

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON IMMIGRATION

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September 13, 2017

Start: 10:10 a.m.

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HELD AT: Council Chambers - City Hall

B E F O R E: CARLOS MENCHACA
Chairperson

COUNCIL MEMBERS: Mathieu Eugene
Daniel Dromm
Peter A. Koo
Rafael L. Espinal, Jr.

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

Bitta Mostofi, Acting Commissioner
Mayor's Office of Immigrant Affairs, MOIA

Susan Herman, Deputy Commissioner
Collaborative Placing
New York City Police Department, NYPD

Hannah Shapiro, Staff Attorney
Domestic Violence Immigration Project Attorney
Legal Aid Society

Carmen Maria Rey
Sanctuary for Families
Also appearing for: Jennifer Durkin
American Immigration Lawyers Association

Maryann Tharappel, Special Projects Director
Immigrant Refugee Services
Catholic Charities Community Services

Sophie Dalsimer, Immigration Attorney
Brooklyn Defender Services

Terry Lawson, Bronx Legal Services
Bronx Office or Legal Services NYC

Joy Ziegweid, Supervising Immigration Attorney
Domestic Violence Project
Urban Justice Center

Amanda Doroshow, Staff Attorney
Her Justice

Shani Adess, Supervisor
New York Legal Assistance Group

Suzanne Tomatore, Co-Director
Immigrant Justice Project
City Bar Justice Center

Deborah Lee, Staff Attorney
Sanctuary for Families
NYC Family Justice Center, Brooklyn

Aileen Gay, Immigrants Rights Paralegal
Community Development Project
Urban Justice Center

2 [background comments] [sound check,
3 pause] [gavel]

4 CHAIRPERSON MENCHACA: Buenos dias. Good
5 morning. My name is Carlos Menchaca. I'm the
6 President, the Chair of the Committee on Immigration
7 here at the New York City Council. Before going any
8 further, I want to welcome our Council Member Peter
9 Koo from Queens on the committee. Today the
10 Committee on Immigration will hold a hearing about
11 the best practices for city agencies, courts and law
12 enforcement authorized to certify immigrant victims
13 for U and T visas. Assistance and cooperation from
14 immigrant communities is crucial to keeping not just
15 our immigrant communities, but all New Yorkers safe.
16 This is the Council's top priority. Unfortunately,
17 the President's calls for local law enforcement
18 entanglement with federal immigration enforcement
19 undermines community policing efforts. To increase
20 public safety, immigrant victims and witnesses must
21 feel comfortable reporting crimes and working with
22 law enforcement on all investigations. This is
23 especially true of immigrants especially women and
24 children who can be particularly vulnerable to crimes
25 like human trafficking and domestic violence. That

2 is why today we are considering proposed Resolution
3 1097-A and Resolution 1637, which call on Congress to
4 heed both of those calls. Today's hearing will give
5 representatives from various certifying agencies the
6 opportunity to highlight how immigrant victims can
7 request U and T visa Certifications. It will also
8 allow advocates and New Yorkers to provide
9 recommendations, ideas, issues, feedback and point to
10 the best practices. These recommendations will
11 inform MOIA and city agencies as an immigration task
12 force explores ways to better support our immigrant
13 victims. I would like to thank the Mayor's Office of
14 Immigrant Affairs, as well as the representatives
15 from all the other agencies here today who will be
16 supporting any testimony or questions that we have.
17 I will also that, um, and this is for folks at home
18 who might be listening to us today, and wanting to
19 get engaged in how we think U and T visas U and T
20 visas. It's important to say that they U and T visas
21 provide law enforcement officials with a valuable
22 tool to promote immigrant cooperation with law
23 enforcement, to build trust. In order to apply for a
24 U and T visa, the victim must obtain a Certification
25 from law enforcement verifying their victim status,

2 and helpfulness. Unfortunately the visa
3 effectiveness is promoting immigrant cooperation.
4 Unfortunately, the visa's effectiveness is in
5 promoting immigrant cooperation is undermined by the
6 inability to or delay in getting the certification
7 necessary to apply. In New York City the local
8 agencies that provide U Visa Certifications include
9 the NYPD, the Administration for Children Services,
10 the NYC Law Department and the NYC Commission on
11 Human Rights. Additionally, criminal and family
12 court judges as well as all five district attorneys'
13 offices may sign U Visa Certifications. Only 10,000
14 U visas and 5,000 T visas may be issued each year
15 nationwide. Due to these limits, waiting periods for
16 these visas is at least two years. Clearly, Congress
17 must act to increase, to remove these caps.
18 Additionally, Congress...Congress must soon introduce
19 legislation to reauthorize Trafficking Victim's
20 Protection Reauthorization Act as relevant
21 appropriations will expire in 2018. These are
22 important facts to give out to our community who are
23 more and more coming to us as a city agency, as a
24 city, and asking for help. [Speaking Spanish] So,

2 with that, I want to invite MOIA to give their
3 testimony as we begin. Thank you.

4 ACTING COMMISSIONER MOSTOFI: Thank you.
5 Thank you to Chair Menchaca and all the great work
6 that you do and members of the committee, Council
7 Member Koo. My name is Bitta Mostofi. I'm the Acting
8 Commissioner of the Mayor's Office of Immigrant
9 Affairs. In my testimony today on behalf of the
10 Administration, I will describe the work we have done
11 to improve the city's U and T visa Law Enforcement
12 Certification processes, and the measures we have
13 undertaken across city agencies to expand public
14 education about these program—programs. Excuse me. I
15 also have with me colleagues from other agencies
16 involved in the area to address questions specific to
17 their agency's work. Since 2014, the city has taken
18 a number of steps to strengthen the U and T Visa Law
19 Enforcement Certification process. Those efforts
20 followed the pledge in the One New York Rising
21 Together platform to address concerns with—about U
22 Visa Certifications and T visa declarations by city
23 agencies. The Mayor pledged to work with the
24 agencies to improve the speed of the certification
25 processes and their issuance. The number of requests

2 from immigrants for certifications has climbed
3 significantly over the past several years, a trend
4 attributable to not to increased crime, but instead
5 to increased awareness about the option for victims.
6 They number of approvals has also increased
7 dramatically with this year on pace to be over 50%
8 higher than the levels we saw in 2014. The
9 importance of this work has been reinforced in the
10 current moment. When changes in the Federal
11 Immigration Enforcement policies and priorities
12 threaten to undermine immigrants' trust in the
13 willingness to interact with local law enforcement.
14 The U and T visa programs are crucial tools in local
15 law enforcement and investigative agencies' ability
16 to secure the cooperation and testimony of immigrant
17 victims of crime.

18 In 2014, administration officials created
19 an interagency working group to spur agency's
20 collaboration on best practices, outreach and public
21 education while also working together to ensure that
22 the program's integrity of agency certification
23 procedures is maintained. The working group is
24 convened by the Mayor's Office of Immigrant Affairs,
25 the Mayor's Office of Criminal Justice, and Mayor's

2 Office to Combat Domestic Violence, and it includes
3 the city certifying agencies, the New York City
4 Police Department, Administration for Children's
5 Services, the Commission on Human Rights, and the Law
6 Department Family Court Division, as well as the five
7 district attorneys offices. The certification
8 process at the NYPD, the city agency that receives
9 the largest volume of certification requests has seen
10 significant changes over the past several years.
11 These changes reflect the NYPD's commitment to
12 engendering cooperation between police and the
13 immigrant community. Police Commissioner O'Neill has
14 stated: It is incumbent upon the men and women of
15 the NYPD to maintain the trust and the confidence of
16 all who depend on the services of the Police
17 Department for their safety. In 2014, the NYPD
18 increased the number of authorized certifying
19 officials permitting the department to process a far
20 larger number of certification requests. The NYPD
21 further made major reforms to its procedures for
22 accepting and evaluating certification requests via
23 forma notice and comment rule making. This U Visa
24 Certification Rule was promulgated in 2016 and the T
25 Visa Rule in 2017. Among other things, these rules

2 set guidelines for the department's processing of
3 requests and establishing an appeals process within
4 the agency's Legal Bureau to adjudicate challenges to
5 denials. The NYPD has also ceased its prior practice
6 of denying certification requests in cases where the
7 alleged crime occurred outside of the statute of
8 limitations for prosecution, and performed a review
9 of all such denials resulting in the department
10 deciding to reverse prior denials in some instances.

11 ACS' Certification Program is an
12 important aspect of the agency's commitment to
13 enhancing the safety of children in homes that are
14 free from domestic violence. ACS' program supports
15 the ability of non-abusive parents to protect
16 themselves and their children and helps families
17 access needed benefits and services. To this end,
18 ACS has made improvements to the processes in the
19 past few years. in June of 2014, ACS adopted new
20 internal guidance on U Visa Certifications including
21 guidelines for the agency's certifying officials to
22 ensure effective processing. In 2016, ACS issues its
23 first T visa declaration, and has worked to ensure
24 that the legal and advocacy community is aware of the
25 T visa option as well. The Law Department Family

2 Court Division, which represents the government in
3 certain Juvenile Justice matters, has generally seen
4 a lower number of requests and, therefor, lower
5 number performed. However, the Law Department has
6 seen a consistent measurable increase in both request
7 and certifications over the past several years. The
8 Commission on Human Rights we're happy to say began
9 accepting U Visa Certification and T visa Declaration
10 requests in February of 2016 becoming the first local
11 anti-discrimination agency in a major U.S. city to
12 perform this function. The commission's work in this
13 area is, therefore, quite new, but has already been
14 greeted with praise by legal providers and others.
15 In addition to the work of these four certifying
16 agencies, the Administration's Interagency Working
17 Group has allowed the city agencies the opportunity
18 to develop more extensive collaboration with the five
19 district attorneys' offices on outreach and public
20 education about the availability of U and T visas.
21 The city certifying agencies have greatly expanded
22 their U and T visa certification capacity and
23 approvals over the past several years. Citywide we
24 went from 636 requests and 317 certifications in 2014
25 to 700 requests and 399 certifications in 2015 to 875

2 requests and 521 certifications in 2016 with 776
3 requests and about 347 certifications over the first
4 eight months alone of 2017. So, and series of
5 numbers, but clearly demonstrates that increase I
6 described earlier in my testimony. These facts bear
7 out the success that the Administration has been able
8 to accomplish in this area. Outreach and public
9 education have continued to be major areas of focus
10 of the Interagency Working Group and its member
11 agencies, and there's been a wide array of awareness
12 raising activities since 2014. Among the most
13 powerful education measures was the creation of a
14 centralized New York City Government website with
15 standardized information about how you can request U
16 Visa Certifications and T visa Declarations from each
17 certifying agency, and each DA's offices. This has
18 enabled MOIA staff and others to direct attorneys,
19 social workers, advocates and crime victims
20 themselves to one resource that provides
21 comprehensible information about how to proceed.
22 Before we created this website, there was simply not
23 one centralized tool to help immigrants and advocates
24 find the information that they would need to pursue
25 and certification. OCDV and MOIA jointly produced

2 public education materials specifically aimed at
3 sharing information with victims of crime. The two
4 agencies' commissioners also published a joint op-ed
5 earlier this year in part in response to elevated
6 fears in immigrant communities about hate crimes and
7 immigration enforcement. OCDV performs regular
8 educational trainings at his Family Justice centers
9 in every borough about immigrant remedies for victims
10 of domestic violence and trafficking. MOIA's staff
11 have shared information in a range of settings
12 including at community based Know Your Rights forum
13 events, town halls hosted by elected officials and
14 others as well as through public events as part of
15 our Annual Immigrant Heritage Week. MOIA, OCDV, and
16 MOCJ have also convened advocates who work on
17 immigrants' rights and domestic violation-violence
18 issues to learn about the root concerns and the
19 population needs.

20 In April of this year, NYPD and MOIA held
21 a continuing legal education program to educate
22 attorneys in the private immigration bar about these
23 issues. Additionally, NYPD personnel have met with
24 service providers and advocates through the Bureau of
25 Sexual Assault Task Forces. The has gone beyond our

2 local work on this issues in advocating for
3 improvements to U and T visa programs where we have
4 seen opportunities for them to better serve our
5 immigrant residents and families. In 2014,
6 Commissioner Agarwal wrote to USCIS, U.S. Customs and
7 Immigrations Enforcement. Excuse me, Services to
8 advocate for broadening the definition of certifying
9 officials that would permit appointment of non-
10 managerial staff arguing that such a change would
11 provide law enforcement agencies with flexibility to
12 authorize certifications by additional members of
13 their staff whose duties may not include supervisory
14 functions, but would otherwise be quite expert in
15 being able to certify. USCIS has yet to adopt this
16 proposal. While we maintain that this change should
17 be adopted, the City certifying agencies, in
18 particular as I mentioned the NYPD have nevertheless
19 expanded their certifying officials to broaden access
20 as much as possible under the current federal
21 regulations. In 2016, Commissioner Agarwal along
22 with USCIS ombudsmen advocated with USCIS in favor of
23 a policy to grant parole to U visa applicants and
24 derivatives who reside overseas. USCIS adopted this
25 policy, we were happy to see, late last year, but

2 President Trump's January 25th Executive Order on
3 border security called for strict limits on federal
4 immigration agency's parole authority indicating an
5 apparent end to the U visa Parole Policy. In
6 addition, MOIA continues to be in touch with USCIS on
7 issues relating to U and T visas, and remains in
8 contact with advocates and elected officials on these
9 issues in order to identify opportunities for
10 positive change or other necessary advocacy. The
11 Administration has made, as I said, significant
12 changes across the city agencies to ensure that
13 accurate information about U and T visas is shared
14 with members of community and practitioners. These
15 changes have also been aimed at ensuring that the
16 certifying agencies' protocols and practice
17 procedures are effective, prompt and result in fair
18 determinations. The Interagency Working Group
19 continues to discuss a range of issues related to U
20 and T visas, and share best practices, and as
21 monitoring changes in federal immigration policy that
22 could affect U and T visa processes. In addition,
23 the Working Group members will continue to collect
24 and compile data to be reported publicly by MOIA.
25 This committee and the full Council have recognized

2 the importance of this aspect of our work in your
3 passage of Introduction 1568-A just last week. The
4 Administration through this interagency working group
5 and other means will continue its efforts across the
6 agencies to build and protect trust between
7 immigrants and local law enforcement officials,
8 including through public education on the U and T
9 visas certification process. Thank you for allowing
10 me to testify with you here today.

11 CHAIRPERSON MENCHACA: Thank you,
12 Commissioner and we're here to have a kind of good
13 conversation about some of the changes because we do
14 want to acknowledge that there have been changes and
15 advancements in this process as complicated as it's
16 been, and I guess what I want to do is--is maybe just
17 go right into some of the specifics. We know that
18 NYPD has made some--some changes already. How--and
19 everything is kind of alluding to increased access,
20 more training. How are you actually evaluating that
21 internally? How have you been evaluating that as
22 MOIA and--and is that evaluation the same as an NYPD
23 at--at NYPD?

24 ACTING COMMISSIONER MOSTOFI: Yeah.
25 Well, I would--I would obviously invite my colleagues

2 at NYPD to speak to their internal evaluations, if
3 you will. What I'll say is we very much valued the
4 open line of communication through the Interagency
5 Working group, and less informally outside of that
6 working group with all of the city certifying
7 agencies. Part of what we've been able to do is look
8 at sort of what processes look like, look at what
9 requests, sort of numbers of requests look like, and—
10 and denials and sort of be able to sort of maintain
11 and monitor, if you will, that things are moving in
12 the direction that we've all hoped that they would.
13 I would emphasize that the determination on and
14 individual case is obviously within that agency's
15 discretion and purview, and due to confidentiality
16 concerns and reasons, MOIA does not evaluate
17 individual cases, but leave that expertise to the
18 agencies themselves.

19 CHAIRPERSON MENCHACA: And completely
20 respecting the confidentiality, no doubt, I still
21 haven't necessarily heard more about—about the—the
22 texture of the data that's coming out from the
23 evaluation. So, I'm hearing that you are looking at
24 efficiencies. You are looking at access, but how
25

2 have you—what is that concrete data, like how is it
3 working internally?

4 ASSISTANT COMMISSIONER MOSTOFI: Yeah,
5 so, um, you now, I think what we've been able to look
6 at is sort of the number of certification requests
7 received, right, the period of time in which things
8 are pending, the number of issued, denied, withdrawn,
9 the appeals that have been filed through the
10 agencies. We've been able to sort of monitor that—
11 that data set, if you will over the course of the
12 last few years, and based on that kind of engage in
13 conversation on the processes themselves, and where
14 we think potentially other improvement could be or
15 where public education needs to happen.

16 CHAIRPERSON MENCHACA: What has that data
17 told you?

18 ASSISTANT COMMISSIONER MOSTOFI: The data
19 has said in part that what I testified to earlier,
20 which is that we have expanded greatly the number of
21 certifications that have been issued. We've also
22 shorted the time frames in which people are responded
23 to. We've looked at particular concerns that
24 advocates and others have raised around potential
25 denials be it at NYPD or others, and tried to address

2 those concerns with changes in procedure or
3 evaluation or minimally have an open conversation
4 with folks about why certain decisions have been
5 made. One aspect of that has resulted in having the
6 appeals process, which allows folks to come back.

7 CHAIRPERSON MENCHACA: Is that new?

8 ASSISTANT COMMISSIONER MOSTOFI: Yes.

9 CHAIRPERSON MENCHACA: The appeals
10 process?

11 ASSISTANT COMMISSIONER MOSTOFI: 2014.

12 CHAIRPERSON MENCHACA: 2014.

13 ASSISTANT COMMISSIONER MOSTOFI: 2014.

14 CHAIRPERSON MENCHACA: Okay.

15 ASSISTANT COMMISSIONER MOSTOFI: Yeah.

16 CHAIRPERSON MENCHACA: But can we invite
17 an NYPD official to speak to and speak to this
18 question about data and how—how we want as many
19 specifics as possible not individual casework, but
20 how—how are you measuring increased access? What are
21 the numbers? You know, the one piece I'll just kind
22 of shoot out is we've had a number of U visas
23 certification requests made to NYPD. It has
24 increased more than seven fold in the last six years
25 from 87 in 2011 to 713 in 2016. So, we're taking

2 some data, but it would be good to get to some NYPD
3 data about how-how the changes have impacted your
4 ability to respond to these new and dramatically
5 increased applications. And also, I'll throw in on
6 top of that, the NYPD how-how are you addressing the
7 concerns on the OIG Report that came out as well, and
8 how-how-how are you-how are you addressing some of
9 those concerns that were in that report? [background
10 comments]

11 CHAIRPERSON MENCHACA: Sorry.

12 DEPUTY COMMISSIONER HERMAN: My name is
13 Susan Herman. I'm the Deputy Commissioner of
14 Collaborative Placing--

15 CHAIRPERSON MENCHACA: [interposing]
16 Okay.

17 DEPUTY COMMISSIONER HERMAN: --at the
18 NYPD.

19 CHAIRPERSON MENCHACA: Oh--

20 ASSISTANT COMMISSIONER MOSTOFI: She's
21 asking if you want to swear her in.

22 CHAIRPERSON MENCHACA: Yes. You know
23 what, I didn't do the oath.

24 DEPUTY COMMISSIONER HERMAN: Okay, well,
25 skip it.

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21

2 ASSISTANT COMMISSIONER MOSTOFI: Alright.
3 It's in our interest.

4 CHAIRPERSON MENCHACA: Where is my mind
5 this morning? [laughter] So none of you are under
6 oath. So,

7 DEPUTY COMMISSIONER HERMAN: Right.

8 CHAIRPERSON MENCHACA: So. I have to do
9 this again.

10 DEPUTY COMMISSIONER HERMAN: Right, fine.

11 CHAIRPERSON MENCHACA: Are you okay?

12 DEPUTY COMMISSIONER HERMAN: Okay. So-

13 CHAIRPERSON MENCHACA: [interposing] I'll
14 just-

15 DEPUTY COMMISSIONER HERMAN: --we have-

16 CHAIRPERSON MENCHACA: I'll just make-
17 hold on let me just say it. Raise-all of you raise
18 your hand. Do you continue to tell the truth and
19 nothing but the truth to this committee and the
20 members here today?

21 DEPUTY COMMISSIONER HERMAN: Yes.

22 ASSISTANT COMMISSIONER MOSTOFI:

23 Absolute.

24 CHAIRPERSON MENCHACA: Thank you.

25

2 DEPUTY COMMISSIONER HERMAN: So, in 2014,
3 as you said, we had 501 applications submitted. In
4 2016, 713 and as of the end of August in 2017 we have
5 651. We're on par for probably about 1,000 being
6 submitted this year. So that's a tremendous increase
7 within this last few years. Our process has gotten
8 faster. We believe it's gotten fairer, and it's
9 gotten completely transparent. We on our own before
10 this working group even began posted our process on
11 our website. Our process used to take 30 to 60 days.
12 We are now at 45 days or less, and that's, in fact,
13 the rule that we have adopted: 45 days or less. So,
14 it's faster. It's fairer because we have created
15 again on our own a review process, and we don't know
16 of another police department in the country has a
17 review process. So, that's a big step in the
18 direction of creating and a fair process. We are
19 completely transparent in that we have published our
20 guidelines and our process on our website, and we
21 were the first agency in the city to do that. We are
22 among—I think that you would be hard pressed to find
23 another police department that puts up as much detail
24 about their process as we do. So, it's fast, it's
25 fair, it's transparent, and we have also been and

2 continue to be responsive to suggestions that have
3 been made along the way. The statute of limitations
4 is a great example. We were denying based on the
5 statute of limitations. We no longer are. So, the
6 process has changed, and I think it reflects our
7 desire to be as simple, fair, and as transparent as
8 possible. We've also moved the place where people
9 drop off their applications. They can drop them off
10 in One Police Plaza, but that can be an intimidating
11 place. You have to go through several levels of
12 security to get in, and you now can drop it off there
13 if you wish to, if that's convenient for you, and
14 your choice or at the Seventh Precinct.

15 CHAIRPERSON MENCHACA: So, I want to
16 acknowledge that I think there's been incredible
17 strides in this process, and a real dedication from
18 the entire administration from MOIA working in
19 partnership with all city agencies have—have really
20 kind of brought us to this point. And so fairer and
21 more transparent and quicker, and those are things
22 that really impact the lives of so many.

23 DEPUTY COMMISSIONER HERMAN: [interposing]
24 Uh-hm.

2 CHAIRPERSON MENCHACA: Every single
3 applicant's lives. It also brings more trust and
4 ability for people to understand something that is
5 incredibly not easy to understand. Those are all--
6 those are all good things.

7 DEPUTY COMMISSIONER HERMAN: Uh-hm.

8 CHAIRPERSON MENCHACA: And so I want to
9 acknowledge that. We're always trying to figure out
10 how we--how we continue to make that better. So,
11 we're going to hear some ideas from advocates today,
12 and I'm hoping that we can continue that
13 conversation. The OIG gave a report. Is there
14 anything that kind of stuck out or stood out in that--
15 in that report that has been a challenge for the NYPD
16 for--for response or for response from that report?

17 DEPUTY COMMISSIONER HERMAN: I think we--
18 we have a--we're preparing our response and--

19 CHAIRPERSON MENCHACA: [interposing]
20 Okay.

21 DEPUTY COMMISSIONER HERMAN: --will be
22 issuing that shortly.

23 CHAIRPERSON MENCHACA: When will you be
24 issuing that--that--that kind of final response?

2 DEPUTY COMMISSIONER HERMAN: Within
3 whatever the timeframe is that we have.

4 CHAIRPERSON MENCHACA: Okay, okay.

5 DEPUTY COMMISSIONER HERMAN: 90 days I
6 think we have.

7 CHAIRPERSON MENCHACA: Well, okay, I was
8 hoping you would share something, but we'll be ready
9 when that--when that response comes to continue that--
10 that conversation.

11 DEPUTY COMMISSIONER HERMAN: Uh-hm.

12 CHAIRPERSON MENCHACA: And one of the
13 things that isn't as clear, and why the process has
14 been kind of laid out in your website. Again, thank
15 you. We--we're also trying to figure out who--who the
16 actual agents are to certify. That's I think a
17 little bit--

18 DEPUTY COMMISSIONER HERMAN:
19 [interposing] So--so U Visas go to our DV Unit, all U
20 Visa Certification requests--

21 CHAIRPERSON MENCHACA: [interposing] Can
22 you repeat that again? The DV--?

23 DEPUTY COMMISSIONER HERMAN: U visa
24 requests, U visa requests go to our Domestic Violence
25 Unit whether it is a domestic violence underlying

2 crime or any kind of crime because they have
3 developed and expertise. So, it just happens to go
4 there. So, they review all U visa requests, and T
5 visa, um, requests go to our Trafficking Unit, our
6 Vice Unit.

7 CHAIRPERSON MENCHACA: This kind of leads
8 us to—to try to understand some of the—the—the kind
9 of general data about survivors of crime who have a
10 criminal history, and applications being denied to
11 those survivors of crime, and trying to understand
12 what basis NYPD has to reject an application and what
13 guidelines are built around those applicants with
14 criminal history.

15 DEPUTY COMMISSIONER HERMAN: So, we look
16 at the entire context of a person's record, their
17 entire record, and if—if we believe that there's a
18 public safety risk, we don't certify that person, but
19 we're looking at it—the—a context, a whole record.
20 We're not looking necessarily at single event.

21 CHAIRPERSON MENCHACA: Do you track data
22 on how many--

23 DEPUTY COMMISSIONER HERMAN: [interposing]
24 We do.

2 CHAIRPERSON MENCHACA: --how many--and
3 well, the question is--

4 DEPUTY COMMISSIONER HERMAN: [interposing]
5 We do. In 27--in 2016, out of all of our denials,
6 which were 127, 36 of them were denied for public
7 safety reasons.

8 CHAIRPERSON MENCHACA: Can I go deeper
9 and, um, ask of the denials how many of them--well
10 maybe this is more large than the diagram here, but
11 of those who applied with some criminal history, how
12 many of them were denied. So, I'm the truth I'm
13 trying to understand it.

14 DEPUTY COMMISSIONER HERMAN: I understand
15 your questions.

16 CHAIRPERSON MENCHACA: Yes.

17 DEPUTY COMMISSIONER HERMAN: I--I cannot
18 answer that.

19 CHAIRPERSON MENCHACA: Okay, so we'll
20 have that. Is that something that can be provided?

21 DEPUTY COMMISSIONER HERMAN: It would be
22 complicated because we'd be looking back at--we'd be
23 looking backwards. It would take some effort do
24 that, but we can look at that.

2 CHAIRPERSON MENCHACA: Well, I'd like to
3 ask, um, that we can--if we can prepare that and--and
4 I'd--I'd appreciate it.

5 DEPUTY COMMISSIONER HERMAN: How many had
6 any criminal record at all?

7 CHAIRPERSON MENCHACA: Well, the--the core

8 DEPUTY COMMISSIONER HERMAN:

9 [interposing] I hear you.

10 CHAIRPERSON MENCHACA: --of this question
11 is trying to understand back to kind of the sense of
12 transparency and we're looking at kind of future
13 recommendations for either more transparency or just
14 data to understand a little bit more about that
15 public safety threat. So, help us understand that.
16 I'm officially requesting that data. We'll put a
17 letter together, but what--what--what--if you can tell
18 us a little bit. How do you define public threat in
19 this case where you have--

20 DEPUTY COMMISSIONER HERMAN: [interposing]
21 We're looking at serious--

22 CHAIRPERSON MENCHACA: --rejected 36
23 based on public--

24

25

2 DEPUTY COMMISSIONER HERMAN: Right. We
3 look at the seriousness of whatever-whatever crimes
4 were committed. That's what we're--

5 CHAIRPERSON MENCHACA: [interposing] And
6 what is serious?

7 DEPUTY COMMISSIONER HERMAN: There's a
8 range of crimes. We certainly look at but we do not
9 rely exclusively on the 175 crimes that are the
10 underlying crimes that be-can be included. Sometimes
11 we have certified people who have committed one of
12 those crimes, and sometimes we have not. It's an
13 entire pictured to try and determine. It's a
14 discretionary process. It's hard to get very
15 specific about exactly how do define that.

16 CHAIRPERSON MENCHACA: Okay. We'll come
17 back to that. DAs. Tell me a little bit about how
18 you work with the DAs because they're also involved
19 in the Criminal Justice System, and also part of this
20 process as well. How-how do you-how does the NYPD
21 work with the district attorneys to (1) determine
22 that question around public threat?

23 DEPUTY COMMISSIONER HERMAN: So, okay.
24 So, when there's been an arrest in the case, the case
25 has gone forward to a DA's office, we refer all of

2 those cases to the DAs because we believe that the
3 helpfulness requirement is a requirement for ongoing
4 helpfulness, and we can't certify or have knowledge
5 necessarily about that stage of the process. So,
6 when it's gone to the DA's office, we refer the case
7 to them, as is typically the practice around the
8 country.

9 CHAIRPERSON MENCHACA: Tell us a little
10 bit about the work that you do internally on
11 addressing concerns from the public. So, how does
12 the outreach happen with NYPD, and what—how can—how
13 do you impact or how do you bring in constituencies
14 to understand the changes? You've done so many
15 changes and these changes kind of continue to—to come
16 in. How—how do you evaluate?

17 DEPUTY COMMISSIONER HERMAN: I would get
18 that input.

19 CHAIRPERSON MENCHACA: Input from
20 communities, and how do you define your constituency
21 in this case? Are you bringing an advocate? So,
22 you're talking to survivors of crime.

23 DEPUTY COMMISSIONER HERMAN: So, in—in my
24 role as Deputy Commissioner of Collaborative
25 Policing, I work with many interest groups including

2 many victim advocacy organizations, and immigrant
3 organizations. I personally meet with lots of
4 groups. I have a quarterly Victim Advocate Advisory
5 Committee. I participate in the working group that
6 MOIA and OCDV and MOCJ co-convene and I hear input on
7 a regular basis. I have oversight of the CVAP
8 programs that's now in two-thirds of our precincts
9 where we have Safe Horizons Victim Advocates, so
10 they're interacting with crime victims on a daily
11 basis, and I get a lot of input into what their needs
12 and concerns are. They, by the way, are trained in U
13 and T visas and can talk to victims and do about
14 those processes.

15 CHAIRPERSON MENCHACA: So, it sounds like
16 you're--

17 DEPUTY COMMISSIONER HERMAN:
18 [interposing] I also meet with council members.

19 CHAIRPERSON MENCHACA: And--and council
20 members?

21 DEPUTY COMMISSIONER HERMAN: Right.

22 CHAIRPERSON MENCHACA: Got it. So,
23 advocates and council members is--is how you're--you're
24 kind of determining how that--

2 DEPUTY COMMISSIONER HERMAN: Advocates,
3 council members, elected officials and crime victims.

4 CHAIRPERSON MENCHACA: And that's what
5 your leverage is. (sic)

6 DEPUTY COMMISSIONER HERMAN:
7 [interposing] I have regular input from actual
8 survivors.

9 CHAIRPERSON MENCHACA: Okay, and--and so,
10 I just kind of want to lift one constituency up--

11 DEPUTY COMMISSIONER HERMAN: Uh-hm

12 CHAIRPERSON MENCHACA: --the LGBT with--
13 with real focus on trans and gender non-conforming.

14 DEPUTY COMMISSIONER HERMAN:
15 [interposing] The LGBT community--

16 CHAIRPERSON MENCHACA: Trans might be in
17 those.

18 DEPUTY COMMISSIONER HERMAN: --as they
19 are a part of both of the other groups that I
20 mentioned, the quarterly advocate-victim advocates
21 meetings. When I meeting with new immigrants groups
22 there's a focus on that community and I meeting, um,
23 the LGBTQ community regularly separately.

24 CHAIRPERSON MENCHACA: We've been joined
25 by Council Member Dromm from Queens. Did you have

2 questions? And I'm going to hand it over to him, um,
3 for questions.

4 COUNCIL MEMBER DROMM: Sure. My question
5 is for the NYPD. Is there a timeframe in which
6 someone needs to apply for a U or T Visa--

7 DEPUTY COMMISSIONER HERMAN:
8 [interposing] No

9 COUNCIL MEMBER DROMM: --before or after
10 the crime. So, you will certify people going back.
11 How far into the past will you do that?

12 DEPUTY COMMISSIONER HERMAN: As long as
13 we have records that can document.

14 COUNCIL MEMBER DROMM: So, there's no
15 time limit on it?

16 DEPUTY COMMISSIONER HERMAN: No time
17 limit.

18 COUNCIL MEMBER DROMM: Okay.

19 ASSISTANT COMMISSIONER MOSTOFI: Council
20 Member, in-in my testimony I was pleased to note that
21 this was change that was adopted by NPD, that there
22 is no longer statute of limitations on a crime.

23 COUNCIL MEMBER DROMM: So, anybody now
24 who, uh, was affected by the time limit in the past
25 can now apply?

2 DEPUTY COMMISSIONER HERMAN: Many of
3 those cases have been reviewed, cases that were
4 within the last few years denied because of the
5 statute of limitations. I believe there were over 80
6 of them. They were all reviewed.

7 COUNCIL MEMBER DROMM: [interposing] How
8 many?

9 DEPUTY COMMISSIONER HERMAN: Over 80, and
10 I believe that—I know that they were all reviewed
11 again, and many of them were approved.

12 COUNCIL MEMBER DROMM: Okay. Okay.
13 Thank you.

14 DEPUTY COMMISSIONER HERMAN: Each one of
15 them has been reviewed.

16 COUNCIL MEMBER DROMM: Okay, thank you
17 very much. That is my question.

18 DEPUTY COMMISSIONER HERMAN: Thank you.

19 CHAIRPERSON MENCHACA: So--

20 DEPUTY COMMISSIONER HERMAN:
21 [interposing] I'd like just add one thing--

22 CHAIRPERSON MENCHACA: I'll go for peace.
23 (sic)

24 DEPUTY COMMISSIONER HERMAN: --to the
25 answer that I gave you before about--we'd be happy to

2 give you the records about people who were denied
3 because of criminal history. We will include in that
4 people who were approved who had criminal history
5 because an incident alone is not dispositive of the
6 case, and so, you're going to see that there are lots
7 of people who have had—have criminal histories who've
8 been approved.

9 CHAIRPERSON MENCHACA: And again, this is
10 more of a kind of just fact finding mission and just
11 trying to get as many details. It might be telling,
12 it might not be telling, but thank you for your kind
13 of refocus on—on possible data that—that might come
14 out. But what—what we're trying to get to and this
15 is just my own learning in this whole process as a
16 non-DA or—or NYPD or I'm not a lawyer and so the—the
17 kind of relationship between the district attorneys
18 and the NYPD in moments where your determination,
19 early determination, but we are find this an early
20 moment in the application process where a denial
21 might come in at the request of the district attorney
22 and really trying to understand if there's—if we can
23 make that better, and we can make that more fair for—
24 for the applicant.

2 DEPUTY COMMISSIONER HERMAN: You're
3 talking about making the DA's process fair?

4 CHAIRPERSON MENCHACA: Well, holistically
5 the whole-the whole process. You know, an applicant
6 will only see their application as one whole
7 experience, but I think this is telling. Our focus
8 maybe it might be on the--on the DA's side. It would
9 be good just to see different perspectives about how
10 we get to a decision.

11 DEPUTY COMMISSIONER HERMAN: We--we send a
12 case to the DA because we believe that the
13 responsibility to be helpful is an ongoing
14 responsibility, and we cannot have all the
15 information about the relationship between a victim
16 and the DA's office. That's up to the DA's office to
17 deal with that. So, we send it to them in some cases
18 where they send a case back to us in some cases, and
19 then we review it.

20 CHAIRPERSON MENCHACA: And there--there
21 are two points that kind of come up. One, is in that
22 moment of pushing it to the district attorney's
23 office, does the case essentially go cold or does it--
24 is it an automatic denial when it leaves you and
25 goes to the--

2 DEPUTY COMMISSIONER HERMAN:

3 [interposing] No, it's not a—we haven't—we haven't
4 made a decision about it. We've referred it--

5 CHAIRPERSON MENCHACA: [interposing]
6 Okay.

7 DEPUTY COMMISSIONER HERMAN: --to the
8 DA's Office.

9 CHAIRPERSON MENCHACA: Okay, it's still
10 open.

11 DEPUTY COMMISSIONER HERMAN: In some
12 cases.

13 CHAIRPERSON MENCHACA: So, that's the 45
14 days that we're talking about now.

15 DEPUTY COMMISSIONER HERMAN: No, it's
16 not. The 45 days is our responsibility, and so if
17 we've referred it, that's our decision. That's not--
18 that's not an acceptance or a denial. That's a
19 referral, and we've done that within 45 days. Then
20 it goes to the DA. If the DA sends it back to us,
21 um, and in some cases they do, that could be because
22 somebody has—we are—we are reviewing something.
23 They've given it to us. We've denied it. They may
24 then go to the DA. That's different. That's not a
25 referral. If the DA sends it back to us, those are--

2 those then would be appeals that we review and, in
3 fact, the majority of the appeals that we approve
4 have come back from the DA's Office.

5 CHAIRPERSON MENCHACA: [off mic] Do you
6 have numbers? [on mic] Do you have numbers on that
7 as well?

8 DEPUTY COMMISSIONER HERMAN: Of appeals?

9 CHAIRPERSON MENCHACA: Appeals and
10 approval from DA returns?

11 DEPUTY COMMISSIONER HERMAN: 12 in 2017.
12 12 out of 20.

13 CHAIRPERSON MENCHACA: 12 out of 20
14 returns from DAs got approved?

15 DEPUTY COMMISSIONER HERMAN: Yep.

16 CHAIRPERSON MENCHACA: Tell me a little
17 bit about timeline. So, within the 45 days, you've
18 made a determination of some sort, approval, a
19 denial, or referral. Is that right?

20 DEPUTY COMMISSIONER HERMAN: That's
21 right.

22 CHAIRPERSON MENCHACA: Those are kind of
23 the three options. In that referral to the DA's
24 Office, what is the timeline in which the DAs take
25 typically to return?

2 DEPUTY COMMISSIONER HERMAN: That I don't
3 know.

4 CHAIRPERSON MENCHACA: You don't know.
5 Okay.

6 DEPUTY COMMISSIONER HERMAN: I don't
7 their time limits.

8 CHAIRPERSON MENCHACA: Is that something
9 you track?

10 DEPUTY COMMISSIONER HERMAN: Do I track
11 how long it takes the DA to send it back to us? No.

12 CHAIRPERSON MENCHACA: Is that something
13 you can track?

14 DEPUTY COMMISSIONER HERMAN: I mean it
15 would be complicated, and there—that's really their—
16 their system.

17 CHAIRPERSON MENCHACA: What makes it
18 complicated?

19 DEPUTY COMMISSIONER HERMAN: Because we
20 send them a lot of cases that we never touch again.
21 Many of them we never touch them again. So, we could
22 have--

23 CHAIRPERSON MENCHACA: [interposing] In
24 cases with referring to—just like it would be--

2 DEPUTY COMMISSIONER HERMAN:

3 [interposing] Cases where there's been an arrest and
4 we have an opportunity to--

5 CHAIRPERSON MENCHACA: [interposing] Or
6 applicable—I'm referring to the cases you're talking
7 about are applications--

8 DEPUTY COMMISSIONER HERMAN:

9 Applications--

10 CHAIRPERSON MENCHACA: --for visas.

11 DEPUTY COMMISSIONER HERMAN: --where
12 someone has applied to the Police Department, and
13 there has already been an arrest made. The case in
14 the DA's Office system. We refer it to the DA.

15 CHAIRPERSON MENCHACA: And some of those
16 never come back?

17 DEPUTY COMMISSIONER HERMAN: Many of
18 those never come back.

19 CHAIRPERSON MENCHACA: And do--do you
20 track that? How many--how many referrals never come
21 back?

22 DEPUTY COMMISSIONER HERMAN: We don't
23 track that?

24 CHAIRPERSON MENCHACA: Can you that.

25 [background comments]

2 DEPUTY COMMISSIONER HERMAN: Right. I
3 mean you could say we referred 20 and 12 came back.
4 That's what—but that's. [background comments] What
5 makes it complicated? The number that I gave you
6 before is numbers that came back to us from them.
7 We—we send them many, many more cases than we ever
8 see again. So, it was 12 out of 20 that came back
9 that we certified.

10 CHAIRPERSON MENCHACA: Okay. Well, how
11 about let's—let's just see if we can get data points
12 over time. Um, it sounds like we could just go back
13 and get--

14 DEPUTY COMMISSIONER HERMAN:
15 [interposing] I can tell you how many we referred to
16 the DA.

17 CHAIRPERSON MENCHACA: Okay.

18 DEPUTY COMMISSIONER HERMAN: I know. I
19 have those numbers. Right, in 2017, we have referred
20 159 in 20—already. In 2016, we referred 166. In
21 2015, we referred 143. So, I think by subtraction we
22 can figure out the number that you're looking for.

23 CHAIRPERSON MENCHACA: Great. Again,
24 let's just work together to get a complete chart with
25 this data, and—and we can all do arithmetic just to

2 kind of see it. I think what we're trying to do is
3 just put as much data on the walls to look at it. I
4 think that's—that's what I want to do as someone
5 who's learning this work, and trying to make
6 determinations as a legislator who wants to support
7 the continued effort from the NYPD and all agencies
8 including MOIA leading this charge to just to do
9 better. So, thank you for that—for that patients in
10 this Q&A. Do you have any questions? Council Member
11 Dromm.

12 COUNCIL MEMBER DROMM: Yes, thank you.
13 Where we have seen some issues—and I think I brought
14 this to your attention in the past as well. I'm
15 wondering what's being done to correct it. Is—very
16 simple things about people being able to access their
17 reports, their—their crime reports. In the past,
18 we've had issues within the spelling of names. Um,
19 we had a—a case where, um, a woman was raped, but
20 the, um, daughter did the translation. Um, and, um,
21 you know, she was asked by the police officers at
22 that time to translate for her mother. Her mother
23 didn't want to tell t he daughter the details. So,
24 it was—had to be reconsidered at a later time. How
25 are we dealing with that on the local level to make

2 sure that the police officers in the precincts
3 understand and—and report these cases correctly?

4 DEPUTY COMMISSIONER HERMAN: So, I think
5 you're—there are really two issues there. The case
6 you're referring to ended up with an amended 61, and
7 that's a process that's available to anybody. If
8 more information comes to light at a later date,
9 there can be an amended complaint. That's available
10 to anybody and she as I understand it, um, that
11 happened in that case, but the—the second issues
12 that--

13 COUNCIL MEMBER DROMM: [interposing] So,
14 yes, it was amended but it was a battle to get it
15 amended. It was also a battle to get the reports and
16 changing the name for the misspelling of the names.
17 That's something that we involved ourselves directly
18 in. Had those folks not had access to my office or
19 to knowing, um, you know, to—to get a hold of the
20 council member to—to access these reports, that may
21 not have ever have happened for them. So, I'm
22 wondering what are doing to change that at the local
23 level?

24 DEPUTY COMMISSIONER HERMAN: I think that
25 you're speaking to a greater issue, which is language

2 access, and what we have done is equip every member,
3 every uniformed member of the NYPD with a cell phone
4 and on every cell phone, they can essentially through
5 the speed dial, contact Language Line. We've also
6 require that in domestic violence cases before
7 someone leaves the scene--we're rolling this out
8 borough by borough--but before someone, an officer
9 leaves the scene of a domestic violence incident,
10 they have to either have spoken--used Language Line or
11 a certified--an officer certified in a foreign
12 language, um, before they close out that case. So,
13 having language lines on a cell phone, changing our
14 procedures in domestic violence cases, training our
15 officers, making a real effort to certify more and
16 more officer. We've doubled the number of certified
17 officers in the last few years. So, we are actively
18 addressing what I think is really the greater issue
19 in your questions, which is language barriers.

20 COUNCIL MEMBER DROMM: I think another
21 part of it is also do police officers take a
22 proactive stance in terms of informing those victims
23 who they think might be eligible for a U or T visa
24 that they, in fact, could apply for that if--if--if it
25 appears that they are eligible?

2 DEPUTY COMMISSIONER HERMAN: We don't and
3 we—we agree with the district attorneys who do not do
4 that either because we feel having an individual
5 police officer or an individual detective talking to
6 a victim about this in and individual case could very
7 likely look like a Quid Pro Quo, and that's something
8 we want to avoid. We are fully supportive, however,
9 of MOIA's efforts and OCDV's efforts and MOCJ's
10 efforts, anyone's efforts to talk generally about
11 this requirement and, in fact, putting up information
12 about our guidelines on our website. We're about to
13 give the city a downloadable PDF about our guidelines
14 that can go on the city's website as well. So, we
15 participate in outreach, but we do not do it on an
16 individual basis. It's very important to note and
17 I'll wait if you'd like. It's very—it's very
18 important to note that the victim advocates that are
19 now in two-thirds of our precincts can talk to
20 individual victims and do. That's appropriate, but
21 it's not appropriate for the department or an
22 individual officer to talk in and individual case
23 about conferring a benefit. DA's, as you know, I'm
24 sure need to disclose the existence of a
25 certification. They need to disclose that. It's—it

2 is practiced because it looks like a benefit that is
3 being conferred on somebody. So we stay away from it
4 as do the DAs.

5 COUNCIL MEMBER DROMM: So, I-I-I think I
6 disagree with the use of the word pro quo—Quid Pro
7 Quo because it is a Quid Pro Quo to a certain extent
8 because if they're cooperating with us, we then offer
9 them the opportunity to get the U visa. That's the
10 way it's designed.

11 DEPUTY COMMISSIONER HERMAN: Actually,
12 it's the federal government who says if you cooperate
13 with local law enforcement--

14 COUNCIL MEMBER DROMM: [interposing] But
15 it starts on the local level.

16 DEPUTY COMMISSIONER HERMAN: --and your
17 immigration status can be paused so that you
18 cooperate with local law enforcement. We stay away
19 from anything that looks like we're conferring a
20 benefit. We don't pay victims. We don't give them
21 special favors. It's not anything in exchange for
22 your testimony or your participation. So, that's our
23 policy and we do a lot of outreach by putting things
24 up on the web, and encouraging the city to do that
25 outreach.

2 COUNCIL MEMBER DROMM: And that defers
3 from other--

4 DEPUTY COMMISSIONER HERMAN: [interposing]
5 As you can--

6 COUNCIL MEMBER DROMM: --other cities
7 like Oakland or other places around the United
8 States?

9 DEPUTY COMMISSIONER HERMAN: Where they
10 talk e to individual officers?

11 COUNCIL MEMBER DROMM: Uh-hm

12 DEPUTY COMMISSIONER HERMAN: They may--
13 they may do that. This is our interpretation and
14 it's certainly the interpretation of the five DAs.

15 COUNCIL MEMBER DROMM: Well, my concern,
16 and I'm sorry I was a little late getting here this
17 morning. It was primary night last night so.
18 [laughs] But, um, and I didn't have one, so I got
19 lucky, but I had--we're supporting other people
20 including our chair, but anyway, in-in-in the public
21 education piece of I guess it was the Mayor's Office
22 of Immigrant Affairs, I see that you make reference
23 to education, but I'm not sure that everybody has
24 access to-- Basically what you're talking about is--
25 is--is online and, you know, I really would like to

2 see a more proactive stance taken in terms of how we
3 get this message out to local people. In effect
4 because the people who have come into my office where
5 we have been successful, in a number of cases with
6 each were—where there were impediments to—to-to-to
7 actually having these folks get this U Visa--

8 DEPUTY COMMISSIONER HERMAN:

9 [interposing] Yeah.

10 COUNCIL MEMBER DROMM: --you know, it was
11 because we informed them. You know, I mean I can
12 give you examples of the cases, and I thin, the
13 Commissioner from NYPD is aware of it where we had a
14 Bangladeshi guy who was, you know, held up at knife
15 point, and they put the knife to his throat. He
16 pulled it away and her fingers were sliced, et
17 cetera. He had no idea, you know, and so we find in
18 my office that this is continually happening, the
19 folks do not know that they're even eligible for
20 this, and—and I think part of what we're looking at
21 doing and part of the legislation that we passed last
22 week here in the Council is to begin to really
23 address some of these issues.

24 ASSISTANT COMMISSIONER MOSTOFI: Yeah.

25 No, I appreciate—I appreciate the question. I would

2 just correct in saying that's not only done online
3 currently. It's done in a number of other ways. I
4 think Deputy Commissioner Herman described that even
5 within the precincts there are crime victim service
6 advocates and services that are conducted by Safe
7 Horizon, and in-in that context even, people do
8 proactively receive information on U visas and T
9 visas. Similarly or separately we've worked in
10 partnership with the Office to Combat Domestic
11 Violence on outreach and engagement. Obviously at
12 the Family Justice Centers, but even beyond through
13 informational material that we distribute in
14 communities that our team at MOIA has information on
15 and is sharing. I think we're always open and
16 interested in how we can do that work more
17 effectively, and with increased impact, and we'd love
18 to kind of continue those conversations with you.

19 COUNCIL MEMBER DROMM: But, Commissioner,
20 are those materials available in precincts?

21 ASSISTANT COMMISSIONER MOSTOFI: With-
22 with the Crime Victim Advocates.

23 COUNCIL MEMBER DROMM: With what?

24 ASSISTANT COMMISSIONER MOSTOFI: With the
25 Crime Victim Advocates.

2 DEPUTY COMMISSIONER HERMAN: [interposing]

3 The Crime Victim Advocates have materials. Yes.

4 ASSISTANT COMMISSIONER MOSTOFI: Sorry.

5 DEPUTY COMMISSIONER HERMAN: The Crime

6 Victim Advocates have those materials at their

7 disposal, and to distribute.

8 COUNCIL MEMBER DROMM: Is there.

9 DEPUTY COMMISSIONER HERMAN: I mean, as
10 you know, individual officers are not allowed to talk
11 to--

12 COUNCIL MEMBER DROMM: [interposing] Yes.

13 DEPUTY COMMISSIONER HERMAN: --individual
14 victims about their immigration status, and that may
15 be a New York phenomenon. That's--that's our
16 executive order. It's also a different criminal law,
17 statute here in New York City than it might be in
18 other states, but our officers do not engage in that
19 discussion with victims of crime, and--but we are
20 fully supportive of talking generally about this
21 benefit, but not one-on-one.

22 COUNCIL MEMBER DROMM: Right, and I'm not
23 necessarily advocating that people begin to ask what
24 country they may come from or anything like that.
25 What I'm advocating for is a broader sense of

2 educating the public about their rights. So, if that
3 information is available in the crime victim's packet
4 that's one way. Another way may be through some
5 signage or something like that because I find that
6 this is the biggest obstacle to people getting access
7 to U and T visas, and I'm—I'm trying to think aloud
8 how we can make that process better. So, that's—
9 that's the—the purpose of my line of questioning
10 here. Do we have any signage in precincts?

11 DEPUTY COMMISSIONER HERMAN: I don't
12 believe--

13 COUNCIL MEMBER DROMM: [interposing] Do
14 we have signage on other issues in precincts?

15 DEPUTY COMMISSIONER HERMAN: There is
16 signage about language access and we--

17 COUNCIL MEMBER DROMM: [interposing] I'm
18 sorry.

19 DEPUTY COMMISSIONER HERMAN: And we—we
20 have signage about language access--

21 COUNCIL MEMBER DROMM: [interposing] Uh-
22 hm.

23 DEPUTY COMMISSIONER HERMAN: --and
24 people's ability to have translation. We also have--
25 go ahead.

2 ASSISTANT COMMISSIONER MOSTOFI: I was
3 going to add IDNYC. Signage on IDNYC is in precincts
4 as well.

5 CHAIRPERSON MENCHACA: Well, can you
6 repeat that again? I didn't hear it.

7 DEPUTY COMMISSIONER HERMAN: IDNYC, the
8 municipal ID Card as well as language access. We
9 have signage about those two issues at least.

10 CHAIRPERSON MENCHACA: Just to clarify--
11 just to clarify to do so, and then you're going to
12 include the visa information on that same signage?

13 DEPUTY COMMISSIONER HERMAN: No.

14 CHAIRPERSON MENCHACA: Is that what I
15 heard?

16 DEPUTY COMMISSIONER HERMAN: No, you
17 didn't hear that.

18 CHAIRPERSON MENCHACA: Okay. So, I
19 wanted to clarify that. Okay, just to--to clear this
20 point up, the only signage that will be going into
21 precincts are IDNYC?

22 DEPUTY COMMISSIONER HERMAN: No. I'm
23 saying--

24 CHAIRPERSON MENCHACA: [interposing]
25 Okay.

2 DEPUTY COMMISSIONER HERMAN: --it's the
3 only. I'm saying--

4 CHAIRPERSON MENCHACA: [interposing] So,
5 clarify what--what the Commissioner said.

6 DEPUTY COMMISSIONER HERMAN: The question
7 was what kinds of signs do we have, and those are two
8 signs that I know we have. We may have other signs
9 in precincts. We certainly have signs about the
10 Municipal ID Cards, and we have signs about language
11 access.

12 COUNCIL MEMBER DROMM: Are NCO officers
13 educated or trained in any U or T visa issues
14 eligibility, et cetera?

15 DEPUTY COMMISSIONER HERMAN: Are any--did
16 you say city officers?

17 COUNCIL MEMBER DROMM: No, NCO.

18 DEPUTY COMMISSIONER HERMAN: NCO.

19 COUNCIL MEMBER DROMM: The new NCO--

20 DEPUTY COMMISSIONER HERMAN:

21 [interposing] NCO.

22 COUNCIL MEMBER DROMM: -officers.

23 DEPUTY COMMISSIONER HERMAN: NCOs, I--to
24 my knowledge do not get special training in this

2 area, currently. The New Immigrants Unit does, and
3 that's the--

4 COUNCIL MEMBER DROMM: [interposing] I
5 think that would be another way to build a
6 relationship with the immigrant communities if those
7 officers, in fact, were to receive training and in
8 their course of meeting with organizations and groups
9 say that these visas are available in a general
10 public way.

11 DEPUTY COMMISSIONER HERMAN: So, as you
12 know, the bulk of our U visa requests are domestic
13 violence related. Our domestic violence officers do
14 get training in this, and have for some time. So,
15 they are equipped to discuss it. Our new Immigrant
16 unit also.

17 COUNCIL MEMBER DROMM: [interposing] But
18 Commissioner, with the domestic violence officers,
19 that's only--people who only see those domestic
20 violence officers probably when they go in to report
21 a crime.

22 DEPUTY COMMISSIONER HERMAN: Well,
23 actually they--that speaks to your--your concern or
24 your interest in having people who do outreach. They
25 do a tremendous amount of outreach to local groups in

2 their precincts. So, they are out and about speaking
3 and they can talk about U and T visas.

4 COUNCIL MEMBER DROMM: Okay. I'm not
5 going to belabor the point, but I think we need to
6 do--

7 DEPUTY COMMISSIONER HERMAN: [interposing]
8 They also do home visits. So, it's not just that
9 people come into precincts. Part of their
10 responsibility is to conduct home visits. So, they
11 do outreach not only to individuals--

12 COUNCIL MEMBER DROMM: [interposing] To
13 do--to do home visits, but they don't do community
14 forums.

15 DEPUTY COMMISSIONER HERMAN: They do do
16 community--

17 COUNCIL MEMBER DROMM: [interposing] Oh,
18 they do. Okay.

19 DEPUTY COMMISSIONER HERMAN: That's--
20 that's what I'm saying. They--they do many outreach
21 events in the communities.

22 COUNCIL MEMBER DROMM: Okay. Alright. Not
23 to belabor the point but I just am thinking loud, and
24 would love to see how we can explore those types of
25 ideas.

2 DEPUTY COMMISSIONER HERMAN: I think we
3 can do more. I really do. I just want to emphasize
4 that it is very much the—the mission of MOIA and OCDV
5 to get this out. They're doing a great job, and we
6 support their work in this area. The same with the
7 Human Rights Commission. They're getting it out as
8 well.

9 COUNCIL MEMBER DROMM: Okay, thank you.

10 CHAIRPERSON MENCHACA: Thank you, Council
11 Member Dromm. We've also been joined by Council
12 Member Mathieu Eugene from Brooklyn, and I want to—I
13 want to also wrap this up, and—and move over to the
14 advocates, and I'm hoping you can leave somebody on
15 your team here to continue to work, or to continue to
16 take notes throughout the rest of the hearing. And
17 speaking of advocates, I don't know you—if there's a
18 way that you can kind of describe that relationship
19 and the process that I'm trying to get a better sense
20 of between the DA's Office and the NYPD in referrals.
21 It's—it's—it's my understanding through conversations
22 with the advocates that that—that referral is
23 technically a denial.

24 DEPUTY COMMISSIONER HERMAN: It's not a
25 denial.

2 CHAIRPERSON MENCHACA: [interposing]
3 Communication—communication is given to the survivor
4 or the lawyer about that application process.

5 DEPUTY COMMISSIONER HERMAN: The
6 communication says it's been referred to the DA's
7 Office. It does not say it's been denied.

8 CHAIRPERSON MENCHACA: But I guess what
9 I'm saying is—well before my question, before my
10 statement, the question is what—what in that case in
11 the referral that we're not yet clear about the
12 timeline in which it comes back, and so we're going
13 to do some research, and we're going to talk to the
14 DA.

15 DEPUTY COMMISSIONER HERMAN: It doesn't
16 always come back. Remember many of them--

17 CHAIRPERSON MENCHACA: [interposing] Yeah
18 with--

19 DEPUTY COMMISSIONER HERMAN: --are
20 handled by the DA.

21 CHAIRPERSON MENCHACA: If they come back
22 we don't know the timeline, and how long it takes
23 because it's different cases, but we'll—we'll get to
24 that. We'll—we'll bring--

2 DEPUTY COMMISSIONER HERMAN:

3 [interposing] Right.

4 CHAIRPERSON MENCHACA: --we'll bring them
5 to the table and have a conversation with them, but
6 what I'm trying to understand is essentially the
7 applicant in this process will then have to renew
8 their application and start over, and what kind of
9 communication is the survivor getting from--from that
10 referral, if any.

11 DEPUTY COMMISSIONER HERMAN: They are--

12 CHAIRPERSON MENCHACA: [interposing] For
13 example does the survivor know at all that their case
14 was referred? How do they get communicated?

15 DEPUTY COMMISSIONER HERMAN: No, they
16 should all know. We send them a letter that says you
17 case--

18 CHAIRPERSON MENCHACA: [interposing] Ah,
19 tell me about that letter.

20 DEPUTY COMMISSIONER HERMAN: The letter
21 tells applicants what action was taken whether it was
22 accepted, denied, and if it's denied, again on our
23 own we created boxes that explain what the reasons
24 are for the denial, and it may say referred, referred

25

2 to the DA's Office, which is not put in the column of
3 denial. It's this case has been referred.

4 CHAIRPERSON MENCHACA: So, then the
5 applicant doesn't have to reapply?

6 DEPUTY COMMISSIONER HERMAN: They do.
7 They send--

8 CHAIRPERSON MENCHACA: They do?

9 DEPUTY COMMISSIONER HERMAN: They do.
10 They have to send an application in again.

11 CHAIRPERSON MENCHACA: As if it were a
12 new case?

13 DEPUTY COMMISSIONER HERMAN: Yes, because
14 time has passed. The case is in the DA's Office.
15 They may not have spoken to that portion of the case,
16 the portion of the timeline where they might have
17 been helpful, and they want to put that in their
18 application.

19 CHAIRPERSON MENCHACA: Okay, so, I guess
20 this is just semantics, but essentially what I'm
21 hearing if I was an applicant is I would have to re-
22 apply and, therefore, I was effectively denied. Not
23 denied, but referred--

24 DEPUTY COMMISSIONER HERMAN:
25 [interposing] Uh-hm.

2 CHAIRPERSON MENCHACA: --and that I have
3 to re-apply again.

4 DEPUTY COMMISSIONER HERMAN: [interposing]
5 They're not denied. There's no prejudice. There's
6 no prejudice involved here. You haven't been denied.
7 You have to re-apply and if you're working with an
8 advocate or an attorney or even on your own, if you
9 know that it's going to the DA's Office, and you know
10 that helpfulness is what they're looking for, you may
11 want to supplement your application at this point
12 because they're going to be looking at post-arrest.

13 CHAIRPERSON MENCHACA: Okay, okay. We're
14 going to continue this conversation later, but this
15 still hazy for me in a lot of ways, and we want to
16 bring the DAs in to help clarify and advocates.

17 DEPUTY COMMISSIONER HERMAN: Uh-hm

18 CHAIRPERSON MENCHACA: Are there any
19 communications--is there any communication with the
20 advocates at this point before a referral in maybe
21 helping to make a different determination? Are they
22 brought into the process as advocates or lawyers?

23 DEPUTY COMMISSIONER HERMAN: There's a
24 different determination, if it's--if there's been
25 arrest we send it. That's our policy.

2 CHAIRPERSON MENCHACA: Okay.

3 DEPUTY COMMISSIONER HERMAN: A

4 conversation about why we should or shouldn't send it
5 to the DA. If there's been an arrest our policy is
6 that we send it to the DA.

7 CHAIRPERSON MENCHACA: Okay.

8 DEPUTY COMMISSIONER HERMAN: And I think
9 advocates know that--

10 CHAIRPERSON MENCHACA: Okay.

11 DEPUTY COMMISSIONER HERMAN: --and I
12 think attorneys know that, and when we participate in
13 a CLE with attorneys, we tell them that, and when
14 talk with advocates, we tell them that. It's no
15 confusion. They may be disagreement about the
16 policy, but there's no confusion about it.

17 CHAIRPERSON MENCHACA: Okay. Well,
18 again, I-I-let's continue this conversation. You've
19 given me some new-new detail and information and the
20 texture, and this is an important thing I think for
21 all of us to continue to do together. There's no
22 doubt that you are all receive-should receive so much
23 praise and credit for the work that you've done
24 already to internally change the access points, the
25 information, the transparency. So, we want to-we

2 want to applaud that. That's—that's—we're pointing
3 in the right direction.

4 DEPUTY COMMISSIONER HERMAN: Uh-hm.

5 CHAIRPERSON MENCHACA: The compass is
6 there. We're pointing the way that we're going.
7 We're moving, and so we want to say thank you for
8 that, and really on—on Council Member Dromm's point
9 about communication, education, there are multiple
10 agents, and I'm not just talking about police
11 officers, but other people who are going to—want to
12 be held—we're going to need to hold accountable, and
13 that's our officer in the City Council, advocates in
14 the neighborhood and city agencies to really think
15 about how we holistically approach this in time where
16 any Know Your Rights sessions are happening in
17 neighborhoods. People are having more questions at
18 the same time that fear is increasing. People are
19 coming to places where they find sanctuary like
20 churches and other places. So, we have to figure out
21 a way that this becomes not just or that this gets
22 added to the IDNYC work that we're doing, and it gets
23 added to the adult education services that we're
24 doing. That it gets added to all the things that—
25 that we're doing as a city, and so, it's not just on

2 you, and—and I get that. I see that conflict of
3 interest there, but it means that we need to all work
4 together, and you need to be at the table when we
5 think about that, and so I'm hoping--

6 DEPUTY COMMISSIONER HERMAN:

7 [interposing] I—I agree with you, and I think that
8 outreach is really important. I think we—I don't
9 want to leave the impression at all that we don't do
10 general outreach. Our New Immigrants Unit does
11 general outreach. Our outreach to attorneys and
12 victim advocates always includes discussion of this,
13 and we have met actually with faith leaders to talk
14 to them about what—what, you know, our involvement
15 and what these resources are. So, we do general
16 outreach, but we do not do it on a one-on-one basis.

17 CHAIRPERSON MENCHACA: Thank you and I'm
18 going to hand it over to Council Member Dromm, but
19 before that, I want to ask a little bit about the—the
20 crime, the crime types that are coming in. You
21 mentioned in your test—or in your responses that
22 domestic violence being—being one of the highest--

23 DEPUTY COMMISSIONER HERMAN: The
24 underlying crime that gives rise to the application

2 for certification most of the ones that come in for U
3 visa involve domestic violence.

4 CHAIRPERSON MENCHACA: Are there any other
5 crimes that come out even not-not at that height or
6 peak, but are there other examples of other crimes
7 that are coming in?

8 DEPUTY COMMISSIONER HERMAN: Sure.

9 CHAIRPERSON MENCHACA: What are the
10 other-what are the other examples?

11 DEPUTY COMMISSIONER HERMAN: It's all
12 across the board frankly.

13 CHAIRPERSON MENCHACA: All the across the
14 board. Is there anything that's not coming in right
15 now? It's just another data point? Is there any
16 crime that's not coming in?

17 DEPUTY COMMISSIONER HERMAN: There-there
18 are 175 qualifying crimes, right, and [background
19 comments]. Okay, so there are 31 qualifying crimes,
20 excuse me, and we don't get all of them. One of them
21 is peonage. We haven't gotten anything alleging
22 peonage, and is there anything else that we--?
23 [background comments] And there's several archaic
24 crimes in that list. [background comments] We
25 haven't seen labor stuff--labor disputes.

2 CHAIRPERSON MENCHACA: Labor disputes.

3 Okay, so this is—this is important for all us to kind
4 of see throughout the certifying crimes.

5 DEPUTY COMMISSIONER HERMAN: But you're
6 talking about the underlying crime.

7 CHAIRPERSON MENCHACA: Okay.

8 DEPUTY COMMISSIONER HERMAN: I just
9 wanted to be clear.

10 CHAIRPERSON MENCHACA: Okay and--
11 [background comments]

12 DEPUTY COMMISSIONER HERMAN: Okay, so—so
13 my colleague is reminding that robbery is not one of
14 the qualifying crimes, but we have certified people
15 where they have talked about robbery by using Assault
16 2, and saying that that could satisfy a robbery claim
17 given the facts of the individual case. So, somebody
18 comes to us and talks about robbery, but that's not
19 what the document reveal. It hasn't been a robbery
20 charge. Robbery isn't one of the qualifying crimes,
21 but we have found a way in some cases to say we can
22 figure out a way to get this to be one of the
23 qualifying crimes. Robbery is a good example.

24 CHAIRPERSON MENCHACA: Thank. I mean
25 this really productive, and let's keep talking about

2 that--that kind of data area, and just to understand
3 more about what is coming in and what's not coming in
4 as we continue to think about further
5 recommendations. Council Member Dromm.

6 COUNCIL MEMBER DROMM: You know, I just
7 want to also say I agree with your assessment that
8 things have changed under this Administration greatly
9 and we appreciate your efforts, Commissioner Mostofi
10 and Commissioner Herman. I also appreciate your
11 responsiveness to the issues that we've brought to
12 you and I'm--we're very grateful for that as well. So
13 thank you.

14 DEPUTY COMMISSIONER HERMAN: Thank you.

15 CHAIRPERSON MENCHACA: Well, with that,
16 thank you for being here today on this post-primary
17 morning, and we look forward to working with you in--
18 in the very near future, and--and now we're going to
19 move over to the advocates. Thank you so much, and
20 our first panel we have from the Legal Aid Society
21 Hannah Shapiro; Sanctuary for Families, Carmen Maria
22 Rey; Catholic Charities Community Services, Maryann
23 Tharappel--Tharappel. Did I say that right? Brooklyn
24 Defender Services, Sophie Dalsimer; American
25 Immigration Lawyers Association, Jennifer Durkin, and

2 we have three panels total. I will remind you to
3 fill out an appearance card here with the sergeant-
4 at-arms if you would like to speak today, and remind
5 me, who from the NYPD is going to be here? Thank you
6 for identifying yourselves. Thank you, and then MOIA
7 will be here? Awesome. Thank you. Any other
8 agencies that have—that have representatives here?
9 From? Children Services. Thank you.

10 MALE SPEAKER: [off mic] The Law
11 Department of Family Court.

12 CHAIRPERSON MENCHACA: The Law Department
13 of Family Court. Thank you for being here. Any
14 other city agencies?

15 FEMALE SPEAKER: [off mic] The Mayor's
16 Office is here today. (sic)

17 CHAIRPERSON MENCHACA: The Mayor's
18 Office. Okay, thank you. Anybody else? Thank you
19 for being here. Okay, and when you're ready.

20 Good morning.

21 CHAIRPERSON MENCHACA: I'm sorry.

22 Sorry. Good morning all. I am Carmen
23 Maria Rey. I will be reading testimony from the
24 American Immigration Lawyer's Association on behalf
25 of Jennifer Durkin who's Chair of the New York

2 Chapter of AILA. She's unable to give testimony as

3 she is ill. The American Immigration Lawyers

4 Association was established in New York City in 1946

5 to amongst other goals promoted justice and advocate

6 for fair and reasonable immigration law and policy.

7 Our 1,625 members in New York City represent the

8 great majority of attorneys practicing immigration

9 law. We have drawn upon their expertise in drafting

10 this testimony. We thank City Council for holding

11 today's hearing to examine best practices for New

12 York City law enforcement agencies to certify

13 immigrant victims to apply for U and T non-immigrant

14 status also known as U and T visas with federal

15 immigration authorities. The Mayor's Office of

16 Immigrant Affairs did a great job of summarizing the

17 requirements for U and T non-immigrant status, but

18 please bear with me as we walk the audience through

19 why these forms really were created as it will help

20 to clarify some of the testimony that you will later

21 hear from advocates. U and T status was created by

22 federal authorities with a dual purpose. First to

23 strengthen the ability of law enforcement to detect,

24 investigate and prosecute serious criminal activities

25 and second to protect immigrant victims of such

2 criminal activities. These forms of immigration
3 relief serve to foster increased trust between law
4 enforcement agencies and the immigrant populations
5 they serve by easing immigrant victim's fear of
6 deportation. Consequently, the mere filing of a U or
7 T application may serve as the basis for a non-
8 citizen to request release from immigration
9 detention, a continuance of removal proceedings and
10 in New York State, it will even allow a victim to
11 obtain access to publicly funded healthcare. In
12 addition, unlike other temporary forms of immigration
13 status, U and T status grants applicants a potential
14 path to U.S. citizenship. Both U and T applications
15 require non-citizen applicants to establish that they
16 were victims of either a qualifying crime or this
17 would be a form of trafficking and assisted in the
18 investigation of that crime. T applicants can submit
19 Form I-914 Supplement B, Declaration of Law
20 Enforcement Officer for victims of trafficking and
21 persons with their application in order to
22 demonstrate that both of the elements required are
23 met, but they can rely on alternate evidence.
24 Conversely, U applicants must submit Form I-918
25 Nonimmigrant Status Certification signed by either a

2 judge, the head of a law enforcement agency with
3 which they collaborated, or persons specifically
4 designated by the head of that agency with their
5 application to establish their help-helpfulness to
6 law enforcement. In signing certifications for U or
7 T non-immigrant status, law enforcement officials,
8 judges or prosecutors do not confer any immigration
9 status upon the victim, but rather only enable the
10 victim to meet one of the eligibility requirements in
11 the victim's application to the U.S. Department of
12 Homeland Security. Only the Department of Homeland
13 Security has the discretion to grant or deny the U
14 status to a victim—in determining U or T status to a
15 victim. In determining whether to sign a U or T
16 certification, law enforcement must believe that a
17 victim was, is or will be quote/unquote "helpful".
18 Helpfulness means that the victim has been, is or is
19 likely to assist law enforcement or other government
20 officials in the detection, investigation,
21 prosecution, conviction or sentencing of the
22 qualifying criminal activity. Importantly, in
23 recognition that it is sometimes unsafe for a victim
24 to continue cooperating, the law allows for victims
25 to stop cooperating and as long as they're refusal to

2 continue cooperating is not unreasonable, they can
3 continue to be considered helpful. In addition, in
4 recognition that Congress intended that a victim be
5 able to apply for status at different stages of an
6 investigation or prosecution, law enforcement
7 officials may complete certifications once they are
8 able to assess a victim's helpfulness, and don't have
9 to wait for the completion of an investigation or
10 prosecution prior to signing a certification. Best
11 practices and issuances have U Non-Immigrant Status
12 Certifications and T Non-Immigrant Status
13 Certifications allow for case-by-case adjudication of
14 requests that takes into consideration the
15 circumstances including barriers to continued
16 cooperation faced by individual victims. If a victim
17 has been helpful in detecting or investigating
18 criminal activity, certifying agencies can and should
19 issue U Visa Certification even if the victim later
20 found it too difficult to continue cooperating and
21 that certification should be issued in a timely
22 manner. In New York City U certifiers include local
23 agencies as disparate as the Human Rights Commission,
24 the Administration for Children's Services, and
25 [bell] and corporation counsel, and yet there exists

2 possible certifiers like the Civilian Complaint
3 Review Board, Department of Corrections and others
4 that investigate qualifying crimes, but do not
5 currently have a policy or practice of issuing either
6 U or T certifications. We would recommend that the
7 city create a list of all possible certifiers and
8 encourage their issuance of publicly available
9 certification policies. This would maximize New
10 Yorkers' access to these valuable forms of
11 immigration relief. Additionally, in light of the
12 value of the certification, all certifiers should
13 create a process to make it possible for those
14 certify-requesting certification to appeal a denial
15 of certification. To date only New York City Police
16 Department has created an appeal process after
17 substantial advocacy by community members. Lastly,
18 also certifiers should have designated signatories
19 for both U and T certifications. ACS just recently
20 created a T certification process after advocacy.
21 They should also have trained and well resourced
22 staff in charge of internal process of certification,
23 and most importantly any and all U and T
24 certification policies should be flexible and err
25 towards issuance to allow the non-citizen victim and

2 opportunity to present their case and seek
3 immigration relief before federal authorities. Thank
4 you.

5 CHAIRPERSON MENCHACA: Thank you for
6 that, and it was a really good—actually a good
7 overview to just begin. So, thank you for the kind
8 of overview and even the recommendations. We have—we
9 have a pretty packed list and so we're going to put
10 the clock at three minutes. If there's any kind of
11 focus on—on new ideas that they can be brought us,
12 and we're going to do a round of questions from—from
13 us at the Council level, and—and we'll start the
14 clock at three, and if you could to keep to the time,
15 so we can get to everyone for the 1:00 hearing here
16 that will start soon. Thank you.

17 HANNAH SHAPIRO: [off mic] Thank you.
18 Good morning. [on mic] Good morning. My name is
19 Hanna Shapiro. I'm a Domestic Violence Immigration
20 Project Attorney at the Legal Aid Society. I want to
21 thank the Council for the opportunity to testify
22 today. The Legal Aid Society's Immigration Practice
23 is one of the largest providers of a legal defense in
24 New York City and we specialize in the intersection
25 of immigration and criminal law. Our DV Immigration

2 Project also specializes in this intersection as it
3 impacts survivors of domestic violence and human
4 trafficking. As the U is the primary form of relief
5 for most of our clients, we have been integrally
6 involved in providing feedback for the development of
7 local protocols for ACS, the New York City Police
8 Department and the New York Family Courts for over a
9 decade. We would like to acknowledge the great
10 process—progress that has been made ACS as well as
11 the NYPD particularly the positive improvements that
12 the NYPD has made in implementing on appeals process
13 and the timeliness of their process. However, we'd
14 like to focus our testimony today on the policies
15 that affect the most vulnerable crime victims, those
16 that have criminal histories themselves—criminal
17 history themselves. In this era of heightened
18 enforcement, they are more likely to be targeted by
19 ICE and at risk of removal and separation from their
20 families. It's not uncommon for crime victims to
21 have entanglements with the Criminal Justice System
22 due to a history of violence, abuse and poverty.
23 Domestic Violence and trafficking survivors provide
24 the most obvious example as they often have a range
25 of offenses such as drug crimes, prostitution, grand

2 larceny stemming from their victimization. A crime
3 victim's own criminal history should not function as
4 a barrier to the issuance of a U certification.

5 Conducting background checks allows certifiers to
6 essentially function as gate keepers, and empowers
7 them to unjustly deny U certification to crime
8 victims who are otherwise eligible for the U visa
9 based on amorphous and malleable "public safety
10 considerations." We should strive for equity in our
11 certification determinations across all city
12 agencies. Besides the New York City Police
13 Department, no other state or city certifier
14 including the five district attorneys offices
15 conducts criminal background checks as part of their
16 U certification process. At the NYPD they happen
17 behind the scenes and are not transparent or even
18 listed in their protocol despite being an integral
19 component of their certification process. Advocates
20 have been objecting to the NYPD's use of background
21 checks since the genesis of its U Certification
22 Program. Given our agency's limited resources and
23 capacity we often elect not to apply for U
24 certifications from the NYPD where there's another
25 possible certifier. This is due to the likelihood

2 that it would be denied based on the victim's own
3 criminal background. Those clients who have been
4 able to obtain certifications from other certifiers
5 such as the DA's offices or ACS, have successfully
6 obtained U non-immigrant status, gone on to become
7 lawful permanent residents and reunited with their
8 families. While the NYPD is the only possible [bell]
9 certifier, we find our selves in a tough situation.
10 Advocates are forced to engage in a back and forth
11 with the NYPD regarding our clients'—to contextualize
12 our clients' criminal histories and provide highly
13 sensitive and confidential information. Essentially,
14 the NYPD is trying to ascertain whether our clients
15 are "worthy" of a U certification. We believe that
16 this issue is duly addressed by the USCIS. Our goal
17 should be to ensure that certification policies are
18 just and accessible particularly to those who are
19 most vulnerable and marginalized in our city.
20 Criminal background checks and certification
21 decisions do not advance this goal. We applaud the
22 City Council's successful effort to protect due
23 process for all non-citizen detained New Yorkers in
24 removal proceedings by restoring the funding to the
25 NYIFUP programs for all immigrants regardless of

2 their—the severity of their criminal histories. We
3 need the Council to make sure that our policies
4 toward immigrant New Yorkers are consistent on this
5 point by ensuring the criminal background checks be
6 eliminated from NYPD's U certification process.
7 Allowing these background checks to continue hinders
8 some of those very same clients protected by the
9 NYIFUP restoration of funding from obtaining the U
10 certifications that they need to defend their own
11 removal. Thank you.

12 CHAIRPERSON MENCHACA: Thank you for that
13 and I'm glad you brought up some budget—budget items
14 as well. That's a big factor in this conversation
15 about resources because this is a heavy resource
16 intensive process. And so I want to remind you—I
17 think most of you have written testimony. So if
18 there's anything that you want to have culled to the
19 top to make sure that we get that, let's try to stick
20 to three minutes and any new ideas today it would be
21 good for us to focus on. Thank you. [background
22 comments]

23 CARMEN MARIA REY: Sorry. I get to go
24 again on behalf of Sanctuary for Families. In the
25 interest of time I'll introduce the agency and just

2 move to our most salient points. Sanctuary for
3 Families is the nation's largest immigration legal
4 practice for survivors of domestic violence and
5 trafficking victims. Since being established in '84
6 we served to educate and advocate on behalf of
7 survivors of these and other types gender and race
8 violence. Over the last decade we've been
9 instrumental in working with city agencies and the
10 courts to create and standardize the issuance of U
11 and T Non-Immigrant Status Certifications. The
12 availability of and accessibility to these
13 certifications is of the utmost importance to our
14 clients. On average we file over 400 applications
15 for U and T Non-Immigrant Status per year with
16 federal authorities. By issuing U or T
17 Certifications, law enforcement agencies confirm only
18 that the applicant was a victim of crime and was
19 cooperative in their investigation or prosecution of
20 such crime. The signing of a certification does not
21 confer immigration status. The city must, therefore,
22 eliminated existing policies that needlessly limit
23 access to certification like those denying issuance
24 of U certification because of past contact with
25 criminal authorities. Policies like this serve

2 little purpose other than to prevent eligible New
3 Yorkers from accessing immigration relief. Recently,
4 one of our clients a victim of severe sex trafficking
5 and other serious crimes including domestic violence,
6 who had cooperated extensively with authorities in
7 the investigation of a violent assault, requested U
8 Certification from the New York City Police
9 Department. Although the U Certification policies at
10 NYPD have without doubt dramatically improved in
11 recent years, the agency in this case denied her
12 certification request based on her suspected "past
13 criminal activity." Our client has no past criminal
14 convictions, but despite efforts to receive further
15 clarification about the denial, received no response.
16 Our appeal was denied. Our client should not have
17 been denied a certification even if she had prior
18 criminal convictions and this unsettling outcome has
19 only served to increase her vulnerability to further
20 exploitation because of her further lack of
21 immigration status. By the way, she also has a prior
22 order of removal that has already been reinstated,
23 and we know ICE is looking for her. This is a woman
24 who because of the denial for U Certification will
25 never again cooperate with law enforcement in New

2 York, if she's the victim of crime. The risk is too
3 high as ICE continues to patrol our courtrooms. The
4 certification process requires law enforcement only
5 to verify victimization and cooperation.

6 Incorporating additional requirements serves no good
7 purpose and fails to recognize both the complexity of
8 a victim's life and an individual's ability to be
9 rehabilitated from past criminal conduct. Many of
10 our clients, victims of domestic violence or human
11 trafficking that we represent in successful
12 immigration applications have severe criminal
13 conviction records that are sometimes directly
14 related to their very victimization. It is common
15 for trafficked persons to have prostitution arrests,
16 robbery arrests and convictions. Some of our clients
17 have faced retaliatory charges. Others have defended
18 themselves against vicious attacks on their lives,
19 and hurt their abusers in the process. All of this
20 information is not available [bell] to a certifier
21 when determining whether or not to grant
22 certification. Others or our clients have made past
23 mistakes and later turned their lives around.

24 Refusing these victims certification based on past

2 suspected or proven criminal conduct fails to
3 acknowledge those realities.

4 SOPHIE DALSIMER: Thank you. My name is
5 Sophie Dalsimer. I'm an immigration attorney at
6 Brooklyn Defender Services where I work with the New
7 York Immigrant Family Unity Project team, and I
8 represent detained clients who are in Immigration
9 Detention facing removal. I do want to thank the
10 City Council for its continuing support to NYIFUP,
11 and for its commitment to defending immigrant New
12 Yorkers. Many of our clients have been victims of
13 crimes and are eligible for U visas. Yet, despite
14 recent changes to the NYPD process for the
15 certification of U visas, the NYPD continues to delay
16 decisions in certification and to deny certification
17 because of our clients' criminal histories. As an
18 illustration, I will—would like to briefly share two
19 stories of clients I have worked with. One is a woman
20 who is middle-age from Jamaica, a mother and victim
21 of domestic violence for several years. She was too
22 afraid to approach law enforcement because she feared
23 she would be deported if she did so. She finally
24 came forward to report the abuse. Her abuser fled
25 because he feared law enforcement, and ultimately

2 returned to the country—Jamaica where they were
3 originally from. Once this client was in removal
4 proceedings, we requested a U Certification, but she
5 as denied based on her extensive criminal history.
6 According to the NYPD, her criminal history included
7 a series of shoplifting related arrests. She was
8 someone who had struggled for many years being
9 illiterate and caring—raising two daughters as a
10 single mother. We filed an appeal. The appeal was
11 also denied. Another instance is a young man from El
12 Salvador who came here when he was 16, and was
13 brutally beaten with a steel bat. He suffered server
14 traumatic brain injuries and required multiple
15 surgeries. During a long period of hospitalization
16 he cooperated with the police following that to help
17 identify the attackers and locate the suspects.
18 Unfortunately, they were never found or arrested.
19 After his traumatic brain injury, he experienced
20 significant changes in his behavior, and he was
21 arrested twice for non-violent misdemeanor offenses.
22 On the basis of those offenses, the NYPD denied our
23 request for U Certification. We filed an appeal and
24 ultimately the appeal—on appeal the Certification was
25 granted, but the appeal process took over six months

2 during which this client remains detained in
3 Immigration Detention. In short, the NYPD's refusal
4 to issue U Visa Certifications based on a victim's
5 criminal history defeats the purpose of the U Visa
6 itself and stands in stark contrast to the city's
7 commitment to protecting immigrant New Yorkers. In
8 both of the cases I highlighted, we were given no
9 further indication in either the initial denial or
10 the appeal as to why their criminal history
11 specifically warranted a denial. The NYPD Deputy
12 Commissioner Susan Herman, who spoke earlier, did
13 note that it is a discretionary process that the NYPD
14 undertakes. However, we were provided no reasons on-
15 as to what factors they take into consideration
16 during that process, and as advocates, we need [bell]
17 the NYPD to articulate the specific reasons that they
18 are denying U Certification for our clients in each
19 individual case. For example, do they consider
20 arrests and convictions separately? Are there
21 certain convictions that they consider disqualifying?
22 Are they more concerned about recent convictions? Do
23 they weigh the record of someone's arrest history
24 against the cooperating-cooperation that the
25 petitioner provided to the NYPD, and do they consider

2 any other mitigating factors. All we get is a denial
3 letter with a box checked that says "Criminal
4 History." It would be extremely helpful if there was
5 point person or a person that we could reach out to
6 for more information in terms of their decision
7 making process. I would also just note as well that
8 the length of the—did not—the appeal process has been
9 extraordinarily long in our experience, and our
10 clients do remain, many detained in Immigration
11 custody throughout that process where they could be
12 using the Certification as an argument to further
13 support their request for release on bond perhaps.
14 Finally, I would agree with my colleagues here that
15 the NYPD really does not need to be denying these
16 requests based on a criminal history and the U
17 application process requires extensive scrutiny of an
18 individual's background, and it's not necessary for
19 the NYPD to undertake that decision making at this
20 stage in the process. Thank you.

21 CHAIRPERSON MENCHACA: Thank you.

22 MARYANN THARAPPEL: My name is Maryann
23 Tharappel. I'm the Special Projects Director at the
24 Immigrant Refugee Services of Catholic Charities
25 Community Services for the Archdiocese of New York.

2 For more than 40 years Catholic Charities has been
3 committed to serving New York immigrants be they
4 families seeking to reunify, children, refugees, the
5 undocumented or workers. We are honored to testify
6 today at today's hearing along side immigrant and
7 refugee advocates and colleagues from other non-
8 profits and before the New York City Committee on
9 Immigration whose commitment to preserving and
10 protecting the rights of New Yorkers regardless of
11 immigration status we applaud. We thank you for
12 inviting us here today. In its role as a legal
13 advocate for New Yorkers, Catholic Charities has the
14 opportunity to apply U visas for hundreds of people
15 each year. We are one of many organizations that
16 does this type of work. However, we are one of few
17 that processes these application on behalf-behalf of
18 victims of crimes who are not victims of domestic
19 violence, and thus we have a unique perspective on
20 the experience of crime victims outside of the
21 domestic violence sphere. We request U Visa
22 Certifications from law enforcement and other
23 agencies across the country, and we testify today to
24 our experience with New York City agencies. Earlier
25 this year, an attorney at Catholic Charities was able

2 to receive a U Visa Certification from the New York
3 County District Attorney's Office in just a few days.
4 Their immediate response to our request enabled us to
5 halt the deportation of a man who has lived in New
6 York City since 1993, is married to a U.S. citizen,
7 and is the proud father of a young woman who is
8 graduating with a nursing degree next year. Because
9 the Manhattan District Attorney's Office had a single
10 point of contact for collecting request for U Visa
11 Certification, the streamlined process started by
12 deciding whether to certify, and were able to
13 promptly obtain the Certification and present it to
14 the Immigration and Customs Enforcement, ICE, just
15 before—just days before they were to deport our
16 client. In this case, have a streamlined accessible
17 and responsive U Visa Certification process made the
18 difference between immediate deportation, probably
19 preceded by detention, and a path to achieving the
20 legal status through a U Visa application. We
21 encourage all city agencies to build a process that
22 mirror this, offering a single point of contact, a
23 streamlined process with well publicized requirements
24 and the capacity to consider both appeals and request
25 to expedite. Certifying agencies must publish an

2 identifiable—an identifiable point of contact, and a
3 streamlined certification process that provides for
4 expedited requests and appeals. As mentioned before,
5 the procedures for requesting U Visa Certifications
6 vary widely from agency to agency. Often you're
7 aware of who the certifying official is at an agency,
8 but that individual is not the person who collects
9 requests. City agencies that issue U Visa
10 Certifications must designate a single point of
11 public contact to collect requests. Contact
12 information should be publicly available on agency
13 websites, not hidden within a page, but publicly seen
14 and very easily accessible. It would also be very
15 helpful for advocates to understand each agency
16 certification process and requirements for initial
17 certification requests, file a request. For example,
18 with ACS, which proves to be very difficult
19 continually. [bell] The NYPD must also consider
20 certifications for when district attorney offices
21 refuse to. In our experience, the NYPD has refused
22 to achieve certifications in cases in which an arrest
23 has been sent to the DA's Office. Recently DA's
24 offices have been refusing to issue certifications in
25 cases that have been sealed after conviction. In such

2 cases where the victim cooperated in the
3 investigation, we request that NYPD revisit their
4 policy of refusing to achieve certifications. Perhaps
5 NYPD would consider accepting these requests on a
6 case-by-case basis with accompany letters from the
7 DA's Office. Thank you.

8 CHAIRPERSON MENCHACA: Thank you for
9 that, and again thank you for all--all the testimony.
10 Council Member Dromm, do you have any questions?

11 COUNCIL MEMBER DROMM: No. Not a question
12 but just an observation. Sometimes I wish we heard
13 from the advocates before [laughter] the
14 Administration so I could ask more in-depth questions
15 but I found your testimony to be very informative,
16 and the next time we go at it, we'll make sure that
17 we raise some of these issues as well. Thank you.

18 MARYANN THARAPPEL: Thank you.

19 SOPHIE DALSIMER: Thank you.

20 CHAIRPERSON MENCHACA: And we will
21 continue to go at it. No doubt. I want to ask
22 actually a kind of good follow-up to Council Member
23 Dromm's kind of point about just the illumination
24 that you've brought with your testimony. What is
25 your relationship to each of these agencies that are

2 working with you? Give me a sense of ranking. Who's
3 the best, who's the worst kind of--

4 MARYANN THARAPPEL: I do it.

5 CHAIRPERSON MENCHACA: Don't worry.
6 We're not—we're not—we're not going live stream or
7 anything and the world is not watching.

8 MARYANN THARAPPEL: Okay.

9 CHAIRPERSON MENCHACA: No, that's
10 actually why we want to talk about it because the
11 world is watching right now, and we want to make sure
12 that we get a good sense about—about this because
13 while we've made strides, we happen—we've all noted
14 them. We're not there yet, and I'm not happy, we're
15 not happy about where—where we could be, and in the
16 time that we're in right now with this federal
17 government, and when relief can come to a survivor
18 and a victim, we want it to come swiftly. That is
19 the—that is the promise of a sanctuary city. And so
20 tell us, be honest about what and where agencies are
21 in communication, engagement bringing it to the
22 table. Thank you.

23 HANNAH SHAPIRO: I think I've been
24 designated to answer that question. So, for New York
25 City agencies, I think there's very—folks feel very

2 strongly about the Human Rights Commission is very
3 good and very accepting, the Labor Department very
4 dead, very accepting. The Administration for
5 Children's Services has consistently been amazing
6 although somewhat under-resourced lately, and so
7 we're seeing increased delays in issuance of
8 certifications. Whereas, usually and formerly they
9 were very prompt.

10 CHAIRPERSON MENCHACA: Okay, just expand
11 on that. So, you're saying that because of the—just
12 the flow?

13 MARYANN THARAPPEL: Right. So, we're—I
14 don't—we don't—because we don't have access to the
15 back door kind of information, we don't know if it's
16 just a massive increase in the number of requests
17 that they're trying to process down, but we have seen
18 just an uptick in an increased delay not only at the
19 Administration for Children's Services, but
20 throughout the District Attorney's Offices as well.
21 NYPD has actually—we have—they—I—I agree with Maryann
22 that they really should create a clear process for
23 expediting of U Certifications, but generally they're
24 actually quite prompt in issuing the first decision.
25 Their appeals process isn't as prompt as it probably

2 should be, but they should be praised for having one.
3 Whereas, others don't. So, I guess that is to say
4 each of the certifiers has good points. For ACS for
5 example, it's their expansiveness and willing to
6 consider the wellbeing of the family, and just kind
7 of seeing how they can look at that case in order to
8 try to make the victim eligible to apply for-for
9 status, and in that they should really be commended
10 and, you know, to some degree that comes from their
11 background as kind of seeing the whole unit of the
12 family and trying to make sure that their well taken
13 care of. So, it's not a great answer, but it's what
14 we have.

15 CHAIRPERSON MENCHACA: Again, thank you
16 and let's continue that-that line of engagement, and
17 just again, the texture of the communication and
18 quantifying that in ways of rulemaking and
19 legislation, and that helps us build the institution
20 that we're going to need. The institutionalization
21 of connection with agencies and-and advocates.
22 Council Member Dromm.

23 COUNCIL MEMBER DROMM: Yeah, just to
24 follow up. When somebody does get a denial, is it
25 different from the NYPD denial to the DA's denial?

2 Do they give reasons other than criminal history or
3 does a client have to inquire about why the denial
4 is—or why—why they got the denial. Can you just walk
5 me through that a little bit?

6 HANNAH SHAPIRO: So, I—it's—with the DAs
7 it's pretty clear. Either—well, not all always
8 actually. [laughs] Sometimes it's very clear.
9 Either they can certify or the record has been
10 sealed. So, they arguably say they have no access to
11 any records to determine helpfulness or qualifying
12 crime. Sometimes we run into issues with the DAs on
13 the issue of helpfulness and that's sort of a—it can
14 be a more teased out kind of conversation, and some
15 offices are more receptive than others. With the
16 NYPD, we're really not being told or have a way of
17 understanding what the basis for the denial is, where
18 they either check off helpfulness, qualifying crime
19 or criminal history. Sometimes we run into issues
20 with the DAs on the issue of helpfulness and that's
21 sort of a—can be a more teased out kind of
22 conversation, and some officers are more receptive
23 than others. With the NYPD we're really not being
24 told or have a way of understanding what the basis
25 for the denial is where they either check off

2 helpfulness, qualifying crime, or criminal history
3 because they haven't articulated why they don't
4 believe a qualifying crime has occurred, and I think
5 most advocates when we submit these requests are
6 framing that particular issue. In addition as to
7 helpfulness, there we, you know, we have no access to
8 their--their records to kind of understand where they
9 reach--how they reach that kind of conclusion. And so
10 we're left in the dark a lot particularly with the
11 NYPD where we come into issue a lot more frequently
12 and sort of on a regular basis and then have to tap
13 into our already limited resources to try to frame
14 appeals based on information that we don't even
15 really know was the basis of their decision making,
16 and so we're a little bit grasping at different kinds
17 of arguments to try to make sure we're--we're gest
18 advocating for our clients, but it's just not an
19 efficient or good use of anyone's time or resources,
20 and for all the reasons I highlighted in my
21 testimony, it's really not a dialogue that particular
22 on the criminal history issue that the NYPD even
23 needs to engage on. And so, I think there are ways
24 that they could streamline their own process and open
25 up access to these certifications in a way that's

2 much more broad, and we have certain determinations
3 to the immigration authorities that will certainly
4 deal with public safety kinds of issues.

5 CARMEN MARIA REY: And just to add to
6 what Hannah said, one thing about—that's interesting
7 about the U and T Certification process and the
8 status itself is that the federal government
9 specifically designated this—these forms of relief to
10 overcome prior poor conduct. So, unlike other types
11 of immigration relief, you may have some very serious
12 convictions. As long as you're not a Nazi or a—have
13 committed genocide, the government can consider your
14 application and grant you the right to remain the
15 United States. So, if the federal government and the
16 statute that created the relief is that generous, and
17 if the certification requirements set out by federal
18 government don't require local certifiers to verify
19 criminal history and deny based on criminal history,
20 when then are certifiers taking that additional cost,
21 and delay upon themselves to make a determination or
22 whether or not to grant certification?

23 COUNCIL MEMBER DROMM: I bet I know why
24 but anyway. [laughter] What is the criteria for
25 helpfulness?

2 CARME MARIA REY: I read that in my
3 testimony. It is—it's actually set up in the
4 regulations for the U and effectively, it's that the
5 law enforcement agency finds that the—that the victim
6 had information that helped them in some way with
7 their investigation, and that's a very expansive
8 definition. It also doesn't require—as I—as I
9 mentioned earlier, you can determine that it's not—
10 that you are no longer able to cooperate and a
11 certifier can look at your circumstances and
12 determine that that is reasonable, and so they can
13 certify anyway. For example, I had a couple, you
14 know, a case a couple of years ago out of the
15 Brooklyn DA's Office where my client was physically
16 in the United States. She was originally from
17 Pakistan. The abuser from—from Pakistan. The
18 abuser's family was back in Pakistan. The abuser had
19 coerced his family into threatening my client and her
20 family's lives. In Pakistan they had tried to go to
21 the police. There was no recourse under their laws
22 to protect them. We went to the District Attorney's
23 Office. We said that our victim could no longer
24 cooperate because they couldn't keep her family safe.
25 The District Attorney's Office determined that that

2 was reasonable refusal to cooperate any further.
3 They issued her the Certification. She's a lawful
4 permanent resident. Had we gone through a different
5 sort of fire, we would not have been able to get her
6 status, to the detriment of all of us.

7 HANNAH SHAPIRO: And just to follow on
8 Carmen's point, the regulations in and of themselves
9 build in this reasonable non-cooperation caveat
10 essentially to—because it's contemplated and
11 understood that victims of crimes are all—have a
12 variety of issues that may make it unsafe or
13 unreasonable to cooperate. I think Carmen's example
14 is certainly an extreme example, but I think there
15 are daily kinds of factors that impact a client's
16 ability to reasonably cooperate with law enforcement,
17 and I will say that that—that kind of exception has
18 really not been utilized by—by most agencies within
19 the city, and that conversation that we've tried to
20 have with—with certifiers as to that point, has been
21 met with a lot of resistance.

22 CARMEN MARIA REY: The—the interesting
23 thing to note, um, Council Member is that the—the
24 statute that created the relief itself considers that
25 mere helpfulness in detection of crime is sufficient

2 helpfulness to issue you certification. So,
3 effectively calling the police should suffice to
4 issue you certification. And if the interest of the
5 city are to improve cooperation and collaboration
6 between immigrant communities that are living in
7 daily fear in New York right now under the current
8 administration, and law enforcement, it would behoove
9 us to ensure that the certification process is
10 expansive as possible under the statute.

11 COUNCIL MEMBER DROMM: So, my attorney
12 reminds me, a special lawyer, that these were issues
13 that we actually brought up during the rule making
14 process and how much--? I mean I don't think they
15 adopted many of the suggestions. Can you reflect on
16 that a little bit?

17 CARMEN MARIA REY: [off mic] Do you want
18 to take it?

19 HANNAH SHAPIRO: The NYPD so, in fact,
20 they have made small modifications to their process
21 based on our comments during rule making for their
22 use sort of U and T Certification issuance
23 regulations, but they didn't go to the meat of our--
24 our commentary. For one they didn't address the
25 criminal background issue, which we have been

2 advocating, um, for-for at least a decade now. They
3 have not addressed the fact that they still require
4 individuals to go and pick up certifications in
5 person. Some of the us 14-hour days already and
6 finding those two or three extra hours to pick up
7 these certifications are kind of-it's kind of
8 difficult. They didn't address the fact that we
9 can't mail certifications, email certifications to
10 the NYPD that we have no way of communicating with
11 the-the-the person really. There should be one
12 person that makes the-that pulls the files, makes
13 certifications and make-makes recommend-makes
14 certification recommendations. That was not
15 addressed. They have created kind of back room
16 measures to-to address some of these issues, and I
17 have to say I mean just really from where we started
18 ten years ago it's like night and day, and there
19 really should be, you know, praise for that, but
20 there-Yes, Sebastian would be right in that many of
21 our recommendations were not addressed.

22 COUNCIL MEMBER DROMM: So, thank you.

23 CHAIRPERSON MENCHACA: My last question
24 and we have two more panels, and we want to get
25 through and-and just a heads up to all the folks that

2 are coming, I want—I want to get away from the
3 written statements and really kind of hear you kind
4 of address some of those conversations. We can
5 continue to have a conversation, but I'm really
6 interested in—in the DA's relationship with the
7 advocates and really thinking about how you reach out
8 to the DAs, how the DAs reach out to you. You know,
9 we want the DAs to change their policy of waiting
10 until criminal case ends to issues U Visa
11 Certifications, and that way the NYPD could actually
12 issue a certification even if a criminal
13 investigation is ongoing. I think that's the—I feel
14 like that is the goal. Can anyone speak to that in
15 kind of clear terms and give us an idea, a road map
16 to engage the district attorneys. [background
17 comments]

18 HANNAH SHAPIRO: So, I think, you know, I
19 think with the District Attorney's Offices it's
20 really thorough specific in terms of our experiences
21 and the kind of dialogue that has happened throughout
22 the—the last decade I guess that we've been working
23 on these issues. The—the issue of NYPD not
24 certifying while a case is pending seems to be an
25 issue between the NYPD and the DAs. There's no

2 reason why the NYPD cannot certify while a criminal
3 prosecution is pending.

4 CHAIRPERSON MENCHACA: [interposing] And
5 can I pause you there?

6 CARMEN MARIA REY: Yeah.

7 CHAIRPERSON MENCHACA: What is the issue
8 that NYPD said? Because they had an issue today.
9 How do you—how—how would you define the issue?

10 CARMEN MARIA REY: I don't think they've
11 actually articulated the issue. I believe there is—
12 there is some kind of—I don't want to say conflict
13 between the NYPD and DAs, but there's—there's some
14 disagreement or pressure about the NYPD not doing
15 that well at criminal cases pending. Those are
16 issues that may need to be worked out between the—the
17 DAs offices and the NYPD, but as advocates we don't
18 see anything legally that would prevent the NYPD from
19 certifying. The regulations say you have been
20 helpful in an investigation or prosecution. So, it
21 allows--

22 CHAIRPERSON MENCHACA: [interposing]
23 Right, so let me—let me pause there because I we've—
24 we've already said that, and so thank you.

25 HANNAH SHAPIRO: Yeah, yeah.

2 CHAIRPERSON MENCHACA: The question or
3 the-the-the point here is that, well there's multiple
4 points, but the one point I want to make here is that
5 if we rely on the DA and the NYPD to figure this out
6 that won't happen. I just-this-we're going to go in
7 circles.

8 HANNAH SHAPIRO: Yeah.

9 CHAIRPERSON MENCHACA: So, I'm trying to
10 figure out what the pressure points are here and one
11 of them is clear. Legally they can do it, and so I
12 just want to continue to go back to that, and figure
13 that out and say legally they can do. Why are they
14 not doing it? What's preventing them from doing
15 that, and that's really pressure from the DAs. So,
16 what I'm trying to unveil here-reveal here is your
17 relationship with the DA's officer and trying to
18 figure out where-where there might be cooperation and
19 engagement or one DA that kind of sticks out and say,
20 you know, what I think we can work with him to kind
21 or reshape and pressurize the other DAs to do it.
22 We're working on so many different things here
23 already with the DAs. I won't go into that. I'll
24 pause here. Carmen.

2 CARMEN MARIA REY: So I think it might be
3 helpful just to preface what's actually happening
4 behind the scenes when an individual is arrested. So
5 arguably the role of the NYPD and at the time that
6 the case is transferred to the District Attorney's
7 Office. They then do their own internal
8 investigation and press charges. We will go to the
9 NYPD and we've been kind of reasoning this out with
10 them for years. Their role as far as we're concerned
11 is over when the case is referred, and so they should
12 be able to certify at that point even if they wanted
13 to wait their investigation were over to certify.
14 When the case is transferred to the District Attorney
15 Officers, the District Attorney Office in the course
16 of prosecuting their case, have a legal
17 responsibility to update defense counsel. If there
18 is certain-if-if they-there is anything that they do
19 with the victim that could possibly be seen as giving
20 the victim the benefit, and they need to update
21 counsel. It's-it's the law and if they don't do so,
22 it endangers their investigation. And so, what our
23 understanding is from prior conversations with
24 District Attorneys offices and with NYPD in part
25 during the meeting that MOIA organized for all

2 certifiers, is that there doesn't seem to be a way
3 for NYPD to update DA offices with reliability as to
4 whether or not they issued a U Certification, and the
5 District Attorney's offices have to be able to know
6 their that a U Certification was issued because they
7 need to inform defense counsel. And so, if we can
8 fix that, lack of communication, that may go very far
9 to issuing a certification. Now, from--from the
10 advocate's perspective, it might be as simple as
11 making a phone call. That might also fix the delay
12 that we find when we go to NYPD to issue a U
13 Certification and they deny because they've arrested
14 the person, and the we have to restart again from the
15 District Attorney's Office--Office at the back of the
16 line for their certification. So, for example, a
17 number of years ago I had a case where my client was
18 assaulted by her abuser. The--the police were unable
19 or unwilling to arrest him. The case--I filed a U
20 Certification, the case went to case review, and
21 after a conversation with supervisors they sent
22 someone to arrest him. A U Certification request was
23 already by NYPD for months. They arrested the guy.
24 They had to deny based on their policy and I had to
25 restart again with the Bronx DA's Office, which

2 doesn't certify until the end of an investigation.
3 My client spent three years without U Certification
4 living in a homeless shelter. That could have—might
5 have even been fixed if NYPD upon arrest were to send
6 notification to the Bronx DA's Office that they've
7 issued a U Certification and issued the U
8 Certification.

9 HANNAH SHAPIRO: That really could be the
10 fix. And also, jut to follow up, I think NYPD's
11 other issue with the idea of the ongoing helpfulness
12 and I think that—the suggest that Carmen is—is
13 framing kind of serves to alleviate that particular
14 issue because in the same way, the DA if they needed
15 to update the NYPD that there had been a lack of
16 cooperation, the regulations allow for certifiers to
17 revoke when necessary a U Certification. So, there
18 are all—there are sort of these built-in safeguards
19 to the regulations and—and for all of these reasons
20 it is why we are saying that the NYPD should be
21 exercising their discretion broadly. Not trying to—
22 to—and to encourage them to issue certifications in
23 more broad circumstances rather than limit it.

24 CHAIRPERSON MENCHACA: Thank you. This
25 was incredibly productive and eye opening and I think

2 it gave Council Member Dromm and I some ideas on how
3 to move this forward from the Council side, from the
4 Committee side. Thank you.

5 CARMEN MARIA REY: Thank your.

6 HANNAH SHAPIRO: Thank you.

7 CHAIRPERSON MENCHACA: The next panel we
8 have Ms. Terry Lawson from the Bronx Legal Services:
9 Shani Adess, New York Legal Assistance Group; Amanda
10 Doroshov, Her Justice; and Joyce Ziegweid from the
11 Urban Justice Center for Domestic Violence Project.
12 A reminder. Let's try to stick to three minutes and
13 I'll ask you to wrap up after three minutes, and we
14 have your written testimony. So, we'll review that.
15 If there is anything that you can add to this
16 conversation to really kind of push these points that
17 we've been making throughout this conversation. Who
18 would like to start? Thank you.

19 TERRY LAWSON: I can start. Thank for
20 this opportunity to testify. My name is Terry
21 Lawson. I am with Bronx Legal Services, the Bronx
22 Office or Legal Services NYC, and I'm also here on
23 behalf of the Bronx Immigration Partnership, which is
24 a collaborative of local organizations, and agencies
25 working together for Bronx residents. I would like

2 to spend my time highlighting some of the best
3 practices that we've observed in New York City
4 agencies that handle these requests, and to encourage
5 other NYC certifiers to adopt similar practices. It
6 should be as easy for a pro se person to seek a U and
7 T Certification as it is for someone who has a
8 lawyer. New Yorkers become easy prey for notarials,
9 an issue I know that this Council cares very much
10 about and other bad actors who charge frankly
11 thousands of dollars for certifications that people
12 could get on their own if they had access to the
13 right information. These best practices put people
14 without a lawyer on the same footing as those with
15 legal representation. First, each NYC certifier
16 should provide clear descriptions of their
17 certification procedures on their office's website,
18 and in public locations, and that information should
19 be translated into the multiple languages on the
20 nyc.gov website. Second, each NYC certifier should
21 adopt a reasonable timeframe for adjudication of
22 certification requests, ideally 30 days and should
23 include an appeals process as my colleagues have
24 said. Third, all denied requests should provide
25 detailed information about why the request was denied

2 to allow the requester an opportunity to respond
3 appropriately and should lay out the appeals process
4 in that notification and the description of the
5 appeals process should be provided in the language of
6 the requester.

7 Fourth, NYC agencies should allow the
8 submission of certification requests by U.S. Mail and
9 by email, should acknowledge when a request has been
10 received, and should create follow-up procedures that
11 allow requesters to be in touch via email and by
12 telephone and by ideally by text message because
13 that's how people communicate these days with the
14 office responsible for signing the certification.

15 Fifth, certifiers should mail
16 certification responses to the requester unless the
17 requester asks for the opportunity to pick up the
18 certification in person.

19 Sixth, agencies should sign
20 certifications even when a case is pending based on
21 the cooperation that has already been provided.
22 Given how long it takes for some cases to be
23 adjudicated especially in the Bronx, there should be
24 no requirement that a case for investigation be
25 concluded before certification can be signed. We

2 encourage the City Council, MOIA and the new
3 Interagency Task Force to work with New York City
4 agencies that have not made their certifications
5 procedure public, and to include the NYC Department
6 of Education, the CCRB, Internal Affairs, the
7 Department of Corrections and the NYC Law Department
8 in conversations to develop their certification
9 require [bell] procedures. Thank you.

10 JOY ZIEGWEID: Good morning, members of
11 the Committee. My name is Joy Ziegweid I'm the
12 Supervising Immigration Attorney at the Urban Justice
13 Center Domestic Violence Project. Thank you behalf
14 of my colleagues and our clients for this opportunity
15 to appear and speak before you today. We're grateful
16 for your support, the organizations that work with
17 the immigrant community to improve life in our city
18 for all New Yorkers. At DVP we consider domestic
19 violence and any type of intimate partner
20 relationship regardless of gender identity or sexual
21 orientation to be a human rights violation, and in
22 the course of our work with non-citizen survivors of
23 violence, we frequently encounter clients who may be
24 eligible for U or T non-immigrant status. We
25 advocate with many of the city agencies here today

2 and mentioned here today to obtain law enforcement
3 certifications that will allow our clients to apply
4 for U and T Visas, and we're grateful to the city
5 agencies who already certify, and who are in dialogue
6 to improve their certification procedures. I join
7 and my colleagues here today in offering
8 recommendations to improve—further improve the
9 process of U and T certifications in our city so that
10 all eligible survivors in New York are able to apply
11 for immigration status in a timely fashion. As Terry
12 mentioned, establishing clear transparent
13 straightforward processes that are accessible to
14 attorneys and pro se requesters is essential to
15 ensuring that immigrant victims of crime are not
16 further preyed upon by notarials, fraudsters, and
17 unethical lawyers. Far too often, we encounter
18 clients who have already paid huge sums of money to
19 someone promising to get them a U Visa Certification.
20 Just a couple of weeks ago I met the domestic
21 violence woman—a domestic violence victim, a woman
22 who is barely making ends meet trying to support her
23 children who paid \$1,300 to someone falsely claiming
24 to be an attorney so that he would request a U
25 Certification for her. He made the request to the

2 Bronx District Attorney's Office. As Terry
3 mentioned, the Bronx DA does not certify until cases
4 are closed so the request was sort of pointless at
5 that point, and then he would not follow up later
6 because she could not pay additional money. She's
7 now our client, but she lost hundreds of dollars to a
8 fraudulent service provider, and she still had no
9 idea how the process actually worked. So, as part of
10 these recommendations is a belief that there needs to
11 be consistency so that the process is easy for people
12 with attorneys and without attorneys. I completely
13 concur with all recommendations that were previously
14 stated. In the interest of time, we'll just
15 reiterate quickly. Certifications request should be
16 accepted by email in addition to regular mail to make
17 it faster, more efficient, and cost-effective.
18 Agencies should set forth clear timeframes for
19 adjudications and for appeals so that survivors do
20 not remain indefinitely in limbo. Agencies should
21 mail signed certifications to the immigrant or her
22 attorney rather than requiring certifications be
23 picked up in person. Thus, conserving limited
24 resources of legal service providers and minimizing
25 time off from work for immigrants. Finally, post

2 current detailed certification procedures online.
3 Others have testified today about the need for
4 public-public awareness campaigns [bell] and public
5 education information about team U Certification
6 processes for all agencies should continue to be
7 centralized on a city website, but that information
8 should be detailed, outlining each agency's specific
9 requirements both for--

10 CHAIRPERSON MENCHACA: [interposing] If
11 you could finish it up.

12 JOY ZIEGWEID: --pro se and represented
13 requesters. Thank you.

14 CHAIRPERSON MENCHACA: Thank you so much.

15 AMANDA DOROSHOW: Hello. My name is
16 Amanda Doroshow and I'm a Staff Attorney at Her
17 Justice, a non-profit organization that uses a pro
18 bono first approach to deliver legal services. We
19 partner with New York's finest law firms to deliver
20 free, quality legal services to low-income New
21 Yorkers who identify as women in the areas as family,
22 matrimonial and immigration law. Last fiscal year,
23 Her Justice assisted over 3,000 individuals with
24 their legal matters. We appreciate the opportunity
25 to speak today to the City Council about best

2 practices relating to the issuance of U and T
3 Certifications. Many U Certification requests from
4 city agencies currently take 6 to 18 months to
5 process. These delays are excessive given the
6 current climate of immigration enforcement in which
7 the lives of undocumented New Yorkers who are crime
8 victims are at serious risk of upheaval and
9 devastation. Many times the U or T Visa provides the
10 only legal mech—legal mechanism by which many of our
11 clients will be able to stay in the United States.
12 These delays can be even longer, up to two years or
13 more when an individual--individuals involved in the
14 criminal legal system. As we've been speaking about
15 earlier, this delay is largely due to the NYPD
16 practice of refusing to certify and issuing denials
17 when a suspect has been arrested and then referring
18 it to the relevant district attorney's office.
19 District attorneys often refuse to certify when a
20 criminal case is pending and criminal cases often
21 take two years or more to resolve. As advocates we
22 know whenever an arrest is made to not even go to the
23 NYPD because they will issue a denial, and then refer
24 it to the relevant district attorney's office. In
25 addition, each district attorney has a different

2 protocol for issuing certification that give clients
3 arbitrary results depending on the borough where they
4 live. A two-year delay is too long to wait for a
5 certification and puts many people at risk of harm.
6 By the time the criminal case has resolved, the
7 victim may already be detained by Immigration, may be
8 facing deportation or may have already been deported
9 from the U.S. Therefore, it's best practice for the
10 NYPD to sign U Certification requests even when the
11 suspect has been arrested. Nothing precludes the
12 NYPD from issuing a Certification in these instances.
13 Cooperation in the detection and the investigation of
14 the crime is all that is needed for the NYPD to
15 certify, and there is no requirement that the
16 investigation be completed before Certification can
17 be issued. There is also no requirement that the
18 victim cooperate both with the investigation and the
19 prosecution. Several police departments around the
20 country actually issue U Certifications when there
21 has been an arrest when the victim does not want to
22 participate in the criminal prosecution. Long delays
23 in the issuance of U and T Certifications also make
24 our clients more vulnerable to exploitation to
25 unscrupulous immigration advocates as has just been

2 said. Some clients with long pending certification
3 requests have told us that they hired [bell]
4 attorneys or non-attorneys who falsely promise to
5 expedite these requests and then clients are paid a
6 vast amount of money to do so.

7 CHAIRPERSON MENCHACA: Can you finish up.

8 AMANDA DOROSHOW: Thank you.

9 CHAIRPERSON MENCHACA: Thank you.

10 SHANI ADESS: Thank your for the
11 opportunity to testify before you today. My name is
12 Shani Adess and I'm a Supervising Attorney at New
13 York Legal Assistance Group. My testimony is going to
14 jump to the parts that haven't been covered, but-but
15 the premise is that we need one written and
16 publicized policies, which has already clearly been
17 explained from all certifying agencies, which does
18 not exist. We need implementing practices that
19 enable requesters who are denied certification an
20 opportunity to appeal such denials, and a delineation
21 of a method to request expedited review in urgent
22 cases. Training certifiers who are reviewing cases
23 in collaboration with local immigration-immigrant
24 legal service providers is necessary to ensure that
25 best practices are used when creating these policies

2 and when conducting trainings of certifiers, which
3 happens with inconsistent rates. Every police that's
4 written up should address the process to request a
5 certification; the processing time for certification
6 requests; a clear appeals process in the case of
7 denial; a method to request expedited review; and a
8 designated person or point of contact if there is an
9 issue with the implementation of these written
10 policies. For the purposes of the testimony that's
11 happened before, I'm just going to focus on the
12 appeals process, and a little bit about training.
13 Each agency needs to have an appeals process if an
14 issue or request for Certification is denied. At this
15 time, only one certifier in New York City has a
16 method to appeal, which is the NYPD. They established
17 this process in 2016 after which they determined that
18 20-48 cases that were denied in 2015 were then
19 approved once that process was started, and I don't
20 have the numbers for the most recent year at this
21 time. Without an appeals process, there would have
22 been no way to remedy 48 incorrect denials. When you
23 take into account these 48 people plus people that
24 have been denied by many other courts, district
25 attorneys and certifiers, we're talking about a large

2 number of people that could have been eligible for
3 relief if they had been given a means to actually
4 advocate, provide context or respond and contest some
5 of the reasons for which the certification was
6 denied. That goes to the other point that an appeals
7 process is to a certain degree moot if there isn't a
8 clear basis for the denial provided to the requester.
9 It was already testified by a prior panel that when
10 we don't have clearly articulate reasons we're
11 working in the dark, and we're using up a lot of
12 resources. That being said, we're lawyers. We can
13 do that. We do this work all the time. We've been
14 doing it for a long, but what about that pro se
15 individual? What about that pro bono that's taking
16 this case and it's their first or second case that
17 they're doing a U Certification request. They
18 certainly wouldn't be able to do that. In terms of
19 how to respond to the process as a whole, I would
20 just note that directed training in coordination with
21 advocates is the only way to certify—to check the
22 process that's happening, and to ensure that
23 hopefully the appeals process isn't even necessary in
24 the future. [bell] And I'll end my testimony there.

2 CHAIRPERSON MENCHACA: Thank you to the
3 panel. Council Member Dromm. So, the only question
4 that I have at this point for this panel and I'm
5 really excited about this concept of across the board
6 appeals process, and the most—the most recent
7 recommendation about working with a—with the
8 certifiers to create a training process. Does that
9 exist today? Do you partner up with training at all
10 right now?

11 SHANI ADESS: There is some agencies
12 that, and I'll point to the NYPD in particular who
13 has set up meeting with legal advocates, with some of
14 the people that are involved in the different parts
15 of the process in order to get feedback from us on
16 things that are going wrong, our concerns, things
17 that have been going well, but we do not do training.
18 Our understanding is that with NYPD most trainings
19 happen at roll call so I'm not sure what the
20 implementation would be, but to my knowledge there
21 has been no recent formal training provided to people
22 that are doing certifications and there's been a lot
23 of turnover at every agency in terms of who was
24 evaluating these certifications. So, it's certainly

2 necessary especially for crimes that aren't domestic
3 violence.

4 CHAIRPERSON MENCHACA: It's a great way
5 to follow up on that, and--and Council Member Dromm
6 brought up the NCOs, the Neighborhood Coordination
7 Officers and I think that would be a great
8 opportunity for us to work on the local level. There
9 is so much access there right now, and they are
10 taking every idea and running with it. So, if you're
11 open to it, and we're kind of opening up to the
12 entire room, let's start there. Let's see how far we
13 go before the wall--if anything comes up, and let's--
14 let's just move. This is a great place to move and
15 see how far we go without--without any kind of formal
16 requests, and we'll just let the nature of this work
17 move us.

18 TERRY LAWSON: Council Member if I could--

19 -

20 CHAIRPERSON MENCHACA: Yes.

21 TERRY LAWSON: --add that it would
22 helpful to work with agencies that are already
23 training judges because a lot of work that's already--
24 we don't have reinvent the wheel, and we could
25 certainly train them as well, but there are already

2 curriculums in place to train judges that have been
3 developed. So, so we could certainly work together.

4 CHAIRPERSON MENCHACA: Thank you. We'll
5 be following up with on that, too and everyone else
6 that might have access to training documents. Thank
7 you. Thanks to this panel and our final panel is
8 City Bar Justice Center, Suzanne Tomatore; sorry. I
9 won't blame it on me nor the writing. New York City
10 Bar Association, Deborah Lee; the Urbist-Urban
11 Justice Center, Elaine Cue (sp?); the CUNY Law
12 School, Racquel Batista. This is our final panel.
13 We'll take your three-minute focused areas that we
14 might not have covered, and new ideas and responses
15 to something you might have heard from the
16 Administration or other colleagues, and we'll offer a
17 few questions and then I'll make my final thoughts
18 and we'll conclude this hearing. Thank you.

19 SUZANNE TOMATORE: Good afternoon. My
20 name is Suzanne Tomatore, and I'm the Co-Director of
21 the Immigrant Justice Project at the City Bar Justice
22 Center. The City Bar Justice Center is a non-profit
23 legal services on the New York City Bar Association
24 and just for clarification, our Immigration Committee
25 id is actually also providing testimony on some

2 different points, but the Justice Center is a non-
3 profit legal services arm of the association, and
4 annually we provide legal education, information,
5 advice, free services and direct legal representation
6 to more than 20,000 low-income and vulnerable New
7 Yorkers from all five boroughs or New York City who
8 would otherwise be unable to access the legal
9 services they need. Our clients include immigrants,
10 battered women, veterans, LGBTQ individuals, homeless
11 families, seniors, cancer patients and survivors,
12 consumers filing for bankruptcy, homeowners facing
13 foreclosure, struggling small businesses and others.

14 I would like to thank Carlos Menchaca and the
15 Committee on Immigration including Daniel Dromm for
16 drawing attention to the important issues of human
17 trafficking and immigrant crime victimization in
18 general. While New York City has shown great strides
19 in these issues—in these areas, a lot of points have
20 come up today to highlight the importance of-of these
21 issues. Just to add a few additional points, and in
22 the interest of time I'm going to be skipping a lot
23 of the written testimony. I've done a lot of work
24 over the years on human trafficking in particular,
25 and there have been a lot of very good public

2 awareness campaigns in that area. The federal
3 government has really driven some of that and New
4 York City has also done various campaigns over the
5 years. However, there's been no public awareness
6 campaign on U Visas, and—and for other immigrant
7 crime victims to access this immigration relief, and
8 as Commissioner Herman mentioned from NYPD, most of
9 their request are from survivors of domestic
10 violence, and that is because we have great domestic
11 violence advocates here in New York City in the
12 Family Justice Centers and what not, but there's many
13 other individuals who are victims of other crimes who
14 really have no idea about accessing this relief.
15 This is also very—would be very timely because with
16 DACA most likely ending, and TPS ending for Haitians,
17 and—and unfortunately probably for other—other
18 recipients of TPS coming up, it would be, you know,
19 really timely to consider something like this. It's
20 already been mentioned that information should be
21 posted in public spaces on access to U and T status.
22 I think it would be amazing if city agencies and NYPD
23 had a general crime victim rates brochure that had
24 information about victim compensation, legal services
25 as well for eligibility for U or T status. That could

2 be also provided through public hospitals and in many
3 languages that are commonly spoken [bell] by New
4 Yorkers. I'll wrap up. Finally, you know, training
5 has been mentioned. ACS has a really robust training
6 on-training on human trafficking that I think is open
7 to other Child Protective services agencies that
8 perhaps could be opened for other certifiers around
9 the city and expanded to include youth certifiers.
10 And finally, certifiers should have sufficient
11 resources to respond to requests in a timely fashion.
12 I think it's been said, but, you know, having people
13 wait to access immigration relief from the backlogs
14 with the federal government are so long already as it
15 is, any way we could help people assert their rights
16 faster, and with more transparency is appreciated.
17 Thank you.

18 DEBORAH LEE: Great. My name is Deborah
19 Lee. I'm a member of the Immigration Nationality Law
20 Committee at the New York City Bar Association. I'm
21 also a senior staff attorney with Sanctuary for
22 Families and I work at the New York City Family
23 Justice Center in Brooklyn. With over 24,000
24 members, the City Bar has a longstanding mission to
25 equip and mobilize the legal profession to practice

2 with excellence, promote reform as a law and advocate
3 for access to justice in support of a fair society.

4 The City Bar and its committee have long advocated to
5 increase access to quality counsel for anyone in need
6 including immigrants who have been impacted by

7 crimes, domestic violence and trafficking. The City

8 Bar and its committee commend the City Council for

9 holding—holding this hearing today, and we thank you

10 for the opportunity to speak. Immigrant victims of

11 crimes and trafficking provide critical information t

12 agencies seeking to investigate and prosecute

13 criminals and traffickers in our community. It is in

14 the interest of our entire community's public safety

15 as well as in the interest of justice to do whatever

16 we can to ensure the cooperation of any victim of

17 crime or trafficking regardless of their immigration

18 status. As has been mentioned before, in our current

19 political climate immigrants are more vulnerable than

20 ever. Last week's decision by the Trump

21 Administration to rescind Deferred Action for

22 Childhood Arrivals early next year highlights how

23 vulnerable non-citizens' rights and protections are

24 to political awareness. With so few avenues to

25 permanent status available under federal immigration

2 law, it is imperative that local governments do
3 everything in their power to assist individuals who
4 are eligible for relief. Given this, we encourage
5 the city to redouble its support of immigrants by
6 providing more accessibility to U and T
7 Certifications. First, the city should encourage
8 more public awareness, as has been mentioned again
9 and again today about immigrants, victims'
10 eligibility for U and T Visa Certifications.
11 Additionally it should help develop more transparent
12 procedures, again as has been mentioned earlier
13 today, citywide for New York City agencies, courts
14 and law enforcement. Knowledge empowers immigrants
15 and those advocating on their behalf. Immigrant
16 victims of crimes and trafficking need to know what U
17 and T Visas are so that they can learn if they are
18 eligible to receive certifications from local
19 agencies, and they need to know how to apply for
20 these certifications. Attorneys, both those in a
21 non-profit legal services community as well as those
22 in the private sector and in particular those who may
23 be less seasoned than the experts that have testified
24 already today need to know how to advocate on their
25 client's behalf to apply for these U and T Visa

2 Certifications. There needs to be clear procedures,
3 again as has been mentioned before, appeal procedures
4 and standards that are publicly available for all
5 members or our community by each of the agencies that
6 are capable of certifying immigrant victims of crimes
7 and trafficking. Thank you again for your support
8 [bell] of immigrants and immigrant victims of crimes
9 and trafficking.

10 AILEEN GAY: Good afternoon. My name is
11 Aileen Gay. I am the Immigrants Rights Paralegal at
12 the Community Development Project at the Urban
13 Justice Center. CDP's mission is to strengthen the
14 impact of grassroots organizations with organizers in
15 New York City working with low-income and other
16 excluded communities. At any given time our seven
17 practice areas work with between 60 and 70 grassroots
18 organizations across the city, and most of our
19 resources go to working with immigrant New Yorkers.
20 So, CDP appreciated the opportunity to talk today
21 about best practices, and we believe that it is
22 crucial at this moment to broaden the accessibility
23 of existing immigration remedies by eliminating
24 unnecessary hurdles to U and T Visa eligibility, and
25 my testimony today will focus on the need to protect

2 immigrant tenants and workers being victimized by
3 abusive landlords and employers. So, since
4 November's election, we have seen an uptick in the
5 number of reports from tenants and workers
6 experiencing abuse at the hands of their landlords
7 and employers. Landlords and employers very well
8 know that any threat to call ICE at this particular
9 moment can be a really effective tool in silencing
10 tenants or workers. We want to commend the New York
11 Commission of Human Rights for its leadership as the
12 first anti-discrimination agency in a major U.S. City
13 for providing U Visa Certifications, and one of our
14 first cases for a U Visa Certification issued by the
15 Commission was awarded to one of our clients who
16 we'll call Sophie and another group of tenants in her
17 building. And, in Sophie's case, the landlord hired
18 agents to harass her on a nearly daily basis to
19 intimidate her into accepting a really unfair buyout
20 agreement, and then when she refused they hired a
21 security firm and threatened her with deportation and
22 possible arrest. At the same time this was
23 happening, the landlord started renovations that
24 virtually made the building uninhabitable. They had
25 no access to gas and hot water for weeks. With the

2 help of our attorneys Sophie and her neighbors
3 reported the landlord's actions to the Commission,
4 and the Commission interviewed these tenants with
5 great sensitivity, and issued U Visa certifications
6 on their behalf. We have since submitted those U
7 Visa applications to USCIS. We believe that the New
8 York City Housing, Preservation and Development
9 [bell] the Division of Housing and Community Renewal
10 Tenant Protection Unit, the Department of Health and
11 Mental Hygiene and the Department of Buildings
12 Environmental Control Board are also well posed to
13 certify—well poised to certify in cases like
14 Sophie's. I'll wrap up there.

15 RAQUEL BATISTA: Hello. My name is
16 Raquel Batista and I'm the Community Legal (sic)
17 Fellow at CUNY's School of Law Community Legal
18 Resource Network, and we working collaboration with
19 Voces Latina and Queens Legal Services, and a number
20 pro bono law firms in representing both documented
21 and undocumented immigrant women in their U and T
22 Visa applications. And so, I'm not going to go into
23 my testimony, but I just want to highlight
24 specifically in the NYPD Report they did include
25 numbers from the district attorney officers across

2 the boroughs, and I did call NYPD to ask them
3 specifically which numbers corresponded to which
4 boroughs. They did not share that information. I
5 think that that's something that would be really,
6 really helpful in terms of when working with local
7 non-profits like Voces Latinas in Queens, it would be
8 really helpful to know which numbers correspond to
9 which boroughs, and maybe that's a FOIA request,
10 maybe that's a phone call, but, you know, it would be
11 really helpful. And, I also wanted to highlight
12 California. California has a model SB674, The
13 Immigrant Victims of Crime Equity Act of 2016 where
14 the state enacted a law that requires state and local
15 certifying authority to respond to requests with 90
16 days. It also creates a presumption of helpfulness
17 meaning that unless there is evidence to the
18 contrary, the assumption is that the immigrants
19 applying for the visa were helpful in the
20 investigation. And there is a USA Today news report
21 that specifically talks about the impact of this
22 legislation in California, and how it's increased
23 transparency, more cooperation between victims and
24 law enforcement, improving overall community
25 relations, but most importantly, preserving the right

2 of undocumented victims to pursue their rights and
3 benefits. So, actually, a few weeks ago, almost a
4 month ago, Hispanic Federation also reached out to us
5 to come up with some recommendations on this issue on
6 the U Visas. And so, based on the California model
7 and our own experiences, some of the recommendations
8 that we have is (1) to get guidance from the New York
9 State Attorney General's Office on the U Visa
10 Certification process, a joint state and city task
11 force on U Visas, which include Community and legal
12 organizations. Immediate update and report from all
13 the certifying agencies and their approvals and
14 denial, and their criteria used, and [bell] that the
15 city and state legislation address the issues of time
16 line having a favorable uniform criteria presumption
17 of certification and public annual and quantitative
18 and quality-qualitative data reporting on the U Visa
19 Certification request process.

20 CHAIRPERSON MENCHACA: Thank you for
21 those recommendations, those ideas and for the entire
22 panel. I-we're going to follow up with some of the
23 recommendations that you have requests for
24 information. Today's-today' hearing kind of showed
25 that we've got more work to do on the transparency

2 piece, but I want to offer some final remarks as we
3 close this--this hearing, but not the conversation.
4 We're going to have a lot more discussion and with a
5 focus on some recommendations. Today's hearing
6 really proved a lot. One of those things is that the
7 NYPD and the City is doing a really good job of
8 moving the needle forward, and bringing more
9 transparency and fairness to a process that is not in
10 our control. This is a federal government issue that
11 will end in hopeful reform of the Immigration Laws,
12 but the one thing for everyone at home to understand
13 if you're listening right now, we just had a
14 conversation about U and T Visas. U and T Visas for
15 immigrants are sometimes the only way that they can
16 get some form of status. The reason that the city
17 needs to be so invested in this even in a time where
18 NYPD and the city agencies are doing better today for
19 a fair and more transparent process is that we can
20 actually impact a lot more lives. As a sanctuary
21 city that's committed to protecting every New Yorker
22 even immigrants, this is a place that we can act.
23 This is a place we've already been acting, and we can
24 demand more. This is an opportunity for us to also
25 highlight some very serious things that are happening

2 in our communities. Domestic violence is going up in
3 our communities especially in neighborhoods that I
4 represent for example like Red Hook and Sunset Park.
5 These are immigrant working family neighborhoods.
6 Tenant harassment is going up. We've just heard from
7 the advocates about how people are being harassed in
8 their homes to be either illegally evicted, using
9 construction as harassment or just using the fact of
10 immigration status as a way to scare people out of
11 their own homes. This is how we feel gentrification
12 and displacement in our neighborhoods, and we need a
13 larger conversation about how we focus in this
14 vulnerable community and especially women and
15 children. What is also unacceptable in this
16 conversation that we just had today for me is
17 bottlenecks in city agencies. That is unacceptable.
18 We need to call it out. We need to identify it and
19 we need to remove the bottlenecks especially of ACS
20 for example, that's doing such a great job. It's
21 getting too much. We need to bring more resources to
22 alleviate those bottlenecks. That was identified
23 today. Also streamlining the process across
24 agencies. For example, everyone should have an
25 appeal process in this certification process, and the

2 fact that NYPD has it—thank you very much—what
3 prevents us from having an appeal process across the
4 way? That is something we can do as a city, and I
5 will also hold it as an unacceptable situation for
6 the DAs and all the DAs and NYPD to be broken in the
7 communication where a phone call could be the thing
8 that changes the actual application process and moves
9 the certification forward to protect another person.
10 And why do we want to issues U and T Visas? The
11 spirit of this law, the spirit of our city is not
12 only in sanctuary to hold our immigrant communities—
13 hold them together in our neighborhoods, but it's to
14 have a safer New York City. The helpfulness of
15 people on the ground whether you're an immigrant or
16 not is how we keep our neighborhoods safe making that
17 connection about something that someone sees, and
18 allow them to report either in a domestic violence
19 situation at home or on the streets if they see
20 something. We need everyone to engage in making our
21 communities safety. The U and T Visas allow for that
22 to happen, and we need more of that. These
23 bottlenecks and these issues that we have identified
24 and the recommendations that you've all put forward,
25 are important for us to move. We need more public

2 campaigns. IDNYC has proven when we give good
3 information out--Know Your Rights sessions when we
4 give more information out, people respond. People
5 are protected and people know that their rights--that
6 they have rights. So, we need to figure that out.
7 It might not be NYPD giving information like the
8 Miranda rights, but we need to be able to get
9 information out into communities and that trust
10 that's being built by New York City, advocates and
11 communities, we can--we can elevate that. And
12 finally, the work that we do here is not just about
13 keeping our communities safe. This is about giving
14 people a certification from a city agency to put them
15 into a federal process, and even before they get
16 certification, a person in process can get access to
17 state funded healthcare, a work permit and a deferred
18 action in a deportation. That is the power that
19 we're asking our city to focus on and give more
20 people access to. That's how we hold the line on
21 protecting our immigrants, and in a time where Broken
22 Windows causes issues for NYPD because they have some
23 criminal history of some sort, Broken Windows
24 continues to be another issue that we need to address
25 as a City Council that's passed the Right to Know

2 Act. Let's get police to begin a certification
3 process that does not allow them to actually—and I
4 forget how it was described, but have any discretion
5 around criminal—the criminal history. That's how we
6 end Broken Windows policing for immigration and allow
7 the UCIS process to be—because that's where they do
8 criminal background checks—allow them to do that. Not
9 put the burden on us as a city. We as a city should
10 be expanding rights. We should be expanding access
11 to healthcare. We should be expanding access to
12 deferred action, and hold and keep our immigrants
13 safe in our city. That is our responsibility. As the
14 Chair of the Immigration Committee I'm ready to do
15 that with you. Let's bring those—those models and
16 let's get into our communities and get the word out.
17 Thank you so much for this discussion, and we are
18 looking forward to working with you. Thank you so
19 much for—Indiana Porta for my counsel and our
20 members, Council Member Dromm, Koo, and Eugene for
21 being here today. Let's move this forward. This
22 hearing is now done. Thank you. [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 September 21, 2017