

Testimony of Dana Sussman
Deputy Commissioner for Policy and Intergovernmental Affairs
Before the Committee on Civil and Human Rights
October 23, 2020

Good morning Chair Eugene and members of the Committee on Civil and Human Rights. Thank you for convening today's hearing on the Commission's COVID-19 response. I am Dana Sussman, Deputy Commissioner for Policy and Intergovernmental Affairs, at the New York City Commission on Human Rights. I am joined today by my colleague, Brittny Saunders, Deputy Commissioner for Strategic Initiatives.

The past ten months have brought unspeakable tragedy, trauma, and hardship, and yet, in the face of it all, New York City has shown resilience, strength, and solidarity. The Commission's work and its commitment to protecting and upholding the human rights of all New Yorkers continues unabated. In March 2020, the Commission's entire staff operations moved to remote work over the space of one weekend. The agency's IT and Operations staff moved mountains to ensure that our workflow went on nearly uninterrupted. And despite all of the challenges faced this year, the Commission achieved record breaking numbers. In Fiscal Year 2020, the Commission assessed a record \$7.5 million in damages and penalties for violations of the City Human Rights Law. That figure consists of over \$6.5 million in damages and nearly \$970,000 in civil penalties. This represents a more than six times increase since 2014, the year prior to Commissioner Malalis's tenure, and the fifth straight record-breaking year. One of Commissioner Malalis's goals for the agency, as she has mentioned before this body before, was to ensure that cases at the Commission are valued the same as cases filed in federal and state court, and the agency has achieved that goal.

Damages and penalties do not, however, paint the full picture. Assessing high value damages and penalties are not appropriate in all cases and the Commission takes an individualized approach to case resolutions, based on the needs of the complainant, the resources and intent of the respondent, and other factors. Providing free and accessible trainings on compliance with the City Human Right Law to respondents' staff, requiring policy changes locally, and in some cases, nationally, and requiring a posting a notice of rights for both staff and customers to see are some low-cost but high-impact terms of resolutions the Commission often deploys to ensure meaningful change and long-term compliance. With very limited exceptions, every case resolution includes a restorative element; in some cases, the entirety of the resolution is restorative. Deputy Commissioner Brittny Saunders will speak to our restorative justice work in greater detail.

While assessing a record level of damages and penalties, the Commission also closed a new high of 1,066 cases and reduced the average age of open cases by two months, despite all of the challenges faced during the last four months of the fiscal year. The Commission's Law Enforcement Bureau filed 525 new cases in FY 2020 and completed 403 successful emergency interventions. The Commission settled 264 cases in FY 2020, of which 43 were settled through mediation. The number of mediated cases rose from the prior fiscal year. The agency received a slightly increased number of reports of discrimination in FY 2020, from 9,804 in FY 2019 to

10,015 in FY 2020. Consistent with past years, the protected categories of disability, gender, and race were the top three most reported areas of discrimination. Gender discrimination, including discrimination on the basis of gender identity and sexual harassment cases, accounted for the largest share of damages and penalties, over \$3 million, a remarkable sum. We just passed the third anniversary the #MeToo movement going viral, and with it, the Commission saw a dramatic increase in sexual harassment workplace claims. This over \$3 million figure is reflective of many of those cases that came to the agency over the past several years. Relatedly, the Commission's online sexual harassment prevention training has been completed over 500,000 times in all eleven languages since it was launched in April 2019.

Beginning in February 2020, New Yorkers began reporting discrimination related to the pandemic. Anti-Asian bias comprised nearly 40 percent of all COVID-19-related reports. In order to respond quickly to the influx, the Commission created a COVID-19 Response Team, made up of multi-lingual staff across the agency. From February 2020 through September 2020, the COVID-19 Response Team fielded 566 reports of discrimination, 184 of which included an element of anti-Asian discrimination. By comparison, the Commission received just 26 reports of anti-Asian discrimination during the same time period the year prior. The Commission has worked closely with organizations that work with Asian communities across the city, including Chinese American Planning Council, the Asian American Federation, the Chinese Consolidated Benevolent Association, and Homecrest Community Services, among others.

In response to the rise in anti-Asian discrimination, the Commission organized six interagency Bias and Hate Reporting Town Halls, bringing together district attorneys' offices and multiple city agencies to do the important job of explaining the differences between hate crimes and discrimination issues—and providing a non-carceral response to these concerns—in English, Mandarin, Korean, Japanese, and Tagalog; including one recently in partnership with NYPD's newly formed Asian Hate Crimes Task Force. The first of these town halls was attended by over 1,200 people. Additionally, the Commission has held eighteen bystander intervention trainings with community partners, including Hollaback and the Center for Anti-Violence Education. The Bias Response Team, housed within CRB, responded to 467 bias incidents, nearly double that of last fiscal year.

In addition, the Commission is closely monitoring rising anti-Semitism as it relates to the pandemic and beyond. In February 2020, the Commission launched a public awareness campaign to combat religious harassment and discrimination in housing, the workplace and in all public places, and to underscore the City's support for Jewish communities. The campaign responded to a rise in anti-Semitism in New York City, in surrounding communities, and around the country, and affirms the rights of all Jewish New Yorkers to be treated with dignity and respect. It included investments in Jewish community press both in paper and online. The campaign also provided information on how to report harassment and discrimination to the Commission. Building off of this work, the Commission, led by the agency's Jewish Communities Liaison, has fostered relationships with Orthodox Jewish leaders in Crown Heights and Williamsburg, and has become a direct connection to our agency to provide resources and support. In recent weeks, as anti-Semitism has again risen to the forefront as a result of COVID-19 fears, we have been in constant contact with community leaders; we have been responding on our platforms; and we have been republishing our campaign materials.

The Commission's policy team first issued legal guidance on the intersection of COVID-19 and the City Human Rights Law starting in March 2020. Unlike our federal counterparts at the EEOC, the Commission has taken the position, based on the broadly protective language of the City Human Rights Law, that actual or perceived COVID-19, and/or a history of having COVID-19, is a disability and protected from discrimination. The Commission's guidance covers protections in housing, employment, and public accommodations, is updated frequently to address the rapidly-changing needs and concerns of both employers, housing providers, and small businesses, and worker and tenant advocates to protect the safety and health of their workforce, tenants, and customers, while also ensuring people do not face discrimination or harassment in these settings, and are able to obtain the accommodations they need.

The Commission's Community Relations Bureau (CRB) grew its community outreach numbers in FY 2020, despite most outreach work going virtual in March. The CRB increased the number of New Yorkers served by 20 percent compared to the prior year, directly connecting with nearly 100,000 people for the first time in a decade. In addition, CRB staff have greatly expanded the Commission's youth engagement; having conducted over 300 youth conferences and launched our Youth for Equity and Solidarity (Y.E.S.) Council in FY 2020 with 23 youth members, who will be working with the Commission over the next year to inform our work and ensure we are effectively reaching young people with the content most critical to them. The Commission has been working to create resources and actions for young people who do not have their usual outlets for community-building and support, and yet are coping with so much right now. For example, just this week, we launched our Amplifying Youth Voices online art exhibit, featuring human rights themed visual art, poetry, dance, and song from young people across the City. Earlier this year, we published Stories For All, a human rights focused reading list divided by theme and age group, featuring diverse stories, characters, writers, and experiences, and have created a video library of read alongs for parents and educators.

In May, the Commission launched a public awareness campaign to combat COVID-19-related discrimination and harassment. The campaign affirms protections for communities facing heightened levels of discrimination and harassment related to the pandemic. In addition, responding to renewed attention to disparities in access, treatment, and outcomes in medical settings, the campaign also addressed New Yorkers' right to be free from discrimination in healthcare settings regardless of their race, national origin, immigration status, disability, and age. The campaign emphasized that reports to the Commission can be made on behalf of others, anonymously, and without fear of being asked about immigration status. The campaign included multilingual advertisements in community and ethnic media, including print and radio, social media platforms, and targeted placements in pharmacies and convenience stores throughout the city. For the first time, the Commission leveraged advertising on popular Chinese and Korean social media platforms, such as WeChat. Advertising in convenience stores and pharmacies was placed in all five boroughs and concentrate on neighborhoods with high proportions of immigrants, communities with limited English proficiency, and communities facing high rates of poverty. These multilingual placements (Chinese, English, Korean, and Spanish) focused on the right to be free from discrimination in healthcare settings. Promoted social media posts appeared in over 10 languages expanded upon a set of anti-stigma videos created by the Commission featuring our multi-lingual staff already available in 12 languages.

Next week, the Commission will be announcing an art series with one of the Commission's two public artists in residence, Amanda Phingbodhipakkiya, entitled I Still Believe in Our City. The visually stunning series is a testament to the vibrant resilience of New Yorkers and, specifically, honors Asian and Black New Yorkers in the face of racial injustice, xenophobia, and COVID-19-related discrimination, harassment, and bias. It will include a takeover of Atlantic Terminal in Brooklyn, and will also be found on LinkNYC kiosks, bus shelters, a DOT public art site, and a community mural.

The Commission serves on multiple formal and informal interagency taskforces, as our work involves tenant protection, health, food security, immigrant's rights, racial equity, and beyond, and the agency's information is included in many of these relevant materials housed at other agencies. The Commission is also part of many informal and formal national coalitions of human rights agencies, and it is not unusual for other agencies to look to us as a model on how to respond to the crises facing our localities. It is with great pride that our staff and our work is recognized as national leaders in the fight for human rights and civil rights. I will now turn it over to my colleague, Deputy Commissioner Brittny Saunders, to highlight the Commission's operational changes in light of the COVID-19 pandemic and our focus on confronting anti-Black racism during this critical time.