

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON PUBLIC SAFETY,
COMMITTEE ON JUSTICE SYSTEM,
COMMITTEE ON CONSUMER AFFAIRS
AND BUSINESS LICENSING, &
COMMITTEE ON CIVIL AND HUMAN RIGHTS

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Rafael Espinal, Jr.

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

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Melissa Moore
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Fred Newton

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

Emily Ramos

Hi Mi Madre

Julian McKinley

Democracy at Work

Anthony Posada

Legal Aid Society

Noah Potter

3 CHAIRPERSON RICHARDS: Good morning. I am
4 Council Member Donovan Richards from the 31st
5 District in Queens, and I am the Chair of the Public
6 Safety Committee. We are joined by the Committee on
7 the Justice System, and a little later on we will
8 also be joined by the Committee on Consumer Affairs
9 and Committee on Civil and Human Rights. I also like
10 to say we've been joined by Council Members Vallone
11 and Koo, and we'll hear from Chair Lancman shortly.
12 I am optimistic that we appear to finally be on the
13 verge of seeing some action at the state level to end
14 one of the most costly, misguided harmful policies in
15 our history. To be sure other laws have had negative
16 consequences, but I'd be hard-pressed to come up with
17 one that also had so few reasons for being on the
18 books in the first place. Despite countless studies
19 showing legitimate medical uses and so few showing
20 harms for adult use that even remotely compare with
21 legal products such as alcohol and tobacco, marijuana
22 prohibition has been used to justify countless
23 violations of the Fourth Amendment Rights of black
24 and brown New Yorkers, put far too many people of
25 color in the hands of law enforcement, and has
allowed for far too many of their hands into our

3 pockets. I'm encouraged to see a District Attorney
4 here with us today who I believe will tell me that he
5 fully supports legalization. A couple of days ago I
6 was sitting next door thanking the NYPD for attending
7 and criticizing District Attorneys for not being here
8 to answer questions about their policies around
9 orders of protection. So let me be consistent, I am
10 profoundly disappointed that the NYPD is not coming
11 here today. I understand they have been on the front
12 lines enforcing a legal regime that has been very
13 unpopular over the last few years, and that causes
14 some difficulty for them, but so has District
15 Attorney Vance, and he is here to talk about how he
16 will move forward. I believe the NYPD has an
17 obligation to address how we move on from a policy
18 that has caused so much pain and so much tension
19 between the Department and the minority communities
20 where their presence is most deeply felt. We have
21 questions about what the NYPD's role will be in a
22 post-legalization world that only they can answer.
23 We also have questions about how the Department plans
24 to eliminate the racial disparities that have
25 persisted even after they stop arresting most of the
people they encountered smoking in public. That's

3 why I've signed onto a resolution that asks for local
4 control over any public consumption ban, because any
5 ban and any penalty, even a sensible one intended to
6 keep marijuana smoke away from children, can be
7 applied unfairly. Marijuana criminalization has
8 taught us that we as a city suffer when state laws
9 prevent us from enacting policy changes that our own
10 police force must follow. If we want the NYPD to
11 stop engaging in enforcement practices that target
12 communities of color, we need the legal authority to
13 stop them. Given the fact that they didn't want to
14 show up today, I'm concerned about their willingness
15 to do it on their own. All that being said, I expect
16 that today will show that the Council and the Mayor's
17 Office are united in our goal to make sure New York
18 City has a hand in regulating a legal marijuana
19 industry and figuring out who should stand to benefit
20 from legal cannabis. Legalization at the state level
21 and automatic expungement of criminal records are
22 just the beginning. We also need equity legislation
23 that replace arrest with economic opportunity in the
24 neighborhoods where the war on drugs has had the most
25 negative impact. We need licensing authority to
determine where businesses should and should not be,

2 and to provide places for people to use
3 recreationally without intruding on others. The
4 Council's proposed legislation in conjunction with
5 the Mayoral Taskforce recommendations send a clear
6 message to Albany that the Council and city agencies
7 are in the best position to decide how and where
8 marijuana can be used, sold, consumed, grown,
9 delivered, and advertised right here in New York
10 City. Marijuana legalization in New York State is
11 long overdue, but what we're only going to get one
12 shot at righting the wrongs of the past, and that is
13 why this conversation today is so important to so
14 many New Yorkers who have been unjustly impacted by
15 the war on drugs. With that said, I will turn it
16 over to my Co-Chair Rory Lancman for a statement.

17 CHAIRPERSON LANCMAN: Thank you. Good
18 morning. I'm Councilman Rory Lancman, Chair of the
19 Committee on the Justice System. Thank you to
20 Council Member Donovan Richards for leading this
21 hearing about the future of marijuana in New York
22 City in light of potential state legislation.
23 Exactly one year and one day ago on February 26th,
24 2018, Council Member Richards and I held a different
25 joint hearing on the City's marijuana enforcement

3 policies. A lot has changed in a year. The City has
4 adopted new guidelines which have dramatically
5 reduced the number of arrests for low-level
6 marijuana. Different District Attorneys have
7 implemented policies to decline to prosecute many
8 cases, and the State Legislature has started to move
9 inexorably towards legalization in some form or
10 another. But as we anticipate the very real
11 possibility of marijuana legalization by the end of
12 the state's legislative session, we must also
13 recognize that we don't need to wait for Albany in
14 order to fundamentally change the way we treat
15 recreational marijuana in the City. From summonses
16 to arrests to old convictions, our District Attorneys
17 and our Police Department have the capability right
18 now to remake our criminal justice system where
19 marijuana and many other offenses are concerned. It
20 is long past time for actions to reflect the pretty
21 words we hear about building community trust and
22 reducing racial disparities. Where marijuana is
23 concerned, people of color are still overwhelmingly
24 more likely to face arrest, receive a criminal
25 summons or have a past conviction. We have the data.
The last three months of 2018, 91 percent of those

3 arrested and 88 percent of those summons for low-
4 level marijuana possession were black or Hispanic.

5 The reforms enacted in the last year have major
6 caveats. Primarily their exclusion of those with
7 prior criminal justice involvement from presumptions
8 against arrest. Those on parole or probation with an
9 open misdemeanor or felony warrant or with an
10 unsealed arrest in the last three years for certain
11 offenses are among those still carved out, and
12 individuals still face charges for possession or use
13 of THC oil, a seeming loophole in efforts to reduce
14 marijuana enforcement, but one that should be easily
15 closed. We don't need a new law to just stop, to
16 stop targeting community of color, to stop using
17 loopholes and manufactured carve-outs that treat some
18 more harshly than ever, to stop arresting, to stop
19 prosecuting. New laws would help, but all we need is
20 the political will to stop. The same is true of
21 taking real action to address the prior harms of the
22 criminal justice system. Dismissing old and
23 outstanding marijuana warrants, as some DAs have
24 done, is a good place to start, as is working with
25 defendants and advocates to vacate old marijuana
convictions within the bounds of what the law

3 currently allows. Simply put, we must stop basing
4 current law enforcement decision-making on old ideas
5 about criminal justice. I look forward to hearing
6 this morning from the District Attorney from
7 Manhattan and the Mayor's Office of criminal Justice
8 and later from legal services providers and advocates
9 about how New York City can change our criminal
10 justice system now to show how ready we are for
11 legalization.

12 CHAIRPERSON RICHARDS: Thank you.

13 Alright, and we've been joined by Council Member
14 Cabrera. Alrighty, we'll go to District Attorney for
15 his statement.

16 DISTRICT ATTORNEY VANCE: Chairman

17 Lancman and other members of the City Council, I'm
18 very grateful that you've given me the opportunity to
19 speak with you today about our offices' handling and
20 decisions to decline to prosecute most marijuana
21 cases to vacate bench warrants for marijuana cases,
22 to dismiss open marijuana cases and to explain to the
23 Council the detailed public safety study we recently
24 concluded in anticipation of impending state
25 legalization legalizing marijuana. The dual mission
of our office, the Manhattan DA's office, is to

2 achieve a safer New York and a more equal justice
3 system. It is my view that the prosecution of
4 predominantly black and brown New Yorkers for smoking
5 marijuana serves neither goal. In 2017, for every
6 three black New Yorkers arrested in marijuana, for
7 possession of marijuana, one white person was
8 arrested. And the New York Times issued a study not
9 that long ago that over a three year period in
10 Manhattan, for every 15 individuals of color who were
11 arrested for possession of marijuana, one white
12 person was arrested. Nothing about those enforcement
13 actions made our city or this county safer. In fact,
14 it is my view that those actions, arrests, and
15 prosecution ultimately have eroded public trust in
16 law enforcement and frustrated our therefore our core
17 mission. For that reason, on August 1 of last year,
18 our office stopped prosecuting nearly all marijuana
19 smoking and possession cases in Manhattan. My Office
20 declines to prosecute marijuana possession and
21 smoking cases under Penal Law Section 221.10, a class
22 B violation, or the misdemeanor. What does this mean
23 at the end of the day? It means our Office is
24 essentially out of the business of marijuana
25 prosecutions. Between January 1st and February 26th

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of last year, we prosecuted 603 marijuana cases.

3 Fast forward to this year in that same time period,

4 we have prosecuted just 13 cases to date, meaning

5 marijuana prosecutions have dropped by approximately

6 98 percent over the same time period, and quarterly

7 statistics can be found, Council Members, on our

8 office's manhattanda.org website under the "reports"

9 tab. Now, much has been written about the

10 demographics of these arrestees, and clearly that was

11 on the mind of both chairmen as they spoke today, but

12 that's just part of what I'd like to focus on today.

13 I want to talk about also whether these are people

14 who materially affect public safety in New York City.

15 In 2017, we prosecuted a total of 5,453 marijuana

16 cases. That was 2017. Of those 5,453 cases, 315

17 people, less than six percent had a violent

18 conviction at any point in their lives, and 55 of

19 them, one percent, had a violent conviction within

20 the past years. So my point is, Council Members, is

21 this is not a particularly violent cohort of

22 individuals. They aren't individuals who we

23 understand to be driving crime in Manhattan. Next,

24 we wanted to know for those 5,423 cases arrested in

25 2017 what happened to them when they went through the

3 criminal justice system, and here's what happened:
4 when the cases came before a judge, less than one
5 percent, 38 out of the 5,423 were sentenced by the
6 judge to any jail. So after arrest, after
7 fingerprinting, after court appearances, and after
8 all the associated costs like police overtime,
9 prosecutorial and judicial resources, after all of
10 that there was virtually never any punishment except
11 the probability of a criminal record that might
12 affect them for their life. So, to review, we had
13 nearly 5,500 people arrested whose conduct did not
14 materially affect public safety go through the
15 criminal justice system. For what purpose? We look
16 next at the consequences in a person's life of an
17 arrest versus some other enforcement alternative
18 outside of the justice system like summonses we found
19 that arrests were more disruptive to people jobs--
20 that's not a surprise to any of the Council Members--
21 to schooling and families than summonses, and that
22 once you disrupt those essential elements of our
23 lives who actually end up with someone more likely to
24 commit crimes that do actually affect public safety,
25 because now perhaps they've lost their job, their
opportunity to go to school or association with their

2 families, and in addition, these arrests carry
3 collateral consequences relating to housing and even
4 deportation. Now, I will say we did not make the
5 decision to eliminate prosecuting most marijuana
6 cases casually or overnight, and I want to also
7 acknowledge that I've been District Attorney for
8 eight years, nine years, and it wasn't until my
9 eighth year that I came to this position. When I
10 became DA in 2010 I asked the Vera Institute of
11 Justice to come in and do essentially a racial
12 disparity analysis of our office. I needed to know,
13 particularly the time of stop and frisk, what were
14 the data in our office vis-à-vis similarly situated
15 individuals charged with crimes, and the Vera report
16 which took two years to undertake looked at hundreds
17 of thousands of cases that really came in and were
18 like a family member living in our office, indicated
19 that there were some-- there were issues around
20 charging decisions and bail decisions where there was
21 racial disparity. That was important for us to know
22 so that we could address it, but the most important
23 statistic that came out of the Vera report that
24 resulted ultimately in our decision around marijuana
25 prosecutions and others is that we were prosecuting

3 literally all of the cases that the Police Department
4 brought to us. We were dismissing cases perhaps when
5 they came into the office, but they were bringing
6 people into the justice system and then taking them
7 out of the justice system once the case had been
8 charged and file, but if it should be dismissed.

9 Andi think I came to realize over time that that was
10 not the smartest way to proceed. It wasn't the
11 fairest way to proceed, and it was for that reason
12 among others that we radically changed our approach
13 to marijuana. And as I said, we didn't make the
14 decision to cease prosecuting those marijuana cases
15 casually overnight. It was a major policy decision
16 for a prosecutor's office at a major urban area with
17 potentially sweeping implications for public safety.

18 So for that reason, Council Members, before we
19 changed our policy, before we issued our policy in
20 August of last year, we conducted a national review
21 over the course of six months, meeting with and
22 studying jurisdictions where marijuana is no longer
23 criminally prosecuted. We spoke with law enforcement
24 officials, other experts such as licensing and
25 regulators in seven different locations-- California,
Colorado, Massachusetts, Nevada, Oregon, Washington,

2 D.C., and Washington state-- and as a result of that
3 we put out a comprehensive and what I believe is a
4 thoughtful report, which we've given to the Council
5 today, and which we have copies, I believe, for the
6 public who are interested, and it is on our
7 manhattanda.org website, entitled Marijuana Fairness
8 and Public Safety, and I hope it will be useful to
9 this Council and others, perhaps, in the state
10 government who are interested in this subject, to
11 serve as perhaps a roadmap for what New York
12 lawmakers should be looking at as they determine how
13 to safely legalize marijuana. Now, I think it's
14 obvious to everyone that marijuana consumption is on
15 the rise in New York, but I want to be clear, because
16 I think this is very important: A deregulated black
17 market makes current usage unsafe. The average
18 consumer who purchases marijuana in New York doesn't
19 know what he or she is actually buying, what it could
20 be laced with, or how potent it is. And we are
21 mindful of the effect that substance use has on
22 individuals and their communities, which is why we
23 created the Manhattan Hope program in 2018, which is
24 a pre-arraignment drug diversion program modeled
25 after Staten Island's pioneering HOPE program, for a

3 great number of substances other than opioids. It
4 takes a harm reduction approach to substance usage,
5 in keeping with emerging best practices in that area.
6 On top of valid concerns about drug quality and
7 toxicity, black markets of all kinds obviously breed
8 trafficking, trafficking of drugs, trafficking off
9 weapons, and the black market is also untaxed,
10 meaning New York State is missing enormous tax
11 revenues that it sorely needed and are estimated to
12 exceed 300 million dollars annually. Many different
13 ideas have been floated on how this money could be
14 best put to use, and there are many worthy funding
15 priorities for this Council and our state legislators
16 to consider. According to the Gallup poll from
17 October, two in three Americans now support
18 legalizing marijuana. A Quinnipiac University poll
19 from last May found that two in three New Yorkers
20 support legalization. With so many states showing us
21 that legalization can be achieved safely, I have
22 recommended that the New York State legislature, and
23 the Governor proceed thoughtfully, as Governor Cuomo
24 has proposed in legalizing marijuana. And what does
25 proceeding thoughtfully mean? I think it means
thinking clearly and with enough advance time to make

3 sure the legislative language is clear and correct,
4 issues like: marijuana and public health, marijuana-
5 impaired diving, marijuana product packaging, and
6 labeling in particular to discourage juvenile use,
7 the lingering black market following marijuana
8 legalization and others. Now, while no two cities
9 are alike, and in deed, Manhattan is on its own-- in
10 its own scale in the density, verticality, and
11 daytime population that we have in Manhattan. There
12 are a lot of valuable lessons I believe that our
13 office learned in conducting these national studies
14 relating to regulation and licensing. Now, our goal
15 in those in-depth interviews was to get a clear
16 picture of how crime, in particular, has been
17 affected as a result of legalization. In fact, while
18 researching the report, a local representative from
19 Colorado said to us, in essence, "Learn from our
20 mistakes. Here's your chance to get it right. There
21 are things that we would have done differently at the
22 outset if we could do it all over again." Our
23 research found virtually no public safety rationale
24 for the criminal prosecution of pot smoking,
25 marijuana smoking, and certainly no justification for
the racial disparities underlying enforcement. And

3 the collateral consequences of a marijuana
4 prosecution- it can ruin your job, your housing, your
5 college applications, or even get you deported. Those
6 consequences are simply not proportional to the
7 offense, especially when police officers could just
8 as easily give someone a ticket instead, as they
9 usually do for drinking in public. And this is
10 especially important at a time in U.S. history when
11 convictions for low-level crimes carry the threat of
12 deportation. So, mindful of these consequences, and
13 with the benefit of the study behind us, in
14 September, in addition to our marijuana prosecution
15 policy change from August, our office moved to
16 dismiss and seal virtually every open marijuana case
17 we had- more than 3,000, dating back to 1978. And of
18 those 3,000 cases that were dismissed, the defendants
19 broke down demographically as 79 percent were New
20 Yorkers of color, and 46 percent were 25 years of age
21 or younger at the time of their arrest. Joined by our
22 colleagues at the New York County Defender Services
23 and the Neighborhood Defender Services of Harlem,
24 this *en masse* dismissal, we believed and they
25 believed, and the judge who approved it believed,
helped prevent unnecessary future interactions with

3 the criminal justice system for thousands of New
4 Yorkers who had outstanding warrants for marijuana
5 cases that they had not come to court to complete,
6 and helped to remove collateral consequences and
7 empowering those individuals to participate more
8 fully in civic life in New York. Since our
9 announcement last summer, several jurisdictions in
10 New York and in other states have adopted aspects of
11 our initiative, demonstrating that prosecutors can
12 safely exercise their discretion and eliminate the
13 needless collateral consequences associated with the
14 criminalization of marijuana. But this shouldn't be
15 up to District Attorneys alone. Of course, Chair
16 Lancman is right, District Attorneys have power to do
17 things, and they should exercise those powers, but
18 really to have change, the DAs can't change this.
19 Only our legislature can do that for all 62 counties
20 in New York. So, looking ahead, I fully support
21 expunging past marijuana convictions, and we are
22 collaborating with public defender organizations
23 right now on a project that would result in the
24 automatic sealing of previous marijuana convictions.
25 We expect to announce it in the upcoming weeks. It's
the smartest and easiest way to expunge marijuana

3 convictions; however, that needs ultimately to be a
4 permanent legislative fix, which is why I support
5 statutory changes to achieve that as well. So,
6 Council Members, I thank you for the opportunity for-
7 - to give me to offer my perspective on the topic
8 today. It is my view that marijuana legalization, as
9 it has been done elsewhere, can be done safely, and I
10 believe it will bring us one step closer to right-
11 sizing the criminal justice system, which is sorely
12 in need of right-sizing at this point in time. Thank
13 you for our attention and also for your continued
14 support of our office.

15 CHAIRPERSON RICHARDS: Thank you,
16 District Attorney Vance, and thank you for being
17 ahead of the curve on this. Just a few questions and
18 then I'm going to turn it over to Chair Lancman. So,
19 just go-- so you-- just want to get you back on the
20 record. So you do support full legalization?

21 DISTRICT ATTORNEY VANCE: I do.

22 CHAIRPERSON RICHARDS: Okay, awesome.
23 Just go back through-- so you talked about violent
24 crime and the correlation between marijuana
25 possession and that. Just go back through that a
little bit more.

3 DISTRICT ATTORNEY VANCE: Well, what I was
4 saying-- and I said two things, Chair Richards.
5 Number one, that the individuals who were arrested
6 for marijuana in 2017, when we looked at their prior
7 criminal records, it was a very small fraction that
8 had a violent history. Fifty-five out of that 5,453
9 arrests in 2017, one percent, had a violent
10 conviction within the last five years. So, my point
11 is individuals who were smoking marijuana and
12 arrested are not what I would consider the group
13 that's driving crime in Manhattan. Secondly, when we
14 spoke with law enforcement and regulators from round
15 the county, while there were concerns about the
16 uptick in crime potentially when marijuana was
17 legalized, ultimately no state, no representative
18 told us that one can definitively linked legalizing
19 marijuana to an increase in crime. In some sate like
20 Colorado, they believe it's too early to answer that
21 question, but none the less, after several years
22 after legalization that is-- they are not prepared to
23 say that increased crime will follow was a result of
24 legalization. There are going to be issues that
25 we're going to have to deal with it's a ca-- It is
going to be a cash business particularly when it

3 starts. And so there's going to have to be security
4 that is-- that goes along with having a business that
5 deals in lots of cash, but that is something that I
6 think the NYPD and the business owners can deal with
7 ahead of time through-- you know, through legislative
8 requirements, and I think it'll really eliminate the
9 concern about robberies of stores who are selling
10 marijuana.

11 CHAIRPERSON RICHARDS: And you spoke of
12 5,000 cases in your county. I'm assuming-- if in
13 your opinion if we looked at numbers from around all
14 eh counties, do you-- is it your opinion that we
15 would find it very similar cases where a lot of these
16 individuals are first-time offenders? What
17 percentage was first time offenders? I'm interested
18 in knowing.

19 DISTRICT ATTORNEY VANCE: I don't have
20 the number of what percent--

21 CHAIRPERSON RICHARDS: [interposing] But
22 wee you seeing cases of individuals who--

23 DISTRICT ATTORNEY VANCE: [interposing]
24 Sure, we were seeing cases, and I do-- and in
25 fairness I think the police officers were using
discretion, which they have, and I-- and I've

3 encouraged them to use more discretion, but there are
4 definitely individuals who came through the system,
5 perhaps they didn't have an identification on them,
6 and without an identification the police policy
7 resulted in an arrest. There were individuals who
8 were first-timers in the system, and I'm confident
9 that's the same in other counties, although I don't
10 know for a fact.

11 CHAIRPERSON RICHARDS: And just go
12 through again, so you spoke of the effects of these
13 arrests on individuals. What-- just run me back
14 through that again. So, NYPD arrests someone for
15 this, and then they come through the system and you
16 pointed to-- but how does--

17 DISTRICT ATTORNEY VANCE: [interposing]
18 But I-- our observation, my observation, and
19 obviously I sit in a position where I can't
20 experience the trauma, the difficulties that
21 individuals themselves experience when they have a
22 criminal conviction, but simply from observing what
23 we see and what I hear from communities, clearly
24 arrests become an issue for people's employment, for
25 schooling, disrupting families. There are
immigration consequences that come along with

3 possession of narcotics which can lead to
4 deportation. Marijuana in one sense is viewed as a
5 minor crime, but not that said, America is not
6 particularly forgiving when it comes to people who
7 have criminal convictions of any kind. It is why in
8 this period right now prior to legalization we have--
9 when you have a policy that we are not charging
10 people with marijuana possession unless we view that
11 they were selling it, and somehow the buyers got away
12 and all we were left with was someone who had 35
13 glassine bags of marijuana clearly selling it, but we
14 couldn't make the case of sale because we couldn't
15 find the buyer. So we really have radically reduced,
16 as I indicate, the number of people who are coming
17 into our system, and by the way-- and again, I do-- I
18 mean, I must credit law enforcement and the NYPD.
19 Crime-- I think the City continues to get safer,
20 notwithstanding the fact that we are being more and
21 more thoughtful and more and more restrictive of who
22 we're bringing in to the justice system and so-called
23 quality of life offenses. In our office alone, in
24 19-- in 2012 we had 86,000 misdemeanors and
25 violations processed in our office that we took. Last
year we had 45,000. So we have cut by half the

3 number of low-level offenses that our office has
4 agreed to take in. In that same time period, crime
5 continues to go down. So, for those who are very
6 concerned about Broken Windows policy and policing, I
7 believe that actually the statistics bear out that
8 intelligent use of diversion, alternatives to
9 prosecution, summonses instead of arrests in the
10 right cases, providing- as we tried to with our
11 forfeiture dollars- intense support for communities,
12 which-- families in need and criminally justice
13 involved kids, that crime can continue to decline as
14 we have a smaller and smaller footprint. We
15 shouldn't be spending one more dollar on criminal
16 justice than is necessary to achieve a better public
17 safety outcome.

18 CHAIRPERSON RICHARDS: And just go
19 through the impacts on the court and bail systems.
20 So--

21 DISTRICT ATTORNEY VANCE: Well, as I
22 said, I think one percent or three percent of the
23 cases that actually came into our office and went
24 before a judge were cases where any jail time was
25 imposed. But it is time for police officer who has
to take off from his or her patrol to process the

3 case. One has to go through finger pinning [sic],
4 fingerprinting with the police officer, taking the
5 individuals down to court, court appearances and all
6 the associated costs like police overtime, our
7 lawyers' time, the judges' time, the court officers'
8 time. There is a huge amount of money, and it's the
9 same issue that we're facing with fare evasion and my
10 personal opinions about why fare evasion should be
11 decriminalized, it's because we are spending a huge
12 amount of money prosecuting-- we were spending a huge
13 amount of money prosecuting cases where the
14 prosecution was not proportionate to the offense, and
15 [inaudible] services, we'll spend 2,200 dollars
16 roughly to prosecute a \$2.75 theft, again, where most
17 of the individuals are men and women of color. That
18 just doesn't-- it's not fair and it doesn't make
19 sense. And with marijuana we have a lot of costs
20 associated with staffing a case where those dollars
21 frankly would be much better spent in community
22 support rather than prosecution.

23 CHAIRPERSON RICHARDS: So, you would
24 agree, and I think I'm in agreement with you, that
25 this is a total waste of time and resources.

3 DISTRICT ATTORNEY VANCE: Well, I think
4 except in very rare cases. It is a total waste of
5 time.

6 CHAIRPERSON RICHARDS: You spoke of
7 sealing records, and I'm assuming you support
8 expungement of court [sic] records?

9 DISTRICT ATTORNEY VANCE: I do.

10 CHAIRPERSON RICHARDS: Okay. And you
11 spoke of 3,000 cases dating back to 1978 that you
12 said-- how many-- do you have a-- can you gua-- is
13 there a larger universe of individuals we didn't
14 reach?

15 DISTRICT ATTORNEY VANCE: Those were
16 cases, Chairman that were where individuals had been
17 charged with marijuana possession where they did not
18 appear in court for whatever reason and there was a
19 warrant issued going back to 1978. So we had the
20 power of District Attorneys as an open case to
21 essentially put those cases back on the calendar to--
22 with a judge and the defenders there representing
23 this large group to put those cases back on the
24 calendar to dismiss the warrants and then to dismiss--
25 - to vacate the warrants and then to dismiss those
cases. That's our power when it becomes to-- with

3 open cases. With cases where there has been a plea
4 and the case is now closed, we need to find a legal
5 vehicle to vacate those convictions. It's-- our
6 power as District Attorneys is not the same in those
7 cases as it is when there's an open case, which we
8 still ostensibly have control.

9 CHAIRPERSON RICHARDS: So if you have
10 already plead guilty, there's no way to--

11 DISTRICT ATTORNEY VANCE: [interposing]
12 If you really-- well, it comes-- you know, it now--
13 now it's more complicated to unwind that, but as I
14 indicated Nitin Savur is here with me today, and I
15 think he's known to many of the Council Members. We
16 are very actively working with the court system and
17 with the defender services to try to fi-- to have a
18 legal vehicle where we can identify prior convictions
19 of marijuana cases that are over 10 years old and to
20 seek a way to dismiss those cases that are closed,
21 and I think that number will also be large.

22 CHAIRPERSON RICHARDS: And that would
23 require state legislation?

24 DISTRICT ATTORNEY VANCE: That doesn't
25 require state legislation.

2 CHAIRPERSON RICHARDS: It doesn't
3 require.

4 DISTRICT ATTORNEY VANCE: Expungement, I
5 believe, may require state legislation.

6 CHAIRPERSON RICHARDS: Okay. You said you
7 spoke to other jurisdictions, so California,
8 Colorado, Massachusetts and other jurisdictions. Can
9 you just speak to what are some things that New York
10 State should focus on, and I think you alluded to--

11 DISTRICT ATTORNEY VANCE: [interposing]
12 It's in--

13 CHAIRPERSON RICHARDS: getting things
14 right the first time.

15 DISTRICT ATTORNEY VANCE: In our report,
16 which I do recommend, I think it's actually pretty
17 easy reading. Here are some examples. And what's
18 interesting is most states out of the west enact laws
19 not like we do. They enact laws through public
20 referendum, and when you enact a law through a public
21 referendum-- and I practice in Washington State for
22 16 years-- you,-- the law may be great, but it's
23 essentially created by the people, and the language
24 of it is whatever the people decided the referendum
25 should be. So, sometimes you're doing the right

3 thing, but you're creating a lot of complications for
4 yourself by not having legislators go through and
5 carefully craft legislation to address problems.

6 Case in point: Colorado, these numbers are slightly

7 off. There are 215 Starbucks in Denver, and there

8 are 550 licensed marijuana dealers. So, that's--

9 someone should have thought more carefully about how

10 many licenses do you want to issue in a given

11 geographic area, because when you have more marijuana

12 sellers than Starbucks shops, that's going to--

13 that's going to affect the profitability of those

14 marijuana stores, and therefore, the success. And

15 also, may as a result of affecting the profitability

16 of those stores, may increase black market sales even

17 though marijuana is legal in California. I

18 referenced the issue of security around cash. San

19 Francisco, I spoke with the Police Chief in San

20 Francisco, and they believe that was an issue, but it

21 was a short-time issue once they-- you know, once

22 they understood that they needed to immediately

23 address with licensed dealers the issue of security.

24 And finally, there is going to be a challenge in the

25 science and the science around driving while impaired

with marijuana. And in Colorado, for example, it's--

2 as in most cases, it's not just driving with
3 marijuana, it's poly-use [sic] of drugs, and then a
4 car accident, marijuana mixed with whether alcohol or
5 cocaine, but currently there isn't a test that can
6 indicate whether you are in fact intoxicated or how
7 intoxicated you are depending on the amount of THC
8 that is in your blood alcohol-- blood. Not so. We
9 do have that for liquor. We can indicate that
10 someone my size, my weight, if I have more than 0.08
11 or 0.09 percent blood alcohol content, I'm
12 intoxicated. We don't yet have that kind of test
13 that works for marijuana. Several states, Washington
14 State and others, have a presumptive default if you
15 have-- pick a number, and I can't remember the
16 number-- more percent of THC in your blood, then you
17 are presumed to be intoxicated by marijuana. But
18 there is still no test today that really is as
19 accurate as blood alcohol content, and that's
20 something that right now today I think the law
21 enforcement and state patrol should be taking very
22 careful look at what kinds of accidents they're
23 seeing and trying to identify marijuana, driving
24 under the influence of marijuana, poly-use, and get
25 some data so that the governor or the legislature

3 understands how much of a problem this actually is
4 today in New York State so that the legislators can
5 figure out how to craft the law going forward. Those
6 are three example.

7 CHAIRPERSON RICHARDS: And speaking with
8 those jurisdictions, did they speak of major
9 concerns? Did they see a big spike all of a sudden
10 and people just high-- and because I think that's
11 something the Police Commissioner has alluded to
12 several times. So, did those states all of a sudden
13 have--

14 DISTRICT ATTORNEY VANCE: [interposing]
15 I'm sure that--

16 CHAIRPERSON RICHARDS: [interposing] spike
17 from one car accident at an intersection to 200.

18 DISTRICT ATTORNEY VANCE: The only
19 example that jumped out at me, and it's allude-- it's
20 directly referenced to our point is that Colorado did
21 find an increase in crime in the year succeeding the
22 marijuana legislation. But we spoke with the US
23 Attorney. We spoke with the Prosecutor and other
24 regulators there. They cannot correlate. They
25 simply can't say yes, this is because of marijuana.
So,--

3 CHAIRPERSON RICHARDS: [interposing] Now,
4 these were violent crimes or?

5 DISTRICT ATTORNEY VANCE: Not to my--

6 CHAIRPERSON RICHARDS: You couldn't speak
7 to that, okay.

8 DISTRICT ATTORNEY VANCE: Well, I don't
9 know. There's no indication that that's passing
10 legalization of marijuana, to my knowledge, resulted
11 in an increase statistically in violent crime.

12 CHAIRPERSON RICHARDS: Alright, last
13 question-- two questions, and then I'm going to turn
14 over to Chair Lancman. So you spoke about the tax
15 revenue that is projected for New York State, and I
16 know the Governor and Mayor have alluded to using
17 some of that money towards the MTA. Do you recommend
18 any other uses of the specific tax revenue that's
19 coming down, or would you agree that that money
20 should be utilized towards communities that have been
21 impacted the most?

22 DISTRICT ATTORNEY VANCE: Ultimately,
23 that's a decision for others, how they use their
24 dollars. I know our forfeiture dollars in our office
25 which we-- which we are-- which are not tax dollars
but we're privileged to steward, we are investing 250

2 million of those dollars into crime prevention
3 strategies in Manhattan. So, from our office's
4 perspective, it is critically important to prevent
5 crime as opposed to simply prosecute it, and that has
6 been a guiding north star for us in our handling of
7 forfeiture dollars. The state is a big complicated
8 entity. There are many worthy goals that could be
9 supported with additional funding from taxes from
10 marijuana. Some of those are in the City of New
11 York, and some of those are not in the City of New
12 York. But I'm not sure I'm the one who can say
13 what's the best use for those monies, but I can tell
14 you for our monies, we're investing them in crime
15 fighting and crime prevention strategies in New York.

16 CHAIRPERSON RICHARDS: Is there anyone as
17 we speak during this moment, languishing on Rikers
18 Island over low-level marijuana offenses?

19 DISTRICT ATTORNEY VANCE: I cannot answer
20 that definitively one way or the other, but I believe
21 in Manhattan there should be none.

22 CHAIRPERSON RICHARDS: And my last
23 question, should the NYPD be arresting individuals
24 for marijuana with the impending state legislation--
25 legislature moving towards legalization?

3 DISTRICT ATTORNEY VANCE: We, in our
4 policy change in August of 2008 we had-- the
5 decision-- our policy was we would not prosecute
6 individuals for possession of marijuana unless two
7 things: they were selling it and we couldn't find
8 the buyer, or two, there was some public safety
9 imperative. For example, this person is identified
10 as someone who committed a violent robbery, and there
11 may be reason to hold-- to have the marijuana charge
12 stay on that case. So those are the two exceptions.
13 The NYPD exceptions are broader. There are arrests
14 for people who are probation or who have prior
15 criminal records. So they cast a much-- they cast a
16 more wide net than we did in our office, and it was
17 our position that because we saw that the actual
18 folks who were arrested for marijuana were very
19 infrequently folks with violent records, we felt that
20 this was-- you know, this was a case where we really
21 should limit the instances where we use our finite
22 prosecution dollars as an agency head toward
23 prosecuting these cases. The PD has cast a wider
24 net. They-- we expressed our differences to the
25 Police Department directly and we had very candid
conversations. I really -- I think what-- I think our

3 practice is working, and so I would commend it to
4 anybody who was considering trying to find out--
5 consider who should be arrested, who shouldn't be
6 arrested for marijuana.

7 CHAIRPERSON RICHARDS: Well, I want to
8 thank you for the work you've done and for taking a
9 big leap forward. I know it's not easy making these
10 decisions on most days, but I want to thank you
11 because this really has impacted especially
12 communities of color. I like the idea, and I like
13 that you pointed out the importance of making sure
14 that the permitting process benefits communities of
15 color, especially because we know that the black
16 market certainly could pick up even more as
17 legalization comes online. So making sure that the
18 state-- and I think that's the reason we're having
19 this hearing today to really send a message to the
20 state that, you know, New York City needs to be in
21 control of our destination where we're going with
22 this, but to ensure that those communities that like
23 the 105th precinct which I represent in Queens, a
24 black middle-class stronghold, where these young
25 people who've languished on Rikers Island or have
been put through a system and locked out of society's

3 norms over low-level offenses are really the ones who
4 benefit as this tax revenue comes in. so we look
5 forward to continuing to work with you, and I hope
6 other District Attorneys really take-- watch what
7 you've done and also start to move in the same
8 direction, and economic justice obviously being a big
9 part of this conversation as well. So I'm going to
10 turn over to Chair Lancman now, but I wanted to thank
11 you for being here today.

12 DISTRICT ATTORNEY VANCE: Thank you,
13 Chairman.

14 CHAIRPERSON LANCMAN: Well, first let me
15 thank you and commend you for your leadership on this
16 issue, your willingness to speak forthrightly about
17 the issue of legalization, the data, and experience
18 that you bring to the conversation about marijuana
19 possession and recreational use not being any
20 indicator of violent crime. I don't think that I'm
21 mischaracterizing your testimony or your view--

22 DISTRICT ATTORNEY VANCE: [interposing]
23 Let me-- Chairman, I'm sorry to-- if you're selling
24 marijuana on the street illegally, there may well be
25 violent crime associated with selling black market
marijuana.

3 CHAIRPERSON LANCMAN: So, and I
4 appreciate that. So, an individual using marijuana
5 for recreational use, possessing for recreational
6 use, personal use, smoking personally, as I
7 understand it, you wouldn't suggest that that is an
8 indicator of violent--

9 DISTRICT ATTORNEY VANCE: [interposing]
10 No.

11 CHAIRPERSON LANCMAN: criminal behavior?
12 And I may be stretching it too far, because it-- this
13 might be overly broad, but I don't get the sense that
14 you think that it is a gateway drug to more serious
15 criminal activity?

16 DISTRICT ATTORNEY VANCE: I do not, but I
17 think that anybody who is smoking-- any parent who
18 has a child smoking marijuana should be understanding
19 what's being done and what impact it's having. Just
20 as one-- if you have a child who is drinking.

21 CHAIRPERSON LANCMAN: Smoking a
22 cigarette.

23 DISTRICT ATTORNEY VANCE: Exactly, right,
24 sure.

25 CHAIRPERSON LANCMAN: So, let's go
through a couple of things. I want to start with the

2 NYPD, the existing NYPD policy. I'm not in the
3 Assembly anymore, so I'm really focused on what it is
4 that the Council can do and we in the City can do
5 while the legislature sorts out how to address the
6 issue of legalization. And I just want to make sure
7 I understand your policy and how it differs from the
8 NYPD policy. So, the NYPD policy-- which was really
9 the result of the work that came out of this
10 committee's hearing a year ago-- exempts from the
11 more liberal and more lenient application of
12 marijuana laws, people who had-- in varying ways have
13 had interactions with the criminal justice system,
14 and as we said at the time, if those are going to be
15 the basis for the exemptions in terms of city policy,
16 it's almost certain that the disparity, the racial
17 disparity that exists is going to be even more
18 pronounced because we live in a city and a country
19 where the criminal justice system is much more
20 involved in the lives of black and brown people. So,
21 under the NYPD's policy they're not going to arrest
22 someone for public display of marijuana or under
23 221.10 or burning unless some disqualifying factors.
24 So, the NYPD will arrest someone if the person has
25 been charged with a finger-printable offense in

3 addition to marijuana. It's a misdemeanor or felony.

4 If the NY-- they arrested someone and they bring him
5 into your office and that person's charged with
6 misdemeanor XYZ or felony XYZ and some 221.10 offense
7 whether it's burning or open-- will you still
8 prosecute that person for the marijuana offense?

9 DISTRICT ATTORNEY VANCE: Our policy is
10 not-- is not to charge marijuana in those cases, but--
11 -

12 CHAIRPERSON LANCMAN: [interposing] So
13 you'll prosecute them for the other things, but not--
14 okay. Then another exemption is the NYPD will still
15 arrest someone if they're smoking marijuana in public
16 and they're on parole or probation. So, if the NYPD
17 brings you someone who's been arrested for smoking
18 marijuana in public and they're on parole or
19 probation, will you prosecute that person for the
20 marijuana offense?

21 DISTRICT ATTORNEY VANCE: It is our
22 policy not to prosecute.

23 CHAIRPERSON LANCMAN: NYPD will also
24 arrest someone instead of giving them a summons,
25 which is the alternative, will also arrest them if
they are burning marijuana and they are a violent

3 offender, which has a particular definition under the
4 NYPD's policy. And a violent offender is someone who
5 has been arrested, not convicted. A person has-- is
6 a violent offender if they have one or more unsealed
7 arrests for the following crimes or subsets within
8 the last three years, and some of these are very
9 serious: murder, rape and other sex offenses,
10 kidnapping. Others are serious, too, robbery, felony
11 assault, burglary-- I said burglary, I'm sorry,
12 felony weapons possession. So, if the NYPD brings you
13 someone who's arrested, they've arrested for smoking
14 marijuana in public, and they have an arrest, merely
15 an arrest in the last three years for these other
16 offenses, will you prosecute them for the marijuana
17 offense?

18 DISTRICT ATTORNEY VANCE: It is our
19 policy not to prosecute for the marijuana offense,
20 and the policy is based upon the data that I provided
21 earlier that we actually look at those folks who
22 historically have been prosecuted for marijuana, and
23 they are not a group that I would say are crime-
24 drivers in Manhattan.

25 CHAIRPERSON LANCMAN: Couple more. NYPD
will arrest someone and not give them a summons if

3 they're smoking marijuana or openly possessing it if
4 the person has an active misdemeanor or felony
5 warrant.

6 DISTRICT ATTORNEY VANCE: They would be--
7 the warrants would have to be-- they'd have to go
8 back to wherever the warrant came from, but it is not
9 our policy to charge marijuana in those cases.

10 CHAIRPERSON LANCMAN: And just to make an
11 observation, which you've said as much in your
12 testimony, you know, marijuana offenses can have
13 immigration consequences that are different than
14 other misdemeanors, and prosecuting someone for the
15 misdemeanor of marijuana possession or burning might
16 seem trivial or no big deal if you're also
17 prosecuting someone for something else, but that
18 something else may not lead to their deportation.
19 So, I appreciate that. There's a little-- we get a
20 little trickier. The NYPD will arrest someone if
21 they are burning marijuana while seated in the
22 driver's seat of a vehicle, and that leads to-- so
23 that leads to a question which I'd really like your
24 input on, and I think you mentioned. One of the
25 things that I've heard from people who are opposed or
concerned about the legalization of marijuana, and

3 it's a legitimate concern, is will legalization lead
4 to more smoking? I guess that it will. And will
5 more smoking therefore lead to people who are driving
6 while they're I guess "high" is the legal term.
7 What's Latin for high? You know? Okay. So,--
8 buzzed. So, are you-- how concerned are you? So,
9 now we're moving off the NYPD policy and I appreciate
10 your responses there. How concerned are you about
11 the potential increase in driving while ability-
12 impaired because of marijuana use, that there is no
13 current test like there is, you know, blood alcohol
14 test to determine whether the person is actually high
15 on marijuana?

16 DISTRICT ATTORNEY VANCE: If I can just
17 briefly--

18 CHAIRPERSON LANCMAN: [interposing]
19 However you want to, go ahead.

20 DISTRICT ATTORNEY VANCE: With regard to
21 our policy differences with the NYPD, as I've
22 explained to the Commissioner whom I-- want to be
23 clear. I respect enormously. I'm an agency head
24 just as he is, and I have to make decisions about how
25 to use the precious time and resources of my
Assistant DAs and what cases I should assign them to

3 and what's the public safety value for working on
4 those cases? So, our decision around marijuana has
5 been through my lens of, as the agency head, is this
6 where I want to be devoting my resources, and
7 obviously it also-- it relates to the issues of
8 fairness and racial disparity? So, those-- so the
9 NYPD policies are the NYPD policies. We came to our
10 policies simply because we think they make the best
11 sense and also maintain public safety. With regard
12 to driving, I think it is a-- I think it's a
13 significant issue, and if you're-- if you are smoking
14 a marijuana cigarette while driving a car, you're
15 likely to be arrested and prosecuted for driving
16 while impaired, and just as you would be arrested and
17 prosecuted if you were-- if you had an open bottle of
18 liquor and it was proven that you had drunk out of
19 that bottle and you were impaired. I-- as a non-- as
20 not a technical expert, I think this is where the--
21 we can put-- we can send a spaceship to Mars, we can
22 figure out a test that provides some reliable
23 assessment of intoxication around marijuana. I think
24 it's-- I think it's-- I think everybody should--
25 whatever side of this you're on, it's important. You
don't want to encourage marijuana smoking and

3 driving, and if there is a tragic accident, that will
4 not be in the interest of those folks who want to
5 promote the sale of marijuana. So, I think as a
6 state, we should be devoting lots of time and lots of
7 resources working with the other states and
8 scientists to figure out how are we going to
9 determine whether one is intoxicated, and how
10 intoxicated based upon the amount of THC there is in
11 the blood.

12 CHAIRPERSON LANCMAN: Okay, and I'm not a
13 scientist either, and it would certainly strike me as
14 not an insurmountable technical scientific problem to
15 be able to develop such a test. Until that day
16 comes, there are people who will use drugs of some
17 kind for which there is not a test today. How
18 comfortable are you as District Attorney with being
19 able to use, for example, driving while [inaudible]
20 impaired by drugs which allows for people to be
21 prosecuted for driving while their ability is
22 impaired by a drug that cannot be measured in the
23 same way that alcohol can for prosecuting people who
24 are driving while high on weed?

25 DISTRICT ATTORNEY VANCE: Well, I think
the-- I think those cases are very fact-based, and

3 there should be a number of facts that go into a
4 prosecutor's whether or not to charge someone for
5 being impaired without being able to identify
6 scientific basis for it, behavior, smell-- I think--

7 CHAIRPERSON LANCMAN: [interposing] And
8 that's in the law now?

9 DISTRICT ATTORNEY VANCE: Right.

10 CHAIRPERSON LANCMAN: We're not inventing
11 anything here.

12 DISTRICT ATTORNEY VANCE: No, we're not
13 inventing it.

14 CHAIRPERSON LANCMAN: I'm sure there have
15 been people who have been caught driving while
16 they're high on an opioid or any of the other long
17 list of drugs that are illegal. They're not all just
18 walking away and driving impaired with impunity,
19 right?

20 DISTRICT ATTORNEY VANCE: No, no. There
21 are prosecutions, absolutely, in every jurisdiction
22 for people who are impaired, and the exact nature of
23 how much they took to be impaired is not determined.

24 CHAIRPERSON LANCMAN: And then separate
25 and apart from even determining whether they were

3 impaired, there is still the charge of reckless
4 driving which is also absolutely a misdemeanor.

5 DISTRICT ATTORNEY VANCE: Which is an A
6 misdemeanor, and there are lots of-- you know, the
7 consequence of being impaired while driving can be
8 fatal, so we will take that seriously.

9 CHAIRPERSON LANCMAN: Okay.

10 DISTRICT ATTORNEY VANCE: Let me quote,
11 if I can, to answer your question from our report
12 which Joan Valero just gave me, it is from-- in the
13 section that relates to marijuana-impaired driving,
14 there's a whole section on testing for marijuana
15 impairment which probably does a much better job than
16 I just did to explain, but the paragraph reads,
17 "Additionally, far fewer studies have been conducted
18 regarding the impairing effects of marijuana as they
19 relate to driving skills. As noted by the US
20 Department of Transportation," and I'm quoting, "A
21 clearer understanding of the effects of marijuana use
22 will take additional time and more research-- as more
23 research is conducted." The lack of research into
24 these issues is impart due to marijuana's
25 classification as a scheduled I controlled substance
which imposes challenges on researchers ability to

3 obtain, store, use, and dispose of marijuana. So,
4 it's a little complex, but these are things that we
5 can figure out, that can be figured out, but that's a
6 better, I think more neutral description of the
7 challenge than I gave before.

8 CHAIRPERSON LANCMAN: And the bottom line
9 is the lack of a specific scientific test for
10 determining how much marijuana is in a person's
11 system at a given moment does not prohibit you or
12 impeded you from supporting legalization of marijuana
13 because you have other laws on the books to prosecute
14 people who drive either recklessly or while they're
15 impaired.

16 DISTRICT ATTORNEY VANCE: Yes, yes.
17 That's true.

18 CHAIRPERSON LANCMAN: Let's go back to
19 just one other issue on the NYPD policy, and I'm
20 curious how your office handles it. The NYPD policy
21 doesn't make any mention of THC oil which I'm told
22 people can vape, or-- and buy and bake or whatever
23 people do. So, we were made aware that the NYPD was
24 still arresting people for possession of THC oil,
25 charging them not with a marijuana offense, but with
controlled substance in I think the seventh degree,

3 and that in a jurisdiction other than Manhattan, a
4 jurisdiction other than Manhattan where that District
5 Attorney has said that they like you would not be
6 charging marijuana offenses, we're charging people
7 who are brought in for THC oil possession. Do you
8 have a policy that includes within your policy to
9 decline prosecution for marijuana offenses declining
10 to prosecute for possession of or smoking THC oil in
11 a vape?

12 DISTRICT ATTORNEY VANCE: Our policy is
13 not to prosecute THC oil possession.

14 CHAIRPERSON LANCMAN: What about smoking
15 THC oil in a vape? Or vaping?

16 DISTRICT ATTORNEY VANCE: The head of my
17 Criminal Court here is the answer is no, but that
18 also may bear on the inability of the lab to get-- to
19 test the THC oil, but the answer practical matter,
20 it's not being prosecuted.

21 CHAIRPERSON LANCMAN: So, is it fair to
22 say that for practical matter you would include
23 possession and vaping of THC oil within your
24 marijuana decline to prosecute?

25 DISTRICT ATTORNEY VANCE: Yes.

3 CHAIRPERSON LANCMAN: Alright, well, I
4 want to thank you very much for being here. The
5 other District Attorneys were invited. I assure you
6 they're going to have the opportunity to answer these
7 questions when they show up at the budget hearing,
8 and you will then have the opportunity to spend more
9 time on your budget request.

10 DISTRICT ATTORNEY VANCE: Fantastic. I
11 look forward to it.

12 CHAIRPERSON LANCMAN: So, thank you very
13 much for being here.

14 CHAIRPERSON RICHARDS: You're going to
15 get extra time, extra brownie points for being here
16 today during the budget hearing. Alright, we're
17 going to go to questions. I'm going to put a clock
18 on. First, I want to recognize we've been joined by
19 Council Members Powers, Deutsch, Public Advocate-
20 elect Jumaane Williams--

21 [applause]

22 CHAIRPERSON RICHARDS: Chaim Deutsch, I
23 said, anybody else? Oh, Helen Rosenthal. Alrighty,
24 so we're going to now go to Cabrera, followed by
25 Cabrera, Koo and then Deutsch.

3 COUNCIL MEMBER CABRERA: Thank you so
4 much to both of the Chair and DA. Thank you for your
5 work, your reputation precedes you. I appreciate all
6 the work that you do in this area. I'm all for
7 medical marijuana. I'm-- but when it comes to
8 legalizing marijuana, I have my hesitation. So, I'm
9 coming with an open mind here, but I wanted to bring
10 some data here that seems to be quite alarming. In
11 Colorado,-- talk much about Colorado-- using
12 marijuana is at an 85 percent higher rate than the
13 national average when it comes to youth. Marijuana
14 related for traffic fatalities are up 151 percent. I
15 don't know what that would do for Vision Zero in New
16 York City. I want to read a statement. You're
17 probably familiar with him. He is the US Attorney
18 for the District Colorado, Bob Troyer, and this is
19 what he said. He said Colorado's black market has
20 actually exploded-- he used that specific word--
21 after commerce legalization [sic], we became a source
22 state, a theater of operation for sophisticated
23 international drug trafficking, and money laundering
24 organizations from Cuba, China, Mexico, and
25 elsewhere. And in the black market, marijuana
activity has gone up seven times in marijuana. They

3 have last year alone,-- actually that was-- would
4 have been for 2017. This is a report from 2018. The
5 regulator industry produced 6.4 metric tons of
6 unaccounted for marijuana, over 80,000 black market
7 plants were found in Colorado federal lands. Alcohol
8 consumption has steadily climbed, not decreased,
9 since it was legalized, and the use of other drugs
10 has also increased. And then in terms of the ratio
11 between blacks versus whites, for example, in Alaska
12 we see a disparity of blacks being arrested ten times
13 more than whites. So, in light of that, help me
14 understand-- and again I'm trying to be open-minded
15 here. I'm not coming here with moralistic point of
16 view, but looking at the data, I am concerned in
17 light of the fact that was mentioned and rightly so
18 that we don't have a way to identify somebody who's
19 smoking, high, and they're driving, and fatalities
20 going up 141 percent and then so forth. And then
21 when I hear in the streets, the drug dealers are
22 actually happy because they're going to be able to
23 sell it cheaper. We don't-- we're not going to make
24 a whole lot of money. It's less than one percent of
25 total budget in Colorado. It's not a whole lot of
money because by the time you regulate it and

3 everything else that comes with it. So, money set
4 aside, I'm just trying to picture why would it be
5 better than the amazing work that we have done in
6 this council where we got it to where it is right
7 now, and we have de-stigmatized, and the work that
8 you're doing right now under the context, why would
9 it be better? That's what I'm trying to figure out
10 at this point.

11 DISTRICT ATTORNEY VANCE: Well, first of
12 all, I want to tell you I profoundly respect your
13 conundrum, and it is-- and I for one, the reason we
14 conducted the study for six months because I myself
15 wanted to be able to have some trans-- first of all,
16 information, and then since I'm the District Attorney
17 of a county, be able to explain to the public why
18 this was my position, and that's the purpose of the
19 study is to be open about what's going on in other
20 countries and how that might affect New York County
21 if we brought it here. First and foremost, we've
22 spoken with the law enforcement officials in
23 Colorado, and there's several parts of our report
24 which actually drill down on those conversations.
25 The black market is a big issue in Colorado, and to
the degree that there would be black market sales in

2 New York State after legalization, that should be
3 prosecuted, and it should be prosecuted aggressively,
4 because the black market is going to be dealing with,
5 you know, typically large volumes and also may well
6 be connected to other kinds of trafficking whether it
7 is guns or children. So, black market sale and
8 selling needs to be prosecuted if it can be in
9 whatever jurisdiction where it's legalized, number
10 one. And I think Congressman-- Council Member,--

11 COUNCIL MEMBER CABRERA: [interposing] You
12 can prophesize, it's okay.

13 DISTRICT ATTORNEY VANCE: I think-- but I
14 think we need to look at the reality of today.
15 Marijuana is here.

16 COUNCIL MEMBER CABRERA: Yes.

17 DISTRICT ATTORNEY VANCE: We are the
18 largest black market for marijuana in the country.
19 That's-- and are we going to regulate it and try to
20 provide some order around it, try to understand and
21 get a better ability to control what is being sold in
22 our state that is marijuana, or not. And I think
23 that with marijuana being legalized in Vermont, in
24 our surrounding states, we have to acknowledge the
25 reality that marijuana, like alcohol, is here to

3 stay, and rather than not take it head-on and try to
4 make it as safe as it can possibly be from seed to
5 store, to have that barcode in a process that has
6 been defined by scientist and approved by regulators
7 in the state. So we know that everything that is in
8 a store has-- we know how powerful it is. We know it
9 is secure. We are going to have to deal with the
10 black market. That's never entirely going to go
11 away, but I think the worst of all worlds is not
12 facing the reality that right now everyone's-- we
13 have tons of people smoking marijuana with no safety
14 at all.

14 COUNCIL MEMBER CABRERA: Well, I want to
15 thank you and hopefully later on if could you address
16 the issue, the difference between us here and
17 Colorado because-- and I have a brother who lives out
18 there-- and over there people live in single family
19 homes-- We live literally on top each other. We can
20 smell each other's food from the hallway-- and what
21 kind of situation that would put-- contentious
22 situations that will put a neighbor versus a
23 neighbor. Has there been any studies done regarding
24 that in other states? I doubt it. I think it's only
25 eight states where it's legalized for recreational

3 use. And what do you anticipate will happen. Thank
4 you so much--

5 CHAIRPERSON RICHARDS: [interposing]

6 Thank you. I'll just correct you. I represent a
7 district with single family homes, a large majority.
8 I'm going to go to Council Member Koo.

9 COUNCIL MEMBER KOO: Thank you, Mr.
10 chairs. Mr. Vance, thank you for testifying before
11 us, and I want to thank you for your leadership in
12 the DA's office. I want to say in open that my
13 community is opposed to legalization of marijuana as
14 a whole, you know, because-- I mean, because smoking
15 is bad already, and we're trying to stop people from
16 smoking through all kinds of things. Why do we want
17 to legalize marijuana?

18 DISTRICT ATTORNEY VANCE: That's the
19 question.

20 COUNCIL MEMBER KOO: Yeah.

21 DISTRICT ATTORNEY VANCE: I think the --
22 essentially, the same response I gave earlier. Right
23 now we have a huge amount of black market marijuana
24 being consumed. As I said, we are the largest market
25 for black market marijuana. You don't know whether
it's tainted or laced or what power it has. I think

3 we need to regulate and provide some rationalization
4 around what is already happening here. And I don't
5 think, Council Member, that increased prosecution of
6 marijuana as a means to deter use of marijuana is
7 going to be any more successful going forward than it
8 has been in the past. I think that you are--
9 following your logic, if we are to go back to
10 prosecuting marijuana, my concern is that the same
11 flaws and failings around proportionality. Should
12 someone really be arrested for smoking marijuana?
13 Who is arrested? There's going to be racial
14 disparity. I think it's going to continue as
15 marijuana enforcement, if we were to go sort of
16 further back to enforcing marijuana prosecution. So,
17 I simply believe that we have to deal with the
18 reality we have, and but it's an opportunity. I think
19 we can become a lot safer as a community if we
20 regulate marijuana than to simply let the black
21 market thrive in New York and hope that we manage it
22 well.

23 COUNCIL MEMBER KOO: So, what will be the
24 prosecution policy for someone smoking pot in the
25 playground?

DISTRICT ATTORNEY VANCE: In a what?

3 COUNCIL MEMBER KOO: In the playground,
4 in the vicinity of children. Is this just a civil
5 [sic] experience like smoking cigarettes.

6 DISTRICT ATTORNEY VANCE: well, one could
7 be prosecuted for endangering the welfare of a child
8 under a misdemeanor statute. So there are
9 alternatives to-- there are alternatives to
10 prosecution of possession of marijuana, and I think
11 that would again be very fact-based. Obviously, we
12 want to make sure that people who are-- and there
13 will be-- and by the way there will be regulations.
14 There will be regulations as to where one can smoke
15 marijuana in the city if it does become legal, and
16 those regulations should be enforced either by a
17 summons or in some cases, an arrest.

18 COUNCIL MEMBER KOO: you mentioned before
19 if someone drives and smoke marijuana, is-- that you
20 can charge them DUI or DWI, right? What about a
21 passenger smoking pot and the driver is inhaling all
22 this smoke? So, who--

23 DISTRICT ATTORNEY VANCE: [interposing]
24 We're going to have to deal with that, and I'm-- it's
25 no more-- those are tough questions that happen in
every case around what goes on in a car. If there's

2 contraband in the car, whose is it? If there's a
3 gun in the car, whose is it? And so yes, is the
4 driver of a car where the passenger is smoking
5 marijuana, is that-- I think that driver puts in or
6 herself at right of being prosecuted. I'm not saying
7 we would prosecute it, but I think you have to be
8 responsible for what goes on in your vehicle, and if
9 you are ingesting marijuana while you're driving,
10 that could be a problem.

11 COUNCIL MEMBER KOO: So, can I ask you a
12 personal question? Would you personally discourage
13 your children or your grandchild to smoke marijuana?

14 DISTRICT ATTORNEY VANCE: I have
15 personally-- I've had candid conversations with my
16 children about marijuana, as I think most parents
17 have. I don't-- I think marijuana is a substance
18 like alcohol that can be abused and that every parent
19 just as with alcohol needs to be having honest
20 conversations with their children. I don't think
21 that-- honestly, I-- because it can alter your
22 behavior, it is an important thing to have an
23 [inaudible] about in your family.

24 COUNCIL MEMBER KOO: I personally will
25 strongly discourage my children or my grandchildren

2 not to smoke marijuana, because the health and
3 because of other side effects from it.

4 DISTRICT ATTORNEY VANCE: And that's a
5 per-- and I understand. That's a perfectly,
6 perfectly understandable position to take. My-- but
7 this is not directed to your children, but I think a
8 lot of kids are going to still smoke marijuana no
9 matter what their parent says, and I want to make
10 sure that the marijuana that they're smoking is going
11 to be as least likely as possible to be unsafe.

12 COUNCIL MEMBER KOO: As leader, we should
13 have an open position to tell the community that this
14 is something we don't encourage. And--

15 DISTRICT ATTORNEY VANCE: [interposing]
16 Well, by the way, today- I'm not encouraging
17 marijuana smoking in New York City. If you are-- if
18 you have marijuana and you're smoking it, you should
19 get a summons. And that--

20 COUNCIL MEMBER KOO: [interposing] Well,
21 but--

22 DISTRICT ATTORNEY VANCE: [interposing]
23 And there should be a consequence, but it should be a
24 consequence that's proportionate to the offense in my
25 personal opinion.

2 COUNCIL MEMBER KOO: But if you legalize
3 it, you will encourage people to smoke, you know,
4 open. And I say it like in Forest Hill High School
5 there was a report in the New York Post that lots of
6 children-- students smoke in the building, and the
7 principal didn't do anything because, "Oh, it's going
8 to be legalized anyway." So he's not going to do
9 anything about it.

10 DISTRICT ATTORNEY VANCE: Council Member,
11 those are absolutely essential policy questions, but
12 just as we have tried to deal with other intoxicants
13 like alcohol, I think they are better-- we deal with
14 them better regulated than we do bootleg.

15 COUNCIL MEMBER KOO: Okay, thank you.

16 DISTRICT ATTORNEY VANCE: Thank you.

17 CHAIRPERSON RICHARDS: Thank you. And I
18 will be the first to admit on the record that in high
19 school my parents tried to warn me not to mock
20 Emergency Management, and I smoked and I did not
21 inhale.

22 [laughter]

23 CHAIRPERSON RICHARDS: Alright, here we
24 go. I think I turned out okay. Would everybody agree
25

3 with me here? I'm okay, alrighty. Alrighty, we're
4 going to go to Council Member Deutsch.

5 COUNCIL MEMBER DEUTSCH: Thank you very
6 much. Thank you, Chair, and thank you for holding
7 this important hearing. I don't know which way it's
8 going to go, but it is an important hearing. So, I
9 just have a few issues. When things come with
10 common-- you know when things are common sense, I'm
11 always with-- I always go with that. So one of the
12 things you mentioned is that people already smoke
13 marijuana. So, if people-- if New Yorkers, if you
14 have let's say a high amount of New Yorkers, let's
15 say half of New Yorkers walk outside with open
16 container, are we going to enforce that, or are we
17 going to legalize that because everyone's doing it
18 anyway? So, we as a city, we need to prove ourselves
19 first that we could deal with the issues that we have
20 and not say, you know something, we can deal with it,
21 but we're going to legalize it because people are
22 doing it anyway. So, I have an issue with that. You
23 did say that you expect an uptick on the black market
24 sales. So, firstly, I just want to say you did
25 mention we'll prosecute if people are selling
illegally, but prosecute could also come after, God

3 forbid, a tragedy, and if someone is going to go on
4 the black market and they make the drug dealers make
5 the money, not off the marijuana, they make their
6 money off addiction. So they're going to use the
7 marijuana sales as a cover-up only to sell them other
8 types of drugs that will create an addiction for that
9 individual, and that's where they make the money.

10 So, that is another issue I have with legalizing
11 without getting to the crux of the problem and going
12 to the core issue of the City doing more on the
13 issues that we already have. You also mentioned that
14 if someone is driving under the influence of alcohol
15 it's very easy to detect. You do a drug-- you do an
16 alcohol test, and if someone is 0.08, the person gets
17 arrested. If someone is under the influence of
18 marijuana, right, there's no way to detect that.

19 That's what you said. There's no way to detect that.

20 But if we could get someone to Mars, then we could
21 come up with a way. So shouldn't we first come up
22 with a way to detect that before we decide to
23 legalize something? And again, marijuana use stays
24 in your system for 30 days, and if you do smell-- if
25 an officer pulls over a vehicle and they smell
marijuana and the guy looks like he's under the

3 influence, you're arresting someone now without
4 knowing what that person actually did, which I think
5 is-- that shouldn't happen if you have no proof. Do
6 you have any statistics of people that get arrested
7 because they are over 0.08 for alcohol use? And the
8 statistics when an officer pulls someone over for
9 possibly for DUI, what the conviction rate or the
10 dismissal rates on these two?

11 DISTRICT ATTORNEY VANCE: I don't have--
12 I do not have data at hand. I will say that it is
13 more difficult to prosecute a case where you don't
14 have a scientific baseline to determine intoxication.
15 So, I think there are more acquittals in driving
16 while intoxicated cases where there is no blood
17 alcohol-- if a blood alcohol content, for example, is
18 refused. The driver refuses to blow into the
19 machine. Those cases become tougher to prosecute,
20 because it's then based upon the officer's
21 recollection of how the person looked and the tests
22 that the officer asked the individual to, sobriety
23 tests. It is more difficult. Some states-- and
24 again, our report goes into it in details, Council
25 Member, and I encourage you to read through it. You
know, some states have themselves set if you are a

3 certain-- if you have a certain percentage of THC in
4 your blood, you are presumed intoxicated. In
5 Washington State, I think is a state that has that.
6 Now, I don't think that they can scientifically prove
7 that means you are in fact prosecuted, but they have
8 determined that they're going to set a level above
9 which if you test above that they are going to-- five
10 nanograms [sic] of THC-- someone just gave me the
11 information. So, some states have set baselines and
12 above that baseline have determined that it is
13 intoxicated. I think we should look at all those.
14 So, some states are addressing differently than
15 others.

16 COUNCIL MEMBER DEUTSCH: So I just want
17 to get down to it. So if someone has an alcohol
18 test, right, for driving while intoxicated. So, if
19 it's 0.08 the person gets arrested. I'm not talking
20 about if someone refuses. So that person gets
21 arrested. Now, if someone just smoked three joints
22 and gets into a vehicle is there a way to detect
23 that? Yes or no?

24 DISTRICT ATTORNEY VANCE: No.

25 COUNCIL MEMBER DEUTSCH: No.

2 DISTRICT ATTORNEY VANCE: There's no
3 stipulated to determine how intox-

4 COUNCIL MEMBER DEUTSCH: [interposing] So
5 my point is shouldn't we first come up and find to
6 see if there's a way to detect that before we discuss
7 about the legalization of marijuana? That's my
8 point. That's it. Secondly, regarding students,
9 what is the age if marijuana becomes legal, what is
10 the age of when someone can smoke marijuana?

11 DISTRICT ATTORNEY VANCE: I think it
12 would depend upon ultimately what the legislators
13 decided.

14 COUNCIL MEMBER DEUTSCH: Legally.

15 DISTRICT ATTORNEY VANCE: Eighteen.

16 COUNCIL MEMBER DEUTSCH: It's 18?

17 DISTRICT ATTORNEY VANCE: Right now it's
18 17 and up, and next year it will be 18.

19 COUNCIL MEMBER DEUTSCH: Eighteen. So
20 how many-- you have plenty of school children,
21 college students that ae 18 that are in school,
22 right? Do you have the figures of how many children
23 of that age, 18 or older, go, attend college or high
24 school intoxicated?

25 DISTRICT ATTORNEY VANCE: No, I do not.

2 COUNCIL MEMBER DEUTSCH: Now, does
3 marijuana use make you sleepy?

4 DISTRICT ATTORNEY VANCE: I think it may.

5 COUNCIL MEMBER DEUTSCH: It may. So, we
6 don't know how many students can possibly attend
7 college after having a few joints and just putting
8 their heads down in class and not paying attention
9 and not being able to focus.

10 DISTRICT ATTORNEY VANCE: and those are
11 numbers I don't think that have been studied, no
12 necessarily how many are today when it's illegal--

13 COUNCIL MEMBER DEUTSCH: [interposing]
14 Yeah.

15 DISTRICT ATTORNEY VANCE: using it in
16 school.

17 COUNCIL MEMBER DEUTSCH: I get it.
18 Okay, so just want to bring up these points and I
19 feel that we need to use our common sense and not to
20 go without incidence. Okay, it's already being done
21 and people are smoking marijuana, so let's just
22 legalize it. But we need to get to the core problems
23 of these issues, number one. As a city we need to
24 prove that we can enforce these things, number one.
25 And number two is that we have to come up with

3 solutions on people driving under the influence,
4 number one, and have a test that we're able to give
5 to someone who may be driving after marijuana use.

6 And secondly, we have to focus on our children that
7 may be using it, and we need to go-- we need to move
8 forward when it comes to the children's education
9 rather than going backwards and not saying that
10 people are doing it already, and let's just legalize
11 it.

12 DISTRICT ATTORNEY VANCE: I do believe
13 that the legislative process, this being considered
14 by the state legislature, the questions you ask are
15 important questions. They are questions that should
16 be identified around the issue of legalization and
17 may in some instances be pre-requisites before it is
18 legalized. So I think you raised good questions, but
19 I think until we-- but I do think that starting the
20 process and thinking about what New York State needs
21 to address around marijuana legalization should be
22 done now, because I do think this-- I do think with
23 all our surrounding states going to be legalizing
24 marijuana, we are-- we have to be aware that this is
25 happening and we have to figure out how to control it

2 responsibly and not just say-- close our eyes and say
3 there are too many unanswered questions.

4 COUNCIL MEMBER DEUTSCH: So, do you
5 believe that we should legalize it before getting the
6 answers to these good questions?

7 DISTRICT ATTORNEY VANCE: I think the
8 process may well force the answers to those good
9 questions to be delivered.

10 COUNCIL MEMBER DEUTSCH: Why do we need
11 to force those answers? Why can't we come up with
12 those answers?

13 DISTRICT ATTORNEY VANCE: I think we
14 should be-- I think we should be-- I think we should
15 right now. I couldn't agree more.

16 COUNCIL MEMBER DEUTSCH: Thank you.

17 CHAIRPERSON RICHARDS: Thank you. Thank
18 you District Attorney Vance for coming today. I just
19 wanted to ask one last question, and I think this was
20 the impetus of this specific hearing, and the reason
21 we're here today is obviously because it's in my
22 opinion and I'm sure for my colleagues who represent
23 communities who've been burdened with arrests and
24 summonses, I'm sure they could all relate to this.
25 What has been the impact of these arrests on

3 communities of color? And I just wanted to throw
4 that out because we know that it's legal to smoke
5 marijuana if you're white in New York City, and we
6 just have to be candid and straightforward and be
7 realistic about that. We know that if you're black
8 or brown and you live in communities that seem to be
9 overly policed that you're more likely to end up in
10 the system. what-- would you say there has been a
11 disproportionate impact of these arrests coming out
12 of communities of color, and could you speak to the
13 long-term--

14 DISTRICT ATTORNEY VANCE: [interposing]
15 Sure.

16 CHAIRPERSON RICHARDS: effects of these
17 arrests?

18 DISTRICT ATTORNEY VANCE: But to the
19 Council Member's previous question, I want to correct
20 myself. The age for use of marijuana would be 21,
21 not 18, and I apologize for the mis-statement. In
22 answer to your question, I as a white male District
23 Attorney sitting from a position of privilege, I
24 don't-- I couldn't-- I cannot speak to what is the
25 experience of a man or woman of color in any way that
is other than what I see. And what I see is that

3 there is a disproportionate criminal justice impact
4 on men and women of color in the enforcement of our
5 laws relating to marijuana, and it may be as high as
6 15 to one, as the New York Times study said. It may
7 be a low as three to one, but it is-- I think it--
8 the reality is it does impact communities of color
9 disproportionately. The consequences of that
10 disproportionate impact is not minimal. It affects--
11 it affects all eh things that we talked about
12 earlier. There is consequence around employment, a
13 consequence around housing. There may be
14 consequences around deportation. There may be
15 consequences around schooling or your family. Once
16 you're in the criminal justice system it is-- it's a
17 serious matter. There is no-- there really isn't a
18 non-serious case that's in criminal court because
19 there's-- someone is definitely being impacted. So I
20 think that for a long time we have, and I will say my
21 office has, and I acknowledge that we and I did,
22 we're prosecuting marijuana cases and it became
23 important to me overtime when I understood better the
24 data from our own office and then looked at what was
25 going around the country to determine whether or not
marijuana legalization was, I would say, a net

3 positive or a negative. It became important for me
4 to say the way we are doing it, I don't think is the
5 right way, since we have reduced our prosecution. As
6 I said, crime continues thanks to the great work of
7 the NYPD and the communities continues to go down.
8 So, I think it can be a win/win.

9 CHAIRPERSON RICHARDS: Thank you for
10 that. Thank you for your testimony today. Thank you
11 so much for coming out today. Thank you for-- you're
12 all done.

13 DISTRICT ATTORNEY VANCE: I'm done?
14 Thank you very much.

15 CHAIRPERSON RICHARDS: You're done.
16 Thank you.

17 DISTRICT ATTORNEY VANCE: Thank you so
18 much.

19 CHAIRPERSON RICHARDS: Alrighty. So,
20 we're going to call the next panel, and before we do
21 that we're going to go to statements from both
22 Council Member Menchaca first and then to Public
23 Advocate-elect, Jumaane Williams. Next panel coming
24 up is-- it's the Department of Probations. We've
25 also been joined by Council Members Menchaca, Cohen,

3 Rivera, Perkins, Kallos, and Miller. Oh, and also by
4 Chair Eugene.

5 COUNCIL MEMBER MENCHACA: Thank you,
6 Chairs, and felicidades to my brother Jumaane
7 Williams, Public Advocate-elect. Super excited.
8 First off, I want to acknowledge all the advocates
9 who-- and the community members in our communities
10 who have fought for decades to highlight our unfair
11 and racially discriminatory drug laws. This package
12 of introductions and resolutions and really this
13 larger movement to legalize marijuana here in the
14 state is the result of their efforts to highlight the
15 destructive impact New York's drug laws have had on
16 the poor communities of color in our neighborhoods
17 and to call for a more fair, effective and equitable
18 approach. Through these proposed reforms in the
19 state, we have the opportunity to repair that damage
20 that has been. These council intros and resolutions
21 provide a regulatory framework and a step in the
22 right direction, and with both houses in the state in
23 democratic control, now is the time for us to finally
24 get things done, but we need to make sure that we do
25 this right. We need to make sure that we do not
establish a regulatory framework that either repeats

3 our current drug policies, racialized impact on-- or
4 recreates it in others further harming our poor
5 communities of color yet again. Now, my Reso 742,
6 which I'm the sponsor of, calling for New York State
7 Legislature to pass leg; allowing localities to
8 establish any prohibition on public consumption of
9 marijuana and related civil penalties. I will say
10 that I recognize how complicated this proposed
11 resolution is. I'm even feeling uncomfortable about
12 the wording of this resolution, but with respect to
13 the civil penalties, an argument could be made for
14 the need to eliminate penalties completely. And with
15 respect to the public consumptions how this looks
16 with NYC is complicated and require a nuanced
17 approach. In New York City there are many situations
18 where people cannot consume privately. For example,
19 within NYCHA, under this policy, NYCHA residents who
20 are mostly New Yorkers of color, could be
21 disproportionately targeted resulting in yet another
22 a racially disparate policy. So this hearing is
23 important to process everything, and so we make sure
24 that we do it right. It is important for us to hear
25 and look forward after this hearing as we connect all
the dots here in the city and how we're going to work

3 together to make sure that we understand the nuance
4 and complicated nature of this work, but this is
5 moving forward and I'm so excited about that. I have
6 questions for the panel, but I want to say thank you
7 to the Chairs, and we move forward together. Thank
8 you.

9 CHAIRPERSON RICHARDS: Jumaane Williams?

10 COUNCIL MEMBER WILLIAMS: Thank you,
11 Chair Richards, Chair Lancman, Espinal, and Eugene,
12 Progressive Caucus and all my colleagues for holding
13 this hearing as well those testifying before us
14 today. Author and activist, James Baldwin wrote,
15 "Not everything that is faced can be changed, but
16 nothing can be changed until it's faced." So, let's
17 face it, even though we see marijuana or cannabis
18 legalized throughout the nation creating massive
19 wealth for businesses and governments. There are
20 communities completely ravaged by the war on drugs,
21 criminalization, broken windows policies, abuses of
22 broken windows policies and abuses of stop and
23 frisks, and all the systems built to lock up as many
24 black and brown people as possible. We're working to
25 undo the damage of system that is not broken, but I
believe is operating how it was designed to operate.

3 That's why I'm proud to sponsor legislation intro
4 1445 co-sponsored by Majority Leader Laurie Cumbo and
5 Council Member Carlina Rivera prohibiting New York
6 City employers from requiring a prospective employer
7 to submit to testing for the presence of any THC, the
8 active ingredient in marijuana. And such,
9 prospective employee system as a condition of
10 employment. Let's be clear, this is not giving
11 permission for anyone to come to work high. You
12 should not come to work high. This does not give you
13 permission to do that, and frankly, you should be
14 dismissed if you do. But just like alcohol, you
15 should not be tested for it if you are trying to get
16 a job. As well as a resolution, Reso. 641 calling on
17 the coronation of the New York State Division of
18 Criminal Justice Services, the New York State Office
19 of Court Administration and New York City District
20 Attorneys to expunge the records of all City
21 misdemeanor marijuana convictions, and the Resolution
22 Reso 286 calling on New York City NYCHA to add
23 unlawful possession of marijuana, criminal possession
24 of marijuana in the fourth and fifth degrees to a
25 list of overlooked offenses and stop considering
these offenses as grounds for termination of 10C.

3 According to Vox [sic] Reporting in 2018, as many as
4 70 percent of large employees utilize pre-employment
5 drug screens and encompassing as many as 40 percent
6 of jobs. Failed tests lead to a depletion in the
7 labor pool and the inability of many to advance their
8 careers. Cannabis accounts for about half of all
9 positive results in drug tests. These restrictions
10 are harmful to employers and employees alike. I've
11 said many times before that the best deterrent to a
12 crime is a job. With this piece of legislation we
13 create more access points for employment and housing,
14 not less. As we move towards legalization it makes
15 absolutely no sense that we're keeping people from
16 finding jobs or public housing or advancing their
17 careers because of marijuana usage. I've long
18 advocated for legalization and the expungement of
19 records, and these measures are in line with these
20 goals, in particular Intro. 45, like the Fair Chance
21 Act before it which banned the box. It's good for
22 both employers and perspective employees. It expands
23 a pool of applicants by preventing people from being
24 shut out. Ultimately, we ensure that the march
25 towards change in relation to marijuana policy leaves
no one behind, and in particular, the people of color

3 that have had their lives stripped away, families
4 forever impacted and dreams deferred as we
5 criminalize whole communities and devastated
6 generations of men and women for a substance that we
7 now welcome with open arms into our city as an
8 industry of the future. It is our responsibility to
9 pair justice and equity with economic and drug
10 policy. It is our obligation to safeguard against any
11 legalization without a focus on how every New Yorker
12 can be a part of the cannabis industry. This starts
13 with making sure every New Yorker has access to jobs,
14 housing and fair treatment in our justice system.
15 Again, I'm thankful to everyone here for holding this
16 hearing on all these bills today and putting the
17 spotlight on the marijuana industry which has the
18 potential for immense economic growth for the City.
19 We can bring that growth to everyone in this city. I
20 do want to point out, I think today in the Daily News
21 I saw it probably mentioned that there's an increase
22 in arrest and summonses of black and brown New
23 Yorkers for marijuana, this very topic. I also want
24 to make sure that I point out, if we're legalizing
25 it, we have to make sure-- unlike medical marijuana
that's legal now-- that everybody has access to it, a

3 criminal history or not, and I disagree fully that

4 this money should be used if we get it for the MTA.

5 I think no money should be used for anything until we

6 figure out how to use some of that funding to restore

7 the communities that have been most ravaged by this.

8 Lastly, I would just like to recommend the usage of

9 the word "underground market" to replace the word

10 "black market." Thank you so much.

11 CHAIRPERSON RICHARDS: Thank you.

12 Alright, we're going to go to Council Members Kallos,

13 then Miller for a statement, and then Chair Eugene.

14 COUNCIL MEMBER KALLOS: Thank you to the

15 mega hearing Chairs, Public Safety, Donovan Richards,

16 especially for your long history on this issue along

17 with Committee on Justice System, Council Member Rory

18 Lancman, thank you as well. Consumer Affairs Chair

19 Espinal and my Committee Chair, the honorable Mathieu

20 Eugene, thank you for your leadership. I'd like to

21 associate myself with the comments of our soon-to-be

22 Public Advocate, Public Advocate-elect, Council

23 Member Jumaane Williams regarding ensuring that the

24 funding from cannabis legalization go to restoring

25 low income communities color that have been

devastated by the war on drugs before we look for

3 other places to spend that money. It's obviously not
4 going to be enough to bail out the MTA, and I'm not
5 sure if it'll be enough to restore the communities
6 that have been devastated. I'm Council Member Ben
7 Kallos. You can tweet me @benkallos. I have the
8 privilege and honor of co-chairing the Progressive
9 Caucus with Council Member Diana Ayala. I want to
10 give a huge and special thank you to our Director
11 Zhara Nasir [sp?] whose been working on this issue
12 non-stop as well as our partners at the Drug Policy
13 Alliance, and a list of advocates that are too long
14 to name individually. I'm here to speak on
15 Resolution 738, co-sponsored by Alicka Ampry-Samuel,
16 calling on the New York State Legislature to pass and
17 the Governor to sign legislation prohibiting vertical
18 integration of promoting small business growth in the
19 recreational marijuana industry. Vertical
20 integration occurs when a single entity controls
21 ownership of each stage of the supply chain. This
22 scheme limits competition within an industry. New
23 York State has unique opportunity to establish
24 regulatory and licensing schemes providing New
25 Yorkers with a diverse socioeconomic backgrounds with
meaningful access to market participation in the

3 marijuana industry. Further, the state should cap
4 the number of licenses available to a single entity
5 in order to prevent oligopoly and promote small
6 business growth. The danger in not adopting a ban
7 on vertical integration can be clearly seen in Canada
8 where according to the Canadian Imperial Bank of
9 Commerce and other analysts, the largest licensed
10 marijuana producers already control the country's
11 regulated recreational market just a few months into
12 legalization. Canaccord Genuity, another Canadian
13 financial services analysis firm estimates Canopy
14 Growth and Aurora Cannabis, two of Canada's largest
15 recreational marijuana license producers who also
16 happen to be listed on NASDAQ and the New York Stock
17 Exchange, combined represents almost 50 percent of
18 the sales volume in the first three months of
19 legalization. The top four producers as reported by
20 Marijuana Business Daily combined control 70 percent
21 of the market. Domestically, states prohibiting or
22 limiting vertical integration include California,
23 Washington, and Illinois. These states enforce
24 various degrees of separation between the production
25 and retail stages of the marijuana industry. This
regulation structures closely models-- the regulatory

3 structure proposed by Resolution 738 closely models
4 traditional alcohol distribution models and practice.
5 Marijuana business currently operating in these
6 states are permitted to integrate vertically in very
7 limited ways. For example, both Washington and
8 California allow for some licenses to hold two
9 license types, such as manufacturing or producer and
10 processor, processor licenses, but those licensees
11 may not operate or have any direct or indirect
12 financial interest in retail license whatsoever.

13 Additionally, California announced its intent to move
14 forward to more blanket prohibition of vertical
15 integration practices once the market has matured. In
16 its Medical Marijuana Regulation and Safety Act of
17 2015, California declared that all vertical
18 integration would be prohibited after January 1st,
19 2026, which is quite a long ways off. Not to be
20 outdone, the New York Times reported in 2014 that the
21 states should keep the production and retail sales of
22 marijuana separate to ensure that the industry did
23 not evolve into a group of politically and
24 financially powerful vertically integrated
25 businesses. The Times further suggests that the
future states should follow Washington and now

3 California's lead in separating retail and
4 cultivation businesses. We do not need a small
5 number of companies to control the market here in New
6 York City. As the state works to legalize
7 recreational marijuana, it must acknowledge its past
8 as the epicenter of the racialized drug war. New
9 York City must develop programs that empower
10 residents of low income communities of color that
11 have been devastated, especially by creating and
12 expanding opportunities for small business loans,
13 robust job training, ongoing technical support, and
14 benefits for potential entrepreneurs seeking
15 employment in the cannabis industry with strong
16 protections to not exclude those with prior
17 convictions. The bridge [sic] against vertical
18 integration will go a long way to create and expand
19 these opportunities for these communities. I'd like
20 to once again thank the Chairs, my co-sponsor Council
21 Member Ampry-Samuels, as well as the Progressive
22 Caucus for their work and support in our fight to
23 guarantee fairness and equity in the legalization of
24 recreational marijuana. Sorry that took so long.
25 Thank you.

3 CHAIRPERSON RICHARDS: Statement was
4 longer than mine, Ben Kallos. Alrighty, we're going
5 to go to Council Member Miller. Followed by Miller
6 we'll go to Chair Eugene.

7 COUNCIL MEMBER MILLER: Thank you, Chair.
8 Thank you to my Chairs and colleagues for putting
9 together this very, very important hearing this
10 morning, something that we've been talking about for
11 the past three years. In particular, represented a
12 community that certainly has been more than
13 disproportionately impacted. So, I represent the
14 27th Council District and I am also the Chair, the
15 Co-Chair of the Black, Latino, and Asian Caucus
16 representing nearly 4.2 million New Yorkers of color.
17 I'm here to speak on two resolutions today that are
18 being heard today, 743 which calls for the Federal
19 Government to enact Marijuana Justice Act of 2017,
20 sponsored by New Jersey Senator Corey Booker, which
21 would end the federal prohibition of marijuana
22 incentives, similar changes to the state law;
23 automatically expunging federal marijuana use and
24 possession crimes and enable those incarcerated in
25 federal prison to petition courts for resentencing.
Reso 744 calls on the state to enact a bill that we

3 reinvest tax revenue generated from legal
4 recreational marijuana sales into afflicted
5 communities of color and encourages their
6 participation on those markets. Of the many public
7 policies issued by the state legislator [sic], the
8 Governors priority this year. The legalization of
9 marijuana would arguably be right at the top of those
10 impacting communities of color, but not all cities
11 and communities of color are alike. My community,
12 diverse community, of southeast Queens direct
13 district has one of the highest shares of owner-
14 occupied homes in the City of New York, the largest
15 continued of public workers yet. For over a decade
16 they have been the most over-policed when it comes to
17 marijuana. For the past 10 years, nearly 13 percent
18 of all the City's marijuana summonses were made in
19 the 105th precinct. The facts are clear, whether they
20 be arrested, arrests or summonses, enforcement of the
21 state's prohibition of marijuana perpetuates racial
22 discrimination towards New Yorkers of color, and
23 communities of color suffer the greatest under these
24 biases' oppressive regulations. Therefore, it is
25 only appropriate that the adult recreational
marijuana be legalized and regulated by the state,

3 and local governments be empowered to address the
4 individual needs of populations which they serve. In
5 order to succeed, we need the Federal Government to
6 take the boot of the racist war on drugs off the
7 necks and backs of our folk. In order to succeed, we
8 need the state to automatically expunge, not seal,
9 criminal records for the petty marijuana offenses.
10 In order to succeed, we also need the state to
11 faithfully commit to social equity programs for both
12 medical and recreation cannabis that will reinvest
13 from industry agreed [sic] from community, these
14 aggrieved [sic] communities of color for programs
15 which include restorative justice for formerly
16 incarcerated persons seeking re-entry, jail
17 diversion, workforce development, community-based
18 education substance abuse, mental health, promote
19 MWBE skilled labor and entrepreneur opportunities for
20 communities of color, micro licenses for small-scale
21 production, sale and delivery, creation of small
22 business incubators, programs, and offering grants
23 and zero-interest loans. Ban vertical integration.
24 The state is currently in jeopardy of overlooking
25 these recommendations and appears intent to pass a
measure on its arbitrary timeline that would not

3 correct these errors of criminalization,
4 criminalizing marijuana-- would not correct the
5 errors enabling the creation of highly concentrated
6 and corporate-owned medical marijuana market. It
7 would open the doors of our state big marijuana and
8 would centralize regulation of the industry to
9 unaccountable executives of the state. And let me
10 just say that this is something that we've seen
11 before. There was a time when the numbers industry
12 employed thousands of folk of color here in the City
13 of New York and throughout. That industry was co-
14 opted by the state in the name of education.
15 Education remains the same as it pertains to
16 communities of color, and that industry is now gone.
17 We don't want to see the same thing occur when it
18 comes to the marijuana industry, but certainly-- let
19 me just-- I'm going to leave with this. District
20 Attorney Vance talked about the impact on those
21 communities of color and communities that these
22 disproportionate arrests have had, and so I would
23 leave you with that in order for us to move forward,
24 we have to do-- first make those individuals whole.
25 We have to make those families whole, and we have to
make those communities whole, because they have all

3 been impacted by that, and so I just want to say that
4 in this community that I represent, that the Chair
5 represents here, community of home ownership, it
6 stops right there. That next generation, because of
7 the burden that has been put on them because of these
8 low-level arrests and summonses, they cannot find a
9 job, they cannot attain even financial aid for
10 education. They can't get a loan, and so they cannot
11 be that next generation of home-owners. So the
12 wealth is gone and every opportunity has been gone.
13 This is an issue that has to be addressed, and I
14 think these resolutions and this package that has
15 been put forth today, it is thoughtful, it is
16 intelligent, and it is necessary, and I thank the
17 Chair on behalf of the Black, Latino, Asian Caucus,
18 Progressive Caucus. I look forward to passage of
19 this legislation. Thank you.

20 CHAIRPERSON RICHARDS: Thank you for your
21 longstanding leadership on this as well. We're going
22 to go to Council Member Eugene, Chair Eugene.

23 CHAIRPERSON EUGENE: Thank you very much,
24 Chair Donovan. Thank you. Good morning. My name is
25 Mathieu Eugene, and I'm the Chair of the Civil and
Human Rights Committee. Today, our committee in

3 conjunction with Committee on Public Safety, Justice
4 System, and Committee on Consumer Affairs and
5 Business Licensing is hearing feedback on
6 Introductory Bill Number 1145 in relation to
7 forbidding drug testing for [inaudible] hiring [sic]
8 procedures. Since last year's state election it has
9 become clear that the legalizing recreational
10 marijuana is a key agenda I think for both Governor
11 Cuomo and the State Legislature. However, regardless
12 of whether this happen in the near future or years
13 down the track, the legalization of marijuana in many
14 states around the country is already leading [sic]
15 having an impact in New York City. Medical and
16 recreational marijuana is legal in many part of the
17 country, and so it is extremely likely that New
18 Yorkers will capitalize on this availability which
19 they can legally do in such places. However, unlike
20 alcohol or other illicit drug, the [inaudible] in
21 marijuana can linger in the system for weeks. This
22 will surely leave New Yorkers vulnerable to failing
23 work-related drug tests, even if they were legally
24 consuming marijuana weeks before taking the test. As
25 we have heard today, the prior criminalization of
marijuana have had a marked and highly negative

3 impact on our communities of color. They have
4 continued to feel the collateral consequences of
5 different enforcement, and so any statutes passed to
6 legalize marijuana because New York should also focus
7 in remedying this injustice. Whether the state does
8 legalize recreational marijuana it is vital that New
9 York City workers are not unfairly punished for their
10 legal off-duty use of marijuana. Therefore,
11 introductory bill number 1445 will prohibit an
12 employer or their agent from requiring a prospective
13 employee to undergo a drug test for marijuana as a
14 condition of their employment. I'd like to thank all
15 the sponsors of the bills that we are hearing on
16 today, and I would like also to thank the member of
17 the committee who worked very diligently to make this
18 hearing possible. I'd like to thank the committee
19 staff also, Ebony Auja [sp?], Counsel of the
20 Committee, Leah [sic] [inaudible], Policy Analyst,
21 and Evan Sing [sp?], Financial Analyst, and my staff
22 David Stries [sp?]. Now, I would like to turn it
23 over to Chair Donovan before I start, you know,
24 asking some questions. I think that the Commissioner
25 is going to make his presentation also. Chair
Donovan?

3 CHAIRPERSON RICHARDS: Thank you, Chair
4 Eugene. Alrighty, we're going to go to the first
5 panel, Jorge Camacho, MOCJ, Ray Cameron [sp?],
6 Department of Probations, and we'll hear first from
7 Dana Sussman from CCHR.

8 DEPUTY COMMISSIONER SUSSMAN: Hi, good
9 afternoon, and I just want to say thank you to the
10 Chair, the Committee Members and my colleagues here
11 at the table for adjusting the schedule today to
12 accommodate my pumping schedule. I will need to run
13 after I testify, but I can-- I'm happy to return and
14 answer questions. So, good afternoon, Chairs
15 Richards, Lancman, Eugene, and Espinal and committee
16 members. I'm Dana Sussman, Deputy Commissioner for
17 Intergovernmental Affairs and Policy at the
18 Commission on Human Rights. I am pleased to be here
19 to testify on Intro. 1445, a bill that would prohibit
20 New York City employers, both public and private,
21 from requiring a prospective employee to submit to
22 testing for the presence of any THC, the active
23 ingredient in marijuana, in an prospective employee's
24 system as a condition of employment under the City
25 Human Rights Law. Because the Commission has not had
the opportunity to appear before the Committee on the

3 Justice System before, I'll briefly describe the work
4 of our agency. By statute, the Commission has two
5 main functions. The first is as a civil law
6 enforcement agency, enforcing the City's anti-
7 discrimination law, called the New York City Human
8 Rights Law, one of the most comprehensive anti-
9 discrimination laws and anti-harassment laws in the
10 country. The Commission's Law Enforcement Bureau or
11 LEB investigates complaints of discrimination from
12 the public, initiates its own investigations on
13 behalf of the City, and utilizes its in-house testing
14 program to help identify entities breaking the law.
15 The law includes currently 24 categories of
16 protection, most of which protect against
17 discrimination and harassment in practically all
18 areas of City living: employment, housing, public
19 accommodations, on the streets, in transit, and other
20 spaces. Allegations of discrimination come to the
21 Commission's Law Enforcement Bureau for investigation
22 in several ways. Members of the public may file a
23 complaint with the LEB about their own experience. A
24 lawyer may file a complaint on a person's behalf.
25 Service providers, community organizations, faith
communities, elected officials, or any other

3 individuals may bring specific incidents or potential
4 patterns of discrimination to LEB's attention, and
5 LEB can initiate its own investigation. The
6 Commission can obtain money damages for the
7 complainant and require that the wrongdoer change
8 policy, undergo training, complete community service,
9 among other forms of affirmative relief, and pay
10 civil penalties to the City of New York. The second
11 main function of the Commission is to perform
12 community outreach and provide education on the City
13 Human Rights Law and human rights-related issues,
14 which is why the Commission has a Community Relations
15 Bureau offices in all five boroughs. The Community
16 Relations Bureau provides free workshops on
17 individuals' rights and businesses, employers' and
18 housing providers' responsibilities and obligations
19 under the City Human Rights Law and creates engaging
20 programming on human rights and civil rights-related
21 issues. The Office of the Chairperson focuses on
22 policy, legislation, rulemaking, legal enforcement
23 guidance, and oversees major Commission projects. In
24 addition, the Office of the Chair, serves as the
25 adjudicatory body for the Commission, hearing appeals
from closed Law Enforcement Bureau matters and

3 issuing final Decisions and Orders on cases that have
4 been litigated through the OATH process. The
5 Commission is supportive of the goals of Intro. 1445
6 and we look forward to working with the City Council
7 and our partners in the Administration on this bill.
8 Thank you for convening this hearing today on this
9 important legislation and the other piece of
10 legislation, resolutions, and I look forward to your
11 questions. And I'm also available to answer
12 questions now if folks have them and can come back
13 and return later as well.

14 CHAIRPERSON RICHARDS: Sure. Thank you
15 so much. We'll go to Chair Eugene for questions.

16 CHAIRPERSON EUGENE: Thank you very much,
17 Chair Donovan. Commissioner, we know that you got to
18 step out. Does CCHR hear many complaint or inquiries
19 from workers about being tested for marijuana, and
20 can you give us some detail about, you know, how you
21 handle those requests, you know, or complaints?

22 DEPUTY COMMISSIONER SUSSMAN: I'm not
23 aware of the Commission receiving inquiries about
24 claims related to drug testing. I do think that it
25 could come up in different contexts. Certainly, the
drug testing as a condition of employment might

3 disparately impact people who are self-medicating,
4 who might have a whole host of different
5 disabilities. Disability is defined quite broadly
6 under the City Human Rights Law, so I could see this
7 being a potential, you know, disparate impact on
8 people or communities with people with disabilities.
9 So, I don't-- and because this is not a current
10 protected category explicitly or a prohibition in the
11 City Human Rights Law, if we were to get inquiries
12 about drug testing as a condition of employment
13 without more, we-- there's not all that much we can
14 currently do. Again, we can possibly look at broad
15 policies that might have a disparate impact on
16 different communities. That's a-- one way of getting
17 at policies that harm certain communities more than
18 others, but again, right now because it's not an
19 explicit prohibition, we can't tackle those policies
20 right now.

21 CHAIRPERSON EUGENE: Thank you very much,
22 Commissioner, but this is a very important topic
23 right now in New York City and New York State. More
24 than anything we have to be proactive. So, even you
25 are not aware of employee's complaint, but do you
have anything in place? Are you-- do you start to

3 think about how you're going to tackle or address
4 those issues? I don't think that we should wait for
5 the problem to come before we figure out what to do.
6 Is there anything in place, any strategy, any
7 planning to try to tackle our address those issues
8 when they will come to the Commission?

8 DEPUTY COMMISSIONER SUSSMAN: Sure. So,
9 I think the closest analog to this might be our
10 protections against discrimination on the basis of
11 arrest or conviction record. So, obviously not the
12 same thing that we're talking about today, but these
13 are-- this is a law that was passed in 2015, and we
14 have some experience in enforcing now. The Fair
15 Chance Act is one of the broadest and most protective
16 in the country with respect to protections against
17 arrest or conviction history discrimination, and it
18 is a major focus of the Commission. We-- it's
19 routinely one of the highest-- represents the highest
20 proportion of our Commission initiated work, our
21 testing work, and also our complaint-driven cases.
22 So, we have an infrastructure built for looking at
23 hiring practices, the Fair Chance Act, credit history
24 discrimination, salary history discrimination, and if
25 we were to add prohibitions against pre-employment

3 drug testing, that would likely fall within some of
4 the affirmative work that we're doing on hiring
5 practices. Right now we will look at when we-- when
6 we investigate for a test on hiring practices, we
7 test on all three of those areas that I just
8 described: Fair Chance, credit and salary history in
9 most circumstances. And so we would likely-- I can
10 imagine bringing in the pre-employment drug testing
11 policies a swell and really open up employers'
12 practices and policies around how they hire their
13 employees and include this in that bucket of
14 potential violations.

15 CHAIRPERSON EUGENE: Thank you very much.
16 Can you explain how this issue connects with CCHR,
17 protection for those previously convicted of criminal
18 charges?

19 DEPUTY COMMISSIONER SUSSMAN: So again, I
20 want to make sure that we don't conflate these two
21 issues. you know, again, there is a recognition and
22 that's been spoken a lot this morning, today, around
23 you know, the disparate impact that, you know,
24 criminalization of marijuana has had on communities
25 of color, and certainly when people are looking to
enter the workforce there has been for many, many

2 years sort of the check the box if you've been
3 convicted of a crime, and that has eliminated people
4 from the applicant pool at the very early stage of
5 the hiring process. The Fair Chance Act, again, one
6 of the broadest ban the box protections in the
7 country has essentially banned that box, taken that
8 check, that box you have to check if you have a
9 criminal history off the application. You know,
10 you're not allowed to advertise and say that, you
11 know, no criminal history or no felonies need apply,
12 and that the criminal history or conviction history
13 can only come into play at the very end of the
14 application process. You decided as the employer I
15 want to hire this person. I extend the conditional
16 offer of employment. The last thing that the employer
17 may do at that point is run the criminal history
18 check, and then if they decide to rescind that offer,
19 they have to then go through a Fair Chance Act
20 analysis around whether the criminal history relates
21 to the job duties, if there's a risk to public
22 safety, and we have a model form that employers can
23 use. We've issued final rules and regulations on
24 this specific process so that again people are
25 getting the opportunity to enter the workforce

3 without being sort of left out of that applicant pool
4 at the front end. So, this would protect people who
5 have previously been convicted of marijuana-related
6 charges, certainly, and many others as well. As we
7 think about eliminating this pre-employment testing,
8 again, we're not talking about criminality here at
9 all, we're simply talking about recreational use or
10 medical use if you have a medical condition and that
11 certainly is a question of not eliminating people
12 from the applicant pool or from potential employment
13 because of what they do outside of the work place.
14 As Council Member Williams had said, this is not
15 about a question about showing up to work having
16 consumed drugs or not, that would be-- people can
17 regulate their employee's conduct within the work
18 place, but this is really about pre-employment
19 behavior and conditions, and so the Commission and
20 the Administration are supportive of the goals of the
21 bill.

21 CHAIRPERSON EUGENE: Thank you very much.

22 We are talking about prohibition of drug tests before
23 employment. This is huge. This is huge. But do you
24 envision any exemption for certain companies or
25 industries?

2 DEPUTY COMMISSIONER SUSSMAN: So,
3 certainly, one of the things that we need to explore
4 further both with our-- with the administ-- you know,
5 our partners in the Administration and with the
6 Council is the exemption that are currently listed in
7 the bill. there are many, and so I think we just
8 want to be thoughtful about those exemptions and sort
9 of what impact they might have with the intent of
10 them are, and so I think that is probably where most
11 of work remains to, you know, in partnership with the
12 Council and with the Administration to think through
13 those exemptions.

14 CHAIRPERSON EUGENE: I think during your
15 testimony you were talking about working with the
16 community, informing people or outreach, but can you
17 tell us what do you have in place to reach out with
18 people, especially members of the immigrant
19 community, and especially those who are not
20 proficient in English, and you know that immigrant
21 people when they come to this country that they love,
22 they're working here, raising children, and
23 supporting their families, but they don't know how to
24 navigate through this system. Some of the time they
25 are-- benefit for them, their information that they

3 should use to better their life, but they don't
4 capitalize on them, they don't use them because of
5 the lack of information because they are not
6 connected. Can you tell us, you know, what you have
7 in place to make sure that everybody in New York
8 City, immigrant, people who speak English or not,
9 people who don't have time [sic], hardworking people
10 who don't have time to, you know, be part of the
11 workshop or seminars that you are organizing. Can
12 you tell me what you have in place to make sure that
13 them also that know about the benefit of the services
14 or what they have to do in order to address, you
15 know, the issues of testing before employment and
16 other issues that are related to this one?

16 DEPUTY COMMISSIONER SUSSMAN: So, I agree
17 this is a challenge that I think many of us face
18 given the sheer size of our city. We have across the
19 agency really prioritized the hiring and retention of
20 staff that work within communities that have not
21 previously had deep relationships with government.
22 We speak 35 languages across our agency up from
23 approximately six when Commissioner Malalis started
24 four years ago. We have hired staff specifically and
25 created roles so that staff are focused on particular

2 communities. We have a lead advisor for African
3 communities. We have a lead advisor for Muslim,
4 Arab, South Asian communities, a lead liaison to
5 Jewish communities, and others so that people have a
6 trusted voice and person that they can go to with--
7 when there are concerns raised in communities. Our
8 staff are out in houses of worship all over the City,
9 nearly every week speaking about the protections
10 under the City Human Rights Law and other, you know,
11 not just houses of worship but community-based
12 organizations, service providers, sister agencies.
13 We convene forums where we bring our sister agencies
14 together and provide resources to communities across
15 the City. So we try the best that we can especially
16 by bringing on staff that have worked for many years
17 in the communities that we seek to serve. So, they
18 bring that credibility when they come on and work at
19 the Commission from the work that they've done
20 previously, and again, we have the linguistic and the
21 cultural competency to build trust in communities and
22 make sure that they know what resources are available
23 to them. I think equally as important is our
24 outreach to businesses and the business community so
25 that they know, you know, if this law were to pass

3 that they can no longer, you know, engage in drug
4 testing and pre-- for pre-- as a condition of
5 employment in most circumstances. And again, we have
6 tried to build relationship with the local bid, the
7 Chambers of Commerce with SBS and DCA, other sort of
8 our business facing agencies. So, we work within the
9 resources that we have and we build those community
10 connections and there's always more to do, but we
11 think we're doing a lot with the staff that we've
12 brought on and the growth of our agencies. So, but
13 again continue to be open to working with Council
14 Members, meeting with their constituents, meeting in
15 their district offices to build more of those
16 connections.

16 CHAIRPERSON EUGENE: Thank you very much,
17 Commissioner. Before I ask you the last question, I
18 want to acknowledge that we've been joined by Council
19 Member Dromm. Do you have any other suggestion for
20 other ways to approach this issue in order to better
21 protect the workers, any other suggestion, any other
22 thing that you believe that we should do?

23 DEPUTY COMMISSIONER SUSSMAN: I can't--
24 on the spot I don't have any other additional policy
25 recommendations, but I'm happy to-- we're always

2 thinking about new proposals, and I'm happy to, you
3 know, connect with your staff and think through some
4 other, you know, policy initiatives or proposals that
5 we might think about through legislation or
6 otherwise.

7 CHAIRPERSON EUGENE: Thank you very much,
8 Commissioner. Now, let me turn it over to Chair
9 Donovan. Thank you, Chair Donovan.

10 CHAIRPERSON RICHARDS: Thank you. I
11 think you acknowledged Council Member Dromm. Just
12 one question, so have there been any cases of-- or
13 let me reimagine that question for a second. Have
14 there-- have you received any complaints about
15 businesses who practice this? If so, how many
16 complaints have you received as a Commissioner,
17 received on pre-testing?

18 DEPUTY COMMISSIONER SUSSMAN: Complaints--

19 CHAIRPERSON RICHARDS: [interposing] On
20 pretesting.

21 DEPUTY COMMISSIONER SUSSMAN: Yeah, so,
22 you know, I don't have that information with me. I'm
23 happy to check back. Again, because it's not a
24 protected category as of yet or a prohibition as of
25 yet, I just have to check with our staff to see how

2 we track those kinds of things, if we have the
3 capacity to, if it's just not even something that we
4 could refer to another agency, because it's
5 completely lawful. So, I'll have to get back to you
6 on that. I don't-- I'm not aware of those kinds of
7 things coming to us on a regular basis, but I don't
8 think that mean that it's not potentially a
9 problematic practice or that there isn't work for us
10 to do if we were to pass-- if the legislature were to
11 pass this prohibition.

12 CHAIRPERSON RICHARDS: Great, thank you so
13 much. Alright, we'll now hear from Ray Cameron or--

14 ASSOCIATE COMMISSIONER CAMERON: Good
15 afternoon Chairs Richards, Lancman and Eugene and
16 Espinal and the members of the Public Safety, Justice
17 System, Civil and Human Rights, and Consumer Affairs
18 and Business Licensing Committees. I am Ramon D.
19 Cameron, Associate Commissioner for the New York City
20 Department of Probation. Today, I will briefly
21 testify on Intro. 1427 by Council Member Richards in
22 regards to marijuana testing and conducted by the
23 Department of Probation. I want to begin by setting
24 the stage regarding Probation's unique and important
25 role in the Community Safety Continuum. This is

3 especially important as of late as there has been a
4 lot of focus on community corrections and often
5 incorrectly conflates probation and parole.

6 Probation is preventive. It is an alternative to
7 incarceration where a judge has determined that an
8 individuals who has been convicted of a crime may
9 safely remain in a community under our supervisor.

10 Parole comes into play after incarceration where a
11 person is released from prison to complete the

12 remainder of their sentence in the community under
13 the jurisdiction of the state. The job of probation

14 is to safety supervise the more than 27,000 care of

15 people in our care over the course of a year in their

16 communities while helping them change their behavior

17 and access opportunities, thereby preventing

18 incarceration. To be comprehensive about achieving

19 positive criminal justice outcomes, we need to

20 leverage both risk management, which is the

21 supervision or monitoring intensity, and risk

22 reduction which is the supportive elements of what

23 gets people to change. That combination creates the

24 individual accountability and behavior change needed

25 for someone to get out and stay out of the justice

system. That is a critical role of this Department,

3 keeping youth and adults out of prison or jail,
4 juveniles out of placement and more people in their
5 communities through that balance of structure and
6 support. Having just recently joined the New York
7 City Department of Probation, I am extremely honored
8 and proud to be here today. Prior to DOP I founded
9 and ran a Queens-based nonprofit called Project Hope:
10 The New Direction, and have dedicated my entire
11 career to helping young people in poverty develop
12 their strengths, skills and talents, and I have seen
13 firsthand how the New York City Probations unlike any
14 other jurisdiction in the country due to its forward
15 thinking approach to community corrections and our
16 development of new evidence-based generating programs
17 and individualized approaches such as Arches,
18 transformative mentoring, advocate intervene and
19 mentor, also known as AIM, and our NEON Arts, just to
20 name a few. This work has been recently the subject
21 of several rigorous independent evaluations showing
22 not only unprecedented criminal justice outcomes but
23 also their incredible impact towards strengthening
24 communities and changing lives across the five
25 boroughs of our city for both people on probation and
the larger communities in which they reside.

3 Commissioner Ana Bermudez and the entire leadership
4 at DOP are deeply committed to an evidence-based,
5 informed, one-size-fit-one approach to probation,
6 which as the court necessitates an individualized
7 method of case planning underpaying [sic] by a robust
8 continuum of programming and other supports. Our
9 current drug testing practices reflect this
10 commitment and are already consistent with this
11 legislation. Therefore, the New York City Department
12 of Probation supports Intro. 1427 as proposed by
13 Council Member Richards. Thank you again to the
14 Speaker, Chairs, and members of the City Council for
15 convening today's hearing on this important issue.
16 Thank you.

17 JORGE CAMACHO: Good afternoon, Chairs
18 Richards, Eugene, and committee members. My name is
19 Jorge Camacho, and I'm the Senior Associate Counsel
20 for the Mayor's Office of Criminal Justice and I
21 served as the Chair of the Subcommittee on Law
22 Enforcement and Social Justice for the Mayor's
23 Taskforce on Cannabis Legalization. The Mayor's
24 Office of Criminal Justice advises the Mayor on
25 public safety strategy and together with partners
inside and outside government develops and implements

3 policies that promote safety and fairness and that
4 reduce unnecessary incarceration. Over the past five
5 years the Administration has remained committed to
6 lightening the touch of cannabis enforcement through
7 policy changes that have led to cannabis enforcement
8 decline as crime in New York City has also declined.
9 Beginning in November of 2014, the NYPD changed its
10 policy to issue criminal summonses instead of
11 arresting individuals for possession of cannabis in
12 open view. That policy led to a 30 percent decline--
13 37 percent decline in cannabis arrests from 2014 to
14 2015. Then, in September 2018, the NYPD began
15 issuing criminal summonses instead of making arrests
16 for cannabis consumption in public. Since this
17 change in policy arrests are down 92 percent, and
18 summonses are down 31 percent. Unfortunately,
19 marginalized communities have continued to bear the
20 brunt of enforcement and criminalization of cannabis.
21 In 2013, approximately 86 percent of marijuana
22 possession arrests were black or Latino people. That
23 number in 2018 was 89 percent. This disparity has
24 persisted despite declines in arrests and despite
25 evidence that rates of marijuana use are roughly the
same for white and black people. More work needs to

3 be done and the legalization of cannabis provides an
4 opportunity to redress impacts of past
5 criminalization and to drive economic opportunity to
6 historically marginalized communities. Mayor de
7 Blasio convened the Mayor's Taskforce on Cannabis
8 Legalization in July 2018 to identify the goals and
9 challenges that should guide the City's preparation
10 for potential legalization. This taskforce was
11 coordinated by the Mayor's Office of Criminal Justice
12 and included representatives of many relevant city
13 agencies. The taskforce was divided into five
14 subcommittees focused on licensing and land use,
15 economic opportunity, taxation and finance, law
16 enforcement and social justice, and public health,
17 social services and education, all of which met
18 regularly to develop the recommendations reflected in
19 a report issued by the taskforce. Members consulted
20 with subject matter experts and community groups and
21 studied jurisdictions that have legalized and
22 regulated the adult use of cannabis. In December, the
23 taskforce published its report titled, "A Fair
24 Approach to Marijuana: Recommendations from the
25 Mayor's Taskforce on Cannabis Legalization" which
called for a strong public health focus regulatory

3 framework and for the empowerment of local government
4 to prevent corporate greed, foster small businesses,
5 and meet the demands of diverse New York City
6 communities. The report also places great emphasis
7 on the need to ensure that any cannabis industry in
8 New York redresses impacts of past criminalization
9 and drives economic opportunity to those marginalized
10 communities. Of course, much of the future of
11 cannabis legalization and the way it takes shape in
12 New York lies in the hands of the state and in the
13 legislation currently under debate in Albany. We as
14 a city attempted through our taskforce to chart a
15 vision for how state law and regulation can help
16 ensure that our city can best protect its communities
17 and promote its goals. We summarize our priorities
18 and goals below and refer the Council to our full
19 report for greater detail and information. Much
20 hangs in the balance, and we hope the state
21 legislation will allow the City to pursue these
22 priorities. Indeed, the taskforce's head, MOCJ
23 General Counsel Susan Summer, could not be here today
24 because she is attending the New York Conference of
25 Mayors Summit on Cannabis in Albany today to help
advance the City's perspective. The taskforce

3 studied other jurisdictions to understand the
4 challenges of cannabis legalization and to gain
5 insight into best practices. In states that have
6 sought to legalize cannabis, racial disparities and
7 arrests are still prevalent. We believe that
8 legalization must allow the government to protect New
9 Yorkers from the adverse impacts of cannabis
10 legalization through robust regulations aimed at
11 ensuring the safety and health of people in our city,
12 particularly youth. At the same time, the new
13 enforcement regime must be carefully tailored to
14 avoid inequitably criminalizing the same communities
15 that have already borne the brunt of cannabis
16 criminalization and mass incarceration. Thus, it is
17 critical that legalization in New York avoid creating
18 new punitive structures and imposes civil rather than
19 criminal penalties to violations of cannabis
20 regulations to the greatest extent possible,
21 consistent with public safety. The City believes
22 that the purchase and possession of cannabis should
23 be limited to adults age 21 and over, while public
24 consumption should be prohibited unless at locally
25 regulated consumption sites. Balancing public health
and safety and impeding the illicit market while

3 easing the disproportion of burdens of
4 criminalization should guide legislative solutions.
5 The taskforce also recommended the automatic
6 expungement of criminal records for past cannabis
7 offenses that would be legalized subject to notice
8 and opportunity by District Attorneys' offices to
9 raise objections in specific cases. It is imperative
10 we create an easy pathway for citizens to end the
11 collateral consequences from past convictions for
12 cannabis-related conduct that has later been
13 legalized. Related recommendations include limiting
14 cannabis testing for job applicants with exceptions
15 for safety-sensitive jobs, treating cannabis
16 consistently with alcohol in child custody
17 determinations, an eliminating criminal penalties for
18 minors. Education of the public and of key
19 professionals such as educators and healthcare
20 workers is critical to ensuring safe cannabis use.
21 Some of the resources that adult use legalization can
22 produce should be directed to those area. Other
23 states have experimented with a range of approaches
24 to achieve the most effective delivery of harm
25 reduction education, and New York City would build on
those experiments to craft comprehensive and

3 persuasive campaigns. There is no one-size-fits-all
4 blueprint for implementing cannabis legalization in
5 every New York community. Legislation should strike
6 the right balance between state regulation
7 establishing uniformed statewide standards and
8 resources and local control to chart the course for
9 the diverse communities throughout New York State
10 that will be directly impacted by legalization.
11 Localities should be given broad discretion under
12 state law to determine how to advance their
13 communities' public health, safety, and equity goals.
14 For example, the taskforce calls for balancing state
15 regulatory structures with local authority to permit
16 licensed consumption sites, determine business
17 density restrictions to avoid over-concentration and
18 to allow localities to permit or restrict home
19 cultivation. Also important will be sufficient time
20 before New York State Law takes effect for careful
21 planning and coordination by the state and the city
22 to ensure a sound foundation for the advent of
23 legalized cannabis. New York City supports a
24 regulatory framework for cannabis legalization that
25 effectively protects the health and safety of all New
Yorkers. Development of a regulatory structure and

2 obligation of specific regulations should be a
3 measured process, allowing time for consultation and
4 coordination between states and localities.

5 Critically, legislation must promote the diversity of
6 participants in the cannabis industry, assuring that
7 communities disproportionately affected by past
8 criminalization have an equitable stake. The report
9 makes recommendations to prevent big business from
10 market domination through a licensing system that
11 would create opportunities for small businesses, but
12 the state legislation must give the City leeway it
13 needs to promote its goals. New Yorkers deserve an
14 opportunity to build their own local cannabis
15 industry lead by small businesses organized to
16 benefit our whole diverse community. The new
17 industry should be constructed to promote economic
18 empowerment of those disproportionately harmed by
19 criminalization, not profits for those seeking to
20 benefit from legalization. This will require
21 preferential licensing opportunities as well as
22 legislative and programmatic solutions to the
23 challenges equity applicants will face, including
24 lack of capital, information asymmetry, and the
25 demand of commercial competition with large

2 established businesses. This should also include
3 mandated job opportunities for the most impacted by
4 past criminalization. The City would seek to
5 allocate state funding to localities to provide
6 technical assistance and access to capital through
7 locally administered equity initiatives. We
8 encourage the Council to review our full report which
9 is available online. Additionally, we have made
10 copies available here today. It's important that the
11 City speaks as one voice to advance our goals in
12 Albany. Current proposals fall short on providing
13 for local control and we have serious concerns about
14 some of the criminal provisions. We hope that with
15 the Council's support we can work with our state
16 partners to advance our shared goals to see equity
17 and opportunity for all New Yorkers. Thank you for
18 your time and advocacy on this very important issue.

19 CHAIRPERSON RICHARDS: Thank you so much,
20 both of your testimony. I'm going to start with--
21 oh, sorry, I want to go to Council Member Levin, and
22 we're joined by Council Member Lander. We're going
23 to go to Levin for a statement first and then I'm
24 going to come back around for questions.

2 COUNCIL MEMBER LEVIN: Thank you very
3 much, Chair Richards and Chair Eugene and the other
4 Chairs as well, and thank you for your testimony.
5 I'll just read my opening statement as quickly as I
6 can here. I'm proud to be joined by so many
7 colleagues in the New York City Council today for
8 calling for marijuana justice. As Albany considers
9 proposals for legalization we need to make sure that
10 we decriminalize marijuana for every neighborhood and
11 commit to real restitution for the communities and
12 families who have been wronged by decades of bad
13 policy, and to this end I'm sponsoring two
14 resolutions being heard today, Reso. 75 calling on
15 the state to pass the Marijuana Regulation and
16 Taxation Act, also known as the MRTA, sponsored by
17 Senator Krueger and Assembly Member Peoples-Stokes,
18 and Resolution 741 which calls for inclusive state
19 licensing that prioritizes those who have been
20 wronged by the war on drugs and entrepreneurship and
21 the production, sale, and distribution of marijuana.
22 New York City has a responsibility to cannabis
23 equity. For decades, New York City has-- New York
24 State has been the marijuana arrest capital of the
25 world, and a vast majority of arrests have happened

3 here in the City. Yet, despite efforts to reduce
4 racial disparities, the unequal enforcement of New
5 York's marijuana laws continues to this day with
6 higher arrest rates and longer sentences of black and
7 Latinx communities than their white counterparts.

8 The MRTA is the gold standard for legalization. The
9 bill would regulate, control, and tax marijuana in a
10 manner similar to alcohol and the racially disparate
11 impact of existing marijuana laws and direct revenue
12 from marijuana sales to communities most harmed by
13 prohibition. Fifty percent of the state's marijuana
14 revenue would go to a community grants reinvestment
15 fund that provides job training, promotes adult
16 education and youth development programming and
17 supports community-focused programming. An
18 additional 25 percent would go to the state

19 Department of Education and the remaining 25 percent
20 of revenue would go to drug treatment programs and
21 public education campaigns geared towards reducing
22 overdoses. This is important. We cannot create a
23 new industry that does not fully commit to community
24 investment. If we enact legalization with de-
25 criminalization and community restitution, we will
have failed to shift the tide on an unjust system and

3 we'll continue to maintain the status quo of racial
4 inequality. Along with de-criminalization we need to
5 address the economic harms and barriers that have
6 held back communities. Reso. 741 addresses the need
7 for greater economic justice by promoting equitable
8 ownership and participation in commercial marijuana
9 activity. The state should prioritize licenses for
10 those with prior marijuana arrests or convictions to
11 encourage those who receive licenses to hire
12 individuals who are arrested for and/or convicted of
13 marijuana-related offenses with a particular focus on
14 formerly incarcerated individuals who serve time
15 based on marijuana violations. Too many people have
16 been cut out of jobs, cut out of business investments
17 and been denied home ownership because of marijuana
18 prohibition. As the state nears the possibility of
19 legalization, we need to focus on equitable access to
20 economic opportunities, and this is why I'll be
21 continuing this push and introducing a bill to create
22 a cannabis equity program for New York City if and
23 when the state acts. There are models that we can
24 look to around the country to get this right.
25 Oakland, California City Council passed a law
granting half of all new business licenses to

3 applicants from neighborhood with higher marijuana-
4 related arrest rates and set up an incubator model
5 and funding stream to invest in businesses
6 participating in the cannabis equity program. In
7 Massachusetts it's a statewide social equity program
8 provides business training and guidance. We can
9 learn on lessons-- we can lean on lessons learned to
10 ensure that we follow the best practices for success
11 because we need to get this right. The stakes are
12 too high. If we fail, we will have missed a
13 monumental opportunity to right some of the wrongs of
14 our past and bring some semblance of justice to our
15 communities. We have watched countless families be
16 torn apart by the criminalization of marijuana. We
17 have heard from others who have had ACS cases brought
18 against them and sons and brothers who were locked up
19 for years because the very laws that wrote. Today,
20 let's commit to the work that starts us forward on a
21 different path, a path that is rooted in equality.
22 We are not going to incentivize Big Pharma or out of
23 state corporations over our own communities, and we
24 won't compromise when it comes to investing in those
25 left out of entrepreneurship and growth because of
discriminatory policies. I want to thank all of the

2 advocates, community members, Administration
3 representatives who are here today, as well Elizabeth
4 Adams, my legislative director for all her work on
5 this, and I'll turn it back over the Chair. Thank
6 you very much.

7 CHAIRPERSON RICHARDS: Thank you, Council
8 Member Levin. Okay, I'm going to go to you first,
9 Mr. Cameron, Commissioner Cameron. So, can you just
10 speak to how many people on probation are tested for
11 marijuana in New York City?

12 ASSOCIATE COMMISSIONER CAMERON: In the
13 aggregate we had over-- we administered 7,451 drug
14 tests per year. Out of that number, 600 were tested
15 for marijuana.

16 CHAIRPERSON RICHARDS: As of last year,
17 or?

18 ASSOCIATE COMMISSIONER CAMERON: Last
19 year, correct.

20 CHAIRPERSON RICHARDS: Last year. What
21 was--

22 ASSOCIATE COMMISSIONER CAMERON:
23 [interposing] Actually, 600 for the last-- sorry, 600
24 for the last two years.

2 CHAIRPERSON RICHARDS: Six hundred for
3 the last two years. And what was the reasoning for
4 that?

5 ASSOCIATE COMMISSIONER CAMERON: The
6 testing? The reason behind the testing could be if
7 we feel that the usage of marijuana can constitute to
8 criminality. So we like to address the issue and make
9 referrals to programs that can address that
10 individuals' issue. It's also done on a case by case
11 basis in risk and needs assessments.

12 CHAIRPERSON RICHARDS: And let me ask you
13 this, so is there-- and I don't know if the
14 Department of Probation could take a position on
15 this. Is there a correlation between violent crimes
16 and marijuana based on that testing?

17 ASSOCIATE COMMISSIONER CAMERON: I'm not--

18 CHAIRPERSON RICHARDS: [interposing] Out
19 of those 600 individuals, I think I'm trying to get
20 an understanding on were these violent offenders, was
21 there violence--

22 ASSOCIATE COMMISSIONER CAMERON:
23 [interposing] I'm not privy to--

24 CHAIRPERSON RICHARDS: associated?
25

2 ASSOCIATE COMMISSIONER CAMERON: Yeah, I
3 don't have that information, but I could get that
4 back to you.

5 CHAIRPERSON RICHARDS: Okay. It's your
6 first hearing, so I'm going to be kind [sic] to you
7 today. Next time have the answers.

8 ASSOCIATE COMMISSIONER CAMERON: Got it.

9 CHAIRPERSON RICHARDS: Okay. What
10 policies have changed over the years to limit testing
11 for marijuana? And I guess what I want to get at is,
12 what's your universe? So, just give me that number
13 again. So, over the past years there was close-- a
14 little bit over 7,400 individuals?

15 ASSOCIATE COMMISSIONER CAMERON: Last
16 year, we had the aggregate. This is all drugs,
17 inclusive of all drugs tested: cocaine, amphetamines,
18 opioids, marijuana. So it was 7,451 total.

19 CHAIRPERSON RICHARDS: Okay.

20 ASSOCIATE COMMISSIONER CAMERON: And out
21 of that amount 600 was specifically for marijuana.

22 CHAIRPERSON RICHARDS: Okay, so out of
23 that number 600 was for marijuana. And you couldn't
24 give me an answer if those individuals-- did they re-
25 enter the system eventually based on that, or?

3 ASSOCIATE COMMISSIONER CAMERON: I'm not
4 sure where the question is going, but we don't have a
5 policy where we petition for violations of probation
6 if they were tested for marijuana.

7 CHAIRPERSON RICHARDS: Okay. What would
8 be the scenario in which the Department would decide
9 if someone is tested for marijuana? So, just break
10 that down a little bit more?

11 ASSOCIATE COMMISSIONER CAMERON: What
12 would be the position?

13 CHAIRPERSON RICHARDS: What would be the
14 scenario that-- I don't know if any one of you want
15 to come up--

16 ASSOCIATE COMMISSIONER CAMERON:
17 [interposing] You mean to violate probation, or?

18 CHAIRPERSON RICHARDS: Yeah.

19 ASSOCIATE COMMISSIONER CAMERON: Well,
20 marijuana is not the basis or the sole basis for any
21 violations of probation. If they have a case, a
22 domestic violence case, for example, that may be
23 included in the petition. But as marijuana being the
24 basis, the sole basis, for a violation of probation,
25 we do not have those practices in place.

2 CHAIRPERSON RICHARDS: And I mean, based
3 on the conversation we're having today as a
4 Department, so you're supporting the bills which
5 we're--

6 ASSOCIATE COMMISSIONER CAMERON:
7 [interposing] Correct.

8 CHAIRPERSON RICHARDS: And as-is, which
9 is great. Have you--

10 ASSOCIATE COMMISSIONER CAMERON:
11 [interposing] It's in concert [sic] what are general
12 practice is as we exercise currently.

13 CHAIRPERSON RICHARDS: Right. And then,
14 you know, you spoke of 600 out of those individuals
15 being tested for marijuana. So over the years you've
16 just taken, even as this conversation-- or you-- so
17 what I'm getting at is are you still testing
18 individuals right now for marijuana?

19 ASSOCIATE COMMISSIONER CAMERON: As a
20 general policy when clients come in through intake or
21 the precinct is in investigation, we have a drug
22 assessment and also a swab test, two tests that's
23 conducted in that stage.

24

25

3 CHAIRPERSON RICHARDS: And let me ask you
4 this, since you're going to support this bill, I'm
5 assuming you agree with us--

6 ASSOCIATE COMMISSIONER CAMERON:
7 [interposing] Yes.

8 CHAIRPERSON RICHARDS: that there's no
9 real basis for testing individuals for marijuana, and
10 there's no correlation between violent crimes if
11 you're automatically just going to hit the light
12 switch on this. So, would you say that the
13 Department erred [sic] in the past and that you're
14 moving towards correcting the injustices that took
15 place before this?

16 ASSOCIATE COMMISSIONER CAMERON: Correct,
17 and I don't know if I can say, I was a former
18 probation many, many years ago, and the agency came a
19 long-- since my time here, the agency has come a
20 long, long ways in being more client-sensitive and
21 more client-based. So, to answer your question, yes.
22 Again, to reiterate, the basis for us to violate
23 anybody that has marijuana usage, we don't have that
24 practice. We try to refer them if they have an
25 issue. We try to refer them so they can get
assistance. If it's going to constitute to a

2 criminality, if it's going to contribute to bad
3 behavior, we try to address those issues.

4 CHAIRPERSON RICHARDS: So, you're not
5 violating people--

6 ASSOCIATE COMMISSIONER CAMERON:
7 [interposing] No.

8 CHAIRPERSON RICHARDS: Alrighty, I think
9 that's my questions for you. Any of my colleagues
10 have questions--

11 ASSOCIATE COMMISSIONER CAMERON:
12 [interposing] Thank you, Mr. Chairman.

13 CHAIRPERSON RICHARDS: for probation.
14 You get off easy because you support the bill today.

15 ASSOCIATE COMMISSIONER CAMERON: Thank
16 you.

17 CHAIRPERSON RICHARDS: Council Member
18 Dromm?

19 COUNCIL MEMBER DROMM: Just one quick
20 question. Of the 7,400 and the 600, do you have the
21 racial breakdown of those groups?

22 ASSOCIATE COMMISSIONER CAMERON: I don't
23 have that privy [sic] at this time, but I could get
24 that information to you.

2 COUNCIL MEMBER DROMM: Can you give me
3 the racial breakdown of how many people-- of people
4 in the probation Department itself?

5 ASSOCIATE COMMISSIONER CAMERON: Don't
6 have that information, but I could get that to you.

7 COUNCIL MEMBER DROMM: Okay, I think I
8 read a story today in the Daily News, if I'm not
9 mistaken, that while arrests are down, the-- there's
10 a two percent uptick in the number of black and brown
11 people who are still being arrested for marijuana
12 possession. Do you believe that that's reflected in
13 any of the work that the Probation Department is
14 doing?

15 ASSOCIATE COMMISSIONER CAMERON: I don't
16 know, but I know we had 270 individuals that were re-
17 arrested for marijuana, and out of that, nobody was--
18 no one was petition for violation of probation. I
19 don't know the racial breakdown of that number, and
20 again, I can get that information to you.

21 COUNCIL MEMBER DROMM: Okay. So why are
22 you still continuing to test for marijuana?

23 ASSOCIATE COMMISSIONER CAMERON: Again,
24 to see if it constitutes or contributes to any

3 criminality, to address changing behavior, not to
4 exactly violate them for probation.

5 COUNCIL MEMBER DROMM: And how do you get
6 the correlation between criminal behavior and
7 marijuana usage?

8 ASSOCIATE COMMISSIONER CAMERON: It's
9 done on a case by case basis, the case management
10 protocols, assessments, risk needs, and tools that we
11 implement.

12 COUNCIL MEMBER DROMM: So, I think
13 Council Member-- Chair Richards was hitting on this
14 point before. If you're in favor of our legislation,
15 I don't know how you can justify any type of
16 correlation between criminal activity and use of
17 marijuana, per say.

18 ASSOCIATE COMMISSIONER CAMERON: Again,
19 it's done by case by case, it's on individual, and
20 it's also done by special court orders or
21 stipulations by the court. But that's the-- if the
22 assessment shows that this is contributing to bad
23 behavior, then we try to address those needs by
24 making referrals to CBOs or nonprofits to address
25 those issues.

2 COUNCIL MEMBER DROMM: Alright, I mean,
3 you know, I don't know how much bad behavior occurs
4 with marijuana. I think, you know, if you smoke a
5 little bit too much marijuana, you just want to go to
6 sleep, you know, or get a couple of munchies.

7 CHAIRPERSON RICHARDS: Or munchies.

8 COUNCIL MEMBER DROMM: You know, chill,
9 you know. So, I would really recommend a revision of
10 that policy. I'm glad to hear though that you're
11 not, you know, violating people and putting them back
12 into jail just on that basis. Thank you.

13 ASSOCIATE COMMISSIONER CAMERON: No
14 problem.

15 CHAIRPERSON RICHARDS: Thank you, and let
16 me just ask one more question on that. So you spoke
17 of 7,400 other cases, those are all drug cases,
18 possession, for possession?

19 ASSOCIATE COMMISSIONER CAMERON: Those
20 were just total--

21 CHAIRPERSON RICHARDS: [interposing] Test,
22 just total test.

23 ASSOCIATE COMMISSIONER CAMERON: That was
24 total administered test.

3 ASSOCIATE COMMISSIONER CAMERON: Are you
4 rethinking, you know, because as we start to address
5 the war on drugs, and we know that drugs is a crisis,
6 a health crisis, you know, are reimagining or is
7 Probations giving any thought to just reimagining
8 possession, period, you know, outside of marijuana?

9 ASSOCIATE COMMISSIONER CAMERON: We are
10 in the process of redefining this. Again, I just
11 started, so I'm in the mix now and we're coming up
12 with ways to address these issues, but yes we are
13 currently.

14 CHAIRPERSON RICHARDS: And I think the
15 question I'm getting at is, you know, if you're on
16 crack cocaine or you're using heroin or, you know,
17 obviously opioids is a big epidemic. I guess the
18 larger question-- I know we're focusing on marijuana
19 today, but the larger question we have to ask
20 ourselves as a society is if we should be throwing
21 people back in jail or violating people's parole or
22 probation over possession and drug use, period.

23 Instead you-- viewing this crisis as a public health
24 crisis and getting people to services that they need
25 rather than throwing them-- so I know we're sticking
to marijuana today, but I just wanted to point out

3 that I think we should be reimagining the way we deal
4 with drugs.

5 ASSOCIATE COMMISSIONER CAMERON: I
6 understand.

7 CHAIRPERSON RICHARDS: And then we look
8 forward to those numbers, certainly on the breakdown.

9 ASSOCIATE COMMISSIONER CAMERON: Yes, Mr.
10 Chairman.

11 CHAIRPERSON RICHARDS: And I suspect the
12 numbers are going to be very similar and no different
13 than the NYPD's numbers, because you know, the system
14 has certainly created this fact on the ground for our
15 communities. Alright, I'm going to go to--

16 ASSOCIATE COMMISSIONER CAMERON:
17 [interposing] Thank you.

18 CHAIRPERSON RICHARDS: MOCJ quickly. So
19 you support the Marijuana Regulation and Taxation
20 Act.

21 JORGE CAMACHO: We support what's
22 contained in our recommendations. Our position is
23 that legalization irrespective of which bill ends up
24 moving forward should focus on the key areas that we
25 identified in our report, namely promoting public
health and safety at the same time, redressing past

2 disparities, promoting economic opportunity, and
3 ensuring that equity is served at every stage of the
4 legalization process. As with any form of
5 legislation we can identify areas where we think
6 things should be bolstered, including and especially
7 on the local authority front, but those are the
8 tenants there that we want to see emphasized in any
9 legislation that moves forward.

10 CHAIRPERSON RICHARDS: And do you view
11 any changes necessary for this, for the act? Did the
12 taskforce think there should be any changes towards
13 the act?

14 JORGE CAMACHO: Certainly, again,
15 foremost in the area of local controlling party. We
16 want to see a very robust role for local officials to
17 play when it comes to the implementation of marijuana
18 legalization. We want to make sure that it's not
19 simply a matter of getting local input, but actually
20 having a say that's binding whether it's related to
21 licensing, siting of marijuana facilities and things
22 like that. Again, regulation of home cultivation,
23 regulation of business practices to an extent. We
24 want to make sure that that is reflected in any final
25 legislation to the extent possible.

3 CHAIRPERSON RICHARDS: And let me just
4 speak to that. So, is MOCJ working with the for
5 instance the Department of Small Business Services,
6 or the Economic Development Corporation, or
7 conversations, have conversations started with those
8 specific agencies who I think would oversee, you
9 know, this particular process?

10 JORGE CAMACHO: We've certainly had
11 conversations with multiple city partners on what--
12 how this implementation would look like. Were' still
13 in the planning stages. Obviously, there's only so
14 much we can do without knowing what the final
15 legislation will look like. Right now we're focused
16 on advocating in Albany, and making sure that they
17 have our ear when-- as they continue to debate this
18 issue, but this is an Administration-wide
19 conversation.

20 CHAIRPERSON RICHARDS: But I'm assuming
21 since we-- and I'm assuming localities with the push
22 of the Mayor and others, will get a lot more control
23 in this conversation. So, I'm sort of want to
24 critique your statement a little bit and push the
25 Administration to really come up with more of a
robust plan and roadmap for that, specifically now,

2 and we shouldn't wait for the passage to start
3 thinking about how a grant program would roll out,
4 how we would ensure the permitting process could work
5 for communities of color. You know, I think the
6 longer we take to get our act together, the more of a
7 disadvantage it will be for communities of color as
8 this conversation moves. So, I would just hope that
9 we're really going to move aggressively and really
10 start to have real conversations, although I
11 understand we're waiting for the state to act, but
12 let's just make the assumption. Let's not get behind
13 the horse on this one, and then at the end of the day
14 communities of color really be at a disadvantage for
15 grant programs and start-ups, MWBE participation in
16 this or MBE participation in this business should be
17 huge as well. So you spoke of disparities, I believe.
18 Can you tell me about-- so obviously, you know, the
19 Daily News, once again, Council Member Dromm pointed
20 out today, reported although arrests are down,
21 summonses have somewhat peaked off, that the
22 disparities still are ticking up. So I'm just
23 interested in what conversations MOCJ is having with
24 the NYPD on this. Are you looking to sort of address
25 some of the disparities now, or are we waiting for--

2 is the overall strategy to wait for state
3 legalization to take place?

4 JORGE CAMACHO: No, certainly not. I
5 mean, the efforts toward disparity litigation have
6 commenced long before this moment in time. We've
7 been working law enforcement and community partners
8 to really identify kind of what the sources of
9 disparities are and the best ways to address them.
10 First and foremost, you know, we should address the
11 fact that in our view, and again, this is reflected
12 in our report, the penalties for marijuana use and
13 consumption have exceeded the actual conduct in terms
14 of proportionality, which is why we advocate for
15 civil enforcement over criminal enforcement to the
16 maximum extent possible consistent with public
17 safety. We also think that there's a component
18 toward ensuring, and this is especially true if and
19 when legalization moves forward, that everyone is
20 fully aware of the circumstances under which
21 enforcement can move forward and when it cannot,
22 whether we're talking about training police officers
23 on the new law or doing community outreach and public
24 education on what the law does and does not permit.
25 Additionally, we want to make sure that community

3 members are aware of where it is they can consume,
4 how much they may be able to possess, what they can
5 do vis a vis other members of the community in terms
6 of exchanging and gifting marijuana, and making sure
7 that they don't run afoul of the law thinking that
8 they're doing something that has been legalized when
9 in fact there's a remaining restriction on that
10 activity. So this is an evolving issue. It
11 definitely has the attention of the Mayor's Office of
12 Criminal Justice. It definitely has the attention of
13 our law enforcement and community partners. You know,
14 we're not yet ready to declare victory on that front,
15 far from it, but it is a priority to address.

16 CHAIRPERSON RICHARDS: And on that, you
17 know, the state calls for obviously a ban on public
18 smoking, period. Does the Administration generally
19 support that?

20 JORGE CAMACHO: The Administration
21 supports it, recognizing though that individuals will
22 and should have some place outside of their home
23 where they are permitted to consume, whether that's
24 a, you know, a licensed on-premises consumption site,
25 things like that. We recognize, especially in the
context of NYCHA, those folks are going to continue

2 to be under federal regulation that as of now
3 unequivocally prohibits use of marijuana on premises,
4 and we need to make sure that those folks have an
5 outlet to engage in activity that the other residents
6 of the City, other residents of the state will be
7 legalized at the state level.

8 CHAIRPERSON RICHARDS: And just, I guess,
9 if you can speak a little bit more of what that would
10 look like, right? Because obviously we know, as
11 you've acknowledged, smoke-free housing in public
12 housing, you know. Our big concern is that obviously
13 as we move to civil summonses that there will still
14 be huge disparity in the way that civil penalties are
15 dealt that as well. So how do you mitigate that for
16 public housing residents? Will you work with local
17 businesses adjacent? What if they don't have
18 businesses adjacent? Are there designating smoking
19 areas put in place? I mean, I think some other
20 countries do that. So just give me a little bit
21 more, if you could flesh out a little bit more of
22 what that would look like.

23 JORGE CAMACHO: Sure. And I'm about to
24 sound like a broken record and probably will continue
25 to sound like a broken record, but this again is

3 where local control really comes into play. When the
4 City and local officials have the say in where these
5 business establishments are sited, including on-site
6 consumption establishments, that can best-- that can
7 allow us to best ensure that communities have places
8 to go and to be able to consume without fear of
9 enforcement. That's critical for individuals in
10 NYCHA. It's critical for individuals across this
11 city. That is one of the areas where we think it's
12 important for the state to expressly allow us to have
13 that authority so that we can address those equity
14 issues. Otherwise, it's going to be entirely in the
15 hands of the state.

16 CHAIRPERSON RICHARDS: Alright, and let
17 me just go through. So, have you taken-- so I know
18 the Governor and the Mayor made an announcement on
19 congestion [sic] pricing yesterday, and then they
20 also spoke of revenue, tax revenue, generated from
21 marijuana sales being utilized for the MTA. Is that
22 the-- is this the Administration-- I just want to get
23 on the record, is this true philosophy? Is this more
24 than a philosophy? Is the Administration in
25 alignment with the Governor on this particular use of
tax revenue?

2 JORGE CAMACHO: I think the
3 Administration is, again, re-emphasizes that equity
4 remains kind of a central tenant of what we want to
5 see addressed with legalization. We know that
6 obviously use of tax revenue is a component of how
7 those equity goals can be achieved, but again, we
8 think that there are other areas to accomplish those
9 same goals that don't touch on use of tax revenue,
10 centrally, again, local authority, to have-- to grant
11 the city some use of funding through tax revenue, but
12 to disallow them from having other authority when it
13 comes to licensing and siting and additional local
14 regulation would be very, very critical misstep we
15 believe on the part of the state. We think it would
16 undermine the ability of both the state and the
17 localities to accomplish their stated shared goals
18 when it comes to equity.

19 CHAIRPERSON RICHARDS: Right, and I think
20 our concern is even what local authority that the
21 revenues that are coming down and not going to reach
22 the communities that were most harmed. So can you
23 speak to-- are there any other strategies you're
24 thinking about with tax revenue that could be
25 generated from these sales?

3 JORGE CAMACHO: Well, under the, at
4 least, Governor's proposals and I think it's under
5 most proposals, the state would have the lion share
6 of tax revenue by a pretty substantial margin, given
7 that that is their starting point, and in all
8 likelihood, their ending point. We would put it on
9 them to ensure that we have the resources necessary
10 if they are enjoying the lion share of tax revenue
11 with respect to marijuana taxation. We want to make
12 sure that that money is reinvested in the communities
13 and the initiatives, the equity initiative, that we
14 think are crucially in need of those resources.

15 CHAIRPERSON RICHARDS: and a large part
16 of that revenue is going to be generated as usual
17 from New York City.

18 JORGE CAMACHO: Correct.

19 CHAIRPERSON RICHARDS: So, I would hope
20 that the Administration is really having a very-- a
21 strong conversation as this is negotiated on even
22 small things like start-up grant money for people in
23 communities. We know access to capital is always a
24 challenge in our communities, even for MBE's that
25 exist in this city, incubator space. I think Oakland
has a few models that we can specifically look to as

3 well, including a prioritization of permits as well
4 for individuals who have gone through this system.

5 They should be prioritized through this specific

6 process. I'm going to go to Council Member Lander, I

7 believe, who has questions. Levin? Lander? Levin?

8 Lander? Y'all have questions? You have questions?

9 No questions? Okay. Council Member Barron, you have

10 questions? You have a comment? Okay, so we'll go to

11 Council Member Barron for a comment, and then--

12 COUNCIL MEMBER BARRON: [interposing] And

13 it's just generic. Thank you to the Chairs for

14 holding this hearing, and my comment relates to the

15 language of using the term "black market" for the

16 illegal or underground market. And I see the report

17 from Cyrus Vance uses the term "black market." So I

18 just wanted to bring-- and I do have a memo that I'm

19 sending to my colleagues to call attention to the

20 fact that language is powerful. Dr. Martin Luther

21 King-- I was trying to find his quote. I couldn't

22 find it. Talks about the fact that when he looked up

23 black in the dictionary, of the 120 meanings that he

24 found, 60 of them were negative. When he looked up

25 white in the dictionary, all of the definitions were

positive, and in this country words have power. I

3 don't know if the term "black market" came up here
4 earlier. I wasn't available to be here, but I would
5 call attention to not just my colleagues, but to all
6 of those who are listening that we need to be very
7 sensitive about how we use black. You have the term
8 "black market." You have "black sheep," which one of
9 my colleagues used recently. You have "black magic."
10 You have "black on black." You have "black ball."
11 You have "black list." All of which carry a negative
12 connotation. So I would call attention to the fact
13 that we need to be sensitive and be more appropriate
14 and selective in the words that we use to describe
15 those activities or conditions that may not be
16 positive, and avoid the term "black" and if I do hear
17 you use it, I'll remind you that I find it offensive.
18 So I just wanted to make that comment. And
19 generally, I also looked at the legislation in
20 particular which assumes that marijuana will be
21 legalized. As this committee began to look at the
22 high incidence of the community of blacks and Latinos
23 being the victims of overzealous policing, we were
24 looking to make sure that that did not happen. We
25 were not looking to legalize marijuana. So, as you
can tell from my comments, I'm not thinking that I'm

2 going to vote for that, but if it does happen in the
3 state, I see that most of this is talking about how
4 are we going to benefit from that. You don't profit
5 from things that are not good. People profited from
6 slavery, because it was there, we might as well make
7 the most of it. So, I think that should marijuana be
8 legalized and it still remains to be seen that we
9 need to not think about how we can look to build the
10 coffers of those communities that have been
11 disenfranchised because those persons who might be
12 engaged in what is criminal activity because it's
13 against the law now, I don't know that they're going
14 to run out and qualify to get the licenses and be
15 able to get the money to open up a shop. So the same
16 instance that we have of persons being choked to
17 death because they were supposedly selling "loosies"
18 I think is going to be something that we consider
19 will still go forward and that those individuals who
20 might be engaged and what is not regulated will still
21 be subjected to the overzealous and discriminatory
22 practices of NYPD. So, that's just a comment that I
23 have.

24 CHAIRPERSON RICHARDS: Thank you, Council
25 Member Barron.

2 COUNCIL MEMBER BARRON: Thank you.

3 CHAIRPERSON RICHARDS: We'll go to
4 Council Member Levin.

5 COUNCIL MEMBER LEVIN: Thank you very
6 much Chair. I did want to ask just around the
7 question of if legalization happens, and the Chair
8 may have touched on this as well, how do we ensure--
9 are we interested in doing, creating an equity
10 program that is able to provide city capital? So, no
11 interest business start-up loans, that could be to
12 equity program participants or other types of
13 endeavors that the City can do to encourage people
14 that have been affected or impacted by the war on the
15 drugs to be able to participate in small business,
16 start a small business?

17 JORGE CAMACHO: Absolutely. I mean, we
18 view this issue of multifaceted and multidimensional,
19 the economic side of it is one of those dimensions,
20 and that includes making sure that we back our stated
21 goals of equity licensing and equitable economic
22 opportunities with support, with money, with guidance
23 to local entrepreneurs to local business people who
24 up until now have had access to none of that.

25

2 COUNCIL MEMBER LEVIN: Is there a role
3 for Department of Consumer Affairs and Small Business
4 Services in creating new programs to do that?

5 JORGE CAMACHO: Potentially, certainly.

6 COUNCIL MEMBER LEVIN: And the issue of a
7 no-interest loan program?

8 JORGE CAMACHO: Potentially.

9 COUNCIL MEMBER LEVIN: And are we
10 starting to think about how to strategize on how we
11 can engage with communities that have been impacted
12 through outreach efforts or, you know, working with
13 Probations or other agencies, Small Business
14 Services, to do meaningful out reach. There was a--
15 I heard a story just yesterday in Massachusetts, in
16 Summerville, Massachusetts, where they're having a
17 challenge of finding-- or engaging with communities
18 that have been impacted to get people in meaningful
19 numbers to participate in the cannabis equity program
20 that they have in Massachusetts.

21 JORGE CAMACHO: Yes, certainly. I mean,
22 primarily through our office of MWBE we've been doing
23 a lot of outreach through them to make sure that
24 we're having the right conversations with the right
25 people to make sure that our planning actually

3 results in a program that is responsive to needs of
4 the communities we're trying to target.

5 COUNCIL MEMBER LEVIN: Are we engaging
6 with the state on-- the State Legislature and the
7 Governor's Office on how to best create a program
8 that can work with the local control mechanism in New
9 York City?

10 JORGE CAMACHO: We're definitely speaking
11 with that again with respect to licensing as well as
12 economic support that could be available. We're
13 having those conversations, and we're hopeful that
14 folks in upstate and in Albany are receptive to what
15 we're saying.

16 COUNCIL MEMBER LEVIN: Okay, and is the
17 City willing to commit-- we're the only-- that we're
18 really only support a legalization effort that
19 includes a meaningful local control and licensing and
20 equity programming that can be determined by the City
21 of New York?

22 JORGE CAMACHO: Our position is that any
23 legalization effort that lacks those provisions and
24 lacks those initiatives would fall far short of what
25 legalization should look like.

3 COUNCIL MEMBER LEVIN: Okay. Are there--
4 and where are you looking elsewhere in terms of best
5 practices for how we should be doing this?

6 JORGE CAMACHO: We've looked at frankly
7 at every state that has enacted this in one form or
8 another. You know, there's wide variety in terms of
9 how localities in states have enacted and implemented
10 legalization, Colorado versus D.C. versus Alaska.
11 Certainly California recently being added to the mix.
12 And so we've had those conversations with local
13 officials. We've looked at their models. We've
14 looked at their laws. So we've tried to touch every
15 resource that we possibly can.

16 COUNCIL MEMBER LEVIN: And then just
17 lastly, I don't know if you want to comment on-- and
18 the Chair might have asked about this-- the article
19 that came out this morning that shows that even while
20 arrests have declined significantly, still
21 disproportionately affecting communities of color. I
22 mean, obviously, the significant decrease in arrest
23 and you know, I think it was 80 percent is-- you
24 know, is a huge step in the right direction, but the
25 lingering disproportionate impact remains. So, can
you speak to that a little bit?

3 JORGE CAMACHO: Of course, it remains a
4 concern of ours undoubtedly. We view that the
5 change-- we view the changes that PD made and that
6 the Administration has advocated for as first steps,
7 not last steps. There's only so much that we can do
8 now given what state law demands when it comes to
9 enforcement and regulation of those offenses. Again,
10 which is why we're advocating that as a second step.
11 The state eliminate criminal penalties for marijuana-
12 related conduct to the extent possible, consistent
13 with public safety. We think there's a lot to-- a
14 lot of room there, and that would be our second step,
15 but again, not our last.

16 COUNCIL MEMBER LEVIN: And then, I just
17 want to ask how would you define restitution to
18 communities and individuals that have been impacted
19 by the war on marijuana over the past generations?
20 What is restit-- from the City's perspective what
21 does restitution both in terms of the community and
22 in terms of actual individuals that have suffered
23 through this?

24 JORGE CAMACHO: I think restitution will
25 look like whatever they start telling us restitution
looks like, but as a starting point among what we are

2 advocating for, for example, our expungement of
3 criminal records is a starting point, to start
4 addressing those past harms, to start addressing
5 those disparities for conduct that post-legalization
6 will no longer be subject to criminal penalty,
7 ensuring economic opportunities are distributed
8 equitably across the city, and of course across the
9 state, and making sure that the conversation doesn't
10 end at the point of legalization, but continues
11 there.

12 COUNCIL MEMBER LEVIN: And then lastly,
13 and we're going to be touching on this at Monday's
14 hearing around child welfare, and we don't have clear
15 data, but we anecdotally a lot of stories about
16 people that have wound up in the child welfare system
17 and may have a longstanding case that, you know, that
18 they're-- you know, a call goes into the state
19 central register, they may have an indication of
20 neglect as a result of marijuana use that has
21 happened. That indication remains on their record
22 until their child is-- their youngest child is 27
23 years old. That affects their employment
24 opportunities, other opportunities that they should
25 be afforded. During-- so through-- that's different

3 from expungement. Does this Administration feel--
4 does the Mayor's Office of Criminal Justice feel that
5 that is within kind of your purview to comment on and
6 how should we be approaching that which is an
7 analogous system, but can have just as devastating
8 impact when somebody gets caught up in it?

9 JORGE CAMACHO: That was definitely an
10 area in which the taskforce focused on, again, among
11 others. Our recommendation on that front is that in
12 those proceedings, in those Family Court child abuse
13 and neglect proceedings, marijuana be treated
14 consistently with how alcohol is currently treated,
15 which is to say that the mere use of it would not be
16 the basis for a petition. It would not be the basis
17 of a child removal from the home, but rather could,
18 you know, to the extent that it may be indicative of
19 neglect or abuse, especially if consumed excess or
20 where it starts to impair the parents' or guardians'
21 ability to care for the child. That would be the way
22 in which it would be factor, but mere use, mere
23 possession would not be a basis for that.

24 COUNCIL MEMBER LEVIN: but that's
25 prospectively, what about retrospectively? So, there
are plenty of people who have, you know,-- and again,

3 because-- think about like the timeline, the youngest
4 child, somebody could have had, you know, a case
5 indicated around marijuana 35 years ago with their
6 first child, and their youngest child is 25 years old
7 now, and that is still impacting their life. So, you
8 know, this-- there are thousands and thousands of
9 these cases that go back many, you know, decades now.
10 How do we approach the retrospective aspect of this
11 and how do we engage in some restitution there?
12 That's a challenge.

13 JORGE CAMACHO: It's certainly a
14 challenge. Frankly, questions and issues with
15 respect to the statewide central register are in the
16 hands of the state. They will determine how they
17 administer that database. They will determine what
18 they do with records involving parents who have been
19 subject to that type of action solely on the basis of
20 marijuana use. We would advocate again that they do
21 it in a way that's equitable and responsive to the
22 concerns that you've brought up, and again, to the
23 concerns that we brought up in our report.

24 COUNCIL MEMBER LEVIN: Yeah, because
25 it's-- it's, you know, it's important obviously
prospectively, but the people have suffered for many

2 years for this. Okay, I appreciate your testimony
3 and you're answering my questions, and I'll turn it
4 back over to the Chair. Thank you.

5 CHAIRPERSON RICHARDS: Alright. Oh-- to
6 Chair Espinal now.

7 CHAIRPERSON ESPINAL: Just going to read
8 my statement, then we can move one. Well, good
9 afternoon, everyone. My name is Rafael Espinal, I'm
10 the Chair of the Consumer Affairs and Business
11 Licensing committee. Today, the committee in
12 conjunction with the Committee on Civil and Human
13 Rights, as well as the Public Safety Committee and
14 Committee on the Justice System is hearing feedback
15 on a range of resolutions aimed at fairly regulating
16 the recreational marijuana industry should it be
17 legalized in the state. Statements from both
18 Governor Cuomo and members of the state legislature
19 indicate that making recreational marijuana legal in
20 New York State is a major priority. Assuring the
21 safe, workable, and just regulation of recreational
22 marijuana will take a nuanced approach as there are a
23 range of complex issues that will need to be
24 considered. At the state level, it will be vital to
25 have uniformed standards for potency levels and

3 restrictions for young people. However, the city
4 must also have the regulatory authority to
5 effectively address the hyper-localized issues that
6 we can expect to surface once recreational marijuana
7 becomes legal. As we heard earlier, New York's black
8 and brown communities have been disproportionately
9 impacted by marijuana enforcement policies and the
10 negative collateral effects that result from such
11 policies. In order to begin to remedy the
12 disproportionate burdens imposed by the war on drugs,
13 New York City should be empowered by the state to
14 regulate certain aspects of marijuana licensing. For
15 example, if the state implemented the measures called
16 for in resolution number 741, the City would be able
17 to prioritize individuals with prior marijuana
18 convictions when issuing licenses. This would be a
19 first step in trying to rectify some of the past
20 racial inequalities that stem from marijuana
21 criminalization. The other resolutions we're hearing
22 today focus on empowering the city with the authority
23 to deal with the range of New York City-specific
24 issues. Unlike the rest of the state, New York
25 City's residents share the most densely populated
urban environment in the country. When considering

3 smoking in public spaces or cultivating marijuana,
4 these characteristics will have a huge impact on the
5 challenges the city will face when regulating such
6 measures and these will differ markedly from the rest
7 of the state. Consumer attitudes in New York City
8 also differ from those in other parts of the state.
9 In the City, residents can make use of delivery
10 services that are able to provide door-to-door
11 delivery of everything from groceries, alcohol, and
12 laundry to make-up services, chicken hatching eggs,
13 and condoms. It will therefore be important for the
14 City to be able to monitor the delivery of
15 recreational marijuana within the city's limits in
16 accordance with state age restrictions and consumer
17 expectations. The city already had similar powers
18 related to tobacco licensing. Despite the plethora
19 of state laws that regulate tobacco use and sale
20 across the state of New York, the City has the
21 ability to license and restrict tobacco retailers.
22 Using this authority and to prevent the concentration
23 of tobacco retailers in particular neighborhoods, New
24 York City has capped the number of tobacco and
25 electronic cigarette retailer licenses according to
each community district. Any New York State laws

2 enacted to govern recreational marijuana should
3 similarly empower the City's legislators to create
4 specifically tailored rules and regulations. New
5 York City will undoubtedly face its own set of unique
6 challenges if recreational marijuana is legalized by
7 the state, and any effort to address them will have
8 to balance the range of complex and competing
9 residential business and consumer demands. City
10 agencies already regulate a wide range of similar
11 industries and policy of considerations which
12 indicates that they are well equipped to tackle the
13 particular challenges New York City will face after
14 legalization. City agencies are also in the best
15 position to determine which local communities were
16 most harmed by marijuana criminalization and to
17 fashion equity regulations that seek to remedy those
18 harms accordingly through meaningful economic
19 opportunities. So, that's that. Thank you. Thank
20 you for the hearing.

21 CHAIRPERSON RICHARDS: Just two more
22 questions. So you spoke of obviously density, and we
23 talked about public housing. How are home
24 cultivation in a dense city like New York play out?
25 And what I'm getting at is we may see a very robust

3 consumer delivery business happening here. So, have
4 you envisioned that or can you speak to some of your
5 thoughts on that?

6 JORGE CAMACHO: We-- certainly. You know,
7 we can see from other jurisdictions that permit home
8 cultivation that folks will take advantage of being
9 able to cultivating their homes. To what extent they
10 will do it, how common it will be remains an open
11 question. In New York City, there's only so much
12 room in people's houses by in large to dedicate to
13 this. I don't know that they'll do it. You know, in
14 our conversation on the taskforce we often made
15 reference to, you know, the 15-dollar tomato that you
16 grow in your back yard that's about the size of a
17 quarter. You know, people may try to do it and then
18 see that it's really not worth their effort
19 particularly when higher quality product is available
20 legally and accessibly, you know, just down the
21 street. So there are a lot of open question in terms
22 of how home cultivation will look like to the extent
23 that it's permitted in New York City. We did of
24 course raise questions and identified flags regarding
25 the fact that home cultivation itself if done
improperly can pose a risk. And when you're in a

3 city where people literally live on top of each other
4 for tens of stories, those risks are heightened and
5 more and more people can be subject to the harms from
6 those risks. We have spoken with partners at FDNY,
7 at NYPD. They've certainly articulated their
8 concerns. Again, if done poorly, home cultivation
9 aside from posing a fire hazard could present a mold
10 hazard. In order to cultivate this plant, you need
11 to effectively replicate a tropical environment in a
12 city where we don't natively have a tropical
13 environment, and you combine water and heat, you're
14 going to get mold. I mean, that can put folks at
15 risk in a way that they may not have anticipated.
16 So, we want to make sure that localities have the
17 ability to first determine what the baseline would
18 look like for home cultivation and then to be able to
19 make adjustments as needed to address both access and
20 public safety.

21 CHAIRPERSON RICHARDS: And although I
22 don't want to promote this agency, sorry I just have
23 to say it, the Department of Buildings somehow would
24 probably need to be engaged in this conversation,
25 too, and don't ask me what that looks like, but DOB
should certainly be a part of that conversation. And

3 then my last question was just on federal
4 criminalization of marijuana. How does that impact
5 the City's ability to regulate the industry, and
6 specifically if big banks don't want to get involved
7 because of potential criminal liability? What could
8 the city do to help small businesses?

9 JORGE CAMACHO: Sure. So we recognize
10 that the federal prohibition obviously poses a number
11 of barriers for the development of a legal market
12 anywhere in New York City or in any other state that
13 has moved forward with legalization. Our
14 recommendation in the report is to make sure that
15 there are alternatives that are made available,
16 alternative banking services for example, that would
17 allow entrepreneurs and local businesses to access
18 banking services without running afoul of federal
19 probation and federal regulations concerning the use
20 of marijuana-derived funds. That could take a number
21 of forms, including the establishment of a state-
22 chartered bank that would, you know, under some
23 models be able to mitigate against some of those
24 federal prohibitions, and we've articulated those
25 concerns to the state.

3 CHAIRPERSON RICHARDS: And the City-- I
4 mean, obviously state and feds probably regulate
5 things more than us, but I'm just interested in
6 knowing, you know, would there be a larger role for
7 the Economic Development Corporation to play as well
8 or nonprofits. I don't know what that looks like.

9 JORGE CAMACHO: Sure--

10 CHAIRPERSON RICHARDS: [interposing] But
11 trusted partners who would give out low-interest
12 loans and grants. So I think when we talk about the
13 tax revenue coming in, you know, that's certainly
14 something we're interested in seeing, like land
15 banks, you know, similar models to ensure that the
16 communities we're trying to ensure could benefit from
17 this, you know, have a leg up. You know, we know
18 banks historically don't lend or they red line in
19 certain communities. You could put that out there.
20 So really thinking more broadly about, you know, what
21 are perspective organizations that we could work with
22 collectively to make sure communities get grants and
23 loans. So I'm hoping that's something part of the
24 conversation, and if not, that's why we're here
25 today.

JORGE CAMACHO: Thank you.

3 CHAIRPERSON RICHARDS: Alrighty. Thank
4 you so much. Thank you for coming out. Good to see
5 you. You did okay today, Ray Cameron.

6 ASSOCIATE COMMISSIONER CAMERON: Thank
7 you, Mr. Chairman.

8 CHAIRPERSON RICHARDS: He knew me my
9 first day when I started at the Council, so. Before
10 I was elected 15 years ago.

11 ASSOCIATE COMMISSIONER CAMERON: Came a
12 long way. Very proud. Came a long ways. You also
13 knew me, too.

14 CHAIRPERSON RICHARDS: Take care, enjoy.

15 ASSOCIATE COMMISSIONER CAMERON: Thank
16 you.

17 CHAIRPERSON RICHARDS: Alright, we're
18 going to go to the next panel. Melissa Moore, Drug
19 Policy Alliance, Eli Northrup, the Bronx Defenders,
20 Jackie Caruana, Brooklyn Defender Services. You may
21 begin. State your name for the record and who you're
22 representing, and you may begin.

23 JACQUELINE CARUANA: Good afternoon. My
24 name is Jacqueline Caruana and I am a Senior Trial
25 Attorney in the Criminal Defense practice at Brooklyn
Defender Services. I want to thank the Council for

3 the opportunity to testify. I have submitted written
4 testimony, but I'd like to focus on a few key reasons
5 why BDS supports legalization of marijuana. As it
6 was discussed earlier already by the Office of the
7 Mayor, the Mayor's policy of issuing criminal
8 summonses for marijuana possession as opposed to
9 making arrests actually increased racial disparity.
10 In the first six months of 2018, and I believe these
11 statistics were already put on record, even as total
12 arrests for low-level marijuana possession declined,
13 the racial despair-- sorry, the racial disparity
14 actually increased with black and Latinx making up 89
15 percent of those involved. I want to talk about what
16 happens to an individual who can potentially be given
17 a summonses as opposed to actually arrested. It
18 doesn't actually prevent that individual from
19 eventually being arrested. I actually represented an
20 individual who I'm going to call Mr. J. Mr. J was in
21 the hallway of his apartment in Brooklyn, a NYCHA
22 building, where he lives with his family. That
23 evening, the warrant squad from NYPD came into the
24 building and arrested Mr. J. Earlier in the year,
25 Mr. J had received a summonses for possession of
marijuana in the Bronx. Mr. J did not know where to

3 go to take care of that summonses. He also didn't
4 have the money to pay for the summons, so a warrant
5 was issued for his arrest. Mr. J had to spend a
6 night in jail, and when he appeared before the judge
7 in Criminal Court in Brooklyn because I was
8 representing him, the District Attorney dismissed his
9 case. The District Attorney stated on the record
10 that the reason why they were dismissing their case
11 is because they were not prosecuting low-level
12 marijuana offenses. Well, that did not prevent Mr. J
13 who was 19 years old, who is black, who lives in city
14 housing, from spending the evening in jail in
15 Criminal Court in Brooklyn. This ties directly into
16 my next point which is that New York must end the
17 practice of using marijuana laws as an excuse to
18 surveil and control people of color. For far too
19 long, the mere smell and sight of marijuana has been
20 used by the police is a pre-text for frisks and
21 searches that were overwhelmingly racial disparate.
22 As long as marijuana is on the books as a crime,
23 people will continue using it as a justification to
24 stop and search individuals who are black and Latino.
25 Mr. M, who is also a client of mine, and five other
young black teenagers were sitting on a park bench in

3 front of NYCHA housing. Police officers said that
4 they smelled an odor of marijuana and found two burnt
5 marijuana cigarettes scattered on the ground in front
6 of this park bench. The police arrested all six of
7 these teenagers. They did not issue them summonses,
8 charging them with possession of marijuana. These
9 individuals were taken down to the police precinct
10 where they were questioned for more than six hours
11 about unrelated offenses. This happens all the time.
12 The police are using marijuana as a pre-text to
13 harass individuals in certain communities.

14 Additionally, I want to talk about THC oil because
15 there is a resolution that is proposing reclassifying
16 THC oil and all other marijuana-based products from a
17 controlled substance, criminal possession of a
18 controlled substance in the seventh degree, to that
19 of the equivalent of what's being said in the bill is
20 flower marijuana. THC oil is also being used as a
21 pre-text for police harassment. I have examples of
22 two different car stops from September 2018. That's
23 not very long ago. This is after there has been news
24 articles about District Attorneys not prosecuting
25 marijuana offenses. One, we'll start by calling him
Mr. A. Mr. A's car was stopped because he was idling

2 for longer than three minutes in front of a fire
3 hydrant, and the police claimed that Mr. A had THC
4 oil in the center console of his car. Mr. B was
5 stopped because he was parked in front of a no-
6 standing zone, and the police claimed that Mr. B had
7 THC oil in the cup holder of his car. Mr. A and Mr.
8 B were both arrested, not given summonses, arrested,
9 booked, brought to central booking in Brooklyn and
10 charged with criminal possession of a controlled
11 substance in the seventh degree, which is an A
12 Misdemeanor, punishable by up to one year in jail,
13 and that is why BDS supports the resolution 0745
14 which calls upon the state legislature to pass and
15 the governor to sign to legislation that would
16 reclassify THC to the equivalent of flower marijuana,
17 but also that would legalize THC oil in the same way
18 that the council proposed to legalize marijuana.

19 CHAIRPERSON RICHARDS: Thank you for your
20 testimony.

21 ELI NORTHRUP: Good afternoon, Chairman
22 Richards, the Council Members, thank you for your
23 attention to this matter. My name is Eli Northrup.
24 I'm a Criminal Defense Attorney at the Bronx
25 Defenders, which is a public defense organization in

2 the Bronx. As Chairman Richards said earlier today,
3 marijuana has effectively been legal for white people
4 in New York City for years. And the racial
5 disparities have been discussed at length in
6 enforcement and this hearing, but these racial
7 disparities are even more stark in the Bronx where 95
8 percent of our clients arrested for marijuana
9 offenses are black or Hispanic, many of them young
10 me. As a holistic defense organization we've seen
11 the ways that the disparate enforcement of marijuana
12 law have hurt our clients, not only in Criminal
13 Court, but in Family Court, Housing Court, civil
14 proceedings, and especially in immigration
15 proceedings. In large parts, the recognition of this
16 racial bias which had led to the legalization effort
17 here, but simply changing the law to make it legal to
18 possess and smoke marijuana going forward is not
19 enough. Any reform must be restorative. It must
20 address the past harms caused by decades of racially
21 disparate enforcement. Now, our written testimony
22 addresses the collateral consequences of these
23 convictions and issues surrounding sealing but I'd
24 like to speak to you today about a couple of specific
25 issues that we find troubling. First of all,

2 regarding vacature [sic] and sealing. While the
3 District Attorneys of Manhattan and Brooklyn have
4 held events in their boroughs to vacate past
5 misdemeanor marijuana convictions, our District
6 Attorney in the Bronx, Darcel Clark, has thus far
7 been unwilling to take this step. If she's serious
8 about providing justice to the citizens of the Bronx,
9 people who she claims to represent, she should clear
10 the records of thousands of citizens of the Bronx who
11 have been targeted for male enforcement because of
12 where they live and the color of their skin. We're
13 calling on DA Clark to use her power to meliorate
14 these harms. She can do this without waiting for the
15 legislature, as her counterparts have done. And the
16 policy that she did announce today in the written
17 testimony, though she did not appear before the
18 Council, is still far behind the policy of the
19 Manhattan DA. Now, regarding criminal penalties, the
20 Bronx Defenders supports the resolution 0075 2018
21 urging of the passage of the Marijuana Regulation and
22 Taxation Act. Unfortunately, Governor Cuomo's
23 current proposal to legalize marijuana has some
24 serious flaws, especially when it comes to criminal
25 penalties. Currently it's a misdemeanor to transfer

3 a small amount of marijuana to anyone over 18 years
4 of age. Under the Governor's proposal, the age for
5 criminal sale to a minor is raised from 18 to 21, and
6 the penalties are harsher than under the current law.
7 So, under Governor Cuomo's current proposal for
8 legalization, it's a class D felony for two 20-year-
9 olds to pass a joint between each other. Why should
10 this behavior be punished more harshly when marijuana
11 is legalized than when it was illegal? And this is
12 especially troubling in light of a recent report by
13 the Data Collaborative for Justice at John Jay which
14 found that between 1990 and 2017, 18 to 20-year-olds
15 were arrested for marijuana offenses at a much higher
16 rate than any other age group. So, this harsher
17 penalty which is likely meant to discourage sale to
18 minors and use by minors will only impact racially
19 and economically marginalized people. Finally,
20 legalization should end the practice of law
21 enforcement using the odor of marijuana as a pretext
22 to stop and search people in the street. We're not
23 talking about people who are smoking marijuana on the
24 street. We're talking about people who smell like
25 marijuana. This practice is de facto stop and frisk.
As public defenders, we know that the odor of

2 marijuana is the most common rationale police
3 officers give for approaching and stopping our
4 clients, and as the body that oversees the NYPD, this
5 council should enact legislation that states that if
6 marijuana is legalized, it's mere odor does not
7 provide law enforcement with reasonable suspicion to
8 search or arrest someone, except in investigation of
9 use in DWI cases. The truth is that marijuana
10 enforcement is rarely about marijuana. It has always
11 been a vehicle for policing and surveilling and
12 social control of certain communities. And if we
13 want to get to the heart of this problem, those are
14 the issues that we need to address. Our client have
15 long been targeted by the NYPD for marijuana
16 enforcement based on their race and their
17 socioeconomic status. The legalization effort must
18 take into this account and make them whole. On that
19 note, the money needs to go back to the communities
20 affected, not to the MTA. Anything short of this is
21 unacceptable. Thank you.

22 CHAIRPERSON RICHARDS: Thank you.

23 MELISSA MOORE: Thank you very much. My
24 name is Melissa Moore, and I'm the New York State
25 Deputy Director at the Drug Policy Alliance, the

3 nation's leading organization working to advance
4 policies and attitudes that best reduce the harms of
5 both drug use and drug prohibition. The Drug Policy
6 Alliances appreciates the opportunity to submit
7 testimony to the Council and thank the members for
8 coordinating this joint hearing. The Drug Policy
9 Alliance and the Start Smart Campaign believe that
10 it's time to stop the ineffective, racially biases
11 and unjust enforcement of marijuana prohibition in
12 New York and to create a new well-regulated and
13 inclusive marijuana industry that centers equity, is
14 rooted in racial and economic justice, and reinvests
15 in communities that have been the most harmed by
16 marijuana criminalization. We've worked with many of
17 your offices over the years as the Council has
18 exercised oversight around marijuana arrest, and now
19 that New York is on the precipice of legalizing
20 marijuana, we look forward to continuing to work
21 together with the City Council to ensure that the
22 framework for legalization centers justice. There's
23 an existing bill, the MRTA, as has been spoken about
24 already in the legislature, and in his annual budget
25 Governor Cuomo presented his marijuana legalization
framework as well, the cannabis regulation and

3 taxation act. But as negotiations continue at the
4 state level, it's clear that there are multiple ways
5 in which New York City can take action now to address
6 past harm and create inequitable framework going
7 forward that's rooted in racial and economic justice.
8 But take a step back first. Why do we need marijuana
9 justice? When we think about the more than 8,500
10 people that have been arrested across New York in the
11 last 20 years alone, despite the state legislature
12 decriminalizing low-level marijuana possession 40
13 years ago, clearly decriminalization has failed New
14 Yorkers. As has also been discussed, these arrests
15 have been extremely racially bias. But it's more than
16 just the arrest. Removing prohibition is important
17 but it does not necessarily address all the
18 collateral consequences that people face from prior
19 criminalization, we have to intentionally and
20 specifically address those impacts in the field of
21 immigration, family law, indisiscrimination, and
22 housing and employment based on the prior marijuana
23 arrest. With housing this is particularly important
24 as an individual seeking to attain or maintain access
25 to public housing following a marijuana possession
arrest or convictions can be disqualified from living

3 in NYCHA developments for three years at a minimum,
4 or this can cause them to face permanent exclusion
5 policies. Although marijuana possession was removed
6 from NYCHA's eviction and permanent exclusion offense
7 list in 2014, thousands of people arrested before
8 this decision still face the difficult and often
9 unclear process for having their bans lifted. And
10 now, the enforcement of smoke-free policies in NYCHA
11 as a result of the federal ban on smoking in public
12 housing could result in the evictions for tenants
13 that do not adhere to that police or who continue to
14 smoke in their unit, as all residents must sign the
15 lease amendment as a condition of their continuing
16 occupancy. This makes the council's legislation 296
17 particularly important, and also makes the provision
18 at the state level allowing social consumption places
19 or onsite consumption particularly important, because
20 that activity would be banned in public housing.
21 With regard to employment, because DCJS automatically
22 notifies most public employers and licensing agencies
23 of an arrest, these automatic notifications can
24 actually lead to immediate suspension of people in
25 many different employment fields. A person doesn't
even have to be convicted for their employment status

3 to be threatened. Upon arrest, individuals in some
4 occupations such as teachers face automatic
5 dismissals from their position, and for many others,
6 work-time missed because of an arrest cycle could
7 potentially result in the loss of employment.

8 Additionally, most public employers are entitled to
9 terminate or suspend employees based on any immoral
10 conduct, giving them a great deal of discretion in
11 how they handle a reported marijuana arrest. State
12 issues occupational licenses that allow many New
13 Yorkers to earn a living working in positions related
14 to medical services, child-care, and education,
15 security, and taxi and limousine service can all be
16 subject to revocation or denial as a result of a
17 marijuana arrest, which makes the resolution before
18 you today that much more important. Additionally,
19 with regard to probation, I was glad to hear the
20 comments on the prior panel, however, we know that
21 data gathered by the Legal Aid Society's Parole
22 Revocation Defense Unit show that marijuana was
23 involved in more than 20 percent of parole violation
24 charges in New York City in the first half of 2017.
25 Now, some of that might have shifted in that time,
but nonetheless, in these cases alleged use of

2 marijuana was charged and played a major factor in
3 the parole violation case and the clients' continued
4 detention in the parole violation in many cases
5 sending those people back up to Rikers. In some
6 cases, the use of marijuana is the sole charge for
7 the violation, which can result in time in custody.
8 We would say that the Department of Probation should
9 not require individuals on probation to submit to
10 marijuana testing, unless that is expressly required
11 by the court as a term of probation, and not only in
12 very, very limited instances. In addition,
13 immigration is a major area of concern for collateral
14 consequences. Right now, many non-citizen immigrants
15 face deportation because of an arrest for low-level
16 marijuana possession years or even decades ago. This
17 points to the larger issue of simple marijuana
18 possession being the fourth most-common offense among
19 people who are deported at the national level, and
20 the most common offense among people deported with
21 drug law violations. Just this year, we have seen
22 that New Yorkers face deportation for marijuana
23 misdemeanors regardless of how old the conviction may
24 be. There's no statute of limitations on that at the
25 federal level, and also that plain clothed ICE

3 officer have greatly expanded their efforts and are
4 now showing up in court rooms all across the city to
5 arrest people whose immigration status is in question
6 at a rate of 1,200 percent higher than in previous
7 years. So just really quickly, what does
8 legalization need to include then in New York? We
9 talked about clearing records, addressing the
10 collateral consequences across the board. This should
11 also include resentencing and reclassification for
12 people who currently have more serious charges beyond
13 just low-level possession. Indeed, this should-- as
14 Eli said, protect against continued criminalization
15 of youth and help people transition from the illicit
16 to the legal market. This should also, as you said,
17 end the practice of using marijuana as an excuse to
18 surveil and control people of color in this city and
19 in this state. Additionally, we're advocating for
20 community re-investment. As the New York City
21 Comptroller highlighted in his December report, seven
22 of the ten lowest income neighborhoods in New York
23 City fall among the top ten for marijuana arrest
24 rate. There's a clear correlation there in the
25 economic toll that has happened in addition to
obviously the toll in people's lives. So this should

2 be addressed by making revenue available as
3 restitution to the communities that were the most
4 harmed by prohibition for job training, economic
5 empowerment and youth development. A number of
6 parties, as has been discussed, view legalization as
7 a windfall and as a potential cash grab in this
8 moment where they're trying to siphon off that
9 revenue, but it's clear that those funds should
10 rightfully be earmarked for the communities that have
11 been disproportionately affected by criminalization.
12 And just wrapping up, a note on equity, as has been
13 discussed a lot. Legalization can have apposite
14 impact economically, particularly in communities that
15 have been destabilized by prior criminalization, but
16 for this to happen, we have to intentionally center
17 equity. It will not happen on its own. We've seen
18 that countless times in other states and other
19 jurisdictions, even where they've very much tried to
20 build an equity program. There's still significant
21 road block and barriers including access to capital
22 requirements and also making sure that people who
23 have prior contact with the criminal legal system are
24 not blocked out of being able to access the legal
25 market. New York also has to create a social equity

2 program on day one. We know that if that isn't in
3 place the minute legalization takes effect in terms
4 of retail sales that that market share will be gone,
5 will be taken over, and additionally we have to
6 create a licensing structure that's favorable for
7 small businesses and small scale cultivators so that
8 there are entry points for this individuals to
9 participate in the market and build ownership and
10 wealth in the communities that have additionally been
11 sidelined from this process, so that would include
12 micro-licenses, coop licenses, which I know will be
13 discussed more by other participants here today, and
14 also notably allowing delivery licenses and social
15 consumption licenses as well. And just a final note,
16 regarding incubators, which have been discussed as
17 part of an equity program as has been highlighted due
18 to a number of factors, including lack of financing
19 options because of federal prohibition. It's
20 imperative to provide that additional level of
21 support to small scale entrepreneurs, particularly
22 aspiring business owners of color and those from
23 communities that have been directly impacted if the
24 goal of legalization is to build a diverse and
25 inclusive market. Any legislation to legalize

3 marijuana in New York State actually has to establish
4 an incubator program that will provide that direct
5 support to small scale operators who are marijuana
6 license holders. That support should include
7 counseling services, education around owning and
8 operating a business, coaching, compliance assistance
9 and funding of the form of grants or low or zero
10 interest loans. So as we gather here in the
11 marijuana arrest capital of the country, repairing
12 the damage done by marijuana criminalization and
13 ensuring that the community is most harmed can
14 participate in a meaningful way in the industry
15 absolutely must be centered. It's up to use to
16 ensure that the adult use framework in New York dos
17 not benefit large corporate players, over the
18 communities that have been ravaged by over-poling of
19 decades, and the many small business and individuals
20 from those community who are poised to participate.
21 Legalization can be an economic engine, but only if
22 we work intentionally. We look very much forward to
23 working with council to make this happen.

24 CHAIRPERSON RICHARDS: Thank you all for
25 your testimony. Just a quick question. So, most of
you work with people who have been detained for

3 marijuana. Is there a correlation between violence
4 and marijuana usage, and do you see that amongst your
5 clients?

6 ELI NORTHRUP: No.

7 CHAIRPERSON RICHARDS: Okay.

8 JACQUELINE CARUANA: I would have to
9 agree, no.

10 MELISSA MOORE: No, and there's further
11 study on this from Professor Harry Levine, who has
12 really gone in depth in looking at the data which
13 shows the vast majority of people who have ever been
14 arrested on a low-level marijuana charge don't commit
15 any other offense and had never committed an offense
16 prior to that.

17 CHAIRPERSON RICHARDS: Right, and
18 District Attorney Vance said that I think less than
19 one percent or so the individuals brought in had some
20 sort of violence issues. Would you say similar in
21 the Bronx or wherever your perspective clients are
22 from as well, you would agree with that statement
23 that there's very little correlation between the two?

24 ELI NORTHRUP: Our experience in the
25 Bronx is in line with that.

3 JAQUELINE CARUANA: Same in Brooklyn. I
4 mean, I don't have specific numbers, but it's been
5 the same in my experience.

6 CHAIRPERSON RICHARDS: [interposing] And
7 I--

8 MELISSA MOORE: [interposing] And looking
9 at the statewide data that DPA has analyzed, the same
10 also is true all across the state.

11 CHAIRPERSON RICHARDS: And then, can you
12 just speak on the impacts on the court and the bail
13 system when it comes to these low-level marijuana
14 arrests and summonses?

15 JAQUELINE CARUANA: I can sort of speak to
16 the process in Brooklyn, which is if somebody is
17 arrested as opposed to given a summons for a
18 marijuana arrest, whether they fall under one of
19 these wide exceptions that NYPD is using to arrest
20 instead of issue the summons, or the police officers
21 has just ignored whatever the policy is with NYPD,
22 this individual does not immediately-- this person
23 does not get booked and then taken to court within a
24 couple of hours. It can sometimes take even 24
25 hours. And as I said with the example of one of my
clients, often times these sometimes teenagers are

3 brought to police precincts and are questioned for a
4 period of time before brought to central booking,
5 sometimes not given an opportunity to call family or
6 to let anybody know where they are. So, it's a very
7 significant process, or a very significant
8 consequence to that individual even if they're then
9 released on their own recognizance and bail is not
10 set by the time they actually see the judge, or
11 they're given a marijuana ACD, meaning their case
12 would be sealed in one year from that date. If
13 they're given a summons, the process is difficult to
14 understand for that person as, you know, how to comply
15 with the summons, where to go, which juris-- you
16 know, which court house? How much do I need to pay?
17 Do I have the money to pay? Do I have transportation
18 to get there to even take care of this summons. And
19 because it's a criminal offense, the warrant squad is
20 authorized by NYPD to go and arrest this individual
21 and then that process starts all over again, or
22 they're held. They're interrogated oftentimes. They
23 don't get to notify their parents. Sometimes they're
24 taken out of their hallway without a coat. I mean
25 we're seeing this happen and then we have a District
Attorney saying, "Okay, well, we're not prosecuting

3 that." Well, I mean, there's a complete lack of
4 communication between the DAs office and the NYPD in
5 that regard.

6 ELI NORTHRUP: And I would just say that
7 there's also the possibility of collateral
8 consequences with summonses, and often times the
9 summons court rooms are staffed by attorneys who are
10 overworked, and they're not-- don't have the same
11 holistic training, and so somebody actually gets less
12 information about what's happening, and that can lead
13 to a harsher collateral consequence down the line.
14 So the real answer is to not enter these cases into
15 the criminal justice system, the summons system at
16 all, because they-- just because they're going to the
17 summons part instead of the criminal part doesn't
18 mean that's the end of the problem.

19 MELISSA MOORE: Right, and a summons and
20 also an arrest, of course, can still be found by a
21 potential employer if they're doing a background
22 check on an individual, for example. This was also a
23 problem with someone who receives an ACD which is
24 often referred to as not a big deal, but of course
25 it's a big deal for a person if they have an open
case pending against them on the books for a year if

3 they're trying to seek employment, secure housing or
4 get even loans to continue higher education. It's a
5 significant issue for those individuals. And then
6 with regard to bail as you were saying, a prior
7 offense or even just an ACD for marijuana can affect
8 somebody's ability to be granted bail for after case
9 as well, because it's deemed prior contact with the
10 system that's used against that person.

11 CHAIRPERSON RICHARDS: And last question
12 for DPA, can you speak to-- so you spoke about the
13 incubator grant programming. Is that in the state
14 bill?

15 MELISSA MOORE: It is in part, and I
16 should be specific that there's a robust incubator
17 program in the Marijuana Regulation and Taxation Act,
18 which has been moving through the legislature for a
19 number of sessions now. The Governor's proposal, the
20 CRTA, does include some provisions around incubator
21 and social equity programs. We think they could be
22 strengthened further, but there is an effort there,
23 and a lot of dialogue at the state level right now
24 between members of how to make that more robust.

25 CHAIRPERSON RICHARDS: Great. Alright,
I'm going to go to Chair-- Majority Leader Cumbo for

3 a statement, and she may have questions for you as
4 well.

5 COUNCIL MEMBER CUMBO: Thank you, Chair
6 Richards, on this very innovative, forward-thinking
7 committee hearing today. I also want to thank all of
8 you for your presentations. They've been very
9 informative, and if we don't have the testimonies
10 presented here, I would like copies of them, because
11 this is definitely going to help us in terms of
12 policy moving forward, and I'd like to reference
13 them. I also want to recognize in my district,
14 Reverend Trufant [sp?] of Emmanuel Baptist Church who
15 this weekend held the first mini-conference on the
16 business of cannabis at his church on an all-day
17 Saturday conference and it was powerful. It was
18 informative, and it's a day that I never thought I
19 would see in my lifetime. So it was really very
20 forward-thinking and something that I never thought I
21 would see. I'm still in my mind processing that I
22 went to church as an elected official for a mini-
23 conference on the entrepreneurship of cannabis, but
24 it's so important that we've having these
25 conversations and changing the mindset. Here in New
York City, and I want to talk about two particular

3 bills and beyond, particularly in black and brown
4 communities. We have been hit hardest by the war on
5 drugs, and now we must be the beneficiaries of the
6 soon-to-be booming cannabis industry. We cannot let
7 this pass us by or our communities. While New York
8 State engages in a transformative cannabis
9 legalization expansion, we want to underscore the
10 importance of allowing local control of cannabis
11 licensing with equitable distribution for
12 opportunities for MWBEs. I am proud to have put
13 forth Resolution 0737 that would grant New York City
14 agencies the authority to regulate local licensing of
15 recreational marijuana in the city. We know that one
16 size does not fit all when considering cannabis
17 licensing, distribution, manufacturing, cultivation,
18 testing, and production. We must be sensitive to the
19 fact that one size does not fit all. What is good
20 for the state may not be good for the City. The City
21 of New York is the most populous and largest city in
22 New York, home to over eight million people. We have
23 different opportunities and challenges than other
24 cities. Who better to know what is best for our city
25 than the people and community that live and breathe
the air. We want our cannabis industry to be locally

3 centered, and we do not want to be pushed and pulled
4 in any political gain when the state and city might
5 be at odds. Local control would mean that our city
6 could tailor and uplift communities where we see fit.
7 We can choose how many and what type of licenses we
8 will issue. We hope that we can create specific rules
9 surrounding cannabis production and distribution and
10 that we can dictate whether or not delivery services
11 or brick and mortar storefronts will be permitted.
12 We as a city must have the ability to set our own
13 rules and regulations pertaining to the cultivation,
14 production, and distribution of cannabis and
15 licensing's. New York City should also be empowered
16 to make local licensing laws regarding cannabis use
17 in parallel with the City's current authority over
18 business licensing. And I'm also proud to be a prime
19 sponsor with our new Public Advocate-elect, Jumaane
20 Williams, on 1445. We proudly support the
21 prohibition of drug testing for pre-employment hiring
22 procedures. Drug testing is a violation of personal
23 privacy, and it has limited thousands and thousands,
24 particularly of young people in communities of color
25 when it comes to employment opportunities. It's not
an employer's business what you do in your spare time

3 if it doesn't affect your work product or the safety
4 of clients, colleagues, and stakeholders. We want to
5 underscore the importance of protecting all people
6 from unfair hiring and firing practices due to
7 cannabis use. Now, with my background, and of course
8 everyone knows that this has to be coming although we
9 have not spoken about it, according to the US Bureau
10 of Economic Analysis and National Endowment for the
11 Arts, arts and cultural industries generate 114.1
12 billion to the state economy and employ 462,000
13 people and award 46.7 billion in compensation. Arts
14 can culture simply do not get their fair share of our
15 budget. I would like to propose that once cannabis
16 is rolled out here in New York State and City, we
17 must create allocated funding streams to support our
18 various-sized arts and cultural institutions. So
19 when we talk about cannabis and how we want to make
20 sure that communities of color that have been hit
21 hardest, we must make sure that our small, mid-sized
22 institutions of color that have been doing this work
23 for so long to hold our communities up and to support
24 our young people are certainly at the forefront of
25 making sure that our institutions continue to provide
the level of support for our young people within our

3 communities. Thank you, and thank you to the panel,
4 and again, thank you so much, Council Member
5 Richards.

6 CHAIRPERSON RICHARDS: Thank you. I'm
7 going to go to Council Member King as well.

8 COUNCIL MEMBER KING: Thank you, Chair
9 Richards.

10 CHAIRPERSON RICHARDS: And we're joined
11 by Council Member Gibson.

12 COUNCIL MEMBER KING: I want to thank you
13 all for today's conversation, and I thank you for
14 your testimony. As I listened to you all as
15 attorneys and helping us save young brothers and
16 sisters who are being caught up in an unfair system.
17 I say thank you for your service each and every day.
18 I used to play the game basketball, and we all played
19 basketball, and there used to be a term, you know,
20 even if you're down 20 points in the fourth quarter,
21 the game isn't over until it's over, and so I'm a
22 little confused why I'm constantly hearing the
23 conversation when it's legalized. Until it's
24 formally and rightfully legalized, we should still
25 listen to all sides of the conversation. So, I share
a voice of many who have spoken to me about now

3 supporting legalization of marijuana. Why? I'll
4 just double back to what you were talking about, the
5 unfair and the discriminating practices that allow
6 more people of color to be locked up than their white
7 counterparts. When I go back to the Constitution
8 where the 13th Amendment which made slavery unlawful
9 in this country, unless you are in prison. Well, that
10 means there has to have a form of slavery still
11 exist, which we just call incarceration, and in order
12 for that system to exist, you got to have people that
13 you got to put in there. So, any rules that they can
14 put in place that hurts communities of color, because
15 the three-fifths said that so-called slave, that
16 black is not equal, you put them in jail. So even
17 when they did sharecropping you still were locked up
18 because sharecropping wasn't really an equal means.
19 Even when we have policies that are against economics
20 when you redline certain communities that someone
21 with the same credit score can't get the same
22 economic opportunities than someone else in
23 purchasing a house, or you go in a certain school
24 district and certain school district are better than
25 other schools just based on community-- based on
color. So when we start talking about marijuana, I

3 said listen, I can't support anything that takes any
4 person, especially a young person out of his element.

5 I say to any elected official, be m9indful, be
6 careful, because when you got children, God forbid
7 that your three-year-old is in a room that gets a
8 contact from an older young person that's smoking
9 weed. Or let alone, what are you going to tell a kid
10 that is 14 who comes home can get his school work
11 done because he's smoking weed all day long, and what
12 is the parent going to say? Well, we made it legal.

13 So we got to be real careful when we start talking
14 about the legalization, what effect it's going to
15 have on the next generation. I think it's very
16 disingenuous [sic] and misleading to tell everybody
17 they're going to have economic boom in their
18 neighborhood when we open up cannabis shops. No,
19 there are going to be communities of color who are
20 not going to have access to open up the big corner
21 store. And what ends up happening that that young
22 person again who still-- they want to get into that
23 business, they're still going to get arrested. Even
24 you legalize liquor in the-- and then alcohol is
25 legal, but you can't sell Johnny Walker on the
corner. So we got to be real mindful when we start

3 talking about the economic benefits that everyone's
4 going to benefit from, because if you don't want to
5 arrest black people for marijuana use, then don't
6 arrest them for marijuana. Don't say legalize it,
7 because that's the conversation that's been thrown
8 out for months. If we legalize it, then, you know,
9 not so many people of color are going to go to jail.
10 You gave a testimony of 80 percent of the Bronx of
11 people are getting locked up for marijuana. Well,
12 why is that happening in any other boroughs or any
13 other community that doesn't look like the black and
14 brown community? Well, that's a policing problem.
15 That's not a law problem. So I'm saying we got to be
16 real mindful, and I'm going to keep saying it, be
17 mindful. Because so many people, I think we're
18 having a disingenuous conversation of how it's really
19 going to hurt communities of color and not help
20 people of color when you talk about legalizing
21 marijuana. So I'm going to stop right there, because
22 I'm very passionate about it, because I know some of
23 principals today who complain about trying to deal
24 with marijuana use in the building. Now, you imagine
25 you 15-16 year old-- once you smoke a joint or two,
you're not learning fractions. You're not learning

3 anything for the rest of the day. You've checked
4 out. So, if people want to do it for medicinal
5 reasons, then fine. Then, you know, let's find a
6 reason, put in a pill, but to tell a 14-year-old or
7 18-year-old-- and even if you set a age limit of 21,
8 trust me, the 13 year olds are still going to get
9 their hands on it. What message are we sending? So
10 I want us to be real careful for everyone that's
11 having these-- I call misleading conversations,
12 because if you want to correct your incarcerating
13 system, then fix your policing system, fix your
14 incarcerating system. Certain rules are on the books
15 to save people's lives, and if-- if this-- if using
16 marijuana is legal and it hurts somebody, then
17 everybody across the City should be treated fairly,
18 not target one set of people, but then I go back to
19 our first conversation. There's a reason you have a
20 jail system and you got to put certain people in that
21 jail system, and want these policies for policing
22 who's allowed to do that. So, I'm asking us as-- and
23 everyone when you talk about let's be fair in our
24 real conversation what legalizing marijuana does, and
25 not spin it because a percentage of people who will
profit and it won't look like Malik on the corner.

3 It will look like somebody else. So if you want to
4 stop harassing Malik, but I don't think we should be
5 legalizing a drug that does more damage than saving
6 lives. Thank you.

7 CHAIRPERSON RICHARDS: Thank you, Council
8 Member King, for your statement. Can you go into--
9 because we did you speak about social equity
10 programming. So can you just go through what that
11 would look like as well?

12 MELISSA MOORE: Absolutely. And I would
13 also offer that Drug Policy Alliance didn't start
14 working on this issue with the intention of
15 legalization. We started on a decriminalization and
16 a fairness and equity campaign a number of years ago,
17 and within that work we found that decriminalization
18 hasn't worked for New York. That has been the law
19 here since 1977, and yet we've still had over 800,000
20 people arrested for low-level marijuana possession
21 across the state, the vast majority of those people
22 arrested here in New York City mostly due to stop and
23 frisk practices and other very targeted and racially
24 motivated policing and practices, but still continue
25 despite supposed bans on those practices. So, from
our perceptive we got to this point of working on

3 legalization on rider to take that tool away. In
4 terms of the justification that offers use for
5 interactions with community members, as we've spoken
6 about it at may prior hearings. And thank you again,
7 Chair Richards, for your work in this rea to really
8 bring that to light. In terms of the equity programs
9 that are being discussed at the state level and that
10 framework, there's clearly a need for improvement but
11 they are substantial in terms of what's including
12 right now. That would be a micro-business license
13 which goes back to the potential way for people to
14 transition from the illicit market right now into the
15 legal space that is a licensed category that contrary
16 to all of the other licenses that would ban vertical
17 integration, meaning that we don't want just large
18 corporations running the show on this. Within the
19 micro-license category, somebody would be allowed to
20 produce, process, and then sell the product at a
21 lower volume than the larger license categories, but
22 it would allow that person to basically due each
23 piece of the puzzle as many people are doing now in
24 the illicit market. So it provides a potential entry
25 point for people. In addition, there are many other
supports that are being talked about as part of the

3 framework for an incubator program and what the other
4 components of the equity should look like at the
5 state level. A lot of it surrounds making sure that
6 people have the proper information and counseling to
7 be able to succeed in this space. Happy to go into
8 more detail if folks are interested, but I'll pause
9 there.

10 CHAIRPERSON RICHARDS: And can you-- oh,
11 what did I write here? I can't understand my
12 handwriting. Okay, I guess I will-- oh, okay.
13 Oakland also-- and I'm not sure if it worked there,
14 but they also had a framework that prioritized
15 communities with the highest amounts of summonses and
16 arrests, and I think even the way they wrote it in is
17 because we know neighborhoods are also gentrifying as
18 well, that there was a specific timeframe you had to
19 live in the community as well prior to being able to
20 be considered a prioritization. So, what I'm getting
21 at is if you just moved into a gentrifying
22 neighborhood, you shouldn't necessarily get that
23 first prioritization because you live in that zip
24 code, but certainly looking at prioritizing people
25 who have been there for a decade or more, those who
have been actually summonsed or languished in prison

3 over low-level offenses as well. So is any of that
4 part of the conversation as well up there?

5 MELISSA MOORE: Absolutely, and thank you
6 for raising those important points. So, the way that
7 it was structured in Oakland and other jurisdictions
8 as well, San Francisco, Los Angeles, also our
9 neighbor Massachusetts has set this forth as part of
10 their equity program where there are basically
11 criteria and if somebody meets a certain percentage
12 of those criteria or certain classifications it
13 strengthens their equity application, the more
14 categories. For New York the primary categories are
15 if somebody has been directly impacted by
16 criminalization in the drug war themselves, if they
17 live in a community and have lived in that community,
18 to your point, for a certain amount of time, and also
19 if they make less than 80 percent of the state median
20 income that would qualify people. So, ideally you're
21 positioning the people who are the most disadvantaged
22 first and foremost and then build out from there in
23 terms of who can potentially apply. But it is
24 important to note that in Oakland where they included
25 those measures, there's still been a lot of faltering
in that program primarily because people cannot

3 access capital. They can't get financing, and that's
4 the big piece of the puzzle that hasn't been
5 adequately addressed anywhere that has equity
6 programs and that's something that we really need to
7 focus on here in New York City.

8 CHAIRPERSON RICHARDS: Right, that access
9 to capital is critical. That's why I brought it up
10 to the Administration as well. And then also, I
11 think there was a requirement around bigger
12 corporations offering incubator space as well. Not
13 sure how--

14 MELISSA MOORE: [interposing] That was--

15 CHAIRPERSON RICHARDS: [interposing] How
16 did that-- I mean, if you followed that, can you
17 speak to how that work.

18 MELISSA MOORE: Yeah, we're in
19 conversation regularly with advocates and with people
20 who are working in this space in Oakland and what
21 they highlight is there-- there was a provision that
22 it was one to one. So a license that was granted to
23 a larger entity would then have to be matched at the
24 same time with the license to an equity applicant,
25 and part of that was intended to provide sort of a
runway for people in equity space to either have a

3 physical space that they would be able to use or some
4 other support. What's happened, unfortunately, is it
5 hasn't panned out that way at all, and there's no
6 enforcement mechanism behind it to actually hold the
7 entities that are getting the benefit of supposedly
8 offering a supporter service to actually hold them
9 accountable for doing that. So we're hearing about,
10 you know, entity that says that they're providing an
11 actual production space for an equity applicant which
12 then shows them to a closet that's like a storage
13 closet packed with brooms and cardboard boxes, it's
14 not even cleared out. And it's like, great, this is
15 your space. Meanwhile, they get their license and
16 they're good to go, right? So, clearly that model is
17 not effective in the way that it needs to be, and so
18 we think that we should look to go beyond that here
19 in New York City and make sure that there's
20 accountability as well.

21 CHAIRPERSON RICHARDS: Perhaps taking
22 away your license if you lie. I'm going to go to
23 Majority Leader Cumbo and then to Chair Lancman.

24 COUNCIL MEMBER CUMBO: Thank you. I just
25 wanted to clarify because I completely respect the
views and opinions of my colleague, Council Member

3 King, but I also didn't want to be confused in terms
4 of my statement and the resolution and introductions
5 that we've put forward to say that the interest in
6 cannabis is solely economical. I think that we're at
7 a critical time in history in terms of how we're
8 moving forward with this, and there's the reality of
9 what's actually happening in our communities, and I
10 think being an African-American women growing up in
11 an African-American community in East Flatbush, I
12 feel that when you look at black communities in
13 particular there are so many industries that are
14 functioning in our communities that we have no stake
15 in or no control in. So, if you look at the Chinese
16 food industry, the pizza industry, the hair care
17 industry, the bodega industry, all of the different
18 restaurants, all of the different food opportunities,
19 all the different hair care opportunities, all the
20 different supermarkets, all the T-Mobiles, all the
21 Duane Reades, there are so many businesses that
22 function particularly in black communities that we
23 don't work at, that we don't own, and with
24 gentrification sweeping through our neighborhoods
25 there's a turnover of all of those businesses that I
just discussed that are mostly now white-owned in our

3 communities. So, for many when we're talking about
4 cannabis, I think many people in the African-American
5 community have to make two decisions. They have to
6 either make the decision that the cannabis industry
7 is coming. It is coming and it's on a fast track,
8 and if I spend my time fighting it, of an industry
9 that people believe will come regardless, will this
10 be yet another industry in our communities that will
11 be functioning and thriving that we will be consumers
12 of, but not owners of. So I feel that that's one
13 look. While on the other hand, there's the idea of
14 if we do legalize it, is that going to create other
15 opportunities for us to be criminalized or the
16 reality that even if we're at the table right now,
17 our communities are still not going to benefit from
18 it. So, it's a really very complex conversation, and
19 I almost think that decriminalization and
20 legalization need to be two separate conversations,
21 because they're both packed with so much that needs
22 to be unpacked, and I think that my view in it is
23 that it is an industry that's coming, and it is
24 coming fast, and we have to figure out how our
25 communities can benefit so that there's just not yet
another industry that we have absolutely nothing to

3 do with, but I think in doing that we also have to
4 take control of how fast this conversation is moving
5 to make sure that we are making sure that the
6 decriminalization is at the forefront but that we're
7 also working collectively to make sure that the
8 legalization doesn't come with further
9 criminalization of our communities as well as
10 economic impacts that are not going to benefit our
11 communities in that way as well. So I just wanted to
12 be on the record in terms of how I see this moving
13 forward. So, thank you.

14 CHAIRPERSON RICHARDS: Thank you. Going
15 to go to Chair Lancman.

16 CHAIRPERSON LANCMAN: Good afternoon.
17 Sorry, I had to step out earlier. I just want to
18 follow up one thing that I see in the testimony from
19 Bronx Defenders, and it reads, "While the District
20 Attorneys in Manhattan and Brooklyn have held events
21 in the boroughs to vacate past misdemeanor marijuana
22 convictions, District Attorney Darcel Clark has thus
23 far been unwilling to take this step." And I'm just
24 curious whether or not you've had any conversations
25 with her, any feedback from her to her reasoning.
We'll have an opportunity to ask her directly.

3 They're testifying before my committee in a couple of
4 weeks, but--

5 ELI NORTHRUP: Yes, I'd ask that you do
6 that. We've been given really no rationale for the
7 failure to take action. I know that she submitted
8 testimony to this-- to the committees this morning,
9 and it doesn't go that far. It seems as though it's
10 an obvious thing that, you know, she could do to help
11 the people of the borough and that other-- her
12 counterparts have done, and we have not gotten an
13 answer to that question.

14 CHAIRPERSON LANCMAN: Okay, thank you.

15 CHAIRPERSON RICHARDS: Alrighty, thank
16 you. No other questions? Alright, thank you all for
17 your testimony. We're going to go to the next panel.
18 Emily Marie Ramos [sp?] Ahi Madre Co-op Green
19 Workers, Co-op East Harlem Preservation, Julian
20 McKinley [sp?], Democracy at Work Institute, Fred
21 Newton [sp?],-- handwriting looks mine-- Kenny Mack
22 [sp?], Organic Relief Solutions Fort Greene, Fred
23 Newton.

24 FRED NEWTON: Well, good morning. Good
25 afternoon. Thank you for the opportunity to be here.
Thank you for this hearing. Thank you for the

3 Council Member who are here. My name is Fred Newton,
4 eight-year retired city employee. My political club
5 has asked me to be in charge of marijuana study
6 groups since it's about to legalize, and last
7 February 13th I was at a press conference outside
8 City Hall Park. February 13th, I was at a press
9 conference outside City Hall Park, and I support
10 everything that was in the package that was presented
11 to me, much of which was discussed today, but the
12 thing that startled me, the thing that stunned me was
13 realizing Health + Hospitals Corporation--

14 CHAIRPERSON RICHARDS: [interposing] Don't
15 hold the mic. You don't have to hold it.

16 FRED NEWTON: Okay, Health + Hospitals
17 Corporation routinely drug tests pregnant women
18 before, during, and after their pregnancies, and if
19 the drug test is positive, they're referred to
20 Children's Services and Children's Services-- Child
21 Protective Services frequently removes the parent--
22 the children from their parents. And I said, "Oh, my
23 God, isn't this exactly what we gave Donald Trump
24 hell for last year and his minions in Homeland
25 Security and ICE." This really stunned me. Where was
the outrage when Child Protective Services were doing

3 it? If it's wrong for Donald Trump and his minions,
4 it's also wrong for Child Protective Services.

5 Another thing they talked about was the black market,
6 and oen thing that was not discussed today was if

7 legalized and if corporations control it, are we

8 going to problems with genetically modified marijuana

9 or pesticides in marijuana. We've shown an article

10 where Baer Monsanto applied for a patent, and if they

11 get their way, and if marijuana legalizes, do we have

12 to worry about GMO marijuana. A lot of people don't

13 like GMO food. And another thing that motivates me

14 as far as the drug prohibition goes, I remember a

15 quote from Mark Twain who once said nothing needs

16 winding so much as somebody else's morals, and

17 addition to the law enforcement- in addition to law

18 enforcement, remember Michelle Alexander and campaign

19 that ended Jim Crow, what's the main cause of racism?

20 She said the George Zimmer-- the Zimmerman mindset.

21 And that caused a lightbulb in my head to go off.

22 The reason we really have the war on drugs is the

23 carry nation, Harry Ann Slinger [sp?], Rudolph

24 Giuliani, Jeff Session's mindset, and that's a

25 problem that reinforces law enforcement more than it

would otherwise be enforced. Thank you for the

3 opportunity to testify. If I had more time, I'll
4 yield it to somebody else.

5 CHAIRPERSON RICHARDS: Thank you so much,
6 and we're having a hearing actually on next Monday, I
7 believe--

8 FRED NEWTON: [interposing] [inaudible]
9 We'll be here.

10 CHAIRPERSON RICHARDS: to really deal
11 with-- yes. Alrighty. You may begin. Press your
12 mic. Press your button.

13 EMILY RAMOS: Hello? Hi, my name is Emily
14 Ramos [sp?]. I grew up in the lower East Side in
15 Spanish Harlem of New York City. I am currently a
16 worker/owner of A Womyn and Femme of Color Marijuana
17 Cooperative called Hi Mi Madre. We are recent
18 graduates of the Green Workers Cooperative Academy in
19 the Bronx. I also recently used to be a civil legal
20 advocate with the Neighborhood Defender Service of
21 Harlem. I previously worked as a public benefits
22 advocate with the Urban Justice Center Safety Net
23 Project, and prior to that I was working with an
24 immigration attorney as a paralegal. Currently, I am
25 a board member of the East Harlem Preservation
Committee. I am the marijuana and worker cooperative

3 small business liaison. I also am a retailer at the
4 CBD shop, Come Back Daily. We're currently opening a
5 shop in Harlem this Thursday between 118th and 119th
6 Street on Fifth Avenue. I come into this work as
7 someone whose family has been directly impacted by
8 the prohibition of the war on drugs. My father was
9 arrested in 1993 a few months before I was born for
10 selling marijuana in brood [sic] houses in the Lower
11 East Side. I met my father when I was five years old
12 in a prison upstate. It was my first time meeting my
13 dad, and it was very difficult growing up in a low-
14 income community in NYCHA houses with a single
15 mother. My brother's father was also a victim of the
16 crack epidemic. So my mom had a difficult life, had
17 to drop out of college in order to support my
18 brothers and me. And so I am in full support of
19 ending marijuana prohibition in New York. I'm in
20 support of Senator-- I mean, Assembly Member Crystal
21 Peoples-Stokes' bill and Senator Kruger's bill. I'm
22 also in support of all the Safer New York Act bills,
23 the STAT Act, the Pass the Special Prosecutor
24 legislation, the End Police Secrecy Repeal, CRL 50-A,
25 reduce unnecessary arrests for non-criminal offenses,
and ending the marijuana prohibition, and making sure

3 that the reinvestment goes into the communities,
4 families and individuals who have been most impacted
5 by prohibition. I've been very fortunate in my life
6 that despite prohibition impacting my family and
7 growing up in low income housing, I was still able to
8 get a college education and attend Ithaca College,
9 and work as a paralegal in all of these nonprofit
10 organizations being able to serve my community and
11 give back to my community, because I know what it is
12 like to live in a community that is under-resourced
13 and the struggles that you have to face, trying to
14 find food, trying to find money to pay rent, trying
15 to find money for your basic needs, let alone think
16 about vacation or your education or any of those
17 things when your basic needs are not being met. When
18 I talk about equity day one, I'm talking about
19 reinvestment in communities and families directly
20 impacted. I'm talking about making sure that people
21 who are currently in prison for marijuana-related
22 convictions are released from prison. I'm talking
23 about auto vacature [sic]. I'm not talking about
24 expungement or sealing, because I worked for a public
25 defense office, and I helped people with rap sheet
clean-ups. I helped people with Certificate of Good

3 Conduct and Certificate of Disabilities for Relief.

4 I know that it can take months to get something
5 sealed, months to get a certificate, and even then
6 you may not get approved, and even then you may not
7 get access to employment and housing. I know that in
8 NYCHA housing you can't smoke weed, you can't smoke
9 cigarettes, and you could lose your housing if you're
10 found to smoke weed or cigarettes. You could lose
11 your housing if any of your children or anyone in
12 your apartment is found to have those things, and
13 then if you're released from prison and found
14 "rehabilitated" there are permanent exclusions and
15 things that could be barring you from living in NYCHA
16 housing. So those kinds of regulations need to be
17 changed. There are a lot of people upstate in
18 homeless shelters who don't-- who are not able to
19 return to their families in New York City because of
20 these kinds of permanent exclusions. I'm talking
21 about ensuring that there's capital for people who
22 are interested in starting their own businesses for
23 people who have been directly impacted, whether or
24 not it is a marijuana business or not, capital for
25 people who want to start a marijuana businesses,
business incubator programs similar to Green Workers

3 Cooperative Academy and Center for Family Life and
4 such. I'm talking about social service programs for
5 low-income folks. I'm talking about a universal
6 basic income. I'm talking about a public bank where
7 marijuana businesses can put their money in a safe
8 place where people can get loans to start their
9 marijuana businesses. That is really important. I'm
10 talking about free applications for equity
11 applicants. I'm talking about free licenses for
12 equity applicants, start-up costs for equity
13 applicants, priorities for residents and priorities
14 for the equity applicants and having a ratio two-to-
15 one or three-to-one for equity applicants. I would
16 like a limit on vertical business licenses to
17 corporations and businesses with the exceptions of
18 co-ops and microbusinesses. Unlimited
19 microbusinesses licenses, a separate category for
20 worker cooperative business license, mixed use
21 business license, consumption lounges, one to two,
22 three day exempt permits, 24-hour delivery, home
23 cultivation, no re-criminalization of our
24 communities, which means like no arrests for people
25 who are selling marijuana in the extra-legal market.
We need to create a pathway for these business owners

3 who have been running the extra-legal market this
4 entire time so that they can run legal businesses in
5 this industry and profit from this industry. I'm
6 talking about ending the removal of children for
7 mothers who are drug tested, and not allowing the
8 current medical marijuana businesses to be
9 grandfathered into the current marijuana industry
10 because they do not reflect the communities who have
11 been directly impacted by the war on drugs. And also
12 similar to what you were saying before, drugs should
13 not be seen as a criminal issue. They are a health
14 issue. I am for prison abolition and ending the
15 criminal justice system. The testament to whether or
16 not our criminal justice system is functioning
17 correctly is the amount of people we have in our
18 prison. So the less people in prison, the better our
19 criminal justice system is working. The less prisons
20 we have open, the better our criminal justice system
21 is working. If we are filling up our prisons and
22 have to keep opening up new prisons, then our
23 criminal justice system is not working. And if we
24 cannot allow equity applicants to operate on day one
25 of the industry, then we need to push back the start
date until they are able to operate on day one of the

2 industry so that they have capital, they have
3 housing, they have employment opportunities, so that
4 they have business incubator programs so that they
5 can properly enter the industry with the resources,
6 tools, and capital they need. We do not want to sell
7 our industry to corporations to Monsanto, to Big
8 Pharma, to Big Alcohol. These are people who have
9 been poisoning us this entire time and lobbying
10 against marijuana legalization in the state. Do not
11 allow them to profit from this industry. Thank you.

12 CHAIRPERSON RICHARDS: Alrighty, thank
13 you so much for your testimony. Well said.

14 JULIAN MCKINLEY: Good afternoon members
15 of the Committees on Public Safety, Justice System,
16 Consumer Affairs and Business Licensing, and Civil
17 and Human Rights. My name is Julian McKinley and I
18 am the Communications Director for Democracy at Work
19 Institute. We are the only national organization
20 dedicated to building the field of worker cooperative
21 development. Worker cooperatives, for those who
22 aren't familiar, are values-driven businesses that
23 put worker and community benefit at the core of their
24 purpose through worker ownership and democratic
25 control of the business. The Democracy at Work

3 Institute was created by the US Federation of Worker
4 Cooperatives to ensure that the worker cooperative
5 development in economically and socially marginalized
6 communities is adequately supportive, effective, and
7 strategically directed. The opening of this multi-
8 billion-dollar industry presents a tremendous
9 opportunity for all New Yorkers. Without a strong
10 equity agenda in place from the outset, however,
11 those who paid the biggest cost of the drug war such
12 as severely limited employment and educational
13 opportunities that are a result of over policing and
14 mass incarceration will continue to suffer the unjust
15 consequences of outdated and unjust policy.

16 Centering communities most detrimentally impacted by
17 the drug war in all facets of legalization would
18 bring about not just avenues for participation and a
19 chance to thrive in this emerging industry but an
20 opportunity for redressing past harms. We support in
21 general Resolution 744 which aims to remedy disparate
22 burdens on people of color and the enforcement of
23 marijuana prohibition by amongst others reinvesting
24 tax revenue from legal marijuana sales. However, we
25 want to highlight issues and implementation in other
communities with similar practices we can learn from

3 and improve upon by including more robust equity
4 supports. The foundational element of the Oakland,
5 California marijuana equity program was a 3.4 million
6 dollars pool seeded through cannabis tax revenue.
7 This pool is used for zero-interest loans of up to
8 100,000 dollars per business for equity licensees.
9 Unfortunately, these loans have been delayed in
10 disbursement by over a year or more as they require
11 the collection of tax revenue to seed it. Thus,
12 equity licensees already have capital disadvantage in
13 comparison to venture-funded or otherwise well-
14 resourced general licensees. Licensees who do not
15 come from communities that have been
16 disproportionately impacted by marijuana prohibition
17 have had an even later start and more difficult time
18 competing and entering a crowded market where timing
19 and early entry are key to success. We can learn and
20 improve upon equity programs that exists in states
21 with adult use of marijuana. For example, other
22 state's equity programs lack incentives to create and
23 enable worker ownership as a means to level the
24 playing field for communities most adversely affected
25 by prohibition to enter and succeed in the marijuana
industry. The marijuana equity program for New York

3 City should include shared ownership through
4 cooperative businesses which would unlock opportunity
5 and facilitate wealth creation in impacted
6 communities. Worker ownership has a strong proven
7 track record in New York City as a tool to
8 economically advance low income communities of color.
9 Thanks for the support of City Council and work led
10 by the worker cooperative business development
11 initiative. Democratically managed worker-owned
12 businesses have a history in the US and around the
13 world as a means for working people to access
14 business ownership, create better jobs, and built
15 wealth in their communities. Jobs at worker
16 cooperatives where the workers are the owners tend to
17 offer extensive training and opportunities for skill
18 building. They provide better wages and have greater
19 participation than conventional companies. They see
20 lower turnover, have high survival rates, and the
21 profits stay in the local community. A marijuana
22 equity program for New York City that includes
23 supports and incentives for cooperative ownership of
24 the industry will undoubtedly create stronger points
25 of entry and opportunity for economic inclusion for
low income communities of color locked out of the

3 industry due to lack of resources and capital. We
4 recommend that City Council include worker
5 cooperatives and shared ownership supports as part of
6 equity legislation including that proposed by
7 Resolution 744. This can include zero-interest loan
8 assets for businesses structured as worker-owned
9 cooperatives owned by members of directly impacted
10 communities. In addition, we recommend fast-track
11 licensing with worker-owned businesses, especially
12 cannabis testing laboratories which the Executive
13 Director of the State Office of Cannabis Management
14 has the discretion to mandate and contract with.
15 Also, preferred city and state contracting and
16 procurement quotas for worker-owned ancillary
17 businesses that are part of regulating the marijuana
18 industry such as video monitoring, compliance, and
19 see-to-sail traceability. On behalf of Democracy at
20 Work Institute I want to thank the Council for the
21 opportunity to testify. We support the call for
22 cannabis equity through explicit equity provision and
23 advocate for the inclusion of shared ownership,
24 especially worker ownership and its efforts so that
25 New Yorkers who have disproportionately suffered from
criminalization, especially those in low-income

3 communities of color see justice and immediate and
4 powerful avenues for participation in the industry.

5 Thank you.

6 CHAIRPERSON RICHARDS: Thank you.

7 UNIDENTIFIED: I actually wasn't planning
8 to testify today, so I didn't have-- I don't have
9 anything prepared unlike my co-tablemates here who
10 did an outstanding job. I was compelled to testify
11 because I am one, a huge cheerleader for cannabis as
12 the plant and as a product, and two, I am a huge
13 cheerleader for the borough of Brooklyn as the most
14 incredible place in the world. I am a Fort Greene
15 resident.

16 CHAIRPERSON RICHARDS: I would disagree
17 with you, though.

18 UNIDENTIFIED: Well, of course you would,
19 because you're from Queens, and I'm not mad at you
20 because we're all 718, but--

21 COUNCIL MEMBER CUMBO: Let him talk.

22 UNIDENTIFIED: Thank you, because that's
23 my Council Member right there. I was compelled to
24 speak-- I was compelled to testify today because I
25 wanted to speak in-- first of all, this is a
revolutionary week in New York State and in New York

3 City in the cannabis industry. As we speak right
4 now, the New York Conference of Mayors is discussing-
5 - is having a summit in Albany to talk about cannabis
6 legalization, and as my Council Member talked about,
7 my local Baptist Church, Emmanuel Baptist Church and
8 Reverend Trufont [sp?], held a seminar this weekend
9 about minority empowerment in the cannabis industry,
10 and it was spectacularly mind-blowing to be in one of
11 the most incredible houses of worship in Clinton
12 Hill, Brooklyn surrounding by minority and women
13 business owners talking about cannabis sanctioned by
14 the congregation and the membership. It was really
15 moving, Council Member Cumbo, and it was awesome to
16 be there. I also wanted to say that this is a
17 revolutionary week because of this Council holding
18 this actual hearing, and I am super proud of the
19 Chairs and of the members for leading in this way,
20 and so I want to thank you for having this hearing. I
21 want to thank you for your leadership in law
22 enforcement and making sure that something that was
23 illegal on Tuesday doesn't necessarily cost someone
24 their freedom or their future on-- if it's legalized
25 on Wednesday, if they were arrested on Tuesday. So I
want to thank you for your leadership on law

3 enforcement, and I also want to thank you for your
4 leadership in supporting MARTA [sic] as opposed to
5 CARTA, because what MARTA does is it provides more
6 avenues of opportunity for business owners than CARTA
7 does. The Governor's plan for CARTA essentially
8 provides a head start for big cannabis. When people
9 talked about vertical integration, it's easy to
10 ignore the fact that there are currently 10
11 vertically integrated cannabis organizations in New
12 York State. So any future prohibitions on vertical
13 integration as an extension or as a consequence
14 provide an advantage for those 10 organizations,
15 which according to the Governor's bill are going to
16 be able to become recreational operators on day one.
17 So we would in theory already have 10 big cannabis
18 vertically integrated operators on day one if the
19 Governor's bill CARTA is passed, as opposed to MART
20 which provides more opportunities through
21 microbusiness licenses, delivery services, other ways
22 that people can access the supply chain without huge
23 influx-- without large influxes of cash or supports
24 of cash to be able to get into the business. But the
25 one thing that I wanted to talk about was how not all
vertical integrations are created equal. We talk

3 about large operations, and then we talk about small,
4 but we don't talk about small to medium. And so what
5 that could effectively could do is cap the growth on
6 some of these small businesses. If a small business
7 could never grow into a medium-sized enterprise, then
8 they're essentially limited to being a small business
9 forever, and then you created two different cannabis
10 industries, one for large operators which could
11 essentially be anomalous to-- analogous to say a
12 Miller Inbev [sic], right a huge beer brewer who
13 makes consumer light beer and consumer beer like
14 Budweiser and Bud Light, and then you're essentially
15 prohibiting the development of somebody like Sam
16 Adams, a smaller operator, or Brooklyn Point is what
17 I should say, a smaller operator who can be
18 vertically integrated, but just not on the same sale.
19 So when we talk about limiting vertical integration
20 it makes sense according to the Mayor's guidance and
21 according to MARTA to limit large-scale vertical
22 integration, but it doesn't make as much sense for
23 inter so innovation and entrepreneurship here in New
24 York State to be limiting small businesses by not
25 allowing them to be vertically integrated. So, us,
we are a minority-owned cannabis operator based in

3 the Bay Area working for 20-some odd years. We could
4 not be more excited to come to New York because it's
5 not only the largest illicit or underground market,
6 but it's potentially one of the largest adult-use
7 markets on the entire planet. And so tens of
8 billions of dollars of new wealth are going to be
9 created in the next decades, and this Council has the
10 power to create a regulatory structure around which
11 this industry will develop in New York City, and as
12 we know in policy, if it doesn't work in New York
13 City, it doesn't work in New York State. And so this
14 council has the power. This council is in position
15 to create the regulatory framework that will be able
16 to address past wrongs, that will be able to direct
17 where some of these tens of billions of dollars of
18 new wealth that are going to be crated, where it's
19 going to go in terms of the operators, the
20 entrepreneurs, the innovators, as well as whatever
21 regulations are going to govern Big Cannabis. So,
22 one thing that Reverend Trufont talked about that
23 really stuck with me on Saturday at Emmanuel was
24 there are people outside of the industry who might
25 just have question. I imagine that the members of
this council have not been involved in a vertically

3 cannabis organization. You are far too busy serving
4 the people of your districts and serving the people
5 of New York.

6 CHAIRPERSON RICHARDS: Can have two jobs.

7 UNIDENTIFIED: Exactly right. And so
8 what we look forward to doing is being a resource
9 for this council and for my local Council Member so
10 that you can have a forum to ask question about how
11 the plant impacts the body, how the plant impacts the
12 community, how the industry impacts the community,
13 how operators might be able to talk Malik from the
14 corner and turn him from someone who was operating
15 outside of the law into someone who can come into an
16 operating business, start to pay some taxable income,
17 and one thing that we will do is we will share profit
18 with Malik so that he can bring his customers as
19 well. We have to keep in mind that people who are
20 only used to be served in the illicit market may or
21 may not be comfortable going into one of these new
22 dispensaries. They may prefer to get their-- and I
23 call it medicine, because cannabis is medicine. They
24 may prefer to get their cannabis from a provider who
25 they already know and have a comfort level with. And
so some structure needs to be created to allow Malik

3 from the corner to come into a regulated and taxable
4 shop and to also bring his customers with him so that
5 they don't have to be put off by going into a new
6 environment in order to get their medicine, and so
7 we look forward to dialoguing with Council Members
8 and staff about how to accomplish these goals, and I
9 think it's important to keep in mind this is the
10 most consequential legislative effort in the biggest
11 market since the civil rights movement. This Council
12 has the power to deliver on the economic promise of
13 the Civil Rights movement through this regulatory
14 effort. And so I commend you for your work,
15 especially you, Chair, and I commend-- I offer our
16 assistance, our 20 years of experience operating in
17 the Bay Area. Anything that we can do to help this
18 council get more information, better information to
19 pass a good bill because our belief is putting CARTA
20 aside and commending Senator Kruger and Assembly
21 Member Crystal Peoples-Stokes for the work that
22 they've done in drafting and passing MARTA. We look
23 forward to being a resource for this council and for
24 you Council Members as you decide how New York City
25 is going to regulate this new industry and how you're
going to direct this new wealth.

3 CHAIRPERSON RICHARDS: Thank you. We're
4 going to go to questions from the Majority Leader.

5 COUNCIL MEMBER CUMBO: I want to thank
6 you for your testimony. I'd hate to see your written
7 testimony if this is your off-the-cuff, but I thank
8 you very much for that, and I'm proud to have you as
9 a constituent in the district and look forward to
10 discussing this further, because you're so right that
11 we have hundreds if not thousands of topics that we
12 have to be very well versed on and this is a huge
13 topic that we certainly do need as much education and
14 as much information as we possibly can have, but I
15 just wanted to direct my comments to the young lady
16 that testified. I just want to applaud you because
17 you've certainly taken a very difficult life
18 challenge and turned it into something meaningful and
19 positive and didn't allow the challenges that you
20 face with your father being separated to break you or
21 to bring you down in a way that you could not
22 recover. You have utilized a painful situation to
23 help yourself, to help your family and to help your
24 community, and I thank you for the courage that it
25 took to share your story, because you say it so
effortlessly, but for many people your story would be

3 one that they may not feel comfortable in sharing,
4 but you certainly brought forward something that is
5 inspirational. So I thank you for that, and thank
6 you for your courage today.

7 EMILY RAMOS: Thank you so much. I wanted
8 to say two things really quickly. One, I forgot to
9 mention. What is-- this is a question. What is your
10 plan for folks who have multiple convictions where
11 their first conviction was a marijuana conviction?
12 Then they were released from prison, and because of
13 that they were barred from entering the legal
14 industry for a regular job, and so went into
15 extralegal markets, and had other convictions that
16 are not marijuana-related. It could be narcotics. It
17 could be weapons, but started off because of initial
18 marijuana conviction. What is your plan to help
19 these people who have been affected by prohibition?
20 And secondly, I am hosting a marijuana forum in the
21 lower east side at the Boys and Girls Republic in
22 sponsorship with Harvey Epstein from the lower east
23 side and a few marijuana organizations. If y'all are
24 able to attend, that would be great. It's open to
25 the public Sunday, March 3rd, from 2:00 to 4:00 p.m.
at the Boys and Girls Republic on Sixth Street and

3 Avenue D. We'll be hosting more forums in East
4 Harlem, Washington Heights, and the Bronx. The East
5 Harlem Forum will be on March 23rd, hosted by the
6 East Harlem Preservation Committee, but we are still
7 solidifying the location. So, if you want to follow
8 us on Instagram, HighMiMadre. You'll find more
9 information about upcoming marijuana forums so you
10 can get informed on what resources are available to
11 help you enter the legal marijuana industry and so
12 you could have your voice heard, because Harvey is
13 carrying over our policy recommendations to his
14 working group in Albany, because he signed onto
15 Assembly Member Crystal Peoples-Stokes' bill. Thank
16 you so much.

17 CHAIRPERSON RICHARDS: Alright, thank
18 you. And I'm going to have council staff follow up
19 with you, my counsel to the committee follow up with
20 you. And that was really sharp in the way to get
21 your commercial out. I think this is the first time
22 this has happened I think at one of my hearings. I
23 want to applaud you for being sharp enough to not
24 only get that information to us but out to the public
25 who's watching this on channel 74, for some reason.
Alrighty, any other questions? Comments? Concerns?

3 Alright, thank you all for your testimony. You're
4 going to slide over Anthony, and then we're going to
5 call the last panel here. Oh, Regina Smith, Harlem
6 Business Alliance, and I'll save Brian Cunningham,
7 Building Contractor's Association, and Donald Rancher
8 [sp?] BTEA if they are here. Anthony, you may begin
9 when you're ready.

10 ANTHONY POSADA: Good afternoon, Council
11 Member.

12 CHAIRPERSON RICHARDS: Good afternoon.

13 ANTHONY POSADA: So I want to thank the
14 committee chairs and the members for holding this
15 hearing, and you have my written testimony. I just
16 want to reserve this time to address particular
17 resolutions and introductions. The Legal Aid Society
18 is the City's primary public defender and I am a
19 supervising attorney in the community justice unit.
20 As such, we get to work with the Cure Violence
21 organizations which you are familiar with, and these
22 organizations working under a public health model
23 have shown the city and the neighborhoods where
24 they're operating what a difference they can make in
25 reducing crime and advancing solutions that are
community-led, and the way that they tie into this

3 conversation is that the racial disparities that have
4 persisted under the marijuana enforcement crusade of
5 New York City is that each one of those contacts with
6 the criminal justice system has created irreparable
7 harms for each person that has been impacted under
8 this enforcement prohibition. Each one of those
9 arrests is an unnecessary arrest that should be
10 viewed as a public health issue. One of the
11 resolutions that I wanted to focus on first was
12 Resolution 296 that impacts NYCHA, that including
13 criminal possession of marijuana in the fourth and
14 fifth degree as overlooked offenses is going to
15 ensure greater access for housing for people.

16 Because one of the things we see the most is people
17 who are in succession of tenancy proceedings that
18 they find themselves to be ineligible to succeed into
19 the tenancy as a result of having one of these
20 convictions. So, getting these marijuana criminal
21 possession fourth and fifth degrees as overlook
22 defenses is going to make sure that people in those
23 succession of tenancy proceedings have a fair chance
24 of actually remaining in their apartments as a result
25 of that. With respect to Introduction 1445, which is
drug testing for job applicants, this is a good step

2 in the right direction, but there is a lot of
3 weaknesses that will remain as a result of this
4 introduction, and what the law does not do is that it
5 does not apply to people who are being drug tested
6 and are current employees. So, they're currently
7 employed and the law does not cover them. It creates
8 an exception. 30C1B is too overbroad. In this
9 exception too many jobs in New York City already
10 require security clearance under New York state law
11 such as security guards, home health aides, child
12 care workers, education workers, and most government
13 jobs. So, basically everybody in that area, which is
14 thousands and thousands of people, many of them low
15 wage workers, will now be covered by having the
16 protections of not being drug tested under this
17 introduction. With respect to Resolution 641 which
18 calls for the expungement of marijuana records, it
19 should include violations and felonies as well, not
20 just misdemeanors. Right now, violations can take up
21 to three years to be sealable, and without an
22 expungement they will be visible to employers
23 conducting background checks. The Resolution 742
24 that calls for the localities to have power and the
25 ability to legislate and regulate public consumption.

3 This is something that we see a lot. Our clients in
4 the communities that we serve do not have the luxury
5 of consuming or using marijuana in their lofts or
6 luxury apartments and as a result face themselves
7 being-- going out into the street and being subjected
8 to unnecessary arrests which again as I want to
9 emphasize are a public health issue. The
10 Introduction 1427 which calls for ending drug testing
11 for probation, as you heard from the drug policy
12 alliance, we helped gather data from our parole
13 verification defense unit as to people who were being
14 violated as a result of marijuana use. And something
15 that I just want to share with you all is a few
16 anecdotes of some of our clients in this context and
17 how this creates greater recidivism and continues the
18 criminalization of people's lives. So, our client
19 NB, who I will refer to as NB, is a 28-year-old woman
20 who was released from upstate in November. She
21 tested positive for marijuana but admitting to using
22 while she was upstate. She asked for programming.
23 She was referred to an outpatient program, but she
24 missed her intake appointment. She did not miss any
25 office reports. She submitted willingly to drug
testing and reported to the shelter where she was

3 directed to reside while she waited for parent's
4 address to be approved. During an office report, a
5 shelter police officer indicated that NB smelled of
6 marijuana, strip searched her, found nothing, and
7 then issued a warrant anyway for the positive
8 toxicologies [sic]. Probable cause was found at the
9 preliminary hearing. Our client's status was revoked
10 and restored to an outpatient drug program. That's
11 just oen example of how in this context marijuana
12 continues to create these collateral consequences for
13 people that are trying to re-enter society but
14 continue to be held back as a result of marijuana
15 still being a reason for why they're violated on both
16 parole and probation. And just to conclude, as a
17 result of being in the Community Justice Unit, I have
18 been to many community conversations and debates
19 where community members have raised issues of
20 marijuana legalization, conflating marijuana
21 legalization with the end of racism or the end of the
22 injustices of capitalism, and what we just want to
23 make clear is that we're taking away a tool of
24 criminalization, and you can use this momentous
25 opportunity to clear thousands and thousands of
records and to deliberately direct revenue produced

3 by marijuana taxation into the communities that have
4 been the most harmed. As a 17-year-old growing up in
5 Jackson Heights as a Latino immigrant, I was
6 subjected to one of these arrests, and in-- I believe
7 to this day in my community there is no Cure Violence
8 organization. There is barely a youth program center
9 that covers after school or cultural and arts
10 programming. I believe they're about to bring one up
11 in Corona, but it's 2018. My arrest was somewhere
12 around 2007, and so basically not having revenue to
13 go into these areas for communities that have been
14 the most impacted is really missing on a great
15 opportunity to have racial justice, economic justice,
16 and community empowerment which is what MARTA [sic]
17 will bring, and it is what we support. So, thank
18 you.

18 CHAIRPERSON RICHARDS: Thank you.

19 REGINA SMITH: Good afternoon, everyone.

20 I'm Regina Smith, Executive Director of the Harlem
21 Business Alliance. I'm also a lifelong Harlem
22 resident. I grew up in the Saint Nicholas Projects
23 and have lived through and experienced the effect of
24 the criminalization of our community and the war on
25 drugs and the Rockefeller Laws. So, what we have

2 done is we agree wholeheartedly and we've been
3 working with the Drug Policy Alliance and the rest of
4 the members of their coalition to focus on economic
5 justice, particularly for the black community,
6 because coming from Harlem, that's our area of
7 concern. So, what has been distributed to you for
8 your review is a flyer which summarizes what we
9 believe is necessary to foster economic justice in
10 the black community. So, we went back further than
11 Scott Stringer study which is I believe maybe within
12 the last 10 or 10 years or so to a study that was
13 conducted by Eddie Ellis and his fellow inmates at
14 Greenhaven Prison about 40 years ago. And in that
15 study-- it's called the Seven Neighborhood Study, and
16 it was revisited. He cited the communities that have
17 basically populated upstate prisons which we also
18 understand is a driving economic factor for those
19 upstate communities. So, I have the communities
20 listed here: Harlem, Lower East Side, South Central
21 Bronx, Bedford-Stuyvesant, Brownsville, East New
22 York, South Jamaica, and of course, we have black
23 communities in upstate, Buffalo, Syracuse, Rochester,
24 Albany, Poughkeepsie, Beacon [sp?], Newberg [sp?],
25 Westchester County, and Long Island that have been

3 impacted. So what we believe is critically important
4 is that the only people who should be prioritized are
5 equity applicants, and they are defined as
6 individuals who family member or the individual
7 himself or herself was arrested, convicted or
8 incarcerated for possession of marijuana, or resided
9 in a protected area prior to 2000. Reason why we
10 said 2000 is because our communities are being
11 gentrified, and we feel that newcomers relatively--
12 relatively newcomers should not be able to benefit
13 from this special consideration. We also believe
14 that there should be day one funding for-- and yes, I
15 have a large number here, because I feel that over 40
16 years-- I've also heard studies where they cite 80
17 years of the length of time that our communities have
18 been impacted adversely, economically, mentally,
19 health, you name it. I mean, it's just been
20 horrendous. I think that the 500 million dollar
21 number actually is low, but we believe that there has
22 to be real dollars allocated to repair this harm.
23 So, we need to think big. Ten million has been
24 thrown out here I think by the City. I don't know how
25 much has been thrown out by the state. I don't
recall seeing that number, but it just needs to be

3 magnified tremendously. And that would be funding
4 for the startup of equity applicant businesses and
5 reinvestment into the protected areas. We also
6 believe that the tax revenue should be solely
7 dedicated to communities most harmed. We also
8 believe in automatic and complete vacating of all
9 marijuana-related convictions. We don't feel that
10 there should be the equity applicants with prior non-
11 violent convictions, well then that is marijuana, but
12 as long as it's nonviolent, we believe that they
13 should be able to gain designation as an equity
14 applicant and be able to own and work in these
15 businesses. And again, our focus is primarily on
16 ownership. That's what we're about,
17 entrepreneurship, ownership, crating black-owned
18 businesses without-- within our community that will
19 turn around and hire our people. That's critically
20 important to us, and as you all know, here in New
21 York City in particular, black businesses are in a
22 state of crisis. We've had a tremendous reduction in
23 the number of black-owned businesses. We've been
24 gentrified. We call the question a number of decades
25 ago about the lack of affordable commercial space,
the fact that a lot of the city-owned properties in

3 our community were under city ownership, and
4 commercial tenants were only given a month-to-month
5 lease, which means that you couldn't possibly borrow
6 any funds. You couldn't grow your business because
7 you did not have a lease. You could not go to the
8 bank. You couldn't get financing. So, all of this,
9 we have been affected by public policy in so many
10 ways and it continues to happen today. So equity
11 incubators, we feel that they need to be run and
12 operated by community-based organizations in each one
13 of these communities. There should be incubators in
14 each one of these communities, and community-based
15 organizations that have individuals who are not only
16 culturally sensitive, but also culturally competent.
17 That's critically important, and there's a
18 difference, but we need to understand how important
19 culture is to working with a population that has been
20 harmed in this fashion and the type of support that
21 they will need. Gestation and leveling period: We
22 believe that our community should be protected from
23 mega million cannabis companies, that we should have
24 exclusive rights, that we should have a three-year
25 gestation period, and we should have 10 years of
exclusivity within our neighborhood so that it is our

3 businesses that are able to open the dispensaries,
4 the ancillary stores, retail stores that get the
5 various licenses, within that is distribution,
6 etcetera, etcetera. We feel that we should have
7 exclusive rights. Our area should be protected from
8 exploitation by major multi-million-dollar cannabis
9 funds. So, I wanted to-- I think that I summarized
10 it, what we're saying. We'd be happy to talk to you
11 about this and flesh this through even further, but
12 it's absolutely critical in order for us to realize--
13 oh, and the other thing that I'd like to say is that
14 often times in the legislation there's-- oh, and
15 MARTA [sic], for example, they talk about given
16 preference for MWBEs. Well, we are well aware that,
17 you know, there are efforts to improve, procurement
18 opportunities and actual contract dollars flowing to
19 MWBEs, but we also realize that despite the fact that
20 this was built upon our struggle, our civil rights
21 struggle, our hard work, our hard-- our tears, that
22 other minorities are benefiting more from MWBE.
23 Goals-- and black people unfortunately and pitifully
24 are at the absolute bottom of that small MWBE slice.
25 So when you look at it you have white women, you have
Asian businesses, you have Hispanics, and black

3 businesses are all the way at the bottom. It's
4 untenable. It cannot continue. The focus has to be
5 on equity applicants who come from these communities,
6 the communities that are most harmed, and if that
7 individual also happens to be a women or also happens
8 to be black or also happens to be Puerto Rican or
9 also happens to be Dominican, that's fine, or also
10 happens to be a veteran, that's fine, but it has to
11 be based around communities most harmed and meeting
12 the equity applicant definition. Otherwise, other
13 people who weren't harmed, did not go to jail, did
14 not go to prison, have not suffered any harm will be
15 able to come in and benefit and get access to capital
16 which they clearly have access to that we don't,
17 they'll be able to benefit from this more. So that's
18 why we're stressing how important this is for us to
19 be able to benefit once and for all from some true
20 economic development and economic justice
21 initiatives. Thank you.

22 CHAIRPERSON RICHARDS: Thank you. Mr.
23 Noah Potter?

24 NOAH POTTER: Thank you very much for the
25 opportunity to speak. I'm here at the end of a very
long day, and I'm not going to take up any more than

3 a minute or two. I just want to focus in on one
4 point that I've mentioned to numerous people over the
5 last few years of reviewing the legalization
6 legislation that's been put forth, starting with the
7 MRTA in 2013. People have spoken about the need for
8 legal indoor consumption. The Mayor's Taskforce
9 clearly contemplates that there will be indoor
10 consumption facilities, specifically as I read the
11 language, contemplates indoor smoking, ingestion
12 through combustion. The MRTA and the CRTA, Marijuana
13 Regulation and Taxation Act, and the Cannabis
14 Regulation and Taxation Act both contemplate indoor
15 consumption. Clearly critical. It doesn't make
16 sense to do legalization in New York to some extent
17 if you don't have that, obviously, but there is a
18 very technical issue that I hope the Council working
19 with the Mayor and other city voices will be able to
20 communicate to the state that there's got to be an
21 examination of the Clean Indoor Air Act. There's a
22 state law that will pre-empt local laws to the
23 contrary if the state law makes the legal market
24 subject to the CIAA without any kind of carve-out.
25 As I read the state law, the preemption law and the
city law, you will in practice not be able to have

3 indoor consumption unless those are vaporization
4 facilities, and you then run into the same types of
5 social issues. It's part of the overall conflict,
6 the social conflict in which you will be requiring
7 the New York Cannabis consuming population either to
8 purchase vaporization equipment or to rent it at the
9 facilities that may come into being. That's not the
10 preferred route of ingestion, the large part of the
11 population. So you'll end up creating a legal system
12 that will be counterproductive, and I think that-- my
13 sense is that when people have implicit in the
14 testimony that's been given is you don't want to
15 create a system, a legal market, that does not-- your
16 legal system should work with the existing market.
17 It should not be designed in contrast, in conflict,
18 with the existing market and expect the largest
19 cannabis consuming market in the United States to
20 defer to this new system. You don't want to have a
21 system in which the public is an ongoing conflict,
22 violation of the new law, and then the public
23 perception is that the law is a failure. So, that,
24 the issue of state preemption of local law on the
25 indoor smoking needs to be addressed. Either create
a carve-out in the state law, say specifically that

3 the system is not subject to the Clean Indoor Air
4 Act, or have a carve-out in the state law to allow
5 the local governments to regulate, to give more
6 regulatory authority specifically on that point. The
7 issue of preemption is major. It's a very
8 problematic aspect of the schedule on which this
9 effort is being conducted. But one very narrow
10 critical point so that the idea of indoor consumption
11 can work and we can avoid the issue of where the
12 cannabis market is legalized where people are
13 continuing to smoke on the street, or they can't get
14 into a public space and they continue-- a public
15 shared space, and they continue to consume in their
16 apartments, etcetera, and then you have problems
17 within the building and neighbors. That one narrow
18 focus, that narrow issue of having the whole indoor
19 consumption system subject to the Clean Indoor Air
20 Act needs to be addressed.

21 CHAIRPERSON RICHARDS: And just speak to
22 NYCHA on that, how do you deal with that if there's a
23 federal--

24 NOAH POTTER: [interposing] So, the NYCHA
25 thing is obviously far more complicated, and I think
that the-- you know, the resolutions calling upon

3 NYCHA to make possession-- ignore the-- disregard of
4 offenses seems like a creative way of addressing it.
5 I have had conversations with some NYCHA people in
6 the past about the dilemma that they're faced with,
7 because they can have a safe space for tobacco, but
8 they can't do that for cannabis. I can't offer as I
9 sit here any recommendation regarding NYCHA, because
10 that's its own-- it's its own being. I'm talking
11 about simply for the general public, and if you're
12 going to-- if you have a zillion tourists who are
13 going to come into New York and you're going to have
14 cannabis tourism coming into New York, you're going
15 to have this phenomenal night life in New York, and
16 the hospitality industry wants to get in on the
17 action, but then you find out that you're
18 jeopardizing your licensure because you're allowing
19 onsite consumption through combustion which is
20 prohibited under the Clean Indoor Air Act. It's
21 functionally impossible. That's a potential debacle
22 in the making. So, NYCHA is its own. I think in
23 turn I'm talking about the probably larger part of
24 the market, because we're talking about the people
25 coming over the bridge, through the bridges and
tunnels, you know, people coming in from around the

2 country, from around the world, and the residents of
3 the City. So, I can't really offer anything more
4 constructive on the NYCHA situation.

5 CHAIRPERSON RICHARDS: Okay. Thank you
6 all for your testimony. I want to thank-- alright,
7 anybody else wish to testify? Seeing none. Okay, I
8 just wanted to thank the individuals who really
9 worked hard to get this hearing going, and this is
10 the beginning of a conversation, but I'm happy we're
11 able to inject ourselves into it especially in lieu
12 of the state starting to take some action. So I want
13 to thank first my Public Safety Committee Counsel,
14 Daniel Addis [sp?], Casey Addison, Evan Sing [sp?]. I
15 thank all the other committees who participated
16 today, Committee on Justice Systems, Consumer Affairs
17 and Business Licensing Committee, and the Committee
18 on Civil and Human Rights, and I want to thank
19 everyone for their recommendations today and all the
20 agencies that testified as well. Thank you. This
21 hearing is now closed.

22 [gavel]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date April 26, 2019