

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON LAW AND GOVERNMENT

Room 400, City Hall
Philadelphia, Pennsylvania
Monday, April 24, 2017
10:25 a.m.

PRESENT:

COUNCILMAN WILLIAM K. GREENLEE, CHAIR
COUNCILWOMAN CINDY BASS
COUNCILMAN DEREK S. GREEN
COUNCILWOMAN HELEN GYM
COUNCILMAN BOBBY HENON
COUNCILMAN DAVID OH
COUNCILMAN BRIAN J. O'NEILL

BILLS 160010, 160674, 170204, 270243, and
170334
RESOLUTION 160691

- - -

1
2 COUNCILMAN GREENLEE: Good
3 morning, everybody. This is the
4 Committee on Law and Government. Sorry
5 for the delay. We have a quorum with
6 Councilman Green, Vice Chair of the
7 Committee, Councilman Oh, and Councilman
8 Henon.

9 Let me just say for the record,
10 Bill Nos. 170204 and 160674 and
11 Resolution 160691 will be held at the
12 request of the sponsors to the call of
13 the Chair.

14 Ms. Marconi, our first bill,
15 please.

16 THE CLERK: Bill No. 160010, an
17 ordinance amending Chapter 2-200 of The
18 Philadelphia Code, entitled "Recording of
19 Deeds," to provide for further action by
20 the Department of Records in cases where
21 the Department reasonably suspects that a
22 deed has been mistakenly recorded and
23 that a fraudulent transfer of the real
24 property described therein has occurred.

25 COUNCILMAN GREENLEE: Please

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 let the record reflect Councilwoman Gym,
3 a member of the Committee, is also
4 present.

5 Who is our witness?

6 THE CLERK: James Leonard.

7 (Witness approached witness
8 table.)

9 COUNCILMAN GREENLEE: Good
10 morning, Commissioner.

11 COMMISSIONER LEONARD: Good
12 morning.

13 COUNCILMAN GREENLEE: Please
14 identify yourself and proceed.

15 COMMISSIONER LEONARD: James
16 Leonard, Commissioner of the Records
17 Department.

18 Good morning, Chairman Greenlee
19 and members of the Committee on Law and
20 Government. My name is James P. Leonard
21 and I serve as the Commissioner of the
22 Department of Records. I am pleased to
23 be here to testify in support of Bill No.
24 160010.

25 This measure would amend

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 Chapter 2-200 of The Philadelphia Code to
3 authorize the Commissioner of Records in
4 cases where the Commissioner reasonably
5 suspects that a deed has been mistakenly
6 recorded by the Records Department and
7 that a fraudulent transfer of real
8 property has occurred to, one, cooperate
9 fully in any action to quiet title to the
10 property and, two, to request that the
11 Law Department initiate legal action on
12 behalf of the Records Department to
13 request appropriate relief.

14 This bill would codify and put
15 the force of law behind the existing
16 policy of the Records Department to
17 cooperate in actions to quiet title
18 relating to fraudulent transfers. The
19 Department regularly cooperates with law
20 enforcement agencies and legal services
21 organizations regarding such matters,
22 complies with valid court orders to
23 correct deed fraud, and has presented
24 testimony in such actions. The
25 Department also regularly consults with

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 the Law Department on questions relating
3 to deed fraud.

4 For the foregoing reasons, the
5 Department of Records supports Bill No.
6 160010.

7 Thank you, and I would be
8 pleased to answer any questions that you
9 may have.

10 COUNCILMAN GREENLEE: Thank
11 you, Commissioner.

12 Just for the Committee's
13 information, I think a lot are aware that
14 this is an issue we've been struggling
15 with for a long time of the theft of
16 property, and what we're trying to do
17 with this bill and what the Records
18 Department and Commissioner has talked
19 about is trying to give those victims of
20 deed theft as much help through the
21 government as possible, because when this
22 problem first came about many years ago,
23 the victim was kind of on their own and
24 was out there and didn't really get a lot
25 of help, but certainly the

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 Administration -- this Administration and
3 Commissioner Leonard has been much more
4 proactive in trying to help, and this, as
5 the Commissioner said, will codify what
6 we're trying to do in helping the victims
7 of deed theft.

8 Any questions?

9 Councilman Green.

10 COUNCILMAN GREEN: Yeah. I
11 just want to state for the record I want
12 to commend Commissioner Leonard for your
13 work on this legislation as well as
14 commend the Chair of this Committee,
15 Councilman Greenlee, who has been a real
16 advocate on this issue for a number of
17 years, really trying to help prevent this
18 type of fraud, especially in our
19 communities where there are differences
20 in language. Having this type of work
21 and moving forward on this issue and
22 helping to use the City Code as a way to
23 prevent fraud and to make sure that our
24 most vulnerable people are not taken
25 advantage of by people in the City of

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 Philadelphia is something to be
3 commendable, and I want to thank
4 Councilman Greenlee, Chair of this
5 Committee, for his ongoing work on this
6 issue, as well as Commissioner Leonard
7 for your work in working to move this
8 issue forward. So thank you.

9 COMMISSIONER LEONARD: Thank
10 you, Councilman.

11 COUNCILMAN GREENLEE: Thank
12 you, Councilman.

13 Any other questions for
14 Commissioner Leonard?

15 Councilman Henon.

16 COUNCILMAN HENON:
17 Commissioner, how are you? Thank you for
18 working with members of City Council and
19 the sponsor of this bill. This has been
20 an ongoing issue for many, many years,
21 and with the emerging neighborhoods with
22 the amount of, I think, circumstances
23 that have taken place in the past, we're
24 learning how to do better, and involving
25 the Law Department sooner is a great

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 technical addition to this.

3 When it comes to tangled
4 titles, how does this kind of -- what are
5 the safeguards and what kind of processes
6 with this kind of intertwined with
7 tangled titles?

8 COMMISSIONER LEONARD: Well --

9 COUNCILMAN HENON: Because I
10 think tangled titles leaves enough open
11 to -- for some sort of discretion or
12 people to take advantage of, because it
13 is a tangled title, and it has been an
14 issue.

15 COMMISSIONER LEONARD: Correct.

16 So tangled title and deed fraud can often
17 go hand in hand, and they can be
18 different, but they often overlap.
19 Tangled title can be any type of issue
20 like disputes between -- result from
21 estates and long vacant properties with
22 absentee heir owners who maybe don't even
23 know they own the properties, and those
24 can lead to protracted tangled title
25 situations, is what we call them, that

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 require a lot of assistance and
3 intervention. And you're correct that
4 where you have those type of uncertain
5 tangled situations, they can also be
6 areas of -- fruitful areas that folks who
7 are looking to steal a property can, if
8 it's sort of empty property that lots of
9 people own that aren't there or haven't
10 been there for 20 years, those can be
11 targets.

12 So we'll often find they
13 intersect, and we do a number of things
14 with respect to tangled title in the
15 Department. One thing in particular is
16 we work with and participate with
17 Councilpersons in community outreach
18 efforts throughout the year where we have
19 our staff, who are experts on deed
20 recording, tangled title type issues,
21 title insurance, who will go out to a
22 variety of different public seminars that
23 you all host. I know we're going the end
24 of this month to an event hosted by
25 Councilman Johnson, and throughout this

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 April and into May, we're participating
3 in several events hosted by Councilwoman
4 Parker in her district. And it's
5 important, to Councilman Green's point,
6 that we engage with you all and your
7 constituents in their communities to get
8 that message out and that we just
9 don't -- they just don't come to our door
10 in City Hall as a first instance. They
11 also do that, though, and we assist
12 obviously.

13 COUNCILMAN HENON: I think
14 that's great to hear, and I really wanted
15 you to explain what you had done here
16 today in your testimony and to the
17 question, because we want to be helpful.
18 So when you have anything -- when you
19 have maybe something that you put
20 together that we could start promoting
21 and getting out to our either district
22 offices and/or social media and into our
23 community groups, I would welcome it, and
24 I appreciate you being proactive on it.
25 I appreciate the sponsor giving the tools

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 to deal with fraud and tangled titles to
3 prevent fraud. So it's a little bit
4 about prevention as well.

5 So thanks.

6 COUNCILMAN GREENLEE: Thank
7 you, Councilman. And as we've been
8 saying, I think what's important here, it
9 shows that all of government as much as
10 possible is on the side of the victim.
11 So that's what we're trying to do here
12 and, again, the Commissioner has been
13 very proactive in that.

14 Any other questions?

15 (No response.)

16 COUNCILMAN GREENLEE: Seeing
17 none, anyone else here to testify on Bill
18 No. 160010?

19 (No response.)

20 COUNCILMAN GREENLEE: Again,
21 thanks, Commissioner. Thanks you for all
22 you're doing on this issue.

23 COMMISSIONER LEONARD: Thank
24 you.

25 COUNCILMAN GREENLEE: Ms.

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 Marconi, our next bill, please.

3 THE CLERK: Bill No. 170243, an
4 ordinance amending Chapter 1-100 of The
5 Philadelphia Code, entitled "Definitions,
6 Construction Penalties and Enforcement,"
7 to authorize the Law Department to
8 standardize the appearance, numbering and
9 formatting of The Philadelphia Code
10 without the need for further Code
11 amendment, all under certain terms and
12 conditions.

13 COUNCILMAN GREENLEE:

14 Mr. Rosman.

15 (Witness approached witness
16 table.)

17 MR. ROSMAN: Good morning,
18 Chairman Greenlee and members of the
19 Committee. I'm Lewis Rosman. I'm a
20 Senior Attorney in the Law Department.
21 I'm here to testify in favor of Bill
22 170243. This bill would amend The
23 Philadelphia Code to authorize the Law
24 Department to make certain technical
25 changes when we publish the Code.

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 As you know, the Law Department
3 manages publication of The Philadelphia
4 Code. We do so working with the
5 contractor, American Legal Publishing.
6 American Legal makes the Code available
7 to the public online for free, and Code
8 books can also be purchased from the
9 company. We have coordinated our efforts
10 with American Legal to the extent that we
11 are able to provide online updates of the
12 Code within weeks and sometimes within
13 days of when Council makes changes to the
14 Code.

15 Our Code is extensive.
16 Currently it is about 2,000 printed pages
17 long. As you might expect, additions and
18 changes to such a large Code sometimes
19 lead to inconsistencies in presentation.
20 For example, in one place in the Code,
21 the word "feet" might be used to identify
22 a measurement, while in another place the
23 abbreviation "ft." might be used.
24 Similarly, there is a fair amount of
25 inconsistency in how sections and

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 subsections of the Code are numbered and
3 lettered.

4 We are proposing through Bill
5 170243 that Council authorize the Law
6 Department to standardize how terms
7 appear in the published Code and to
8 standardize section numbering and
9 lettering. In other words, we would pick
10 consistent ways of presenting the various
11 common terms that currently are presented
12 in multiple ways and would pick a
13 consistent numbering and lettering system
14 and would make changes as appropriate
15 when we update our Code.

16 In no instance would we make
17 any substantive change to the law as
18 Council adopts it. The changes we would
19 make would solely be matters of
20 appearance and style. The bill
21 specifically provides that we would not
22 be authorized to replace a term with a
23 synonym or to make any change if doing so
24 would alter the meaning of the law
25 adopted by Council.

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 Council technical staff has
3 made the helpful suggestion that a
4 provision be added to the bill making
5 clear that in the case of a discrepancy
6 between the Code and the certified copy
7 of an ordinance, the certified copy in
8 the hands of the Clerk of Council
9 prepared by the Chief Clerk controls. So
10 we are suggesting an amendment to the
11 bill to make that change and have
12 provided the amendment to the Committee.

13 Thank you for the opportunity
14 to testify in favor of Bill 170243, and
15 I'd be happy to answer any questions you
16 may have.

17 COUNCILMAN GREENLEE: Okay.

18 Thank you, Mr. Rosman.

19 Any questions?

20 Councilman Green.

21 COUNCILMAN GREEN: Yes. Very
22 quickly.

23 Mr. Rosman, thank you for your
24 testimony. So for the most part, this
25 legislation amending the Code is only for

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 the purpose of basic cleanup for, as you
3 describe it, using the abbreviation of
4 feet "ft." versus the word "feet," making
5 sure it's consistent throughout the Code.
6 Are you using any type of standard like
7 either Blue Book or other type of manual
8 that may direct that type of work?

9 MR. ROSMAN: I don't think
10 we've sort of decided finally on what
11 kind of standardizing we would do. We'd
12 probably look to the Code publisher,
13 American Legal, who is often very helpful
14 in providing us suggestions. They handle
15 publishing for a number of other cities,
16 including large cities, so we'd probably
17 look to them to see what kind of
18 standardizing they've done with other
19 codes.

20 COUNCILMAN GREEN: And
21 generally how long will this process
22 take? Is this a process you'll go
23 ongoing or you'll take one period of time
24 to just clean it up?

25 MR. ROSMAN: It will probably

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.
2 be an ongoing thing. I think we would
3 probably not -- another thing we would
4 probably ask the Code publisher how they
5 wanted to -- do we want to go title by
6 title and go through or do we want to
7 just do it as we go through the Code,
8 pieces of the Code that are being
9 amended, fix it as we're doing it that
10 way. Probably something more general.
11 Probably something where we went title by
12 title.

13 COUNCILMAN GREEN: And it is
14 something that we, the City through the
15 Law Department, take on or is it
16 something that ALM or American Legal --
17 is it Marketing or American --

18 MR. ROSMAN: American Legal
19 Publishing.

20 COUNCILMAN GREEN: ALP. Will
21 they send us like the Code with all the
22 changes or is it something that we'll
23 just take on on our own?

24 MR. ROSMAN: So typically --

25 COUNCILMAN GREEN: And also is

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 there a cost for that if they were to
3 send us like one draft?

4 MR. ROSMAN: No. They're not
5 going to charge us anything in addition
6 to what we already -- we have a
7 relatively inexpensive deal with them
8 where they charge a nominal fee and then
9 they sell some books and that's the way
10 they make -- not a huge amount of money
11 but some money off our contract.

12 Typically we send them bills
13 and they make the changes to the Code and
14 then we proofread them. Probably we
15 would discuss with them them taking --
16 once we decide on how we wanted to
17 standardize things, say it was Title 14,
18 we were doing the Zoning Code, talk to
19 them about -- they would take a crack at
20 going through it, standardizing three,
21 five, ten terms, however many terms they
22 come up that they think should be
23 standardized, and then send it back to
24 us. We would proofread it and, you know,
25 make sure that we're on the same page in

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 terms of what seems like a good idea.

3 I think we also want to do the
4 numbering and lettering of the Code,
5 because the outlining of the Code is
6 often -- much of it is standardized, but
7 there are a fair number of sections that
8 have different order of lettering and
9 numbering, and so we'd probably want to
10 go through with them and talk about how
11 to fix that.

12 Generally they make the changes
13 and we proof them. But they proposed
14 doing this in the first place. We have a
15 very conscientious person that we've
16 dealt with for a long time at American
17 Legal who would like to just clean it up
18 a little. So I think they're not --
19 they're happy to try to work with us, and
20 they'll do most of the work and we'll
21 check it.

22 COUNCILMAN GREEN: Okay. Thank
23 you.

24 COUNCILMAN GREENLEE: Thank
25 you, Councilman.

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 Any other questions for
3 Mr. Rosman on this bill?

4 (No response.)

5 COUNCILMAN GREENLEE: Seeing
6 none, anyone else here to testify on Bill
7 No. 170243?

8 (No response.)

9 COUNCILMAN GREENLEE: Seeing
10 none, Mr. Rosman, thank you very much.

11 MR. ROSMAN: Thank you very
12 much.

13 COUNCILMAN GREENLEE: We will
14 now move to our final bill before us
15 today.

16 Ms. Marconi, please.

17 THE CLERK: Bill No. 170334, an
18 ordinance amending Chapter 9-100 of The
19 Philadelphia Code, entitled "Fair
20 Practices Ordinance: Protections Against
21 Unlawful Discrimination," by adding a
22 provision authorizing the Commission on
23 Human Relations to order a respondent to
24 cease operations as a remedial measure,
25 under certain terms and conditions.

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 COUNCILMAN GREENLEE: Hold on
3 one second. Just one second.

4 Why don't you call our first
5 witness.

6 THE CLERK: Rue Landau.

7 COUNCILMAN GREENLEE: And while
8 she's approaching, Councilman Green, the
9 sponsor of the bill.

10 COUNCILMAN GREEN: Thank you,
11 Chairman Greenlee.

12 It's very important that this
13 legislation, this discussion today
14 happens. This body over many decades has
15 been a strong advocate for progressive
16 issues and policies in the City of
17 Philadelphia and also has been a national
18 leader, especially years ago when
19 Councilman Greenlee's former boss, who is
20 no longer with us, Councilman David
21 Cohen, my former boss, Councilwoman
22 Tasco, late Councilman John Anderson, and
23 former Councilman Angel Ortiz, many of
24 them have been involved in fights that
25 we've had in this body on these Chamber

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 floors regarding the issue of progressive
3 rights and LGBTQ concerns and really
4 allowed this body to go into the
5 forefront and a lead legislative body in
6 the nation to address some of these
7 concerns and issues in the City.

8 And so although we've moved
9 quite forward in addressing a lot of
10 these issues as a body and in the City of
11 Brotherly Love and Sisterly Affection,
12 issues still remain. And as I had an
13 opportunity to participate both in the --
14 or listen to the testimony at the
15 Philadelphia Commission on Human
16 Relations hearing last fall and just
17 learned more and more about this issue
18 from the perspective from various
19 advocates and others in the community, I
20 was concerned that although we've moved
21 so far, we still have a long way to go to
22 address issues like this.

23 And so this legislation is a
24 way to address this fact so we make sure
25 that going forward, we don't have people

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 who visit our city, who live in our city
3 not feeling comfortable in the
4 establishments that operate in the City
5 of Philadelphia, and considering where we
6 are as a country, as a nation, as a city,
7 we need to make sure that we're sending
8 the message to all people in the City of
9 Philadelphia, regardless of your
10 ethnicity, gender, sexual orientation
11 perspective, that we are a welcoming
12 city, that the City of Philadelphia is
13 the City of Brotherly Love and Sisterly
14 Affection, that we invite all people to
15 participate in our economy and to be able
16 to grow and prosper in the City of
17 Philadelphia, and I believe this
18 legislation is one way to ensuring that
19 and making sure that all people in our
20 city and all visitors to our city have
21 that perspective.

22 Thank you.

23 COUNCILMAN GREENLEE: Thank
24 you, Councilman.

25 Please let the record reflect

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 Councilman O'Neill, a member of the
3 Committee, is present.

4 Ms. Landau, please identify
5 yourself and proceed.

6 MS. LANDAU: Great. Good
7 morning, Chairman Greenlee and members of
8 the Committee on Law and Government. I
9 am Rue Landau, the Executive Director of
10 the Philadelphia Commission on Human
11 Relations. As you know, the Commission
12 is the City agency that administers and
13 enforces the Fair Practices Ordinance,
14 the City law protecting people from
15 unlawful discrimination in employment,
16 housing, and in public accommodations --
17 housing and real property, and the
18 delivery of City services. Bill No.
19 170334 will amend the Fair Practices
20 Ordinance to add a provision authorizing
21 the Commission to order a respondent to
22 cease operations as a remedial measure,
23 under certain terms and conditions.

24 I am happily joined today by
25 Amber Hikes, the Mayor's Director of LGBT

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 Affairs. We'd like to thank Councilman
3 Green for introducing this important bill
4 and for giving us the opportunity to
5 testify in favor of it.

6 On October 25th, 2016, in
7 response to reports of racial tension and
8 discrimination within Philadelphia's
9 LGBTQ population, the Philadelphia
10 Commission on Human Relations held a
11 public hearing pursuant to its powers
12 under the Home Rule Charter, the Fair
13 Practices Ordinance, and our governing
14 regulations. Consistent with our
15 mission, the Commission sought to hear
16 firsthand people's experiences with
17 racism and discrimination committed by
18 establishments and institutions that
19 anchor the geographical community known
20 as the Gayborhood that spans generally
21 from 11th Street to Broad Street and
22 Chestnut to Pine Streets. Over 375
23 people attended the hearing, which was
24 held at Liberty Resources. Thousands
25 more viewed the hearing via social media

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 live stream. Among the attendees at the
3 hearing were the owners of 11 bars in the
4 Gayborhood who were subpoenaed to appear
5 before the PCHR and directors of the
6 non-profit organizations who provide
7 service for the LGBTQ population.

8 The hearing came on the heels
9 of a growing concern among members of the
10 LGBTQ population of ongoing bias, racism,
11 and alleged discrimination in the
12 Gayborhood. Since 2015, journalists,
13 activists, and community groups,
14 particularly individuals and groups of
15 people of color, have been highlighting
16 incidents and organizing the community to
17 take action and demanding accountability.

18 Complaints about racial
19 discrimination in the community reached a
20 tipping point in September 2016 when a
21 video was posted on YouTube of the owner
22 of a bar, ICandy, when he made racist
23 comments, including using the N word,
24 about black patrons. The video
25 substantiated the longstanding

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.
2 accusations of racism.

3 At the hearing, 29 speakers
4 gave testimony and approximately 30
5 others submitted written testimony or
6 provided information by phone. The
7 Commission also obtained dress code
8 information, employment policies,
9 non-discrimination policies, training
10 manuals, and other data related to
11 policies governing the provision of
12 services to patrons and clients.

13 Overwhelmingly the testimony
14 revealed incidents of bias, feelings of
15 frustration, prejudice, and
16 discrimination in places of public
17 accommodation in the Gayborhood and in
18 places of employment at the Mazzoni
19 Center and Philadelphia FIGHT. Sadly,
20 from the testimony received at the
21 hearing and gathered from historical
22 documents, such as a 1986 report from a
23 coalition of community organizations, the
24 Commission learned that people have been
25 reporting a pattern of exclusivity

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 reflective of race and gender bias in
3 lesbian and gay bars for over 30 years.

4 I want to take a special thank
5 you now for Councilman Green for
6 attending our hearing and for staying
7 through the entire thing. I know that it
8 was moving for you, as well as it was
9 moving for all of us at the Commission.

10 Ninety days after the hearing,
11 the Commission issued a report on racism
12 and discrimination in Philadelphia's
13 LGBTQ community with its findings and
14 recommendations. The report can be found
15 on our website at pchrlgbt.org. Our
16 findings revealed that marginalization on
17 the basis of race, class, and gender
18 identity is a disturbing reality for many
19 members of the LGBTQ community,
20 particularly when experienced in spaces
21 that should be considered safe.

22 Specifically, the Commission
23 found that LGBTQ people of color, women,
24 and transgender people often feel
25 unwelcome and unsafe in Gayborhood

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 spaces.

3 Racism and discrimination have
4 been ongoing problems within
5 Philadelphia's LGBTQ community for
6 decades.

7 The business practices of many
8 of the bars in the Gayborhood are the
9 source of numerous reports of racism and
10 discrimination.

11 Current and past employees of
12 certain LGBTQ social service agencies
13 report patterns of discrimination
14 relating to the agencies' employment
15 practices.

16 Based on our findings, the
17 Commission set forth four key
18 recommendations.

19 One, bar owners and staff must
20 receive training on the City of
21 Philadelphia's Fair Practices Ordinance
22 and implicit bias.

23 Board members, directors,
24 management, and staff of the Mazzoni
25 Center and Philadelphia FIGHT must

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 receive training on the Fair Practices
3 Ordinance and implicit bias.

4 The Independent Business
5 Alliance, which is Greater Philadelphia's
6 LGBT Chamber of Commerce, should create
7 training that provides leadership
8 development for prospective and/or new
9 board members.

10 And, four, non-profits that
11 receive City funding to provide services
12 to the LGBTQ community must conform to
13 the non-discrimination provisions of the
14 Fair Practices Ordinance and the Office
15 of Economic Opportunity's requirements
16 included in their professional services
17 contracts with the City of Philadelphia.

18 To date, the Commission has
19 provided training for staff and
20 management of four bars and one
21 non-profit. On Tuesday, April 25th, we
22 will be training staff and management of
23 the eight remaining bars. Training at
24 the other non-profit will begin on May
25 17th.

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 We're also happy to report that
3 the Independent Business Alliance, while
4 it wasn't a mandate, has taken the charge
5 and is working on a project to help train
6 potential board members for non-profits.

7 Bill No. 170334 will allow the
8 Commission to order that a respondent
9 cease its business operations for a
10 specified period of time when the
11 Commission has issued a finding that a
12 respondent has engaged in severe or
13 repeated violations of the ordinance
14 without effective efforts to remediate
15 the violations. This bill covers any
16 business that engages in these
17 violations. This remedy is squarely in
18 line with the enforcement mechanisms
19 already vested with the Commission in the
20 Fair Practices Ordinance, particularly
21 Section 9-1105(a), which permits the
22 Commission to enter, quote, "an order
23 requiring the respondent to cease and
24 desist such unlawful practices." The
25 language in Bill No. 170334 makes it

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 explicit that the PCHR can use its
3 enforcement authority to order a business
4 to cease operations under egregious
5 circumstances. It sends a strong message
6 to businesses that this city will not
7 tolerate discrimination and will use any
8 tools necessary to combat it so that we
9 can ensure that Philadelphia is a safe
10 and equitable place for everyone to live,
11 work, and visit.

12 COUNCILMAN GREENLEE: Thank
13 you.

14 Did you want to say something?

15 MS. HIKES: I did.

16 COUNCILMAN GREENLEE: All
17 right. Sure. Please identify yourself
18 and proceed.

19 MS. HIKES: Amber Hikes, the
20 Mayor's Director of LGBT Affairs.

21 While I was not in the position
22 in October, I followed the hearing and
23 subsequent conversations closely. Since
24 coming on as Director of LGBT Affairs six
25 weeks ago, my office has hit the ground

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.
2 running in addressing racism and
3 discrimination in Philadelphia's LGBT
4 community. We've convened two meetings
5 of the Mayor's Commission on LGBT Affairs
6 and established the Committee on Race
7 Relations. Among other initiatives, the
8 Race Relations Committee will be working
9 in conjunction with the community
10 outreach committee to establish community
11 conversations, an opportunity to convene
12 members of the LGBT community in an
13 effort to have intersectional
14 conversations about the issues that
15 affect our incredibly diverse community.

16 In addition, we have initiated
17 conversations with community groups and
18 community members who have been on the
19 front lines of addressing racism and
20 discrimination in our larger community.
21 Our intention is to open the lines of
22 communication and to elevate the voices
23 of individuals who have been historically
24 left out of the conversation and bring
25 more diverse perspectives to the table.

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 MS. LANDAU: Thank you to the
3 Committee. We're here to answer any
4 questions for you.

5 COUNCILMAN GREENLEE: Okay.
6 Thank you.

7 Just one question from me.
8 Ms. Landau, will there be sort of
9 guidelines as time goes on as far as what
10 the appropriate penalty will be? Because
11 words like "severe" and -- I'm fully in
12 support of the bill, but I'm just
13 thinking in case people say, well, you
14 know, one thing was handled this way,
15 another thing was handed this way. Will
16 there be like some kind of guidelines as
17 time goes on?

18 MS. LANDAU: The Commission can
19 promulgate regulations to further define
20 what that is, but I think in general we
21 know that it would be pretty egregious
22 circumstances to issue a cease and desist
23 order.

24 COUNCILMAN GREENLEE: Okay.
25 Got you. Thank you.

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 Councilman Green, then
3 Councilman Oh.

4 COUNCILMAN GREEN: Thank you,
5 Chairman Greenlee.

6 Ms. Landau, if you can lay out
7 for the Committee kind of the due process
8 procedures that the Commission on Human
9 Relations currently has for existing
10 aspects of the Fair Practices Ordinance.

11 MS. LANDAU: Absolutely. After
12 someone files a complaint with our
13 office, we serve the complaint on the
14 respondent, the employer in this case.
15 The respondent has a period of time to
16 file an answer with our office, at which
17 point they can also add additional
18 information. The complainant gets
19 another opportunity to submit a rebuttal.
20 So it's really a fully legal action. So
21 we've got the complaint, an answer, and
22 rebuttal. Then our staff participates --
23 engages in a full investigation of the
24 case, speaking to witnesses, reviewing
25 all the evidence. There's a big back and

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 forth process that happens on the staff.

3 If we find probable cause that
4 it is more likely than not that
5 discrimination occurred on the staff
6 level, then the case would be scheduled
7 for a hearing before a subset of our
8 commissioners. There are multiple times
9 in this process in which there's an
10 opportunity to mediate the case, for a
11 mediation, in which we've had a full
12 mediation program in effect since January
13 of 2015, and we've resolved many cases
14 that way.

15 If the case goes for a hearing
16 in front of our commissioners, they are
17 given certain information, not all. They
18 receive pre-hearing memos, the complaint,
19 answer, and rebuttal. They hold a
20 hearing, and both parties bring in
21 witnesses, submit documents and, again,
22 they have an opportunity for post hearing
23 motions, which are due within 30 days.
24 At that point, the Commission issues
25 findings of facts and conclusion of law,

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 and that decision can be appealed to the
3 Court of Common Pleas within 30 days.

4 COUNCILMAN GREEN: Now, you
5 made a statement as you were going
6 through your recitation of the due
7 process steps that you provide for anyone
8 that receives this process, and you
9 talked about mediation. Can you kind of
10 expand on that from your experience and
11 your role as Executive Director. How
12 often does the action progress past
13 mediation?

14 MS. LANDAU: Yeah. So more
15 often than not a lot of cases are being
16 resolved by mediation now. There's an
17 early stage mediation. It's right after
18 the respondent gets a complaint and
19 before the respondent files an answer.
20 They have an opportunity to sit down at
21 the table and resolve the issue.

22 We have trained mediators who
23 are often sometimes retired lawyers or
24 even judges who are conducting the
25 mediation and/or law students, but

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 they're always there with a supervisor,
3 and many cases are being resolved at that
4 point.

5 Our late-stage mediation, which
6 is right before the hearing before the
7 Commission, so it's after the Commission
8 has found -- the staff has found probable
9 cause. It's being scheduled for a
10 hearing in front of the commissioners.

11 We also have late-stage mediation at that
12 point. But after the Commission finds
13 probable cause, it's more of
14 conciliation. The Commission feels that
15 it's a party in the mediation to ensure
16 that whatever terms that the case is
17 settled under are fair to the
18 complainant. We don't want the
19 complainant to get a \$25 gift card when
20 it was an egregious act. We want to make
21 sure that there's fairness and equity in
22 the process.

23 So I don't have exact numbers
24 for you now. You know, there's somewhere
25 between five to ten probable cause

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 hearings a year at this point and, again,
3 very many opportunities to resolve the
4 case before.

5 COUNCILMAN GREEN: And one last
6 question, because I know other members of
7 the Committee have questions. The
8 standard under this legislation is the
9 standard stating that a respondent has
10 engaged in severe or repeated violations
11 without effective efforts to remediate
12 the violations.

13 How does that standard compare
14 to other standards under the Fair
15 Practices Ordinance?

16 MS. LANDAU: So when we are
17 investigating cases of discrimination,
18 they fall under multiple categories,
19 disparate treatment when there's
20 discrimination against one individual
21 where you can compare that individual to
22 another group. Disparate impact when
23 there's a policy that affects large
24 groups of people and the policy itself,
25 the way it's administered, is

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.
2 discriminatory. Or harassment that takes
3 various forms that include hostile work
4 environment, and the standard of serious
5 or repeated rises to the level of what we
6 would see in a hostile work environment
7 standard, that it's -- you must see a
8 pattern of serious or repeated
9 violations. And it's all on a
10 case-by-case basis. Sometimes there's
11 one instance that is so bad where it
12 shocks the senses, it can rise to the
13 level of a hostile work environment, and
14 other times you could have smaller
15 repeated violations that after a period
16 of time rise to the level of creating a
17 hostile work environment.

18 COUNCILMAN GREEN: And just one
19 last question. Can you also talk about
20 the second part of that standard, without
21 effective efforts to remediate
22 violations.

23 MS. LANDAU: If they -- you can
24 refuse to sit down for mediation. We
25 also in the Fair Practices Ordinance

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 could take a default judgment against you
3 if we had to. We very rarely have
4 instances where respondents are not
5 engaging with us, but sometimes they
6 fight with us more than others. And if
7 we offer opportunities for mediation,
8 offer opportunities to see if there's a
9 way to resolve the case or if we have
10 somebody who is being very resistant to
11 providing documents, we have subpoena
12 power for documents of essentially what's
13 in someone's personnel file, policies at
14 the place of employment, maybe time
15 sheets, whatever we need to prove this
16 particular case, if there's resistance to
17 that, that's what I would see would be --

18 COUNCILMAN GREEN: I said last
19 question. This is the last question.
20 What's the standard of review on appeal
21 with the Court of Common Pleas?

22 MS. LANDAU: I'm sorry. I
23 didn't hear.

24 COUNCILMAN GREEN: The standard
25 of review with the Court of Common Pleas.

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 MS. LANDAU: The standard of
3 appeal is abuse of discretion or error of
4 law. So the Commission has to
5 wholeheartedly avoid the law, not pay
6 attention to the law or abuse its
7 discretion in order to get it overturned
8 at the Court of Comon Pleas and/or the
9 case can be remanded back to the
10 Commission.

11 COUNCILMAN GREEN: Thank you,
12 Chairman Greenlee.

13 COUNCILMAN GREENLEE: Thank
14 you, Councilman.

15 First, let the record please
16 reflect Councilwoman Bass, a member of
17 the Committee, is present.

18 Councilman Oh and then
19 Councilwoman Gym.

20 COUNCILMAN OH: Thank you very
21 much.

22 Thank you very much for your
23 testimony and of course to Councilman
24 Green for his introduction of the bill.
25 I do support the bill. I do think that

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 this is an important issue that should be
3 addressed. However, I will echo both
4 Councilman -- well, Councilman Greenlee
5 in particular and also Councilman Green
6 in just emphasizing in particular the
7 need to have some pretty clear standards.
8 I do feel that terms like "severe" and
9 "repeatedly" are vague, and I have read
10 the testimony and, for example, when we
11 get into issues, although they're very
12 important issues and I know they're
13 sensitive issues, such as saying no
14 Timberland boots allowed, you know, that
15 that is understood by some people to be
16 particularly targeting African Americans,
17 and it may be.

18 If a business says no
19 Timberland boots allowed and they apply
20 it unevenly, obviously that would be
21 discriminatory, but simply saying no
22 Timberlands allowed, I don't know that
23 that rises to a level where we are able
24 to -- I think it's a violation of the
25 U.S. Constitution at that point in time

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 and some other things.

3 I will say, by the way, that I
4 wear Timberlands, and I do it because of
5 my time in the military. It was just
6 preferred shoes and footwear, and a lot
7 of veterans wear Timberlands and a lot of
8 union construction building trades guys.
9 I don't know it's limited to -- but,
10 yeah, I'm not saying it isn't true that a
11 business owner who is discriminating may
12 say, hey, listen, on a Saturday night,
13 Friday night I don't want this level of
14 dress and I think it primarily relates to
15 African Americans. If that can be
16 proven, that's always the difficult part,
17 if it can be proven or if it is shown
18 that, for example, one customer comes in
19 and he's white, for example, and he's
20 allowed in with his Timberlands and then
21 African Americans are not, that would be
22 clear.

23 My concern is that we are in
24 kind of a touchy subject. As you know,
25 we deal with like protected classes, age,

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 gender, religion, race, ethnicity. And I
3 may know that someone prefers not to hire
4 a protected class. I can't look in their
5 heart, but when we find that they have
6 some vague standards which seem to always
7 end up with a protected class not being
8 hired or admitted, something like that,
9 then I think that's pretty -- that's
10 clear.

11 How will you distinguish in
12 these tricky areas? Back in the day
13 where someone said, oh, my God, I thought
14 you were a guy, we don't hire women, it
15 was pretty clear. Nowadays nobody does
16 that. People are like, oh, my goodness,
17 what a wonderful candidate, we'll get
18 right back to you, looks very good, and
19 then you don't get a job.

20 But in response to that kind of
21 underhanded discrimination, I just want
22 to make sure that when we write the
23 regulations or the standards and we do
24 the due process, that it's not
25 overreaching.

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 MS. LANDAU: Thanks. So just
3 to speak on the no Timberlands policy for
4 a second. That fits squarely into a
5 disparate impact theory of
6 discrimination, right? And I agree with
7 you, if someone believes there was a
8 policy, it's up to us to find out was
9 there a policy or was there
10 discriminatory actions taken. And it's
11 very -- for us it's -- we have a process
12 to figure out whether or not certain
13 people are not being admitted because
14 they're wearing Timberlands and others
15 are, for example.

16 We've started a testing
17 program, and it's fully launched at this
18 point, and that's how we would initially
19 begin to investigate that type of case.
20 We don't serve a complaint on a bar when
21 we hear about a policy like that. We
22 test first before they know that we're
23 watching them. And so that is also --
24 you know, I am not the commissioners. I
25 am the director, but that might not rise

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 to the level of severe or repeated.

3 Severe or repeated could be, you know,

4 whether it's everything from human

5 trafficking down to very explicit racist

6 comments happening or homophobic comments

7 happening at work where it's being --

8 where no one is being punished for it and

9 in fact that's the climate.

10 I'm not sure exactly what it

11 looks like yet, because it will be on a

12 case-by-case basis, but I feel pretty

13 confident that both the staff and the

14 commissioners, we have standards. We see

15 250 cases a year and we have a backlog

16 too as well. What we see in

17 Philadelphia, sometimes it's outrageous

18 and sometimes it's not so bad. And we

19 also make sure that even if it's an

20 instance where somebody was wronged in

21 this not-as-bad category, it's still

22 discrimination, and we make sure we go

23 out and we train the staff, and it's

24 mandatory for us. You're not leaving the

25 Commission before we know that we are

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 training your staff, you're training your
3 management, and you understand what the
4 rights and your obligations are and your
5 responsibilities are under the Fair
6 Practices Ordinance.

7 So we're happy to continue to
8 have discussions about promulgating
9 regulations, but I feel pretty confident
10 with the work that we do every single day
11 that we're aware of what rises to what
12 level.

13 COUNCILMAN OH: Okay. Finally,
14 because I do unfortunately have to go to
15 a meeting. I hope to be back up if this
16 is still continuing. I also have
17 concerns about our city, our city's
18 enforcement and the evenhandedness of it
19 and the fact that the people who enforce
20 these laws on behalf of our city are, as
21 you said, trained and knowledgeable.
22 But, for example, this issue is arising
23 in the LGBT community and particularly it
24 relates to African Americans. If we
25 create an ordinance and our city ends up

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 focusing on the LGBT community, which is
3 what we want, we want to ensure there
4 isn't discriminatory practices, and yet
5 doesn't apply the equal amount of
6 enforcement to other communities, other
7 geographic locations, I think that in and
8 of itself is a kind of discrimination.
9 It should be very evenhanded and it
10 should be universal, and I'm hoping
11 that's what it will be.

12 MS. LANDAU: Absolutely. And
13 that's why we appreciate Councilman
14 Green's bill so much, because it is for
15 every business. We happen to be -- this
16 generated after our public hearing on
17 racism and discrimination in the LGBTQ
18 community, but we are in every
19 neighborhood of this city all of the
20 time. We test in areas that are not bars
21 in the Gayborhood and we have had
22 situations in bars in other parts of the
23 City that we have cases as well. So
24 please know that this is throughout the
25 City, and we love the fact that it's

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 important to blanket the whole City
3 because, as all people of color can tell
4 you, this is -- this doesn't just happen
5 in the Gayborhood. This happens all
6 throughout the City, and we want to make
7 sure that everyone is protected
8 everywhere they go.

9 COUNCILMAN OH: Okay. Thank
10 you so very much.

11 COUNCILMAN GREENLEE: Thank
12 you, Councilman.

13 Councilwoman Gym.

14 COUNCILWOMAN GYM: Thank you
15 very much.

16 First of all, I want to commend
17 the Commission on the excellent work that
18 you did. I think it was so important for
19 communities who have been experiencing
20 levels of harassment and discriminatory
21 practices to be able to have their voices
22 heard. And I think that that's what the
23 Commission needs to tell people, that
24 this is a place where we're going to hear
25 voices, we're going to ascertain facts,

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 this is not about allegations and wild
3 accusations. This is about an extensive
4 investigation that the Commission did. I
5 think it affirms our clarity about the
6 importance of the Commission, and that
7 racism isn't about intent. We're not
8 here to unpack everything that people may
9 think or do, and also recognize that
10 institutional racism in particular and
11 standard practices and, frankly,
12 practices of profit can move in ways that
13 are abusive. And so we don't want to
14 talk about intent. We do want to look at
15 disparate impact. We do want to have
16 hearings. We want to have reports.

17 We appreciated -- I appreciated
18 the report that you put out on this
19 issue, and I know my colleagues did too,
20 which is why Councilman Green is leading
21 on this, and I commend him for that.

22 One of the things that I want
23 to make clear, though, for everybody who
24 is listening is that PCHR has a range of
25 things that you do. So you do require

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 settlement. And I'm wondering if you can
3 help us understand and put in context
4 this particular penalty within the range
5 of the different penalties that you have
6 the power to actually enact. And could
7 you give us some clarity about in
8 other -- you don't have to necessarily
9 name all the cases by name, but give us
10 some examples of what settlements have
11 required individuals and/or institutions
12 and businesses to comply with or what did
13 they have to do.

14 MS. LANDAU: Right. Well, our
15 more recent public hearings that have
16 actually gone to hearing and haven't
17 settled, remedies have been from \$10,000
18 to \$20,000 easily against a respondent.
19 These are cases that the commissioners
20 found pretty -- they found evidence of
21 discrimination, and then our job -- their
22 job is to start calculating damages. And
23 so just to be really clear, I want to
24 read for you what the Commission can do
25 in order for the remedies.

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 The Commission -- this is
3 9-1105 of the Fair Practices Ordinance.
4 The Commission may issue an order
5 directing a respondent who is engaged in
6 unlawful employment practice to take
7 affirmative action to redress the harms
8 suffered by the complainant.

9 The Commission may order
10 remedies, including, but not limited to,
11 an order requiring the respondent to
12 cease and desist such unlawful practice;
13 an injunction or other equitable relief,
14 including hiring, reinstating or
15 upgrading, with or without back pay;
16 admitting or restoring membership in a
17 labor organization; admission to a
18 guidance, apprentice-training or
19 retraining program; payment of
20 compensatory damages; payment of punitive
21 damages, not to exceed \$2,000 per
22 violation; and payment of reasonable
23 attorneys' fees; payment of hearing costs
24 as reimbursement for expenses incurred by
25 the Commission.

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 So it's the compensatory
3 damages that are usually the highest.
4 Oftentimes we talk to people who once
5 they were discriminated against couldn't
6 get work. A recent case -- it hasn't yet
7 been decided by the Commission, but it
8 has to do with an employment agency where
9 the allegation was the employment agency
10 placed a woman at a place of employment.
11 She was sexually harassed there. And
12 then the allegation is that the
13 employment agency refused to place her in
14 other locations. Again, hasn't been
15 decided yet. The commissioners are
16 working on that one right now, but that's
17 an example that you can calculate time
18 lost at work.

19 We had a great case, if you
20 don't mind, about recently a charter
21 school who failed to hire an African
22 American male coach who would be coaching
23 the girls' basketball team based on an
24 arrest, not a conviction, which is such a
25 clear violation of our ban-the-box law.

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 They ended up hiring an African American
3 female for the job, but it was -- that
4 one was clear as day that he should have
5 been hired. He was highly qualified,
6 very, very qualified for the job. And
7 the remedy was about -- I don't remember
8 the exact amount, but it was at least
9 \$20,000. And we came in and said, you're
10 getting training, and we trained their
11 entire management staff on the
12 ban-the-box on all of our Fair Practices
13 Ordinance and the discrimination law.

14 So these same settlements can
15 happen. This same remedy can happen in a
16 mediation or a private settlement. We
17 much rather have them engage in our
18 process, because we're fearful that the
19 remedy will not match the harm, but there
20 are various, various avenues there.

21 COUNCILMAN GYM: I want to just
22 be very clear that you have engaged in a
23 series of settlements over the course of
24 time. Part of the whole point of PCHR is
25 that you do come in, you do let

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 businesses know if there's a violation of
3 the Fair Practices Ordinance, that this
4 happens within a framework and clarity of
5 due process. You have a range of options
6 in which to both enforce and dictate
7 settlement terms and mediation terms and
8 other types of things to businesses all
9 across.

10 And then I read the bill
11 multiple times, and I just want to be
12 clear. It's not your understanding that
13 this is an LGBT bill; is that correct?

14 MS. LANDAU: No, not at all.
15 It is absolutely not. It's for the
16 entire City.

17 One more thing I wanted to add
18 about the due process is that after we
19 have had the case for a period of time,
20 the complainant can request a right to
21 sue and go to federal court, which they
22 often do. We like it. You can't -- you
23 would not take a case to federal court
24 when there's sexual orientation or gender
25 identity or any of the protected classes

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 that we have in Philadelphia, but
3 sometimes they do, and certainly race
4 cases, they go to federal court too.

5 So there are many, many options
6 for how to resolve the case. And, yes,
7 absolutely, this is for -- this is
8 citywide. This is so we can just make
9 explicit what we believe the power we
10 already had to do throughout the City.

11 COUNCILWOMAN GYM: And I want
12 to express appreciation for that. This
13 is simply another tool that we can use
14 and just make clear that the importance
15 of upholding the Fair Practices Ordinance
16 is a serious one that we have.

17 And then I just want to thank
18 you again. I think that this was an
19 issue that was raised by communities. It
20 highlighted the importance of PCHR, the
21 work that you do, the thoroughness by
22 which you do it, how seriously you can
23 take it, and how it can matter to a lot
24 of communities, but that this is in fact
25 a bill that would apply equally across

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 all boards to lots -- of all the
3 different categories of people who would
4 be protected under the City's Fair
5 Practices Ordinance.

6 Thank you.

7 MS. LANDAU: Thank you.

8 COUNCILMAN GREENLEE: Thank
9 you, Councilwoman.

10 Councilman Green.

11 COUNCILMAN GREEN: Yes.

12 Ms. Landau, you've stated
13 something that triggered another thought.
14 How would you distinguish the City's
15 Commission on Human Relations to the
16 state Commission on Human Relations as
17 opposed to the EEOC? My father was a
18 retired Regional Director for EEOC. So
19 I'm somewhat familiar at the federal
20 level, and I'm curious from the
21 perspective how EEOC actions and PCHR as
22 well as the state Human Relations
23 Commission interact.

24 MS. LANDAU: So we have a
25 work-sharing agreement with the EEOC.

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 When you file a complaint with us, it is
3 dual filed automatically with the EEOC.
4 And if you go to the EEOC and you bring
5 them a case that has a category that we
6 protect that is not protected at the
7 state; for example, sexual orientation or
8 gender identity, they're going to --
9 they'll actually send you down the
10 street, because they're only at 8th and
11 Market.

12 So we in Philadelphia protect
13 16-plus protected categories depending on
14 how you count each piece. The state
15 protects approximately 11 and the feds
16 nine. We had -- we take all cases where
17 the employer has one or more employee,
18 the state is four or more employees, and
19 the feds are 15 or more employees.

20 Other than the restriction that
21 the state puts on us that our punitive
22 damages can only be \$2,000 per violation,
23 the overhaul that this body helped us do
24 in 2011 brought our Fair Practices
25 Ordinance up to the standards of

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 everything that you'd be able to do in
3 the state and maybe -- and I believe the
4 feds as well. It's a really strong
5 ordinance. We at Philadelphia have
6 always been on the cutting edge of making
7 sure that we are protecting people's
8 civil rights and trying to make it as
9 expansive as possible as well.

10 COUNCILMAN GREEN: Thank you,
11 Chairman Greenlee.

12 COUNCILMAN GREENLEE: Thank
13 you, Councilman.

14 Any other questions?

15 (No response.)

16 COUNCILMAN GREENLEE: Seeing
17 none, thank you both very much. Thank
18 you for your time. Thank you for all the
19 work you do.

20 Ms. Marconi, will you call the
21 names of the other witnesses we have on
22 record and we'll see if there's anybody
23 else.

24 THE CLERK: Nikki Lopez, Lee
25 Carson, Malcolm Kenyatta, Asa Khalif, and

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 Abdul-Aliy Muhammad.

3 COUNCILMAN GREENLEE: Why don't
4 those folks come forward.

5 Is there anyone else here whose
6 name was not called who wanted to
7 testify?

8 (No response.)

9 COUNCILMAN GREENLEE: Seeing
10 none, okay. All right.

11 (Witnesses approached witness
12 table.)

13 COUNCILMAN GREENLEE: Please
14 come forward. You're there first. Why
15 don't you identify yourself.

16 And anybody that has put in
17 written testimony, the written testimony
18 will be part of the record. If you
19 wanted to summarize those statements,
20 we'd appreciate it, because we have a
21 little time issue.

22 Please identify yourself and
23 proceed.

24 MR. MUHAMMAD: My name is
25 Abdul-Aliy Muhammad. It's A-B-D-U-L

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 hyphen A-L-I-Y. Last name is Muhammad,

3 M-U-H-A-M-M-A-D.

4 I want to first thank

5 Councilperson Green. I will be referring

6 to Councilmembers as Councilpeople,

7 because I think that there's power and

8 privilege in how we use language and so,

9 therefore, I will equalize it by saying

10 Councilperson.

11 So I want to thank

12 Councilperson Green. I want to thank

13 Helen Gym, who is always amazing,

14 Councilperson Helen Gym, for your support

15 on this. I want to thank Rue Landau as

16 well.

17 Where did Rue go?

18 And I want to thank Amber

19 Hikes.

20 So I'm going to read a

21 statement, and I'm also a part of the

22 Black and Brown Workers Collective, which

23 has been leading direct actions on

24 addressing racial inequality in LGBTQ

25 spaces.

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 Darryl DePiano sat in the bar
3 he owned presumably speaking to an
4 employee and began to say
5 nig-nig-nig-niggers repeatedly. The
6 viral video with the audio leaked last
7 year in the midst of the Black and Brown
8 Workers Collective's platform to address
9 incidents of racial bias within what has
10 been defined as the Gayborhood. He
11 claims it was some years ago.

12 We were alarmed at the
13 escalating incidents of racial bias,
14 targeted policing, and cases of PTSD in
15 our community. We were steadfast in our
16 direct actions to confront institutions
17 who didn't see us as fully human, and we
18 continued the outcry.

19 Darryl's use of the N word
20 moves beyond the words -- just words.
21 Excuse me. We learned of an alleged "no
22 Timbs" policy, which we, the Collective,
23 have pointed out is a racialized dress
24 code policy aimed at declining entry to
25 the bar from black and brown community

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 members. The alleged policy didn't say
3 "no boots," and any assessment of dress
4 and attire within the confines of
5 Philadelphia will make clear that black
6 and brown people overwhelmingly wear
7 Timbs.

8 Then look at Woody's where an
9 alleged "no sportswear attire" policy was
10 reported. This speaks to the
11 anti-blackness and supposedly sanctuaries
12 for all LGBTQ people, including black and
13 brown community members.

14 I support this bill of
15 Councilmember Derek Green and the other
16 Councilmembers who support it. I support
17 PCHR and the work they continue to do to
18 hold public accommodations accountable
19 for racial bias and other discriminatory
20 practices. The Black and Brown Workers
21 Collective support this wholeheartedly.

22 Thank you.

23 COUNCILMAN GREENLEE: Thank
24 you.

25 We'll hear from everyone and

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 then if there's any questions or
3 comments.

4 Malcolm, why don't you go next.
5 Please identify yourself and proceed.

6 MR. KENYATTA: Thank you and
7 good morning. I want to thank Councilman
8 Green really for his leadership on this
9 and for putting in this bill today. This
10 was a conversation I know that we began
11 several months ago, and so I'm happy that
12 it's happening today, and thank you also,
13 Chairperson Greenlee.

14 My name is Malcolm Kenyatta and
15 I serve as the Co-Chair of Liberty City
16 Democrats, an LGBT political action
17 committee that's dedicated to build
18 political power for the LGBT community
19 and has been doing so since the '90s.
20 And I think -- I thought that it was
21 really important to be here today to say
22 what I said at the hearing that Rue
23 talked about in some detail in her
24 testimony, is that people aren't making
25 this up. I think for the longest time

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 these incidents were reported on social
3 media -- I know people filed reports --
4 and nothing was being done. It was kind
5 of like this imaginary thing. And it is
6 actually happening, and it was a new crop
7 of activists and journalists and
8 political organizations that took up this
9 30-year fight yet again.

10 Only last year when we saw this
11 video that Abdul just talked about did we
12 see attention turn again to this, to
13 these instances of insensitivity and
14 discrimination that have gone
15 unaddressed, and the report that PCHR put
16 out was a step in the right direction,
17 but trust cannot be restored until there
18 is accountability. And I think that this
19 strengthening of the recourse that PCHR
20 has is a step in that direction. So
21 whether it's a bar, a non-profit or an
22 individual, I think Council has an
23 opportunity to make it very clear that
24 institutions, organizations or businesses
25 that participate in discriminatory

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 practices will find no safe harbor in
3 Philadelphia. And for decades, the LGBT
4 community fought very hard with almost a
5 single-minded focus on marriage equality,
6 and that was an important victory, but
7 the only true victory will be a victory
8 that disrupts all systems of oppression
9 and requiring and ensuring that all
10 institutions operate according to I think
11 our city's very explicit and implicit
12 values of diversity, inclusion, and
13 equity.

14 Justice that isn't
15 intersectional isn't justice at all, and
16 PCHR has a very difficult job to do, and
17 I think this allows them to do their job
18 with a little bit more effectiveness.

19 Today is long overdue, and I
20 think it is the first steps in a long
21 process that heal some very, very deep
22 wounds. Doing additional training as
23 recourse, that is not enough. Words
24 aren't enough. Action is the only thing
25 that is going to move us forward, and I

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 think this measure today gives us an
3 opportunity to have some more action on
4 some very, very important issues that for
5 too long went uncovered.

6 So thank you again, Councilman
7 Green and Chairman Greenlee and also
8 Councilwoman Gym for always making your
9 voice heard on this.

10 Thank you.

11 COUNCILMAN GREENLEE: Thank
12 you.

13 Please identify yourself and
14 proceed.

15 MR. KHALIF: Yes. Good
16 morning. My name is Asa Khalif. I'm
17 part of Black Lives Matter movement,
18 Pennsylvania Chapter, and a longtime
19 advocate, activist, supporter of the LGBT
20 community, actually since the age of 14
21 years old.

22 I want to thank Councilman
23 Green for his courage to sponsor this
24 bill and for the office to reach out to
25 me to share my thoughts on this bill.

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 Discrimination unleashed at
3 some races, against some ethnic groups,
4 towards certain immigrants, aimed at one
5 sex or sexual orientation, at one size or
6 age must be disarmed with every tool
7 available to government and to citizens.

8 This bill will give government
9 a powerful tool to fight discrimination
10 in our city. If your business
11 discriminates and fails to take
12 corrective action, the City with this
13 bill will shut down your revenue stream
14 until you try a little harder to change
15 your heart and the way you conduct
16 business in the City of Philadelphia.

17 We need government to work for
18 the people, to bring real change, to
19 tackle real problems, and if elected
20 officials can't act or are in the pockets
21 of the discriminators, you know what I
22 say. I say take it to the streets and
23 take it to the powers-that-be.

24 When women, black and brown
25 people, poor people, LGBTQ, trans people

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 felt the bitter sting of discrimination,
3 they all organized and took it to the
4 streets, forcing government officials to
5 respond.

6 I appreciate, Councilman Green,
7 for you stepping forward and introducing
8 this bill. I thank you again, sir. We
9 want meaningful change and we want it
10 now. Support the ordinance. It is an
11 important tool to disarm discrimination
12 in Philadelphia.

13 And, finally, I want to
14 publicly honor all of the black and brown
15 activists who are no longer with us, but
16 their spirit of courage, bravery, and the
17 burning demand for justice inspired us
18 all.

19 Thank you very much.

20 COUNCILMAN GREENLEE: Thank
21 you.

22 After this last witness, anyone
23 else here to testify?

24 (No response.)

25 COUNCILMAN GREENLEE: This will

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 be our last witness.

3 Please, identify yourself and
4 proceed.

5 MR. CARSON: Sure. Good
6 morning, members of City Council. My
7 name is Lee Carson. And as I just said,
8 my name is Lee Carson and I am submitting
9 this testimony regarding the support of
10 the amendments of the Fair Practices
11 Ordinance that proposes to offer
12 penalties for businesses or public
13 accommodations that is found to be
14 engaging in systematic discriminatory
15 practices.

16 I wear several hats
17 professionally that all inform the
18 testimony in which I am here to give
19 today. I currently serve as the
20 part-time Interim Executive Director for
21 The COLOURS Organization, a 26-year-old
22 LGBT organization dedicated to servicing
23 black LGBT communities. I have over
24 eight years of experience teaching in
25 higher education as an adjunct faculty

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 member at Temple University in the

3 Graduate School of Social Work.

4 Additionally, I work as the Training

5 Director for The Ladipo Group, a

6 minority-owned and operated company here

7 in the City of Philadelphia and, lastly,

8 as a therapist with over ten years of

9 experience providing therapy to clients

10 of all races and sexual orientations and

11 gender identities.

12 I do not share these positions

13 to boast, rather to inform you of my

14 expertise which informs my views in this

15 testimony. Additionally, my views are

16 provided through the lens of being a

17 black gay man who has seen the traumatic

18 effects that acts of discrimination, both

19 institutionalized and interpersonal, have

20 had based on the impact of one's

21 identity, especially race, gender, and

22 sexual orientation.

23 I vehemently believe the

24 proposed amendment to the Fair Practices

25 Ordinance is a step in the right

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 direction towards holding business owners
3 accountable for their actions and
4 discriminatory practices.

5 We are all aware of the
6 egregious acts of racism exposed last
7 year after the video of one of the owners
8 of the popular Center City club ICandy
9 was leaked, as several other people have
10 talked about. This was a black eye for
11 the City of Philadelphia, and the sting
12 was worse given that someone in an
13 oppressed group made these oppressive
14 statements about a social minority group
15 under the LGBT umbrella. Anyone who is
16 black and has been around since there
17 have been gay bars in the City of
18 Philadelphia will tell you that there
19 have been covert, quote/unquote,
20 discriminatory practices at most bars in
21 the City, none of which have been owned
22 by people of color. These covert
23 practices have included, but are not
24 limited to, as has already been
25 discussed, dress codes, limiting entry to

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 patrons who wear clothing associated with
3 black and brown people; for example,
4 hoodies, Timberland boots, et cetera, and
5 more often being asked to show
6 identification when Caucasian patrons
7 aren't and sometimes being asked to show
8 additional identification to obtain
9 entry.

10 Men of All Colors Together back
11 in the 1980s conducted an experiment to
12 see if black patrons were treated
13 differently than their white
14 counterparts, and the end result of these
15 experiments were black patrons were
16 treated differently. And for years there
17 have been inequitable practices enforced
18 in LGBT establishments and in other
19 public accommodations around the City of
20 Philadelphia based on people's race,
21 sexual orientation, and gender
22 expression.

23 And so the ICandy situation is
24 not the only black eye on which we are
25 guilty of when it comes to

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 institutionalized racial discrimination
3 in the City of Philadelphia that has
4 played out on a national stage. We can
5 look back to the days of the Rizzo
6 Administration early in the -- early to
7 late 1970s when the City of Philadelphia
8 ended up being under investigation by the
9 federal government for the rampant racism
10 in policing, which subsequently led to
11 the filing of a civil lawsuit. We can
12 fast forward to the MOVE bombings in
13 1985, among others.

14 When are we going to really
15 actually get a handle on this concept of
16 discrimination of institutionalized
17 racism in the City? I think now is the
18 time to do that while the iron is hot.

19 So we must end the cycle of
20 institutionalized oppression in public
21 accommodations in Philadelphia. We need
22 to be a model for the rest of the
23 Commonwealth and the country that we take
24 acts of discrimination seriously, that
25 there will be real consequences for

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 practices that are found to be oppressive
3 to someone based on a protected class.

4 We should never again allow a sign in the
5 window of a business that says, "This is
6 America. When ordering, speak English,"
7 or allow businesses to engage in
8 discriminatory practices to deter certain
9 kinds of groups from entering into public
10 establishments.

11 The reality is that behavior is
12 most often -- behavior most often only
13 changes through negative consequences.
14 As a trainer and educator, I have seen
15 the power of change that is possible
16 through people learning about cultural
17 competence, including issues of implicit
18 bias and equitable practices, and how to
19 be more equitable in their approaches to
20 working with culturally diverse
21 populations of people. Sometimes this
22 education is forced as a consequence of
23 institutional behavior, but the end
24 result can be the same, engaging in more
25 equitable behavior, and that is what is

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 needed in this day and time.

3 And in closing, while you
4 cannot legislate the heart, you can
5 legislate behavior, and the ordinance
6 will give the Philadelphia Human
7 Relations Commission more teeth to punish
8 establishments and anyone providing a
9 public service who engages in acts of
10 discriminatory practices.

11 So I just want to say that I
12 really hope that the City Council will
13 take this -- will pass this legislation,
14 because we feel that it's critical.

15 Thank you.

16 COUNCILMAN GREENLEE: Thank
17 you. Don't go anywhere.

18 You had a question,
19 Councilwoman?

20 Before you do, could I ask
21 Amber and Rue to come back up. I think
22 Councilman Green had a question.

23 But go ahead, Councilwoman Gym.

24 COUNCILWOMAN GYM: I just in
25 particular want to acknowledge this group

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 of speakers for the work that you've done
3 in all of our communities. You know,
4 this work here today was led by all of
5 you when people didn't believe it, and I
6 think that Mr. Kenyatta said it really
7 well when it matters to be able to speak
8 up. Mr. Khalif also acknowledged the
9 importance of you're not being heard here
10 in City Council, we do take to the
11 streets. We do organize. You do build
12 power there first and foremost, because
13 it is fundamentally about our communities
14 feeling like they have a voice. Then you
15 can come in here. We'll see things
16 change.

17 Today it was earlier announced
18 that there are leadership changes at one
19 of the centers that has also been the
20 focus of a lot of organizing and
21 activism, and I think that this is the
22 sign of communities rising, a diverse
23 level of communities. And for me this is
24 a vote of confidence in PCHR for their
25 judgment, for their new leadership that

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 is helping our city grow all across the
3 board. So thank you for being part of
4 that.

5 COUNCILMAN GREENLEE: Thank
6 you, Councilwoman.

7 Councilman Green.

8 COUNCILMAN GREEN: Thank you,
9 Chairman Greenlee.

10 I just want to note for the
11 record that Nikki Lopez was scheduled to
12 testify today from GALAEI; however, was
13 involved in a car accident last week and
14 was not able to be here. I just want to
15 state that for the record.

16 Quickly for both Amber and for
17 Rue, I wanted to follow up on the
18 question of the cost of enforcing this
19 legislation in your budgets, and I want
20 to get some perspective from both
21 Ms. Landau and Ms. Hikes, what are your
22 budget amounts in the City government,
23 since we are going through the budget
24 process?

25 MS. LANDAU: My -- I actually

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 happen to have my budget back there. My
3 budget is approximately 2.1 million; 97
4 percent of it is salaries, Class 100
5 salaries. For actually implementing our
6 programs, we have \$34,000 allocated to
7 Class 200 and very little in Class 300
8 and Class 400, and I can give you the
9 exact amount if you want in a second.

10 COUNCILMAN GREEN: And

11 Ms. Hikes?

12 MS. HIKES: The budget for the
13 office of LGBT Affairs, it's just my
14 salary. We do not have a budget outside
15 of my salary.

16 COUNCILMAN GREEN: Okay. And
17 does that compare to last year or prior
18 years, it was based on just Class 100
19 salary?

20 MS. HIKES: To my knowledge,
21 that has always been the budget of the
22 office, the salary of the Executive
23 Director.

24 COUNCILMAN GREEN: Okay. Got
25 you.

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 And, Ms. Landau, your budget is
3 the same as last year?

4 MS. LANDAU: Same as last year.

5 COUNCILMAN GREEN: All right.

6 Thank you.

7 Thank you, Mr. Chairman.

8 COUNCILMAN GREENLEE: Thank
9 you.

10 If there are no other questions
11 or comments, that completes the hearing
12 of the Committee on Law and Government.
13 We'll now go into our public meeting, and
14 the Chair recognizes Councilman Green for
15 an amendment to the one bill.

16 COUNCILMAN GREEN: Thank you,
17 Chairman Greenlee. The proposed
18 amendment to Bill No. 170243 has been
19 circulated to all members of the
20 Committee. I move that this bill be
21 amended.

22 (Duly seconded.)

23 COUNCILMAN GREENLEE: It's been
24 moved and seconded for adoption of the
25 amendment.

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 All in favor?

3 (Aye.)

4 COUNCILMAN GREENLEE: Opposed?

5 (No response.)

6 COUNCILMAN GREENLEE: Hearing

7 none, Bill No. 170234 is amended.

8 And Councilman Green for all

9 three bills, please.

10 COUNCILMAN GREEN: Thank you,

11 Chairman Greenlee. I move that Bill No.

12 160010 be voted out of this Committee

13 with a favorable recommendation and with

14 a suspension of rules so that this bill

15 can have first reading at our next

16 session of Council.

17 (Duly seconded.)

18 COUNCILMAN GREENLEE: It's been

19 moved and seconded.

20 All in favor?

21 (Aye.)

22 COUNCILMAN GREENLEE: Opposed?

23 (No response.)

24 COUNCILMAN GREENLEE: Hearing

25 none, Bill No. 160010 is reported out of

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 this Committee favorably with a rules
3 suspension.

4 Councilman Green.

5 COUNCILMAN GREEN: Thank you,
6 Chairman Greenlee. I move that Bill No.
7 170234, as amended, be voted out of this
8 Committee with a favorable recommendation
9 and with a suspension of the rules so
10 that this bill will have its first
11 reading at our next session of Council.

12 (Duly seconded.)

13 COUNCILMAN GREENLEE: It's been
14 moved and seconded.

15 All in favor?

16 (Aye.)

17 COUNCILMAN GREENLEE: Opposed?

18 (No response.)

19 COUNCILMAN GREENLEE: Hearing
20 none, Bill No. 170243, as amended,
21 reported out of this Committee favorably
22 with a rules suspension.

23 Councilman Green.

24 COUNCILMAN GREEN: Thank you,
25 Chairman Greenlee. I move that Bill No.

1 4/24/17 - LAW & GOV. - BILL 160010, ETC.

2 170334 be voted out of this Committee
3 with a favorable recommendation and with
4 a suspension of the rules so that this
5 bill will have its first reading at our
6 next session of Council.

7 (Duly seconded.)

8 COUNCILMAN GREENLEE: It's been
9 moved and seconded.

10 All in favor?

11 (Aye.)

12 COUNCILMAN GREENLEE: Opposed?

13 (No response.)

14 COUNCILMAN GREENLEE: Hearing
15 none, Bill No. 170334 is reported out of
16 this Committee favorably with a rules
17 suspension.

18 That completes the business of
19 the Law and Government Committee today.

20 Thank you all very much for
21 your participation.

22 (Committee on Law and
23 Government concluded at 11:40 a.m.)

24 - - -

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CERTIFICATE

I HEREBY CERTIFY that the
proceedings, evidence and objections are
contained fully and accurately in the
stenographic notes taken by me upon the
foregoing matter, and that this is a true and
correct transcript of same.

MICHELE L. MURPHY
RPR-Notary Public

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Committee on Law and Government
April 24, 2017

Page 1

A	78:21	22:19	amazing	60:22 61:16	attended	30:20,23	29:1 30:1
A-B-D-U-L	activist 68:19	Affairs 25:2	62:13	appeal 41:20	25:23	49:20,22	31:1,7,15
61:25	activists	32:20,24	Amber 24:25	42:3	attendees	73:17,20	31:25 32:1
A-L-I-Y 62:2	26:13 66:7	33:5 80:13	32:19 62:18	appealed	26:2	based 29:16	33:1 34:1
a.m 1:7 84:23	70:15	affect 33:15	77:21 79:16	37:2	attending	54:23 72:20	34:12 35:1
abbreviation	acts 72:18	Affection	amend 3:25	appear 14:7	28:6	74:20 76:3	36:1 37:1
13:23 16:3	73:6 75:24	22:11 23:14	12:22 24:19	26:4	attention	80:18	38:1 39:1
Abdul 66:11	77:9	affirmative	amended	appearance	42:6 66:12	basic 16:2	40:1 41:1
Abdul-Aliy	add 24:20	53:7	17:9 81:21	12:8 14:20	attire 64:4,9	basis 28:17	42:1,24,25
61:2,25	35:17 56:17	affirms 51:5	82:7 83:7	apply 43:19	Attorney	40:10 47:12	43:1 44:1
able 13:11	added 15:4	African 43:16	83:20	49:5 57:25	12:20	basketball	45:1 46:1
23:15 43:23	adding 20:21	44:15,21	amending	85:21	attorneys'	54:23	47:1 48:1
50:21 60:2	addition 8:2	48:24 54:21	2:17 12:4	appreciate	53:23	Bass 1:10	49:1,14
78:7 79:14	18:5 33:16	55:2	15:25 20:18	10:24,25	audio 63:6	42:16	50:1 51:1
absentee 8:22	additional	age 44:25	amendment	49:13 61:20	authority	began 63:4	52:1 53:1
absolutely	35:17 67:22	68:20 69:6	12:11 15:10	70:6	32:3	65:10	54:1 55:1
35:11 49:12	74:8	agencies 4:20	15:12 72:24	appreciated	authorize 4:3	behalf 4:12	56:1,10,13
56:15 57:7	Additionally	29:12	81:15,18,25	51:17,17	12:7,23	48:20	57:1,25
abuse 42:3,6	72:4,15	agencies'	amendments	appreciation	14:5	behavior	58:1 59:1
abusive 51:13	additions	29:14	71:10	57:12	authorized	76:11,12,23	60:1 61:1
accident	13:17	agency 24:12	America 76:6	apprentice-...	14:22	76:25 77:5	62:1 63:1
79:13	address 22:6	54:8,9,13	American	53:18	authorizing	believe 23:17	64:1,14
accommoda...	22:22,24	ago 5:22	13:5,6,10	approached	20:22 24:20	57:9 60:3	65:1,9 66:1
27:17	63:8	21:18 32:25	16:13 17:16	3:7 12:15	automatical...	72:23 78:5	67:1 68:1
accommoda...	addressed	63:11 65:11	17:17,18	61:11	59:3	believes 46:7	68:24,25
24:16 64:18	43:3	agree 46:6	19:16 54:22	approaches	available	better 7:24	69:1,8,13
71:13 74:19	addressing	agreement	55:2	76:19	13:6 69:7	beyond 63:20	70:1,8 71:1
75:21	22:9 33:2	58:25	Americans	approaching	avenues	bias 26:10	72:1 73:1
accountabil...	33:19 62:24	ahead 77:23	43:16 44:15	21:8	55:20	27:14 28:2	74:1 75:1
26:17 66:18	adjunct	aimed 63:24	44:21 48:24	appropriate	avoid 42:5	29:22 30:3	76:1 77:1
accountable	71:25	69:4	amount 7:22	4:13 14:14	aware 5:13	63:9,13	78:1 79:1
64:18 73:3	administered	alarmed	13:24 18:10	34:10	48:11 73:5	64:19 76:18	80:1 81:1
accurately	39:25	63:12	49:5 55:8	approximat...	Aye 82:3,21	big 35:25	81:15,18,20
85:5	administers	allegation	80:9	27:4 59:15	83:16 84:11	bill 2:10,14	82:1,7,11
accusations	24:12	54:9,12	amounts	80:3		2:16 3:1,23	82:14,25
27:2 51:3	Administra...	allegations	79:22	April 1:7 10:2	B	4:1,14 5:1,5	83:1,6,10
acknowledge	6:2,2 75:6	51:2	anchor 25:19	30:21	back 18:23	5:17 6:1 7:1	83:20,25
77:25	admission	alleged 26:11	and/or 10:22	areas 9:6,6	35:25 42:9	7:19 8:1 9:1	84:1,5,15
acknowledg...	53:17	63:21 64:2	30:8 37:25	45:12 49:20	45:12,18	10:1 11:1	bills 1:15
78:8	admitted	64:9	42:8 52:11	arising 48:22	48:15 53:15	11:17 12:1	18:12 82:9
act 38:20	45:8 46:13	Alliance 30:5	85:23	arrest 54:24	74:10 75:5	12:2,3,21	bit 11:3 67:18
69:20	admitting	31:3	Anderson	Asa 60:25	77:21 80:2	12:22 13:1	bitter 70:2
action 2:19	53:16	allocated	21:22	68:16	backlog	14:1,4,20	black 26:24
4:9,11	adopted	80:6	Angel 21:23	ascertain	47:15	15:1,4,11	62:22 63:7
26:17 35:20	14:25	allow 31:7	announced	50:25	bad 40:11	15:14 16:1	63:25 64:5
37:12 53:7	adoption	76:4,7	78:17	asked 74:5,7	47:18	17:1 18:1	64:12,20
65:16 67:24	81:24	allowed 22:4	answer 5:8	aspects 35:10	ban-the-box	19:1 20:1,3	68:17 69:24
68:3 69:12	adopts 14:18	43:14,19,22	15:15 34:3	assessment	54:25 55:12	20:6,14,17	70:14 71:23
actions 4:17	advantage	44:20	35:16,21	64:3	bar 26:22	21:1,9 22:1	72:17 73:10
4:24 46:10	6:25 8:12	allows 67:17	36:19 37:19	assist 10:11	29:19 46:20	23:1 24:1	73:16 74:3
58:21 62:23	advocate 6:16	ALM 17:16	anti-blackn...	assistance 9:2	63:2,25	24:18 25:1	74:12,15,24
63:16 73:3	21:15 68:19	ALP 17:20	64:11	associated	66:21	25:3 26:1	blanket 50:2
activism	advocates	alter 14:24	anybody	74:2	bars 26:3	27:1 28:1	Blue 16:7
					28:3 29:8		

Committee on Law and Government
April 24, 2017

Page 2

board 29:23 30:9 31:6 79:3 boards 58:2 boast 72:13 BOBBY 1:12 body 21:14 21:25 22:4 22:5,10 59:23 bombings 75:12 Book 16:7 books 13:8 18:9 boots 43:14 43:19 64:3 74:4 boss 21:19,21 bravery 70:16 BRIAN 1:13 bring 33:24 36:20 59:4 69:18 Broad 25:21 Brotherly 22:11 23:13 brought 59:24 brown 62:22 63:7,25 64:6,13,20 69:24 70:14 74:3 budget 79:22 79:23 80:2 80:3,12,14 80:21 81:2 budgets 79:19 build 65:17 78:11 building 44:8 burning 70:17 business 29:7 30:4 31:3,9 31:16 32:3 43:18 44:11 49:15 69:10 69:16 73:2 76:5 84:18	businesses 32:6 52:12 56:2,8 66:24 71:12 76:7 C calculate 54:17 calculating 52:22 call 2:12 8:25 21:4 60:20 called 61:6 candidate 45:17 car 79:13 card 38:19 Carson 60:25 71:5,7,8 case 15:5 34:13 35:14 35:24 36:6 36:10,15 38:16 39:4 41:9,16 42:9 46:19 54:6,19 56:19,23 57:6 59:5 case-by-case 40:10 47:12 cases 2:20 4:4 36:13 37:15 38:3 39:17 47:15 49:23 52:9,19 57:4 59:16 63:14 categories 39:18 58:3 59:13 category 47:21 59:5 Caucasian 74:6 cause 36:3 38:9,13,25 cease 20:24 24:22 31:9 31:23 32:4 34:22 53:12 Center 27:19 29:25 73:8	centers 78:19 certain 12:11 12:24 20:25 24:23 29:12 36:17 46:12 69:4 76:8 certainly 5:25 57:3 CERTIFIC... 85:2 certification 85:20 certified 15:6 15:7 CERTIFY 85:3 certifying 85:24 cetera 74:4 Chair 1:10 2:6,13 6:14 7:4 81:14 Chairman 3:18 12:18 21:11 24:7 35:5 42:12 60:11 68:7 79:9 81:7 81:17 82:11 83:6,25 Chairperson 65:13 Chamber 21:25 30:6 change 14:17 14:23 15:11 69:14,18 70:9 76:15 78:16 changes 12:25 13:13 13:18 14:14 14:18 17:22 18:13 19:12 76:13 78:18 Chapter 2:17 4:2 12:4 20:18 68:18 charge 18:5,8 31:4 charter 25:12 54:20 check 19:21	Chestnut 25:22 Chief 15:9 CINDY 1:10 circulated 81:19 circumstan... 7:22 32:5 34:22 cities 16:15 16:16 citizens 69:7 city 1:2,6 6:22,25 7:18 10:10 17:14 21:16 22:7,10 23:2,2,4,6,8 23:12,12,13 23:16,20,20 24:12,14,18 29:20 30:11 30:17 32:6 48:17,20,25 49:19,23,25 50:2,6 56:16 57:10 65:15 69:10 69:12,16 71:6 72:7 73:8,11,17 73:21 74:19 75:3,7,17 77:12 78:10 79:2,22 city's 48:17 58:4,14 67:11 citywide 57:8 civil 60:8 75:11 claims 63:11 clarity 51:5 52:7 56:4 class 28:17 45:4,7 76:3 80:4,7,7,8 80:18 classes 44:25 56:25 clean 16:24 19:17 cleanup 16:2	clear 15:5 43:7 44:22 45:10,15 51:23 52:23 54:25 55:4 55:22 56:12 57:14 64:5 66:23 Clerk 2:16 3:6 12:3 15:8,9 20:17 21:6 60:24 clients 27:12 72:9 climate 47:9 closely 32:23 closing 77:3 clothing 74:2 club 73:8 Co-Chair 65:15 coach 54:22 coaching 54:22 coalition 27:23 code 2:18 4:2 6:22 12:5,9 12:10,23,25 13:4,6,7,12 13:14,15,18 13:20 14:2 14:7,15 15:6,25 16:5,12 17:4,7,8,21 18:13,18 19:4,5 20:19 27:7 63:24 codes 16:19 73:25 codify 4:14 6:5 Cohen 21:21 colleagues 51:19 Collective 62:22 63:22 64:21 Collective's 63:8	color 26:15 28:23 50:3 73:22 Colors 74:10 COLOURS 71:21 combat 32:8 come 10:9 18:22 55:25 61:4,14 77:21 78:15 comes 8:3 44:18 74:25 comfortable 23:3 coming 32:24 commend 6:12,14 50:16 51:21 commenda... 7:3 comments 26:23 47:6 47:6 65:3 81:11 Commerce 30:6 Commission 20:22 22:15 24:10,11,21 25:10,15 27:7,24 28:9,11,22 29:17 30:18 31:8,11,19 31:22 33:5 34:18 35:8 36:24 38:7 38:7,12,14 42:4,10 47:25 50:17 50:23 51:4 51:6 52:24 53:2,4,9,25 54:7 58:15 58:16,23 77:7 Commissio... 3:10,11,15 3:16,21 4:3 4:4 5:11,18 6:3,5,12 7:6 7:9,14,17	8:8,15 11:12,21,23 commission... 36:8,16 38:10 46:24 47:14 52:19 54:15 committed 25:17 committee 1:3 2:4,7 3:3,19 6:14 7:5 12:19 15:12 24:3 24:8 33:6,8 33:10 34:3 35:7 39:7 42:17 65:17 81:12,20 82:12 83:2 83:8,21 84:2,16,19 84:22 Committee's 5:12 Commerce 30:6 Commission 20:22 22:15 24:10,11,21 25:10,15 27:7,24 28:9,11,22 29:17 30:18 31:8,11,19 31:22 33:5 34:18 35:8 36:24 38:7 38:7,12,14 42:4,10 47:25 50:17 50:23 51:4 51:6 52:24 53:2,4,9,25 54:7 58:15 58:16,23 77:7 Commissio... 3:10,11,15 3:16,21 4:3 4:4 5:11,18 6:3,5,12 7:6 7:9,14,17	company 13:9 72:6 compare 39:13,21 80:17 compensato... 53:20 54:2 competence 76:17 complainant 35:18 38:18 38:19 53:8 56:20 complaint 35:12,13,21 36:18 37:18 46:20 59:2 Complaints 26:18 completes 81:11 84:18 complies 4:22 comply 52:12 concept 75:15 concern 26:9 44:23 concerned 22:20 concerns 22:3 22:7 48:17 conciliation 38:14 concluded 84:23 conclusion 36:25 conditions 12:12 20:25 24:23 conduct 69:15 conducted 74:11 conducting 37:24 confidence 78:24 confident 47:13 48:9 confines 64:4 conform 30:12 confront
--	---	--	--	--	---	---	---

Committee on Law and Government
April 24, 2017

Page 3

63:16 conjunction 33:9 conscientious 19:15 consequence 76:22 consequences 75:25 76:13 considered 28:21 considering 23:5 consistent 14:10,13 16:5 25:14 constituents 10:7 Constitution 43:25 construction 12:6 44:8 consults 4:25 contained 85:5 context 52:3 continue 48:7 64:17 continued 63:18 continuing 48:16 contract 18:11 contractor 13:5 contracts 30:17 control 85:23 controls 15:9 convene 33:11 convened 33:4 conversation 33:24 65:10 conversations 32:23 33:11 33:14,17 conviction 54:24 cooperate 4:8 4:17	cooperates 4:19 coordinated 13:9 copy 15:6,7 correct 4:23 8:15 9:3 56:13 85:8 corrective 69:12 cost 18:2 79:18 costs 53:23 Council 1:2 7:18 13:13 14:5,18,25 15:2,8 66:22 71:6 77:12 78:10 82:16 83:11 84:6 Councilman 1:10,11,12 1:12,13 2:2 2:6,7,7,25 3:9,13 5:10 6:9,10,15 7:4,10,11 7:12,15,16 8:9 9:25 10:5,13 11:6,7,16 11:20,25 12:13 15:17 15:20,21 16:20 17:13 17:20,25 19:22,24,25 20:5,9,13 21:2,7,8,10 21:19,20,22 21:23 23:23 23:24 24:2 25:2 28:5 32:12,16 34:5,24 35:2,3,4 37:4 39:5 40:18 41:18 41:24 42:11 42:13,14,18 42:20,23 43:4,4,5	48:13 49:13 50:9,11,12 51:20 55:21 58:8,10,11 60:10,12,13 60:16 61:3 61:9,13 64:23 65:7 68:6,11,22 70:6,20,25 77:16,22 79:5,7,8 80:10,16,24 81:5,8,14 81:16,23 82:4,6,8,10 82:18,22,24 83:4,5,13 83:17,19,23 83:24 84:8 84:12,14 Councilme... 64:15 Councilme... 62:6 64:16 Councilpeo... 62:6 Councilper... 62:5,10,12 62:14 Councilper... 9:17 Councilwo... 1:10,11 3:2 10:3 21:21 42:16,19 50:13,14 57:11 58:9 68:8 77:19 77:23,24 79:6 count 59:14 counterparts 74:14 country 23:6 75:23 courage 68:23 70:16 course 42:23 55:23 court 4:22 37:3 41:21 41:25 42:8	56:21,23 57:4 covers 31:15 covert 73:19 73:22 crack 18:19 create 30:6 48:25 creating 40:16 critical 77:14 crop 66:6 cultural 76:16 culturally 76:20 curious 58:20 Current 29:11 currently 13:16 14:11 35:9 71:19 customer 44:18 cutting 60:6 cycle 75:19 D damages 52:22 53:20 53:21 54:3 59:22 Darryl 63:2 Darryl's 63:19 data 27:10 date 30:18 David 1:12 21:20 day 45:12 48:10 55:4 77:2 days 13:13 28:10 36:23 37:3 75:5 deal 11:2 18:7 44:25 dealt 19:16 decades 21:14 29:6 67:3 decide 18:16 decided 16:10 54:7,15	decision 37:2 declining 63:24 dedicated 65:17 71:22 deed 2:22 4:5 4:23 5:3,20 6:7 8:16 9:19 Deeds 2:19 deep 67:21 default 41:2 define 34:19 defined 63:10 Definitions 12:5 delay 2:5 delivery 24:18 demand 70:17 demanding 26:17 Democrats 65:16 Department 2:20,21 3:17,22 4:6 4:11,12,16 4:19,25 5:2 5:5,18 7:25 9:15 12:7 12:20,24 13:2 14:6 17:15 depending 59:13 DePiano 63:2 Derek 1:11 64:15 describe 16:3 described 2:24 desist 31:24 34:22 53:12 detail 65:23 deter 76:8 development 30:8 dictate 56:6 differences 6:19 different 8:18	9:22 19:8 52:5 58:3 differently 74:13,16 difficult 44:16 67:16 direct 16:8 62:23 63:16 85:23 directing 53:5 direction 66:16,20 73:2 director 24:9 24:25 32:20 32:24 37:11 46:25 58:18 71:20 72:5 80:23 directors 26:5 29:23 disarm 70:11 disarmed 69:6 discrepancy 15:5 discretion 8:11 42:3,7 discriminat... 54:5 discriminates 69:11 discriminat... 44:11 discriminat... 20:21 24:15 25:8,17 26:11,19 27:16 28:12 29:3,10,13 32:7 33:3 33:20 36:5 39:17,20 45:21 46:6 47:22 49:8 49:17 52:21 55:13 66:14 69:2,9 70:2 70:11 72:18 75:2,16,24 discriminat... 69:21	discriminat... 40:2 43:21 46:10 49:4 50:20 64:19 66:25 71:14 73:4,20 76:8 77:10 discuss 18:15 discussed 73:25 discussion 21:13 discussions 48:8 disparate 39:19,22 46:5 51:15 disputes 8:20 disrupts 67:8 distinguish 45:11 58:14 district 10:4 10:21 disturbing 28:18 diverse 33:15 33:25 76:20 78:22 diversity 67:12 documents 27:22 36:21 41:11,12 doing 11:22 14:23 17:9 18:18 19:14 65:19 67:22 door 10:9 draft 18:3 dress 27:7 44:14 63:23 64:3 73:25 dual 59:3 due 35:7 36:23 37:6 45:24 56:5 56:18 Duly 81:22 82:17 83:12 84:7 E earlier 78:17 early 37:17	75:6,6 easily 52:18 echo 43:3 Economic 30:15 economy 23:15 edge 60:6 education 71:25 76:22 educator 76:14 EEOC 58:17 58:18,21,25 59:3,4 effect 36:12 effective 31:14 39:11 40:21 effectiveness 67:18 effects 72:18 effort 33:13 efforts 9:18 13:9 31:14 39:11 40:21 egregious 32:4 34:21 38:20 73:6 eight 30:23 71:24 either 10:21 16:7 elected 69:19 elevate 33:22 emerging 7:21 emphasizing 43:6 employee 59:17 63:4 employees 29:11 59:18 59:19 employer 35:14 59:17 employment 24:15 27:8 27:18 29:14 41:14 53:6 54:8,9,10 54:13 empty 9:8
---	---	--	--	---	--	---	--

Committee on Law and Government
April 24, 2017

Page 4

ended 55:2 75:8	63:13 especially	expansive 60:9	58:4 59:24 71:10 72:24	final 20:14 finally 16:10	67:25 70:7 75:12	28:2,17 45:2 56:24	71:5 goodness
ends 48:25	6:18 21:18	expect 13:17	fairness	48:13 70:13	fought 67:4	59:8 72:11	45:16
enforce 48:19	72:21	expenses	38:21	find 9:12 36:3	found 28:14	72:21 74:21	GOV 3:1 4:1
56:6	essentially	53:24	fall 22:16	45:5 46:8	28:23 38:8	general 17:10	5:1 6:1 7:1
enforced	41:12	experience	39:18	67:2	38:8 52:20	34:20	8:1 9:1 10:1
74:17	establish	37:10 71:24	familiar	finding 31:11	52:20 71:13	generally	11:1 12:1
enforcement	33:10	72:9	58:19	findings	76:2	16:21 19:12	13:1 14:1
4:20 12:6	established	experienced	far 22:21	28:13,16	four 29:17	25:20	15:1 16:1
31:18 32:3	33:6	28:20	34:9	29:16 36:25	30:10,20	generated	17:1 18:1
48:18 49:6	establishme...	experiences	fast 75:12	finds 38:12	59:18	49:16	19:1 20:1
enforces	23:4 25:18	25:16	father 58:17	first 2:14 5:22	framework	geographic	21:1 22:1
24:13	74:18 76:10	experiencing	favor 12:21	10:10 19:14	56:4	49:7	23:1 24:1
enforcing	77:8	50:19	15:14 25:5	21:4 42:15	frankly 51:11	geographical	25:1 26:1
79:18	estates 8:21	experiment	82:2,20	46:22 50:16	fraud 4:23	25:19	27:1 28:1
engage 10:6	et 74:4	74:11	83:15 84:10	61:14 62:4	5:3 6:18,23	getting 10:21	29:1 30:1
55:17 76:7	ethnic 69:3	experiments	favorable	67:20 78:12	8:16 11:2,3	55:10	31:1 32:1
engaged	ethnicity	74:15	82:13 83:8	82:15 83:10	fraudulent	gift 38:19	33:1 34:1
31:12 39:10	23:10 45:2	expertise	84:3	84:5	2:23 4:7,18	girls' 54:23	35:1 36:1
53:5 55:22	evenhanded	72:14	favorably	firsthand	free 13:7	give 5:19 52:7	37:1 38:1
engages	49:9	experts 9:19	83:2,21	25:16	Friday 44:13	52:9 69:8	39:1 40:1
31:16 35:23	evenhande...	explain 10:15	84:16	fits 46:4	front 33:19	71:18 77:6	41:1 42:1
77:9	48:18	explicit 32:2	fearful 55:18	five 18:21	36:16 38:10	80:8	43:1 44:1
engaging	event 9:24	47:5 57:9	federal 56:21	38:25	fruitful 9:6	given 36:17	45:1 46:1
41:5 71:14	events 10:3	67:11	56:23 57:4	fix 17:9 19:11	frustration	73:12	47:1 48:1
76:24	everybody	exposed 73:6	58:19 75:9	floors 22:2	27:15	gives 68:2	49:1 50:1
English 76:6	2:3 51:23	express 57:12	feds 59:15,19	focus 67:5	ft 13:23 16:4	giving 10:25	51:1 52:1
ensure 32:9	evidence	expression	60:4	78:20	full 35:23	25:4	53:1 54:1
38:15 49:3	35:25 52:20	74:22	fee 18:8	focusing 49:2	36:11	go 8:17 9:21	55:1 56:1
ensuring	85:4	extensive	feel 28:24	folks 9:6 61:4	fully 4:9	16:22 17:5	57:1 58:1
23:18 67:9	exact 38:23	13:15 51:3	43:8 47:12	follow 79:17	34:11 35:20	17:6,7	59:1 60:1
enter 31:22	55:8 80:9	extent 13:10	48:9 77:14	followed	46:17 63:17	19:10 22:4	61:1 62:1
entering 76:9	exactly 47:10	eye 73:10	feeling 23:3	32:22	85:5	22:21 47:22	63:1 64:1
entire 28:7	example	74:24	78:14	footwear 44:6	fundament...	48:14 50:8	65:1 66:1
55:11 56:16	13:20 43:10		feelings 27:14	force 4:15	78:13	56:21 57:4	67:1 68:1
entitled 2:18	44:18,19	F	feels 38:14	forced 76:22	funding	59:4 62:17	69:1 70:1
12:5 20:19	46:15 48:22	fact 22:24	fees 53:23	forcing 70:4	30:11	65:4 77:17	71:1 72:1
entry 63:24	54:17 59:7	47:9 48:19	feet 13:21	forefront	further 2:19	77:23 81:13	73:1 74:1
73:25 74:9	74:3	49:25 57:24	16:4,4	22:5	12:10 34:19	God 45:13	75:1 76:1
environment	examples	facts 36:25	felt 70:2	foregoing 5:4		goes 34:9,17	77:1 78:1
40:4,6,13	52:10	50:25	female 55:3	85:7,20	G	36:15	79:1 80:1
40:17	exceed 53:21	faculty 71:25	fight 27:19	foremost	GALAEI	going 9:23	81:1 82:1
equal 49:5	excellent	failed 54:21	29:25 41:6	78:12	79:12	18:5,20	83:1 84:1
equality 67:5	50:17	fails 69:11	66:9 69:9	formatting	gathered	22:25 37:5	governing
equalize 62:9	exclusivity	fair 13:24	figh 21:24	12:9	27:21	50:24,25	25:13 27:11
equally 57:25	27:25	19:7 20:19	figure 46:12	former 21:19	gay 28:3	59:8 62:20	government
equitable	Excuse 63:21	24:13,19	file 35:16	21:21,23	72:17 73:17	67:25 75:14	1:3 2:4 3:20
32:10 53:13	Executive	25:12 29:21	41:13 59:2	forms 40:3	Gayborhood	79:23	5:21 11:9
76:18,19,25	24:9 37:11	30:2,14	filed 59:3	forth 29:17	25:20 26:4	good 2:2 3:9	24:8 69:7,8
equity 38:21	71:20 80:22	31:20 35:10	66:3	36:2	26:12 27:17	3:11,18	69:17 70:4
67:13	existing 4:15	38:17 39:14	files 35:12	forward 6:21	28:25 29:8	12:17 19:2	75:9 79:22
error 42:3	35:9	40:25 48:5	37:19	7:8 22:9,25	49:21 50:5	24:6 45:18	81:12 84:19
escalating	expand 37:10	53:3 55:12	filing 75:11	61:4,14	63:10	65:7 68:15	84:23
		56:3 57:15			gender 23:10		

Committee on Law and Government
April 24, 2017

Page 5

Graduate 72:3 great 7:25 10:14 24:6 54:19 Greater 30:5 Green 1:11 2:6 6:9,10 15:20,21 16:20 17:13 17:20,25 19:22 21:8 21:10 25:3 28:5 35:2,4 37:4 39:5 40:18 41:18 41:24 42:11 42:24 43:5 51:20 58:10 58:11 60:10 62:5,12 64:15 65:8 68:7,23 70:6 77:22 79:7,8 80:10,16,24 81:5,14,16 82:8,10 83:4,5,23 83:24 Green's 10:5 49:14 Greenlee 1:10 2:2,25 3:9 3:13,18 5:10 6:15 7:4,11 11:6 11:16,20,25 12:13,18 15:17 19:24 20:5,9,13 21:2,7,11 23:23 24:7 32:12,16 34:5,24 35:5 42:12 42:13 43:4 50:11 58:8 60:11,12,16 61:3,9,13 64:23 65:13 68:7,11 70:20,25	77:16 79:5 79:9 81:8 81:17,23 82:4,6,11 82:18,22,24 83:6,13,17 83:19,25 84:8,12,14 Greenlee's 21:19 ground 32:25 group 39:22 72:5 73:13 73:14 77:25 groups 10:23 26:13,14 33:17 39:24 69:3 76:9 grow 23:16 79:2 growing 26:9 guidance 53:18 guidelines 34:9,16 guilty 74:25 guy 45:14 guys 44:8 Gym 1:11 3:2 42:19 50:13 50:14 55:21 57:11 62:13 62:14 68:8 77:23,24 H Hall 1:6 10:10 hand 8:17,17 handed 34:15 handle 16:14 75:15 handled 34:14 hands 15:8 happen 49:15 50:4 55:15 55:15 80:2 happening 47:6,7 65:12 66:6 happens 21:14 36:2 50:5 56:4	happily 24:24 happy 15:15 19:19 31:2 48:7 65:11 harassed 54:11 harassment 40:2 50:20 harbor 67:2 hard 67:4 harder 69:14 harm 55:19 harms 53:7 hats 71:16 heal 67:21 hear 10:14 25:15 41:23 46:21 50:24 64:25 heard 50:22 68:9 78:9 hearing 22:16 25:11,23,25 26:3,8 27:3 27:21 28:6 28:10 32:22 36:7,15,20 36:22 38:6 38:10 49:16 52:16 53:23 65:22 81:11 82:6,24 83:19 84:14 hearings 39:2 51:16 52:15 heart 45:5 69:15 77:4 heels 26:8 heir 8:22 held 2:11 25:10,24 Helen 1:11 62:13,14 help 5:20,25 6:4,17 31:5 52:3 helped 59:23 helpful 10:17 15:3 16:13 helping 6:6 6:22 79:2 Henon 1:12 2:8 7:15,16	8:9 10:13 hey 44:12 higher 71:25 highest 54:3 highlighted 57:20 highlighting 26:15 highly 55:5 Hikes 24:25 32:15,19,19 62:19 79:21 80:11,12,20 hire 45:3,14 54:21 hired 45:8 55:5 hiring 53:14 55:2 historical 27:21 historically 33:23 hit 32:25 hold 21:2 36:19 64:18 holding 73:2 Home 25:12 homophobic 47:6 honor 70:14 hoodies 74:4 hope 48:15 77:12 hoping 49:10 host 9:23 hosted 9:24 10:3 hostile 40:3,6 40:13,17 hot 75:18 housing 24:16,17 huge 18:10 human 20:23 22:15 24:10 25:10 35:8 47:4 58:15 58:16,22 63:17 77:6 hyphen 62:2 I ICandy 26:22	73:8 74:23 idea 19:2 identification 74:6,8 identify 3:14 13:21 24:4 32:17 61:15 61:22 65:5 68:13 71:3 identities 72:11 identity 28:18 56:25 59:8 72:21 imaginary 66:5 immigrants 69:4 impact 39:22 46:5 51:15 72:20 implementi... 80:5 implicit 29:22 30:3 67:11 76:17 importance 51:6 57:14 57:20 78:9 important 10:5 11:8 21:12 25:3 43:2,12 50:2,18 65:21 67:6 68:4 70:11 incidents 26:16 27:14 63:9,13 66:2 include 40:3 included 30:16 73:23 including 16:16 26:23 53:10,14 64:12 76:17 inclusion 67:12 inconsisten... 13:19 inconsistency 13:25	incredibly 33:15 incurred 53:24 Independent 30:4 31:3 individual 39:20,21 66:22 individuals 26:14 33:23 52:11 inequality 62:24 inequitable 74:17 inexpensive 18:7 inform 71:17 72:13 information 5:13 27:6,8 35:18 36:17 informs 72:14 initially 46:18 initiate 4:11 initiated 33:16 initiatives 33:7 injunction 53:13 insensitivity 66:13 inspired 70:17 instance 10:10 14:16 40:11 47:20 instances 41:4 66:13 institutional 51:10 76:23 institutiona... 72:19 75:2 75:16,20 institutions 25:18 52:11 63:16 66:24 67:10 insurance 9:21 intent 51:7,14	intention 33:21 interact 58:23 Interim 71:20 interpersonal 72:19 intersect 9:13 intersectional 33:13 67:15 intertwined 8:6 intervention 9:3 introducing 25:3 70:7 introduction 42:24 investigate 46:19 investigating 39:17 investigation 35:23 51:4 75:8 invite 23:14 involved 21:24 79:13 involving 7:24 iron 75:18 issue 5:14 6:16,21 7:6 7:8,20 8:14 8:19 11:22 22:2,17 34:22 37:21 43:2 48:22 51:19 53:4 57:19 61:21 issued 28:11 31:11 issues 9:20 21:16 22:7 22:10,12,22 33:14 36:24 43:11,12,13 68:4 76:17 J J 1:13 James 3:6,15 3:20 January	36:12 job 45:19 52:21,22 55:3,6 67:16,17 John 21:22 Johnson 9:25 joined 24:24 journalists 26:12 66:7 judges 37:24 judgment 41:2 78:25 justice 67:14 67:15 70:17 K K 1:10 Kenyatta 60:25 65:6 65:14 78:6 key 29:17 Khalif 60:25 68:15,16 78:8 kind 5:23 8:4 8:5,6 16:11 16:17 34:16 35:7 37:9 44:24 45:20 49:8 66:4 kinds 76:9 know 8:23 9:23 13:2 18:24 24:11 28:7 34:14 34:21 38:24 39:6 43:12 43:14,22 44:9,24 45:3 46:22 46:24 47:3 47:25 49:24 51:19 56:2 65:10 66:3 69:21 78:3 knowledge 80:20 knowledgea... 48:21 known 25:19 L L 85:14
--	---	---	---	--	---	--	---

Committee on Law and Government
April 24, 2017

Page 6

labor 53:17	41:1 42:1,4	17:18 19:17	line 31:18	65:14	37:17,25	move 7:7	nig-nig-nig-...
Ladipo 72:5	42:5,6 43:1	35:20	lines 33:19,21	male 54:22	38:5,11,15	20:14 51:12	63:5
Landau 21:6	44:1 45:1	legislate 77:4	listen 22:14	man 72:17	40:24 41:7	67:25 75:12	night 44:12
24:4,6,9	46:1 47:1	77:5	44:12	management	55:16 56:7	81:20 82:11	44:13
34:2,8,18	48:1 49:1	legislation	listening	29:24 30:20	mediators	83:6,25	Nikki 60:24
35:6,11	50:1 51:1	6:13 15:25	51:24	30:22 48:3	37:22	moved 22:8	79:11
37:14 39:16	52:1 53:1	21:13 22:23	little 11:3	55:11	meeting	22:20 81:24	nine 59:16
40:23 41:22	54:1,25	23:18 39:8	19:18 61:21	manages 13:3	48:15 81:13	82:19 83:14	Ninety 28:10
42:2 46:2	55:1,13	77:13 79:19	67:18 69:14	mandate 31:4	meetings 33:4	84:9	nominal 18:8
49:12 52:14	56:1 57:1	legislative	80:7	mandatory	member 3:3	movement	non-discr...
56:14 58:7	58:1 59:1	22:5	live 23:2 26:2	47:24	24:2 42:16	68:17	27:9 30:13
58:12,24	60:1 61:1	lens 72:16	32:10	manual 16:7	72:2	moves 63:20	non-profit
62:15 79:21	62:1 63:1	Leonard 3:6	Lives 68:17	manuals	members	moving 6:21	26:6 30:21
79:25 81:2	64:1 65:1	3:11,15,16	locations 49:7	27:10	3:19 7:18	28:8,9	30:24 66:21
81:4	66:1 67:1	3:20 6:3,12	54:14	Marconi 2:14	12:18 24:7	Muhammad	non-profits
language	68:1 69:1	7:6,9,14 8:8	long 5:15	12:2 20:16	26:9 28:19	61:2,24,25	30:10 31:6
6:20 31:25	70:1 71:1	8:15 11:23	8:21 13:17	60:20	29:23 30:9	62:2	Nos 2:10
62:8	72:1 73:1	lesbian 28:3	16:21 19:16	marginaliz...	31:6 33:12	multiple	not-as-bad
large 13:18	74:1 75:1	lettered 14:3	22:21 67:19	28:16	33:18 39:6	14:12 36:8	47:21
16:16 39:23	76:1 77:1	lettering 14:9	67:20 68:5	Market 59:11	64:2,13	39:18 56:11	note 79:10
larger 33:20	78:1 79:1	14:13 19:4	longer 21:20	Marketing	71:6 81:19	MURPHY	notes 85:6
lastly 72:7	80:1 81:1	19:8	70:15	17:17	membership	85:14	Nowadays
late 21:22	81:12 82:1	level 36:6	longest 65:25	marriage	53:16		45:15
75:7	83:1 84:1	40:5,13,16	longstanding	67:5	memos 36:18	N	number 6:16
late-stage	84:19,22	43:23 44:13	26:25	match 55:19	Men 74:10	N 26:23 63:19	9:13 16:15
38:5,11	laws 48:20	47:2 48:12	longtime	matter 57:23	message 10:8	name 3:20	19:7
launched	lawsuit 75:11	58:20 78:23	68:18	68:17 85:7	23:8 32:5	52:9,9 61:6	numbered
46:17	lawyers 37:23	levels 50:20	look 16:12,17	matters 4:21	MICHELE	61:24 62:2	14:2
law 1:3 2:4	lay 35:6	Lewis 12:19	45:4 51:14	14:19 78:7	85:14	65:14 68:16	numbering
3:1,19 4:1	lead 8:24	LGBT 24:25	64:8 75:5	Mayor's	midst 63:7	71:7,8	12:8 14:8
4:11,15,19	13:19 22:5	30:6 32:20	looking 9:7	24:25 32:20	military 44:5	names 60:21	14:13 19:4
5:1,2 6:1	leader 21:18	32:24 33:3	looks 45:18	33:5	million 80:3	nation 22:6	19:9
7:1,25 8:1	leadership	33:5,12	47:11	Mazzoni	mind 54:20	23:6	numbers
9:1 10:1	30:7 65:8	48:23 49:2	Lopez 60:24	27:18 29:24	minority	national	38:23
11:1 12:1,7	78:18,25	56:13 65:16	79:11	meaning	73:14	21:17 75:4	numerous
12:20,23	leading 51:20	65:18 67:3	lost 54:18	14:24	minority-o...	necessarily	29:9
13:1,2 14:1	62:23	68:19 71:22	lot 5:13,24	meaningful	72:6	52:8	O
14:5,17,24	leaked 63:6	71:23 73:15	9:2 22:9	70:9	mission 25:15	necessary	O'Neill 1:13
15:1 16:1	73:9	74:18 80:13	37:15 44:6	means 85:22	mistakenly	32:8	24:2
17:1,15	learned 22:17	LGBTQ 22:3	44:7 57:23	measure 3:25	2:22 4:5	need 12:10	objections
18:1 19:1	27:24 63:21	25:9 26:7	78:20	20:24 24:22	model 75:22	23:7 41:15	85:4
20:1 21:1	learning 7:24	26:10 28:13	lots 9:8 58:2	68:2	Monday 1:7	43:7 69:17	obligations
22:1 23:1	76:16	28:19,23	love 22:11	measurement	money 18:10	75:21	48:4
24:1,8,14	leaves 8:10	29:5,12	23:13 49:25	13:22	18:11	needed 77:2	obtain 74:8
25:1 26:1	leaving 47:24	30:12 49:17		mechanisms	month 9:24	needs 50:23	obtained 27:7
27:1 28:1	led 75:10	62:24 64:12	M	31:18	months 65:11	negative	obviously
29:1 30:1	78:4	69:25	M-U-H-A-...	media 10:22	morning 2:3	76:13	10:12 43:20
31:1 32:1	Lee 60:24	Liberty 25:24	62:3	25:25 66:3	3:10,12,18	neighborho...	occurred 2:24
33:1 34:1	71:7,8	65:15	making 15:4	mediate	12:17 24:7	49:19	4:8 36:5
35:1 36:1	left 33:24	limited 44:9	16:4 23:19	36:10	65:7 68:16	neighborho...	October 25:6
36:25 37:1	legal 4:11,20	53:10 73:24	60:6 65:24	mediation	71:6	7:21	32:22
37:25 38:1	13:5,6,10	limiting	68:8	36:11,12	motions	never 76:4	offer 41:7,8
39:1 40:1	16:13 17:16	73:25	Malcolm	37:9,13,16	36:23	new 30:8 66:6	71:11
			60:25 65:4			78:25	

Committee on Law and Government
April 24, 2017

Page 7

office 30:14 32:25 35:13 35:16 68:24 80:13,22 offices 10:22 officials 69:20 70:4 Oftentimes 54:4 oh 1:12 2:7 35:3 42:18 42:20 45:13 45:16 48:13 50:9 okay 15:17 19:22 34:5 34:24 48:13 50:9 61:10 80:16,24 old 68:21 once 18:16 54:4 one's 72:20 ongoing 7:5 7:20 16:23 17:2 26:10 29:4 online 13:7 13:11 open 8:10 33:21 operate 23:4 67:10 operated 72:6 operations 20:24 24:22 31:9 32:4 opportunities 39:3 41:7,8 opportunity 15:13 22:13 25:4 33:11 35:19 36:10 36:22 37:20 66:23 68:3 Opportunit... 30:15 opposed 58:17 82:4 82:22 83:17 84:12 oppressed 73:13	oppression 67:8 75:20 oppressive 73:13 76:2 options 56:5 57:5 order 19:8 20:23 24:21 31:8,22 32:3 34:23 42:7 52:25 53:4,9,11 ordering 76:6 orders 4:22 ordinance 2:17 12:4 15:7 20:18 20:20 24:13 24:20 25:13 29:21 30:3 30:14 31:13 31:20 35:10 39:15 40:25 48:6,25 53:3 55:13 56:3 57:15 58:5 59:25 60:5 70:10 71:11 72:25 77:5 organization 53:17 71:21 71:22 organizations 4:21 26:6 27:23 66:8 66:24 organize 78:11 organized 70:3 organizing 26:16 78:20 orientation 23:10 56:24 59:7 69:5 72:22 74:21 orientations 72:10 Ortiz 21:23 outcry 63:18 outlining 19:5	outrageous 47:17 outreach 9:17 33:10 outside 80:14 overdue 67:19 overhaul 59:23 overlap 8:18 overreaching 45:25 overturned 42:7 overwhelmi... 27:13 64:6 owned 63:3 73:21 owner 26:21 44:11 owners 8:22 26:3 29:19 73:2,7 P P 3:20 page 18:25 pages 13:16 Parker 10:4 part 15:24 40:20 44:16 55:24 61:18 62:21 68:17 79:3 part-time 71:20 participate 9:16 22:13 23:15 66:25 participates 35:22 participating 10:2 participation 84:21 particular 9:15 41:16 43:5,6 51:10 52:4 77:25 particularly 26:14 28:20 31:20 43:16 48:23	parties 36:20 parts 49:22 party 38:15 pass 77:13 patrons 26:24 27:12 74:2 74:6,12,15 pattern 27:25 40:8 patterns 29:13 pay 42:5 53:15 payment 53:19,20,22 53:23 PCHR 26:5 32:2 51:24 55:24 57:20 58:21 64:17 66:15,19 67:16 78:24 pchrlgbt.org 28:15 penalties 12:6 52:5 71:12 penalty 34:10 52:4 Pennsylvania 1:6 68:18 people 6:24 6:25 8:12 9:9 22:25 23:8,14,19 24:14 25:23 26:15 27:24 28:23,24 34:13 39:24 43:15 45:16 46:13 48:19 50:3,23 51:8 54:4 58:3 64:6 64:12 65:24 66:3 69:18 69:25,25,25 73:9,22 74:3 76:16 76:21 78:5 people's 25:16 60:7 74:20 percent 80:4	period 16:23 31:10 35:15 40:15 56:19 permits 31:21 person 19:15 personnel 41:13 perspective 22:18 23:11 23:21 58:21 79:20 perspectives 33:25 Philadelphia 1:2,6 2:18 4:2 7:2 12:5 12:9,23 13:3 20:19 21:17 22:15 23:5,9,12 23:17 24:10 25:9 27:19 29:25 30:17 32:9 47:17 57:2 59:12 60:5 64:5 67:3 69:16 70:12 72:7 73:11,18 74:20 75:3 75:7,21 77:6 Philadelphi... 25:8 28:12 29:5,21 30:5 33:3 phone 27:6 pick 14:9,12 piece 59:14 pieces 17:8 Pine 25:22 place 7:23 13:20,22 19:14 32:10 41:14 50:24 54:10,13 placed 54:10 places 27:16 27:18 platform 63:8 played 75:4 Pleas 37:3 41:21,25	42:8 please 2:15 2:25 3:13 12:2 20:16 23:25 24:4 32:17 42:15 49:24 61:13 61:22 65:5 68:13 71:3 82:9 pleased 3:22 5:8 pockets 69:20 point 10:5 26:20 35:17 36:24 38:4 38:12 39:2 43:25 46:18 55:24 pointed 63:23 policies 21:16 27:8,9,11 41:13 policing 63:14 75:10 policy 4:16 39:23,24 46:3,8,9,21 63:22,24 64:2,9 political 65:16,18 66:8 poor 69:25 popular 73:8 population 25:9 26:7 26:10 populations 76:21 position 32:21 positions 72:12 possible 5:21 11:10 60:9 76:15 post 36:22 posted 26:21 potential 31:6 power 41:12 52:6 57:9 62:7 65:18	76:15 78:12 powerful 69:9 powers 25:11 powers-that... 69:23 practice 53:6 53:12 practices 20:20 24:13 24:19 25:13 29:7,15,21 30:2,14 31:20,24 35:10 39:15 40:25 48:6 49:4 50:21 51:11,12 53:3 55:12 56:3 57:15 58:5 59:24 64:20 67:2 71:10,15 72:24 73:4 73:20,23 74:17 76:2 76:8,18 77:10 pre-hearing 36:18 preferred 44:6 prefers 45:3 prejudice 27:15 prepared 15:9 present 1:9 3:4 24:3 42:17 presentation 13:19 presented 4:23 14:11 presenting 14:10 presumably 63:3 pretty 34:21 43:7 45:9 45:15 47:12 48:9 52:20 prevent 6:17 6:23 11:3	prevention 11:4 primarily 44:14 printed 13:16 prior 80:17 private 55:16 privilege 62:8 proactive 6:4 10:24 11:13 probable 36:3 38:8 38:13,25 probably 16:12,16,25 17:3,4,10 17:11 18:14 19:9 problem 5:22 problems 29:4 69:19 procedures 35:8 proceed 3:14 24:5 32:18 61:23 65:5 68:14 71:4 proceedings 85:4 process 16:21 16:22 35:7 36:2,9 37:7 37:8 38:22 45:24 46:11 55:18 56:5 56:18 67:21 79:24 processes 8:5 professional 30:16 professiona... 71:17 profit 51:12 program 36:12 46:17 53:19 programs 80:6 progress 37:12 progressive 21:15 22:2 project 31:5
--	--	--	---	---	---	--	---

Committee on Law and Government
April 24, 2017

Page 8

promoting 10:20	16:14 41:11 72:9 77:8	questions 5:2 5:8 6:8 7:13	69:18,19 75:25	62:5 reflect 3:2	55:7,15,19 remember	respect 9:14 respond 70:5	43:23 48:11 rising 78:22
promulgate 34:19	provision 15:4 20:22	11:14 15:15 15:19 20:2	reality 28:18 76:11	23:25 42:16 reflective	55:7 repeated	respondent 20:23 24:21	Rizzo 75:5
promulgati... 48:8	24:20 27:11	34:4 39:7 60:14 65:2	really 5:24 6:17 10:14	28:2 refuse 40:24	31:13 39:10 40:5,8,15	31:8,12,23 35:14,15	role 37:11
proof 19:13	provisions 30:13	81:10 quickly 15:22	22:3 35:20 52:23 60:4	refused 54:13 regarding	47:2,3 repeatedly	37:18,19 39:9 52:18	Room 1:6
proofread 18:14,24	PTSD 63:14 public 9:22	79:16 quiet 4:9,17	65:8,21 75:14 77:12	4:21 22:2 71:9	43:9 63:5 replace 14:22	53:5,11 respondents	Rosman 12:14,17,19
properties 8:21,23	13:7 24:16 25:11 27:16	quite 22:9 quorum 2:5	78:6 reasonable	regardless 23:9	report 27:22 28:11,14	41:4 response	15:18,23 16:9,25
property 2:24 4:8,10 5:16	49:16 52:15 64:18 71:12	quote 31:22 quote/unqu...	53:22 reasonably	Regional 58:18	29:13 31:2 51:18 66:15	11:15,19 20:4,8 25:7	17:18,24 18:4 20:3
9:7,8 24:17	74:19 75:20 76:9 77:9	73:19	2:21 4:4 reasons 5:4	regularly 4:19,25	reported 64:10 66:2	20:10,11 RPR-Notary	85:15 Rue 21:6 24:9
proposed 19:13 72:24	81:13 85:15	R	rebuttal 35:19,22	regulations 25:14 34:19	82:25 83:21 84:15	45:20 60:15 61:8 70:24	62:15,17 65:22 77:21
81:17	publication 13:3	race 28:2,17 33:6,8 45:2	36:19 receive 29:20	45:23 48:9 reimburse...	reporter 85:24	82:5,23 83:18 84:13	79:17 Rule 25:12
proposes 71:11	publicly 70:14	57:3 72:21 74:20	30:2,11 36:18	53:24 reinstating	reporting 27:25	48:5 responsibili...	rules 82:14
proposing 14:4	publish 12:25 published	races 69:3 72:10	received 27:20	53:14 related 27:10	reports 25:7 29:9 51:16	rest 75:22 restored	83:2,9,22 84:4,16
prospective 30:8	14:7 publisher	racial 25:7 26:18 62:24	receives 37:8 recitation	relates 44:14 48:24	66:3 reproduction	66:17 restoring	running 33:2
prosper 23:16	16:12 17:4 publishing	63:9,13 64:19 75:2	recitation 37:6	48:24 relating 4:18	66:3 reproduction	53:16 restriction	S
protect 59:6 59:12	13:5 16:15 17:19	racialized 63:23	37:6 recognize	5:2 29:14 Relations	85:21 request 2:12	59:20 result 8:20	S 1:11 Sadly 27:19
protected 44:25 45:4	punish 77:7 punished	racism 25:17 26:10 27:2	51:9 recognizes	20:23 22:16 24:11 25:10	4:10,13 56:20	74:14 76:24 retired 37:23	safe 28:21 32:9 67:2
45:7 50:7 56:25 58:4	47:8 punitive	28:11 29:3 29:9 33:2	81:14 recommend...	33:7,8 35:9 58:15,16,22	require 9:2 51:25	58:18 retraining	safeguards 8:5
59:6,13 76:3	53:20 59:21 purchased	33:19 49:17 51:7,10	82:13 83:8 84:3	77:7 relatively	required 52:11	53:19 revealed	salaries 80:4 80:5
protecting 24:14 60:7	13:8 purpose 16:2	73:6 75:9 75:17	recommend... 28:14 29:18	18:7 relief 4:13	requirements 30:15	27:14 28:16 revenue	salary 80:14 80:15,19,22
Protections 20:20	pursuant 25:11	racist 26:22 47:5	28:14 29:18 record 2:9	53:13 religion 45:2	31:23 53:11 67:9	69:13 review 41:20	sanctuaries 64:11
protects 59:15	put 4:14 10:19 51:18	raised 57:19 rampant 75:9	3:2 6:11 23:25 42:15	remain 22:12 remaining	resistance 41:16	41:25 reviewing	sat 63:2 Saturday
protracted 8:24	66:15 puts 59:21	range 51:24 52:4 56:5	60:22 61:18 79:11,15	30:23 remanded	41:16 resistant	35:24 right 32:17	44:12 saw 66:10
prove 41:15 proven 44:16	putting 65:9	rarely 41:3 reach 68:24	recorded 2:22 4:6	42:9 remedial	41:10 Resolution	37:17 38:6 45:18 46:6	saying 11:8 43:13,21
44:17 provide 2:19	Q	reached 26:19	2:18 9:20 Records 2:20	20:24 24:22 remediate	1:16 2:11 resolve 37:21	52:14 54:16 56:20 61:10	44:10 62:9 says 43:18
13:11 26:6 30:11 37:7	qualified 55:5 55:6	read 43:9 52:24 56:10	3:16,22 4:3 4:6,12,16	31:14 39:11 40:21	39:3 41:9 57:6	66:16 72:25 81:5	76:5 scheduled
provided 15:12 27:6	question 10:17 34:7	62:20 reading 82:15	5:5,17 recourse	52:17,25 53:10	36:13 37:16 38:3	79:11 rights 22:3	36:6 38:9 39:11
30:19 72:16	39:6 40:19 41:19,19	83:11 84:5 real 2:23 4:7	66:19 67:23 redress 53:7	remedies 53:10	Resources 25:24	48:4 60:8 rise 40:12,16	school 54:21 72:3
provides 14:21 30:7	77:18,22 79:18	6:15 24:17	referring	remedy 31:17		46:25 rises 40:5	second 21:3,3 40:20 46:4 80:9
providing							

Committee on Law and Government
April 24, 2017

Page 9

seconded 81:22,24 82:17,19 83:12,14 84:7,9 section 14:8 31:21 sections 13:25 19:7 see 16:17 40:6,7 41:8 41:17 47:14 47:16 60:22 63:17 66:12 74:12 78:15 Seeing 11:16 20:5,9 60:16 61:9 seen 72:17 76:14 sell 18:9 seminars 9:22 send 17:21 18:3,12,23 59:9 sending 23:7 sends 32:5 Senior 12:20 senses 40:12 sensitive 43:13 September 26:20 series 55:23 serious 40:4,8 57:16 seriously 57:22 75:24 serve 3:21 35:13 46:20 65:15 71:19 service 26:7 29:12 77:9 services 4:20 24:18 27:12 30:11,16 servicing 71:22 session 82:16 83:11 84:6 set 29:17 settled 38:17	52:17 settlement 52:2 55:16 56:7 settlements 52:10 55:14 55:23 severe 31:12 34:11 39:10 43:8 47:2,3 sex 69:5 sexual 23:10 56:24 59:7 69:5 72:10 72:22 74:21 sexually 54:11 share 68:25 72:12 sheets 41:15 shocks 40:12 shoes 44:6 show 74:5,7 shown 44:17 shows 11:9 shut 69:13 side 11:10 sign 76:4 78:22 Similarly 13:24 simply 43:21 57:13 single 48:10 single-mind... 67:5 sir 70:8 Sisterly 22:11 23:13 sit 37:20 40:24 situation 74:23 situations 8:25 9:5 49:22 six 32:24 size 69:5 smaller 40:14 social 10:22 25:25 29:12 66:2 72:3 73:14	solely 14:19 somebody 41:10 47:20 someone's 41:13 somewhat 58:19 sooner 7:25 sorry 2:4 41:22 sort 8:11 9:8 16:10 34:8 sought 25:15 source 29:9 spaces 28:20 29:2 62:25 spans 25:20 speak 46:3 76:6 78:7 speakers 27:3 78:2 speaking 35:24 63:3 speaks 64:10 special 28:4 specifically 14:21 28:22 specified 31:10 spirit 70:16 sponsor 7:19 10:25 21:9 68:23 sponsors 2:12 sportswear 64:9 squarely 31:17 46:4 staff 9:19 15:2 29:19 29:24 30:19 30:22 35:22 36:2,5 38:8 47:13,23 48:2 55:11 stage 37:17 75:4 standard 16:6 39:8,9 39:13 40:4 40:7,20 41:20,24 42:2 51:11	standardize 12:8 14:6,8 18:17 standardized 18:23 19:6 standardizi... 16:11,18 18:20 standards 39:14 43:7 45:6,23 47:14 59:25 start 10:20 52:22 started 46:16 state 6:11 58:16,22 59:7,14,18 59:21 60:3 79:15 stated 58:12 statement 37:5 62:21 statements 61:19 73:14 stating 39:9 staying 28:6 steadfast 63:15 steal 9:7 stenographic 85:6 step 66:16,20 72:25 stepping 70:7 steps 37:7 67:20 sting 70:2 73:11 stream 26:2 69:13 street 25:21 25:21 59:10 streets 25:22 69:22 70:4 78:11 strengtheni... 66:19 strong 21:15 32:5 60:4 struggling 5:14 students	37:25 style 14:20 subject 44:24 submit 35:19 36:21 submitted 27:5 submitting 71:8 subpoena 41:11 subpoenaed 26:4 subsections 14:2 subsequent 32:23 subsequently 75:10 subset 36:7 substantiated 26:25 substantive 14:17 sue 56:21 suffered 53:8 suggesting 15:10 suggestion 15:3 suggestions 16:14 summarize 61:19 supervision 85:23 supervisor 38:2 support 3:23 34:12 42:25 62:14 64:14 64:16,16,21 70:10 71:9 supporter 68:19 supports 5:5 supposedly 64:11 sure 6:23 16:5 18:25 22:24 23:7 23:19 32:17 38:21 45:22	47:10,19,22 50:7 60:7 71:5 suspects 2:21 4:5 suspension 82:14 83:3 83:9,22 84:4,17 synonym 14:23 system 14:13 systematic 71:14 systems 67:8 T table 3:8 12:16 33:25 37:21 61:12 tackle 69:19 take 8:12 16:22,23 17:15,23 18:19 26:17 28:4 41:2 53:6 56:23 57:23 59:16 69:11,22,23 75:23 77:13 78:10 taken 6:24 7:23 31:4 46:10 85:6 takes 40:2 talk 18:18 19:10 40:19 51:14 54:4 talked 5:18 37:9 65:23 66:11 73:10 tangled 8:3,7 8:10,13,16 8:19,24 9:5 9:14,20 11:2 targeted 63:14 targeting 43:16 targets 9:11 Tasco 21:22 teaching 71:24	team 54:23 technical 8:2 12:24 15:2 teeth 77:7 tell 50:3,23 73:18 Temple 72:2 ten 18:21 38:25 72:8 tension 25:7 term 14:22 terms 12:11 14:6,11 18:21,21 19:2 20:25 24:23 38:16 43:8 56:7,7 test 46:22 49:20 testify 3:23 11:17 12:21 15:14 20:6 25:5 61:7 70:23 79:12 testimony 4:24 10:16 15:24 22:14 27:4,5,13 27:20 42:23 43:10 61:17 61:17 65:24 71:9,18 72:15 testing 46:16 thank 5:7,10 7:3,8,9,11 7:17 11:6 11:23 15:13 15:18,23 19:22,24 20:10,11 21:10 23:22 23:23 25:2 28:4 32:12 34:2,6,25 35:4 42:11 42:13,20,22 50:9,11,14 57:17 58:6 58:7,8 60:10,12,17 60:17,18 62:4,11,12	62:15,18 64:22,23 65:6,7,12 68:6,10,11 68:22 70:8 70:19,20 77:15,16 79:3,5,8 81:6,7,8,16 82:10 83:5 83:24 84:20 thanks 11:5 11:21,21 46:2 theft 5:15,20 6:7 theory 46:5 therapist 72:8 therapy 72:9 thing 9:15 17:2,3 28:7 34:14,15 56:17 66:5 67:24 things 9:13 18:17 44:2 51:22,25 56:8 78:15 think 5:13 7:22 8:10 10:13 11:8 16:9 17:2 18:22 19:3 19:18 34:20 42:25 43:24 44:14 45:9 49:7 50:18 50:22 51:5 51:9 57:18 62:7 65:20 65:25 66:18 66:22 67:10 67:17,20 68:2 75:17 77:21 78:6 78:21 thinking 34:13 thoroughness 57:21 thought 45:13 58:13
--	--	---	--	--	--	---	---

Committee on Law and Government
April 24, 2017

Page 10

65:20 thoughts 68:25 Thousands 25:24 three 18:20 82:9 Timberland 43:14,19 74:4 Timberlands 43:22 44:4 44:7,20 46:3,14 Timbs 63:22 64:7 time 5:15 16:23 19:16 31:10 34:9 34:17 35:15 40:16 41:14 43:25 44:5 49:20 54:17 55:24 56:19 60:18 61:21 65:25 75:18 77:2 times 36:8 40:14 56:11 tipping 26:20 title 4:9,17 8:13,16,19 8:24 9:14 9:20,21 17:5,6,11 17:12 18:17 titles 8:4,7,10 11:2 today 10:16 20:15 21:13 24:24 65:9 65:12,21 67:19 68:2 71:19 78:4 78:17 79:12 84:19 tolerate 32:7 tool 57:13 69:6,9 70:11 tools 10:25 32:8 touchy 44:24	trades 44:8 trafficking 47:5 train 31:5 47:23 trained 37:22 48:21 55:10 trainer 76:14 training 27:9 29:20 30:2 30:7,19,22 30:23 48:2 48:2 55:10 67:22 72:4 trans 69:25 transcript 85:8,21 transfer 2:23 4:7 transfers 4:18 transgender 28:24 traumatic 72:17 treated 74:12 74:16 treatment 39:19 tricky 45:12 triggered 58:13 true 44:10 67:7 85:7 trust 66:17 try 19:19 69:14 trying 5:16 5:19 6:4,6 6:17 11:11 60:8 Tuesday 30:21 turn 66:12 two 4:10 33:4 type 6:18,20 8:19 9:4,20 16:6,7,8 46:19 types 56:8 typically 17:24 18:12 U	U.S 43:25 umbrella 73:15 unaddressed 66:15 uncertain 9:4 uncovered 68:5 underhanded 45:21 understand 48:3 52:3 understand... 56:12 understood 43:15 unevenly 43:20 unfortunat... 48:14 union 44:8 universal 49:10 University 72:2 unlawful 20:21 24:15 31:24 53:6 53:12 unleashed 69:2 unpack 51:8 unsafe 28:25 unwelcome 28:25 update 14:15 updates 13:11 upgrading 53:15 upholding 57:15 use 6:22 32:2 32:7 57:13 62:8 63:19 usually 54:3 V vacant 8:21 vague 43:9 45:6 valid 4:22 values 67:12 variety 9:22	various 14:10 22:18 40:3 55:20,20 vehemently 72:23 versus 16:4 vested 31:19 veterans 44:7 Vice 2:6 victim 5:23 11:10 victims 5:19 6:6 victory 67:6,7 67:7 video 26:21 26:24 63:6 66:11 73:7 viewed 25:25 views 72:14 72:15 violation 43:24 53:22 54:25 56:2 59:22 violations 31:13,15,17 39:10,12 40:9,15,22 viral 63:6 visit 23:2 32:11 visitors 23:20 voice 68:9 78:14 voices 33:22 50:21,25 vote 78:24 voted 82:12 83:7 84:2 vulnerable 6:24 W want 6:11,11 7:3 10:17 17:5,6 19:3 19:9 28:4 32:14 38:18 38:20 44:13 45:21 49:3 49:3 50:6 50:16 51:13 51:14,15,16	51:22 52:23 55:21 56:11 57:11,17 62:4,11,12 62:15,18 65:7 68:22 70:9,9,13 77:11,25 79:10,14,19 80:9 wanted 10:14 17:5 18:16 56:17 61:6 61:19 79:17 wasn't 31:4 watching 46:23 way 6:22 17:10 18:9 22:21,24 23:18 34:14 34:15 36:14 39:25 41:9 44:3 69:15 ways 14:10 14:12 51:12 we'll 9:12 17:22 19:20 45:17 60:22 64:25 78:15 81:13 we're 5:16 6:6 7:23 9:23 10:2 11:11 17:9 18:25 23:7 31:2 34:3 46:22 48:7,11 50:24,25 51:7 55:18 we've 5:14 11:7 16:10 19:15 21:25 22:8,20 33:4 35:21 36:11,13 46:16 wear 44:4,7 64:6 71:16 74:2 wearing 46:14 website 28:15	week 79:13 weeks 13:12 32:25 welcome 10:23 welcoming 23:11 went 17:11 68:5 white 44:19 74:13 wholeheart... 42:5 64:21 wild 51:2 WILLIAM 1:10 window 76:5 witness 3:5,7 3:7 12:15 12:15 21:5 61:11 70:22 71:2 witnesses 35:24 36:21 60:21 61:11 woman 54:10 women 28:23 45:14 69:24 wonderful 45:17 wondering 52:2 Woody's 64:8 word 13:21 16:4 26:23 63:19 words 14:9 34:11 63:20 63:20 67:23 work 6:13,20 7:5,7 9:16 16:8 19:19 19:20 32:11 40:3,6,13 40:17 47:7 48:10 50:17 54:6,18 57:21 60:19 64:17 69:17 72:3,4 78:2 78:4 work-sharing 58:25	Workers 62:22 63:8 64:20 working 7:7 7:18 13:4 31:5 33:8 54:16 76:20 worse 73:12 wounds 67:22 write 45:22 written 27:5 61:17,17 wronged 47:20 X Y yeah 6:10 37:14 44:10 year 9:18 39:2 47:15 63:7 66:10 73:7 80:17 81:3,4 years 5:22 6:17 7:20 9:10 21:18 28:3 63:11 68:21 71:24 72:8 74:16 80:18 YouTube 26:21 Z Zoning 18:18 0 1 1-100 12:4 10,000 52:17 10:25 1:7 100 80:4,18 11 26:3 59:15 11:40 84:23 11th 25:21 14 18:17 68:20 15 59:19 16-plus 59:13 160010 1:15 2:16 3:1,24	4:1 5:1,6 6:1 7:1 8:1 9:1 10:1 11:1,18 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1 73:1 74:1 75:1 76:1 77:1 78:1 79:1 80:1 81:1 82:1,12,25 83:1 84:1 160674 1:15 2:10 160691 1:16 2:11 170204 1:15 2:10 170234 82:7 83:7 170243 12:3 12:22 14:5 15:14 20:7 81:18 83:20
---	--	---	---	---	--	---	--

Committee on Law and Government
April 24, 2017

Page 11

170334 1:15	22:1 23:1						
20:17 24:19	24:1 25:1						
31:7,25	26:1 27:1						
84:2,15	28:1 29:1						
17th 30:25	30:1 31:1						
1970s 75:7	32:1 33:1						
1980s 74:11	34:1 35:1						
1985 75:13	36:1 37:1						
1986 27:22	38:1 39:1						
	40:1 41:1						
2	42:1 43:1						
2-200 2:17	44:1 45:1						
4:2	46:1 47:1						
2,000 13:16	48:1 49:1						
53:21 59:22	50:1 51:1						
2.1 80:3	52:1 53:1						
20 9:10	54:1 55:1						
20,000 52:18	56:1 57:1						
55:9	58:1 59:1						
200 80:7	60:1 61:1						
2011 59:24	62:1 63:1						
2015 26:12	64:1 65:1						
36:13	66:1 67:1						
2016 25:6	68:1 69:1						
26:20	70:1 71:1						
2017 1:7	72:1 73:1						
24 1:7	74:1 75:1						
25 38:19	76:1 77:1						
250 47:15	78:1 79:1						
25th 25:6	80:1 81:1						
30:21	82:1 83:1						
26-year-old	84:1						
71:21	400 1:6 80:8						
270243 1:15							
29 27:3	5						
3	6						
30 27:4 28:3							
36:23 37:3	7						
30-year 66:9							
300 80:7	8						
34,000 80:6	8th 59:10						
375 25:22							
	9						
4	9-100 20:18						
4/24/17 3:1	9-1105 53:3						
4:1 5:1 6:1	9-1105(a)						
7:1 8:1 9:1	31:21						
10:1 11:1	90s 65:19						
12:1 13:1	97 80:3						
14:1 15:1							
16:1 17:1							
18:1 19:1							
20:1 21:1							