

**Testimony of Casey Adams
New York City Department of Consumer Affairs**

**Before the
New York City Council Committee on Consumer Affairs and Business Licensing**

**Hearing on
Introductions 1023-2018 & 1281-2018**

February 14, 2019

Good morning Chairman Espinal and members of the committee. My name is Casey Adams and I am the Director of City Legislative Affairs for the New York City Department of Consumer Affairs (DCA). I would like to thank the committee for the opportunity to testify today on behalf of DCA Commissioner Lorelei Salas regarding Introductions 1023-2018 (Intro. 1023) and 1281-2018 (Intro. 1281), related to cashless payment policies at retail and food service establishments.

DCA's mission is to protect and enhance the daily economic lives of New Yorkers to create thriving communities. As part of this mission, DCA houses the Office of Financial Empowerment (OFE), which assists New Yorkers with low incomes by developing and offering innovative programs and services to increase access to high-quality, low-cost financial education and counseling, safe and affordable mainstream banking, and access to income-boosting tax credits and savings. OFE works to educate, empower, and protect New Yorkers and their communities so they can improve their financial health and assets.

Individuals who lack access to basic financial tools like a checking or savings account, or who are forced to rely on alternative financial services like check cashers, face significant challenges in managing and improving their financial health. These individuals may have a harder time building savings and assets or, as the bills before this committee recognize, even purchasing basic goods or services at businesses that implement cashless payment policies. Barriers like these can make it harder for some to participate fully in the vibrant local economy that has made our city an engine for opportunity for so many New Yorkers.

DCA is strongly committed to expanding financial access for all New Yorkers. In 2015, DCA commissioned the Urban Institute to examine how many New Yorkers are unbanked or underbanked and provide a snapshot of which communities are most affected by lack of financial access. The study found that roughly one in every nine New York City households does not have a bank account.¹

More than one in four New York City households are underbanked, meaning that they have a checking or savings account but still rely on some place other than a bank to cash a check, purchase a money order, transfer money internationally, or complete some other financial service.² In total, roughly one million New York City households are considered unbanked or underbanked.³

The study also found that these households are not evenly distributed. Compared to New York City as a whole, Bronx households were more than twice as likely to be unbanked, with 21.8% reporting that they did not have a bank account against 11.7% for New York City overall.⁴

Neighborhoods in the Bronx and Brooklyn consistently exhibited the highest rates of lack of access. In fact, a 2008 OFE study found that New Yorkers in just two neighborhoods, Melrose in the Bronx and Jamaica in Queens, spent approximately \$19 million in check cashing fees annually.⁵ Across the city, New Yorkers spend \$225 million in check cashing fees every year. Alternative financial services firms like check cashers extract huge sums of money from our hardest working New Yorkers, causing substantial harm to their financial health.⁶

In a separate study also commissioned by DCA, the Urban Institute examined data about how New Yorkers themselves feel about their own financial security.⁷ This study found that perceived financial insecurity was similarly concentrated in certain parts of the city. For example, 36.4% of Bronx residents reported feeling financially unsatisfied, several points higher than the national rate of 31.9%, while only 22.3% of Staten Island residents felt this way.⁸

All of this research underscores how important OFE's work to promote financial inclusion and expand access to safe and affordable financial products is to New Yorkers. It is absolutely critical that the City take a lead role in helping our residents achieve financial health, connecting them to secure, quality banking products and reducing their need to rely on cash, and thus reduce the tremendous negative impact of check cashing and similar establishments. The de Blasio administration believes that it is critically important to keep our focus on promoting financial inclusion, expanding access to safe and reliable financial products, and protecting consumers from predatory and deceptive financial practices.

The core of DCA's work in this area is rooted in OFE's Financial Empowerment Centers, the first of which opened in the Bronx in 2008. Today, there are more than twenty Financial Empowerment Centers across the five boroughs providing free, confidential, one-on-one counseling with professional financial counselors who can help New Yorkers open a bank account, tackle debt, improve credit, and save and plan for a stable financial future. Since the creation of Financial Empowerment Centers, OFE has conducted over 100,000 financial counseling sessions, helping over 52,000 New Yorkers improve their financial health, reduce their debt by \$65 million, and increase their savings by \$5.1 million. OFE has also helped New Yorkers file more than 1 million tax returns for free, helping clients to claim refund-boosting tax credits and saving \$150 million in preparation fees. Finally, OFE has helped New Yorkers open more than 30,000 bank and credit union accounts through our financial counseling and coaching programs, the IDNYC program, and other programs promoting banking access.

Cashless Businesses

Cashless retail and food services businesses are a relatively new phenomenon in New York City. A few years ago, businesses that opted not to accept cash for payment might have been considered unusual. Today, ubiquitous New York City restaurants like Dig Inn,⁹ Dos Toros,¹⁰ and Sweetgreen¹¹ have gone cashless. According to the *New York Times*, reporting in 2017, "cashless is fast on its way to becoming normal."¹² The emergence and growth of cashless businesses has raised questions about the impact these policies have on financial inclusivity, particularly for communities with significant unbanked and underbanked populations.

Recent research supports the idea that the way consumers pay for goods and services is changing. According to Gallup, Americans today use cash less frequently than they did five years ago,¹³ and a report by the Federal Reserve System found that consumer preference for credit cards has increased in recent years.¹⁴ That report also found that debit and credit cards are now the most commonly used means of payment, while cash continues to be widely and frequently used by consumers.¹⁵ In 2017, debit and credit cards were the payment method for 48% of all purchases, with cash accounting for 30% of purchases.¹⁶ However, cash accounts for nearly half of transactions for households making under \$25,000 annually.¹⁷

Proponents of cashless payment policies cite purported benefits like streamlining checkout processes,¹⁸ freeing up employee time spent on counting, managing, and securing cash,¹⁹ and reducing the risk of theft associated with managing and transporting cash.²⁰ One New York City restaurateur estimated that accepting cash would force him to increase prices at least 10%.²¹ Credit card companies like Visa, which collect processing fees from merchants who accept their cards from consumers, have even encouraged businesses to explore going cashless by offering assistance to upgrade payment technology and other incentives.²²

Concerns about cashless payment policies have focused on the potential to exclude unbanked households. Critics have pointed out that consumers without bank accounts will be unable to purchase goods and services from cashless businesses, presenting new barriers to full participation in the local economy.²³ Others have argued that “basic service industries. . . have an obligation to be inclusionary and accessible to everyone,” which should include accepting cash.²⁴ Critics have also noted that households of color may be disproportionately affected by cashless payment policies because they are more likely to lack access to a bank account.²⁵ Responding to these concerns, some jurisdictions have considered or implemented prohibitions on cashless payment policies. Massachusetts law has required retail establishments offering goods and services to accept cash since 1978²⁶ and New Jersey,²⁷ Chicago,²⁸ Philadelphia,²⁹ and Washington D.C.³⁰ have all considered similar bills.

According to the Federal Reserve, “[t]here is. . . no Federal statute mandating that a private business, a person, or an organization must accept currency or coins as payment for goods or services. Private businesses are free to develop their own policies on whether to accept cash.”³¹ Local law does not currently prohibit businesses from adopting cashless payment policies. However, DCA’s position is that if a business chooses to adopt such a policy, it should clearly disclose the restrictions on payment options to consumers.

Introductions 1023-2018 & 1281-2018

I will now turn to the bills before the committee today, which represent differing responses to the emergence of cashless businesses. Intro. 1023 would require retail establishments that do not accept payment in cash from consumers to clearly post signage informing consumers of their cashless payment policy at all consumer entrances or adjacent to cashiers or payment kiosks. Violations would be punishable by civil penalties of \$25 to \$250. Intro. 1281 would prohibit retail and food service establishments from adopting policies in which they refuse to accept payment in cash from consumers. Violations would be punishable by civil penalties of \$250 to \$500.

DCA believes that the City should focus its efforts on promoting financial inclusion by connecting unbanked and underbanked New Yorkers to safe and affordable financial products. For these New Yorkers, the financial challenges go further and deeper than an inability to use cash to purchase goods and services at retail. Prohibiting these businesses from transitioning to cashless payments might treat one symptom of financial exclusion, but it would not remedy the cause- lack of access to payment options other than cash. DCA believes that in an increasingly cashless world, helping New Yorkers get access to a bank account and other financial tools to help them build a secure financial future is the most important priority. That is why we are so proud of the exemplary work done by OFE and the concrete results those initiatives have achieved for New Yorkers. We hope the Council will remain a strong partner as we continue to pursue these goals.

At the same time, OFE's research and experience suggest that more payment options are generally better for low and moderate income New Yorkers. For that reason, DCA supports a policy that promotes financial inclusion and access by requiring businesses to accept cash. While we share the inclusionary goals embodied in Intro. 1281, we also believe that any such policy should be responsive to the real-world concerns and experiences of consumers, workers, and businesses affected by evolving payment options and business practices. We look forward to working with the Council to address these and other issues through the legislative process.

DCA commends the Council for holding this hearing, which we think is part of an important and ongoing dialogue about cashless payment policies in New York City. The de Blasio administration is firmly committed to pursuing policies that protect and promote the financial health of low and moderate income New Yorkers, particularly those who are part of vulnerable communities. We are always eager to work with the Council to encourage businesses to help make our economy fully accessible and inclusive of all New Yorkers. DCA looks forward to hearing from New Yorkers who have interacted with cashless establishments, businesses who have adopted or are considering adopting cashless payment policies, and advocates, experts, and organizations that focus on promoting financial inclusion.

Thank you for the opportunity to testify today. I am now happy to answer the committee's questions.

¹ CAROLINE RATCLIFFE ET AL., URBAN INSTITUTE, WHERE ARE THE UNBANKED AND UNDERBANKED IN NEW YORK CITY? 3 (2015), available at <https://www.urban.org/sites/default/files/publication/71511/2000430-Where-Are-the-Unbanked-and-Underbanked-in-New-York-City.pdf>.

² *Id.* at 7.

³ *Id.* at 2.

⁴ *Id.* at 3.

⁵ N.Y.C. DEP'T CONSUMER AFFAIRS, NEIGHBORHOOD FINANCIAL SERVICES STUDY 3 (2008), available at <https://www1.nyc.gov/assets/dca/downloads/pdf/partners/Research-NFSS-ExecutiveSummary.pdf>.

⁶ *Id.* at 7.

⁷ CAROLINE RATCLIFFE ET AL., URBAN INSTITUTE, HOW DO NEW YORKERS PERCEIVE THEIR FINANCIAL SECURITY? (2015), available at <https://www1.nyc.gov/assets/dca/CitywideFinancialServicesStudy/Financial-Security-Brief.pdf>.

⁸ *Id.* at 5.

⁹ *Why We're a (Mostly) Cash-Free Restaurant Group*, DIG INN, <https://www.diginn.com/cashfree/> (last visited Feb. 13, 2019).

¹⁰ Trent Gillies, *Restaurants Embrace the Future, Getting Patrons to Pay Without Cash*, CNBC (Jan. 27, 2018, 3:01 PM), <https://www.cnbc.com/2018/01/26/cashless-technology-catches-on-at-restaurants.html>.

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- ¹¹ Jeff John Roberts, *Why a Popular Salad Chain Stopped Using Cash*, FORTUNE (Sept. 14, 2017), <http://fortune.com/2017/09/14/sweetgreen-cashless/>.
- ¹² Andy Newman, *Cash Might Be King, but They Don't Care*, N.Y. TIMES (Dec. 25, 2017), <https://www.nytimes.com/2017/12/25/nyregion/no-cash-money-cashless-credit-debit-card.html>.
- ¹³ Art Swift & Steve Ander, *Americans Using Cash less Compared with Five Years Ago*, GALLUP (July 12, 2016), <https://news.gallup.com/poll/193649/americans-using-cash-less-compared-five-years-ago.aspx>.
- ¹⁴ RAYNIL KUMAR ET AL., CASH PRODUCT OFFICE, FEDERAL RESERVE SYSTEM, 2018 FINDINGS FROM THE DIARY OF CONSUMER PAYMENT CHOICE 7 (2018), *available at* <https://www.frb.org/cash/files/federal-reserve-cpo-2018-diary-of-consumer-payment-choice-110118.pdf>.
- ¹⁵ *Id.* at 5.
- ¹⁶ *Id.*
- ¹⁷ *Id.* at 9.
- ¹⁸ Newman, *supra* note 10.
- ¹⁹ *Id.*
- ²⁰ *See, e.g.*, Anne Kadet, *Card-Only Businesses Have Swiped Away Cash-Paying Customers*, WALL ST. J. (Jan. 15, 2019, 11:33 AM), <https://www.wsj.com/articles/card-only-businesses-have-swiped-away-cash-paying-customers-11547569980>.
- ²¹ *Id.*
- ²² Jackie Wattles, *Visa Offers Restaurants \$10,000... If They Stop Accepting Cash*, CNN (July 13, 2017, 5:30 PM), <https://money.cnn.com/2017/07/14/news/companies/visa-no-cash-restaurant-initiative/index.html>.
- ²³ *See, e.g.*, Nadra Nittle, *Why Cashless Retailers Put Low-Income People at Even More of a Disadvantage*, VOX (Nov. 30, 2018, 2:00 PM), <https://www.vox.com/the-goods/2018/11/30/18119887/cashless-stores-cash-only-low-income-disadvantage>; Henry Grabar, *No Shirt, No Swipe, No Service*, SLATE (July 24, 2018, 5:24 PM), <https://slate.com/business/2018/07/cashless-stores-and-restaurants-are-on-the-rise-to-the-delight-of-credit-card-companies.html>; Melissa McCart, *The Problem With Cashless Restaurants*, EATER (Feb. 15, 2018, 10:29 AM), <https://www.eater.com/2018/2/15/16974980/cashless-restaurants-credit-card-only-legal-problem-discriminatory>.
- ²⁴ Robert Reed, *To Avoid City Backlash, Restaurants and Retailers Should Dump Cashless Ways*, CHI. TRIB. (Oct. 19, 2017, 5:00 AM), <https://www.chicagotribune.com/business/columnists/reed/ct-biz-cashless-ordinance-discrimination-robert-reed-20171018-story.html>.
- ²⁵ FED. DEPOSIT INS. CORP., FDIC NATIONAL SURVEY OF UNBANKED AND UNDERBANKED HOUSEHOLDS 3 (2017), *available at* <https://www.fdic.gov/householdsurvey/2017/2017report.pdf>.
- ²⁶ MASS. GEN. LAWS ch. 255D, § 10A (2017).
- ²⁷ A591, 218th Gen. Assemb. (N.J. 2018), *available at* <https://www.njleg.state.nj.us/bills/BillView.asp?Session=LIS2018&BillNumber=A591#>.
- ²⁸ Ordinance O2017-7145, Chi. City Council (Ill. 2017), *available at* <https://chicago.legistar.com/LegislationDetail.aspx?ID=3184725&GUID=06C6F98D-8311-4DA2-93E2-D8E75B84D737>.
- ²⁹ Bill No. 18094301, Phila. City Council (Pa. 2018), *available at*, <https://phila.legistar.com/LegislationDetail.aspx?ID=3710586&GUID=FD85947F-8151-4DB5-9949-AF6FEF14A9C9>.
- ³⁰ Bill No. B23-0122, D.C. City Council (D.C. 2019), *available at* <http://lims.dccouncil.us/Legislation/B23-0122>.
- ³¹ *FAQs*, BOARD OF GOVERNORS OF THE FED. RES. SYS., https://www.federalreserve.gov/faqs/currency_12772.htm (last visited Feb. 13, 2019).