see the real people, the every day people, who are
6 really being impacted by these two bills. So I
7 would like to see--

8 MS. CACACE: [interposing] Yeah.
9 We would love to strengthen that connection.

10 CHAIRPERSON ROSE: -- that
11 relationship solidified, and maybe even sort of
12 somehow standardized.

13 MS. CACACE: I think that's a great
14 idea.

15 CHAIRPERSON ROSE: So that all of
16 the people who live in New York City, not only
17 middle-class, or professional people, but our
18 working-class, and our poor, also know that they
19 have the right to these protections.

20 MS. CACACE: I think that's a great
21 idea.

22 CHAIRPERSON ROSE: Would anybody
23 else like to have any comments? What's her name?
24 Ms. Hernandez?

25 MS. CACACE: She said no.

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2 CHAIRPERSON ROSE: And I'd like to
3 thank Ms. Hernandez for your testimony, and we're
4 working really hard to make sure that that type of
5 disparity is no longer accepted. And I thank you
6 for coming. And I thank all of the panelists for
7 being here this afternoon, and giving us your
8 testimony.

9 MS. CACACE: Thank you for having
10 us.

11 CHAIRPERSON ROSE: So I'd like to
12 just take the opportunity to thank you all for
13 coming to this hearing today, and know that we
14 understand how important both of these pieces of
15 legislation are, to insure that all of our
16 residents in New York City are treated fairly and
17 equitably, and their religious beliefs are
18 respected, and that people who, as Mark Weprin,
19 Council Member Weprin said, came here to be a part
20 of the freedoms, and to enjoy the freedoms that we
21 have, as a course of law, are also included in
22 those, and that you have, and are recognized at
23 the same level of respect that all New Yorkers
24 are. So I thank you, and this meeting is
25 adjourned.

C E R T I F I C A T E

I, Anna Argeropoulos certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

A handwritten signature in cursive script, appearing to read "Anna Argeropoulos", is centered on the page. The signature is written in dark ink on a light-colored background.

Signature

Date 7/16/2011