

1 BEFORE THE NEW YORK STATE SENATE  
2 STANDING COMMITTEE ON CODES  
3 AND  
4 STANDING COMMITTEE ON CONSUMER PROTECTION  
5 -----

6 JOINT PUBLIC HEARING:

7 CURRENT PATTERNS IN WHITE-COLLAR CRIME AND FRAUD,  
8 AND POSSIBLE UPDATES TO LAWS PROTECTING  
9 NEW YORKERS AND MARKETS  
10 -----

11 Date: March 4, 2026  
12 Time: 9:30 a.m.

13 PRESIDING:

14 Senator Zellnor Y. Myrie, Chairman  
15 NYS Senate Standing Committee on Codes

16 Senator Rachel May, Chairman  
17 NYS Senate Standing Committee on  
18 Consumer Protection

19 PRESENT:

20 Senator Jabari Brisport

21 Senator Dean Murray  
22  
23  
24  
25

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25			

1           SENATOR MYRIE: Good morning, everyone.

2           All right. So, firstly, let me thank  
3 everyone for taking the time to be with us this very  
4 winter morning in Albany.

5           I want to especially thank my colleague and  
6 chair of the Consumer Protection Committee,  
7 Senator Rachel May.

8           As well as my colleagues, we are joined  
9 currently by Senator Dean Murray and the witnesses  
10 who have taken the time to be with us this morning  
11 at this hearing, a joint hearing between the Codes  
12 and Consumer Protection Committee, regarding  
13 white-collar crime and patterns that we are seeing  
14 in fraud.

15           Now, we know that New Yorkers are in a  
16 cost-of-living crisis.

17           The legislature has rightfully focused a lot  
18 of energy on making life more affordable, and will  
19 continue to do so.

20           But there is a dimension of this  
21 affordability crisis that we do not talk about  
22 enough, and that is:

23           The cost of being defrauded, the cost of  
24 being overcharged, and having no recourse;

25           The cost of seemingly insurmountable student

1 loan payments with no way out;

2 The cost of losing your life savings to a  
3 crypto scheme;

4 The cost of losing your home in an opaque  
5 foreclosure proceeding;

6 The cost of having your wages stolen by an  
7 employer;

8 To put it plainly, the cost of being scammed.

9 Now, here in New York, we like to think we  
10 know a scam when we see one. But I want to take a  
11 moment to focus on the student loan industry.

12 More than 2 million New Yorkers carry student  
13 loan debt worth over \$96 billion. In New York City  
14 alone, roughly, one in nine borrowers are  
15 delinquent, and in The Bronx that number is closer  
16 to one in seven.

17 So last December, as chair of the Codes  
18 Committee, I sent detailed inquiry letters to  
19 companies across the student loan servicing  
20 industry, and I asked straightforward questions  
21 about their practices serving New York borrowers.

22 I offered confidentiality protections. Said  
23 I would accept documents in phases. I tried to be  
24 as accommodating as a legislative body can be.

25 So let me talk to you about what we got back.

1 I have four letters today, representing  
2 four companies that touch virtually every student  
3 loan in the state of New York. And not one of them,  
4 not one, was willing to answer basic questions about  
5 how they treat the people whose loans they service.

6 I'm going to start with Navient.

7 At its peak, Navient, formerly Sally Mae, was  
8 the largest student loan servicer in the  
9 United States: 12 million borrowers and over  
10 \$300 billion in federal and student private loans.

11 The Consumer Financial Protection Bureau  
12 found that Navient steered 1.5 million borrowers  
13 into costly forbearances instead of the affordable  
14 repayment plans that they were entitled to. That  
15 added up to \$4 billion in unnecessary interest to  
16 their loan balances.

17 Navient was permanently banned from federal  
18 student loan servicing and ordered to pay  
19 \$120 million.

20 Additionally, 39 state attorneys general, led  
21 by our New York attorney general, reached a separate  
22 \$1.85 billion settlement. And, currently, Navient  
23 has 41,000 formal complaints in the CPFEB [sic]  
24 database.

25 That bureau's own enforcement director said

1 Navient's practices resulted in millions of  
2 borrowers needlessly defaulting on their loans.

3 So with that record, I wrote to them and  
4 asked for information related to their customer  
5 communication, their personnel training, compliance,  
6 and any remediation or coercive practices that they  
7 were trying to correct.

8 And here's what they said, and I'm reading  
9 directly from the letter:

10 "Navient has largely exited the student loan  
11 servicing business. Navient outsourced the bulk of  
12 its remaining services' functions to an organization  
13 named MOHELA. But we would be happy to answer any  
14 further questions at the committee's convenience."

15 But they did not answer any of our questions,  
16 and they declined to attend today's hearing.

17 A company permanently banned from its own  
18 industry, with \$2 billion in combined penalties, and  
19 their answer to the New York State Senate is: We've  
20 left. Ask someone else.

21 So we did.

22 I wrote to Earnest, Navient's private lending  
23 arm that originates and services private student  
24 loans. It was acquired by Navient and operates as a  
25 subsidiary of the same corporate family; the same

1 parent company, the same leadership structure.

2 And here is what Earnest said:

3 "Earnest is an affiliate of Navient, and  
4 Earnest outsourced a substantial portion of its  
5 servicing functions to MOHELA."

6 They also said, "We would be happy to answer  
7 any further questions at the committee's  
8 convenience."

9 But they did not answer our questions, and  
10 they declined to attend today's hearing.

11 And then there's Aidvantage, a subsidiary of  
12 Maximus, one of the largest government contractors  
13 in the country.

14 And when Navient was banned from federal  
15 servicing, it was Maximus, doing business as  
16 Aidvantage, that picked up the portfolio. Together,  
17 they directly managed student debt held by nearly  
18 13 million borrowers and hold over \$800 million in  
19 department of education contracts. Aidvantage also  
20 runs the servicing platform for every federal  
21 student loan borrower in default.

22 It is, by many measures, the largest student  
23 loan company in the world, and its record?

24 The department of education withheld  
25 \$2 million from Aidvantage for failing to send

1 timely billing statements to 758,000 borrowers.  
2 Investigations have documented evidence of sloppy  
3 servicing, unfair debt collection practices,  
4 unlawful wage garnishment, and improper seizure of  
5 tax refunds from borrowers in default.

6 A federal judge held the Secretary of  
7 Education in contempt of court because Maximus  
8 failed to stop garnishing the wages whose loans the  
9 government had already agreed to cancel.

10 I sent Aidvantage the same inquiry I sent to  
11 others, I invited them to testify at today's  
12 hearing, and here was the response we received just  
13 last week:

14 "Maximus Education, LLC, doing business as  
15 Aidvantage, is a contractor on behalf of the federal  
16 student aid for the servicing of department of  
17 education-owned loans. Inquiries related to  
18 servicing federal student loans should be directed  
19 to the department of education.

20 "Accordingly, we will not provide testimony  
21 regarding student loans."

22 The largest student loan company in the  
23 world -- 13 million borrowers, 800 million  
24 government dollars in contracts -- and their answer  
25 to the New York State Senate is: "We will not

1 provide testimony." Talk to someone else about the  
2 very thing the federal government pays them to do.

3 And we heard about MOHELA, the  
4 higher-education loan authority of the state of  
5 Missouri, that currently has the portfolios from  
6 Navient and Earnest.

7 We wrote them the same letter, and their  
8 response to us was to speak to the trade  
9 association. No documents, no point of contact, no  
10 production plan.

11 8 million borrowers they have, \$1.1 billion  
12 in taxpayer money, and their answer is: Talk to  
13 someone else.

14 Navient says: We have left. Ask MOHELA.

15 Earnest says: We're with Navient. Ask  
16 MOHELA.

17 Aidvantage says: Talk to the federal  
18 government.

19 MOHELA says: Talk to our trade association.

20 No one is accountable, and the borrower is  
21 the one that is trapped inside.

22 But here's why we're here today: This is not  
23 unique to the student loan industry.

24 This is how powerful entities get away with  
25 getting over on regular people:

1           Creating webs of affiliates and  
2           subcontractors and transfers. Moving the portfolio  
3           before anyone can pin it down. You point to the  
4           last company. The last company points to the next  
5           company. The next company points to the regulator.

6           And the result is: No one sits before the  
7           legislative body and answers for what happens to the  
8           people that they are supposed to serve.

9           If a single New Yorker had been fined  
10          billions of dollars, permanently banned from their  
11          profession, sued by multiple federal agencies, and  
12          found to have harmed millions of people, and then  
13          refused to answer questions, we'd say they're  
14          playing by a different set of rules and operating  
15          outside of the law.

16          But when it's a large corporation or  
17          financial institution or sophisticated digital  
18          operation, we look the other way.

19          So I will close, so we can get to the hearing  
20          testimony, with a date: 1986.

21          There are a lot of great things about that  
22          year, including that it was the year I was born.  
23          But it's also the last time that New York  
24          significantly updated its white-collar crime  
25          statutes.

1           That is the legal framework we are working  
2 with today.

3           Think about what the world looked like in  
4 1986: No Internet. No email. No smartphones. No  
5 online banking. No algorithmic credit scoring. No  
6 digital mortgage applications. No student loans  
7 securitization market. No service portfolios. No  
8 cryptocurrency. No blockchain. No Zelle. No  
9 Venmo. No digital payment networks.

10          That is the world our fraud statutes were  
11 built to serve 40 years ago.

12          Since then, our federal securities laws have  
13 been updated, our banking laws have been updated,  
14 our consumer protection laws have been updated, our  
15 cybercrime statutes have been updated; but not our  
16 core criminal fraud provisions, not the penal law.  
17 Those are still stuck in 1986, and that is a choice.

18          Bad actors know this. They've operated for  
19 decades, knowing that our fraud statutes cannot  
20 reach them. That what they were doing may look bad,  
21 may sound bad, may feel bad; but the law, as  
22 written, has left them untouchable, while  
23 New Yorkers, literally, and figuratively, have money  
24 taken out of their pockets every day.

25          Every dollar extracted through deceptive

1 servicing, every dollar inflated in a wrongful  
2 foreclosure judgment, every dollar stolen from a  
3 worker's paycheck, and every dollar misappropriated  
4 in a digital scheme is money taken from families  
5 already stretched to the breaking point.

6 New Yorkers are getting scammed every single  
7 day. It's time we do something about it.

8 And with that, I will pass it to the chair of  
9 the Consumer Protection Committee to offer some  
10 opening remarks, and then we will commence with the  
11 hearing.

12 Thank you.

13 SENATOR MAY: Well, thank you, Chair Myrie,  
14 and thanks to everybody who is here.

15 I guess I should thank Senator Myrie for  
16 making me feel really old --

17 [Laughter.]

18 -- because, 1986, I was already well into  
19 adulthood.

20 But I do want to thank you for being a  
21 partner in this hearing.

22 As chair of the Consumer Protection  
23 Committee, we -- we have a lot of bills in our  
24 committee about fraud and scams, and we are dealing  
25 with this all the time.

1           I was the chair of the Committee on Aging for  
2 four years. And that's -- I know we will be hearing  
3 about elder fraud here, which is -- which is  
4 pervasive and growing. And I find myself targeted  
5 by those fraudsters all the time as well. And  
6 it's -- people are terrified.

7           The thing about when you -- as Senator Myrie  
8 was saying, you know, people expect prices to go up,  
9 they expect things to be expensive. But they don't  
10 expect to be scammed, they don't expect to be  
11 defrauded, and they don't expect just money to  
12 disappear for no apparent reason. And it's  
13 terrifying, and people feel destabilized and they  
14 feel helpless.

15           And those kinds of events, even if it's a  
16 smaller amount of money than the money that they  
17 might be struggling with because their utility bill  
18 went up, if it is something where they feel like  
19 they've been abused or mistreated or scammed, then  
20 they get that much -- it's that much harder, it  
21 feels like a much bigger hit.

22           I also want to say, Senator Myrie talked  
23 about the student loan industry, and that's  
24 something we're working on in my committee, is  
25 trying to protect private student loan borrowers who

1 have private student loans.

2 But you mentioned that there had were  
3 41,000 formal complaints at the Consumer Financial  
4 Protection Board against Navient.

5 One of the things that we're dealing with  
6 right now in New York State is that the federal  
7 government and the Trump Administration have made an  
8 all-out attack on the Consumer Financial Protection  
9 Board. And the estimate is that that has cost  
10 consumers \$19 billion just in the last year alone  
11 because of the -- essentially, the demise of that  
12 board as a -- as an active participant in helping  
13 consumers deal with these big corporations that are  
14 not responsive.

15 If they're not going to be responsive to a --  
16 you know, a state senator who chairs a powerful  
17 committee, then they're not -- definitely not going  
18 to be responsive to the individuals who have filed  
19 those complaints.

20 And so it isn't an accident that we are  
21 having to do this in 2026, when the federal  
22 government has completely abdicated its role in  
23 protecting consumers.

24 And so we need to do it here at this -- in  
25 this state.

1           And I'm really grateful to all of you who are  
2 here, to help us figure out the best ways to do  
3 that.

4           And I won't take any more time, except just  
5 to say, I'm looking forward to hearing from all of  
6 you. And we will definitely take what you have to  
7 say to us, and make sure that we're using it either  
8 to advance existing legislation or to improve the  
9 legislation that we've got on the books right now,  
10 so that we can help the consumers of this state feel  
11 like they are being protected even when the federal  
12 government is not in their corner.

13           Thank you.

14           SENATOR MYRIE: Thank you, Chair May.

15           And we will commence with the hearing.

16           We are first starting with a number of  
17 government panels.

18           In the first panel, if you can introduce  
19 yourselves before you speak, you will each be  
20 allotted five minutes, and then we will have some  
21 questioning that I think will be around that time.  
22 We're a little flexible today.

23           And so, I don't know amongst the lottery who  
24 wanted to go first.

25           Okay. And so we'll start with

1 Mr. O'Malley.

2 And thank you again for being here today, and  
3 thank you for your testimony.

4 GABRIEL O'MALLEY: Good morning, Chair Myrie,  
5 Chair May, and Senator Murray, and all other members  
6 of the New York Senate.

7 The department of financial services  
8 appreciates the opportunity to submit testimony  
9 today.

10 My name is Gabriel O'Malley.

11 Since last March I have been the executive  
12 deputy of DFS's Consumer Protection and Financial  
13 Enforcement Division. It's known as "CPFED"  
14 colloquially, and so I may refer to us as that in  
15 the testimony today.

16 The department regulates the activities  
17 of approximately 3,000 banking, insurance, virtual  
18 currency, and other financial institutions, with  
19 assets totaling more than \$9 trillion. This  
20 includes over 1200 depository and non-depository  
21 financial service providers, and nearly  
22 1800 insurance companies.

23 Last year, DFS provided over \$350 million to  
24 the State and New Yorkers through restitution to  
25 consumers and health-care providers, penalties paid

1 to the state general fund and DFS assessment revenue  
2 reappropriated to other state entities.

3 The department's operating expenses,  
4 importantly, are assessed upon regulated entities  
5 and are not a cost to New York taxpayers.

6 Under Governor Hochul's leadership, DFS has  
7 secured, roughly, 760 -- excuse me -- \$765 million  
8 for consumers, addressed more than 200,000 consumer  
9 complaints, and issued 134 enforcement actions, and,  
10 finally, collected more than \$517 million in  
11 enforcement penalties.

12 DFS's Consumer Protection and Financial  
13 Enforcement Division, which I oversee, is comprised  
14 of six units.

15 The attorneys and staff of CPFED's Civil  
16 Investigation Unit, known as "CIU," investigate  
17 civil financial fraud and violations of Consumer  
18 Protection and Fair Lending laws, and violations of  
19 the New York financial services law, banking law,  
20 and insurance law, and regulations promulgated  
21 thereunder.

22 Our CIU attorneys and staff conduct  
23 investigations, they form legal conclusions, and,  
24 ultimately, they resolve those investigations  
25 generally in one of two ways: Either through an

1 agreed-upon consent order with an entity or  
2 individual, or through the filing of a statement of  
3 charges.

4 Under Governor Hochul's leadership, CIU has  
5 taken robust action to address wrongdoing in  
6 New York.

7 For example, DFS brought its first actions  
8 against cryptocurrency companies, including  
9 Robinhood Crypto, Coinbase, Block, and Gemini,  
10 securing penalties and agreements to remediate, to  
11 ensure compliance with state laws and regulations.

12 The department was also the first regulator  
13 to take action concerning Binance, ordering Paxos to  
14 cease minting Paxos-issued BUSD.

15 Notably, pursuant to a settlement with DFS in  
16 2024, Gemini Trust Company returned more than  
17 \$2 billion worth of digital assets to consumers  
18 after failing to protect them from alleged fraud by  
19 an unregulated third party.

20 Gemini also paid \$37 million in a penalty to  
21 resolve that action, and to resolve their law  
22 violations which threatened the safety and soundness  
23 of the company.

24 In the past year alone, CIU's work has  
25 resulted in, roughly, \$90 million in penalties, with

1 changes mandated to various aspects of businesses,  
2 including safety and soundness, anti-money  
3 laundering, consumer protection, virtual currency,  
4 and cybersecurity compliance.

5 CPFED's Consumer Examinations Unit is  
6 responsible for conducting fair lending, compliance,  
7 and New York Community Reinvestment Act  
8 examinations; overseeing the Banking Development  
9 District Program; and registering and supervising  
10 consumer credit reporting agencies; among other  
11 work.

12 "CEU," as it's known internally, also houses  
13 the department's Student Protection Unit, which is a  
14 watchdog for New Yorkers.

15 The SPU licenses and examines student loan  
16 servicers; importantly, mediates consumer  
17 complaints; and provides clear information to  
18 students and their families so they can make  
19 informed financial choices around their education.

20 The Consumer Assistance Unit is the largest  
21 of CPFED's units. It investigates and mediates  
22 complaints against regulated entities, as well as  
23 complaints related to other entities. It also  
24 screens external appeal applications, manages the  
25 independent dispute resolution process, and conducts

1 outreach and education to consumers.

2 To give you a sense of the magnitude of  
3 CAU's work, in 2025 alone, CAU received almost  
4 40,000 insurance-related complaints. Its work  
5 processing and mediating those complaints resulted  
6 in the recovery of more than \$121 million for  
7 New Yorkers and providers. And, also, they  
8 processed more than 5300 non-mortgage-related  
9 complaints, which resulted in, roughly, \$6 million  
10 back to consumers.

11 A couple more points, and I'll be brief.

12 The Insurance Fraud Bureau, known as "IFP,"  
13 is something that I know Acting Superintendent Asrow  
14 talked about last week. Its focus is on the  
15 detection and investigation of insurance fraud, and  
16 referring those matters for prosecution.

17 We received more than 51,000 reports of  
18 suspected insurance fraud last year, mostly from our  
19 regulated entities. This resulted in almost  
20 250 investigations, 169 arrests, and numerous  
21 referrals to law enforcement agencies for  
22 prosecution.

23 We have rebuilt and modernized IFP in the  
24 last year. We brought on new leadership in the top  
25 two positions. We have also increased staff by

1 28 percent. We're doubling down on technological  
2 advances as well, to make us more efficient and  
3 effective. And we're also really focused on  
4 partnering with state police and other law  
5 enforcement agencies.

6 Finally, we have an investigation and  
7 intelligence unit within CPFED. They focus on  
8 potential violations of New York banks and banking  
9 law, but also the New York Penal Code and potential  
10 crimes relating to mortgage fraud. They work  
11 closely with law enforcement agencies.

12 And, finally, we have the small but mighty  
13 Holocaust Claims Processing Office, which I know you  
14 all are aware of. HCPO provides institutional  
15 assistance to individuals seeking to recover lost  
16 items due to Nazi persecution.

17 And I just have to note that, to date, HCPO  
18 has secured more than \$184 million in offers for  
19 banks, insurance, and other losses; and has also  
20 facilitated the return of 356 cultural objects, to  
21 no cost to the recipients and to no cost to the  
22 State of New York.

23 As reflected in the work that I have  
24 outlined, the department is dedicated to ensuring  
25 that New York insurance banking, virtual currency,

1 and other non-bank financial services markets are  
2 fair and transparent from our competitors and,  
3 importantly, for consumers.

4 I look forward to answering your questions  
5 today.

6 SENATOR MYRIE: Thank you.

7 LAURA CAMPION: Good morning.

8 I would like to begin by acknowledging  
9 Chairs Myrie and May. Thank you for inviting me to  
10 testify today.

11 SENATOR MYRIE: Apologies. Technical  
12 difficulties.

13 LAURA CAMPION: Five minutes went faster than  
14 I expected.

15 SENATOR MYRIE: Yeah, you have -- that is --  
16 you got more time than that.

17 Just give us one second.

18 LAURA CAMPION: Absolutely.

19 SENATOR MYRIE: Yeah, let's give her the  
20 full. Thank you very much.

21 Thank you for your patience.

22 LAURA CAMPION: Not a problem.

23 Once more, from the top: Good morning.

24 I would like to begin by acknowledging  
25 Chairs Myrie and May. Thank you for inviting me to

1 testify today.

2 Distinguished members of the committee, thank  
3 you for giving me this opportunity to discuss our  
4 efforts against wage theft at the department of  
5 labor.

6 I am Laura Campion, deputy general counsel  
7 and associate commissioner of the department of  
8 labor.

9 Wage theft negatively impacts the pockets of  
10 New York's workers and the bottom lines of  
11 businesses, creating a ripple effect that  
12 reverberates throughout our entire economy.

13 Criminals who steal from the pockets of your  
14 constituents must be pursued to the fullest extent  
15 of the law.

16 At the department of labor, our  
17 investigators, alongside our many partners in law  
18 enforcement, labor, advocacy, and more, remain  
19 focused on doing just that; utilizing every tool at  
20 our disposal.

21 And we will not rest until stolen funds are  
22 back where they belong; in the hands of hard-working  
23 New Yorkers who rightfully earned them.

24 To that end, I am pleased to inform the  
25 committee that 2025 was a landmark year in our fight

1       against wage theft.

2               Last year alone, our investigations recovered  
3       more than \$35 million in wages and collected  
4       \$2.2 million in penalties.

5               And since 2017, the department has recovered  
6       and disbursed more than 243 million in stolen wages.

7               We attribute part of our success last year to  
8       the enhancements to our enforcement capabilities by  
9       the governor, in partnership with the legislature.

10              By giving us the authority to issue warrants  
11       and seize financial assets following unpaid wage  
12       theft orders, we are better armed to go after bad  
13       actors.

14              This ensures that workers are prioritized,  
15       and emphasizes the message that wage theft will not  
16       be tolerated here in New York State.

17              Again, we do not do this important work  
18       alone. There is power in partnership, and  
19       collaboration has made it difficult for criminals to  
20       hide.

21              Thanks to Governor Hochul's Wage Theft Task  
22       Force, the department continues to work closely with  
23       law enforcement partners, sharing strategies and  
24       information to coordinate our efforts.

25              The ongoing multiagency effort includes the

1 New York State Attorney General, district attorneys,  
2 the New York State Insurance Fund, and the  
3 New York City Department of Investigations.

4 Together, along with our partners, we  
5 leverage criminal and civil laws to achieve justice  
6 for workers.

7 In the spirit of partnership and  
8 transparency, we have given all New Yorkers,  
9 including the legislature, unprecedented access to  
10 our work in this space through the Wage Theft  
11 Investigations Dashboard.

12 This interactive online tool provides  
13 comprehensive information on wage violation cases,  
14 wages returned to workers, and penalties levied  
15 against violators.

16 What this tool demonstrates, is the most  
17 common types of wage theft include failing to pay  
18 the minimum wage, failing to pay overtime, and  
19 failing to adhere to the Spread of Hours law for  
20 service workers.

21 This is why education is such an important  
22 part of our work. We know laws can be confusing for  
23 some employers. And in some cases of wage theft,  
24 we've learned that employers want to comply. They  
25 didn't know that they were breaking the law.

1           The department regularly communicates about  
2           wage theft, rights of workers, and the  
3           responsibilities of employers via social media,  
4           newsletters, through our business representatives,  
5           and more. We work with employers, to educate them  
6           about equal pay and pay transparency laws, and  
7           proactively provide tools and information about fair  
8           and lawful treatment of employees.

9           Education is key to attacking wage theft at  
10          the root, preventing future violations before they  
11          even occur.

12          Again, I want to emphasize that partnership  
13          is key in fighting wage theft, and that includes  
14          every working New Yorker.

15          Please encourage our constituents to look at  
16          their paychecks. And if anything looks concerning,  
17          please report it to us immediately and we will look  
18          into it.

19          In closing, I thank our partners, especially  
20          in the legislature, for your continued commitment to  
21          fighting wage theft, and for due diligence in making  
22          sure that all working New Yorkers receive every cent  
23          that they are owed.

24                 Thank you.

25                 SENATOR MYRIE: Senator May.

1           SENATOR MAY: Yeah, thank you.

2           Thank you both for your testimony.

3           I guess, on that -- on the wage theft issue,  
4 I'm wondering right now, I assume that these are  
5 mostly hourly workers, and that we're talking about  
6 people at the lower end of the pay spectrum who  
7 don't have a lot of power in the whole process.

8           And I'm just wondering if you're seeing  
9 changes, because so many people are afraid to come  
10 forward, in -- given the kind of federal immigration  
11 enforcement that we're seeing? If you're seeing  
12 changes in the kinds of complaints that you're  
13 getting?

14           LAURA CAMPION: I don't know, off the top of  
15 my head, if we're seeing any specific changes or  
16 trends.

17           But what I can say is, the department of  
18 labor, anytime anyone comes forward to us, whether  
19 it's, you know, with their name or anonymously, to  
20 identify that there is wage theft potential, we look  
21 into it.

22           You know, we go into a business. We have the  
23 ability to look at their books and records, and open  
24 it up, because, oftentimes, it's not a single  
25 individual who is being taken advantage of.

1 There's, you know, multiple employees.

2 And we take it very seriously, in terms of  
3 making sure that employees receive the wages that  
4 they are paid regardless of sort of anything else.

5 SENATOR MAY: Okay, thanks.

6 And then, Mr. O'Malley, I guess I have a  
7 general question about whether your job has gotten  
8 harder without having a real federal partner in  
9 this, or if you were always completely independent  
10 of the CFPB and other consumer protections at the  
11 federal level?

12 GABRIEL O'MALLEY: Well, I worked at the CFPB  
13 for 12 years, and was there up until this time last  
14 year, and, you know, loved my time there.

15 What I can say, on a personal note, is that  
16 it's been really inspiring to land at DFS, and be a  
17 part of an agency that is really focused on doing  
18 right by both the economy, but also consumers.

19 And the purview of CPFED covers consumer  
20 protection, and we've continued to be really active  
21 there.

22 And that's been -- it's been wonderful, and  
23 I feel lucky to have landed here.

24 As to what's happening in Washington on the  
25 federal front, that's something -- not something

1 that I can control or DFS can control.

2 And so what we're doing, in large part, is  
3 what we've always done, which is focused on  
4 New York State laws and regulations and facts, some  
5 of which might result in, you know, federal  
6 violations over which we would have authority as  
7 well, and taking appropriate action, whether it be  
8 through supervisory matters requiring attention or,  
9 in many cases, at least in my group, through  
10 enforcement action.

11 SENATOR MAY: Okay, thanks.

12 So I don't want to complain, but looking at  
13 the numbers that you gave, 200,000 complaints,  
14 134 enforcement actions, that's less than a tenth of  
15 1 percent.

16 Is that because they're just unenforceable?

17 Or, like, why would hundreds of thousands of  
18 complaints not result in enforcement actions?

19 GABRIEL O'MALLEY: Yeah, that's a great  
20 question.

21 I would say, speaking at a general level, not  
22 every complaint touches upon a law violation. There  
23 can be misunderstanding that doesn't rise to the  
24 level of a law violation.

25 And that's why it's so key that we have CAU.

1 In the bureau, before -- you know, when it was more  
2 active, had a consumer response group, because  
3 mediating those complaints actually gets companies  
4 to respond. And, oftentimes, you can work out the  
5 difference and get money back to consumers.

6 What we do do is monitor the complaint  
7 trends.

8 We also have various other ways of assessing  
9 the market, including through our supervisory  
10 activity, to understand trends, and try to take  
11 action in those places where we're seeing  
12 significant trends that are either harming consumers  
13 or are, for example, in the cybersecurity world. If  
14 there's a particular type of trend that's leading to  
15 a breach, that's something that we would want to  
16 dedicate our resources to because we do have finite  
17 resources.

18 So I would say the large number of complaints  
19 indicates that there are problems.

20 I do think, CAU, our assistance group, is  
21 doing a wonderful job, getting almost \$130 million  
22 back to folks.

23 For the larger, more systemic issues, we use  
24 the enforcement tool.

25 SENATOR MAY: And do you track what most of

1 the complaints are about? Do you have a database  
2 that says, you know, most people are complaining  
3 about this kind of issue? Or --

4 GABRIEL O'MALLEY: Yeah, well, broadly  
5 speaking, most people are complaining about  
6 insurance. And within those complaints there are  
7 certain, you know, aspects of concern -- insurance  
8 that folks are complaining about.

9 And our CAU unit passes that information on  
10 to our insurance division which oversees insurers  
11 and producers. And that's used to inform areas of  
12 exploration and examinations.

13 SENATOR MAY: And so I had one other  
14 question that was also about the -- again, you had  
15 40,000 complaints just in CAU.

16 I'm just wondering, like, it would be really  
17 helpful for us if you were keeping kind of more  
18 granular data about what specific problems people  
19 are complaining about, so that we -- you know, if  
20 there are ways that we can intervene, you know, we  
21 would know what are the most important problems out  
22 there.

23 GABRIEL O'MALLEY: Sure.

24 SENATOR MAY: We hear from constituents, but  
25 you hear a much more comprehensive list of what the

1 issues are.

2 So I'm just-- do you keep data?

3 GABRIEL O'MALLEY: We do.

4 And I can certainly take that back, and we  
5 can get back to you with some more specific trend  
6 lines.

7 As I said, the top line is, the vast majority  
8 of complaints are, insurance-related.

9 And as you all are aware, we oversee the  
10 external appeals process, which includes those  
11 dramatic decisions, where there's a decision by an  
12 insurance company to deny coverage in an emergency  
13 moment.

14 And a consumer is able then to come to us and  
15 have a decision made in a very short order, 24 to  
16 72 hours, whether the insurance company has to  
17 actually pay.

18 And that is an essential function that we do,  
19 and also takes up, of course, a lot of time --

20 SENATOR MAY: Yeah.

21 GABRIEL O'MALLEY: -- and is very important,  
22 because it's time-sensitive in --

23 SENATOR MAY: Are we talking medical  
24 insurance?

25 GABRIEL O'MALLEY: Yes.

1 SENATOR MAY: Car insurance?

2 GABRIEL O'MALLEY: Yes.

3 SENATOR MAY: Homeowners insurance?

4 GABRIEL O'MALLEY: Medical, yes.

5 SENATOR MAY: Just medical insurance.

6 Okay. That's really helpful.

7 Thank you very much.

8 SENATOR MYRIE: Thank you, Senator May.

9 Senator Murray.

10 SENATOR MURRAY: Thank you, Chairman.

11 And thank you both for being here.

12 I would like to start with Mr. O'Malley.

13 Just, I want to put it on the radar, we were  
14 talking off line about this; that I'm glad a lot of  
15 the focus is on insurance.

16 But we have a problem on Long Island right  
17 now in regards to mortgages and escrow funds being  
18 stolen, to the point of -- let me see -- as far as  
19 the number of claims.

20 So we have the New York State Lawyers Fund  
21 for Client Protection, and that's supposed to  
22 reimburse anyone that has problems.

23 80 percent -- 86 percent of those claims paid  
24 in 2024 involved real estate escrow funds being  
25 stolen.

1           We're at a point now where they're capping  
2           the claims. It's, I think, \$400,000, capping how  
3           much you can get.

4           Says only 66 percent of the valid claims are  
5           fully reimbursed right now, because we're running  
6           out of money because it's happening so much.

7           So I'm hoping we can put a focus on that.  
8           And we'd be more than happy -- I know I've talked to  
9           my colleagues. We'd be more than happy to work  
10          together on finding some solutions. But I want to  
11          put that on the radar.

12          Is that a focus of yours now, or...?

13          GABRIEL O'MALLEY: Well, first, I appreciate  
14          you raising this. And I would like to hear more  
15          outside of this hearing about specific instances and  
16          particular attorneys or law firms. And that's  
17          something I certainly would take back and consider  
18          further.

19          More generally, I mean, that kind of  
20          fraudulent interaction between either company or  
21          agent and consumer is something that we're focused  
22          on generally, of course, and especially where  
23          there's a trend -- a burgeoning trend, and it's  
24          causing specific harm to consumers.

25          So it's something I would certainly like to

1 hear more about.

2 SENATOR MURRAY: Okay, great, great, and  
3 we'll do that.

4 Ms. Campion, two quick issues.

5 One: I noticed, when you were going through  
6 the list of some of the things, you had mentioned  
7 minimum wage, and things list -- regarding wage  
8 theft. But I didn't hear prevailing wage  
9 violations.

10 We have a lot of the labor unions on  
11 Long Island who are saying, Look, you've got these  
12 guys that are coming in. They're bidding on  
13 projects. They're supposed to be paying prevailing  
14 wage, and their bid says they are.

15 But in reality, when you talk to some of the  
16 workers, they're playing games, and they're not  
17 getting it.

18 But there doesn't seem to be a lot of  
19 investigation into this.

20 Is that a focus of yours, and what can we do  
21 to step it up?

22 LAURA CAMPION: Our Bureau of Public Work and  
23 Prevailing Wage, you know, works extremely hard to  
24 investigate these types of complaints and issues  
25 that are raised. And it's certainly something our

1 agency is focusing on, and that we are doing a lot  
2 to increase in space -- or, increase our efforts in  
3 that space.

4 I think over the last two years, we've had  
5 the certified payroll system start. We've had the  
6 contractor registry system go online. And those are  
7 efforts that we've been making alongside, you know,  
8 the legislature and the governor, to make sure that  
9 people are aware, have information, that there's  
10 transparency, and that we're getting the information  
11 we need to complete investigations.

12 SENATOR MURRAY: Do have you enough people to  
13 do the job in this area?

14 LAURA CAMPION: That's not something that  
15 I would know off the top of my head or be able to  
16 speak to specifically. But it's something we can  
17 look into and get back to you.

18 SENATOR MURRAY: I would appreciate that.

19 And then, finally, the -- Part 191 of labor  
20 law, frequency of pay, manual labor, and there is so  
21 much confusion.

22 And, in fact, we've got some small businesses  
23 now, unfortunately, going out of business because  
24 they've been sued, not knowing they even violated.

25 Most people don't know, most business owners

1 don't know, that, under Part 191, if a position is  
2 considered manual labor, they must be paid weekly;  
3 not bi-weekly, but weekly.

4           There have been cases where even the  
5 department of labor has had inspectors going into a  
6 business, looking at their books. They didn't even  
7 notice it. It was on something else they were  
8 looking at. Didn't call anybody's attention to it,  
9 and later the company got sued.

10           The Governor took steps to limit and protect  
11 the businesses a bit, and I applaud that; however,  
12 we haven't fixed the problem.

13           Can we please, please, get a clear definition  
14 of "manual labor"?

15           Now, in our bail reform laws, we go down and  
16 there's a checklist of crimes.

17           We can do the same when it comes to positions  
18 that would qualify for manual labor. That would  
19 remove all the confusion and protect both the  
20 businesses and the workers.

21           So I'm begging, can we please have the  
22 Commissioner, because that's who needs to do this,  
23 the Commissioner needs to clearly identify what  
24 manual labor -- what qualifies as "manual labor"?

25           So if could you take that back to the

1 Commissioner, please. We need that help. Small  
2 business is really getting hurt.

3 LAURA CAMPION: Understood.

4 SENATOR MURRAY: Thank you.

5 SENATOR MYRIE: Senator May for a second  
6 round.

7 SENATOR MAY: Oh, sorry.

8 For Mr. O'Malley.

9 So in my role in consumer protection,  
10 I mostly deal with the attorney general's office.  
11 And they have complaints page on their website where  
12 people can file issues.

13 Do you have the same -- do you have a  
14 parallel thing? And do you work together with the  
15 attorney general's office if a complaint -- where is  
16 the overlap? I guess that's the question, because  
17 it feels like you're doing similar things.

18 GABRIEL O'MALLEY: Excuse me.

19 Sure.

20 We have our own complaints database. And if  
21 you type in "DFS" and "complaint" into Google, it  
22 will pop up immediately. It's easy to find on our  
23 website, and you can click a button and submit a  
24 complaint.

25 Separately, there is another network that

1 attorneys generals and banking regulators can use  
2 for other complaints.

3 And then, finally, there's the CFPB complaint  
4 network, which is the national database, that  
5 focuses on financial products and services.

6 So there are various databases. We have  
7 access to all of them, and we use all of them in  
8 setting priorities.

9 SENATOR MAY: And what should a consumer do  
10 who's got a problem?

11 Should they come to you first?

12 Should they go to the attorney general's  
13 office first?

14 GABRIEL O'MALLEY: That's a great question.

15 So if an entity is a regulated entity, the  
16 consumer should certainly come to us, and for a  
17 couple of reasons.

18 One: As I said, our CAU office is very  
19 effective in mediating complaints and getting money  
20 back to consumers.

21 Two: Allowing us, as the regulator, to get  
22 complaints allows to us draw out trends and  
23 intelligently focus our resources, going forward.

24 One never wants to make work for a consumer.  
25 But filing complaints with the attorney general's

1 office also has the same broad benefits for the AG,  
2 and ultimate knock-on effects for our ability to  
3 catalog trends, going forward.

4 So I don't want to ask too much of any one  
5 person, but would welcome complaints to us on any  
6 regulated entity.

7 SENATOR MAY: And then I know the department  
8 of state also has an office that is charged with  
9 consumer protection.

10 Do you all work together; is there a  
11 coordination that goes on?

12 And is there joint messaging that happens?

13 Because that's one of their things, is to put  
14 messages out.

15 GABRIEL O'MALLEY: Yeah, there's a quarterly  
16 consumer protection roundtable that I attend in  
17 New York City, that's not only run and chaired by  
18 the department of worker and consumer protection,  
19 the AG is present there. Other government agencies  
20 are present there. Advocates are present there.

21 And we hear from them about trends that are  
22 happening, and talk through those trends, and hear  
23 the latest updates on case decisions.

24 SENATOR MAY: Okay. So I'm glad all of you  
25 are doing this work. But I feel very strongly that

1       there probably should be a one-stop shop for  
2       consumers, where, you know, they can put their --  
3       like, you know, one website or one number that they  
4       go to, and it will get directed to the right agency;  
5       if it's more appropriate in the AG's office or more  
6       appropriate in yours. That would make a lot more  
7       sense than having parallel processes that they have  
8       to navigate.

9               So I hope we can talk about that in the  
10       future.

11               GABRIEL O'MALLEY: Sure.

12               SENATOR MAY: Thank you.

13               SENATOR MYRIE: Thank you, Senator May.

14               I have questions for both of you.

15               I'll start with Ms. Campion, and  
16       Senator Murray began to touch on this. But I'm  
17       hoping you can expound a little bit.

18               As I understand it, there are, roughly,  
19       235 wage enforcement staff at DOL, responsible for  
20       covering all of the workers and employers in the  
21       state.

22               And I'm hoping you can talk to us about what  
23       that caseload looks like, how that operates in  
24       practice.

25               This is not a budget hearing. But we are in

1 the midst of the budget, where the legislature makes  
2 decisions around where resources are allocated.

3 So hoping to gain some more insight into how  
4 many resources DOL has now currently to enforce wage  
5 theft -- or, the prevention of wage theft, rather;  
6 and whether there might be room for more resources  
7 to help you accomplish that.

8 LAURA CAMPION: Thank you.

9 I don't have any sort of specific numbers,  
10 and I wouldn't be able to confirm any numbers, if  
11 the number of staffing you identified is specific to  
12 our Labor Standards Unit or includes our public work  
13 and prevailing wage investigators as well.

14 But I can certainly bring some of that back  
15 and have us follow up.

16 What I will say is that, you know, we do  
17 everything that we can, and work extremely hard with  
18 the resources that we have. I think our  
19 commissioner had her budget testimony last week --  
20 I think it was only last week.

21 It's been a long week.

22 And, you know, I think she generally will say  
23 that we're never going to say no to resources. But  
24 we also recognize that there's a lot of work that  
25 has to get done amongst all of the state agencies; a

1 lot of important work from my colleagues at DFS,  
2 from the other state agencies that have been  
3 mentioned today.

4 And we'll continue to work hard and use our  
5 resources as effectively as we can.

6 SENATOR MYRIE: And thank you for that.

7 Are there any high-risk industries for wage  
8 theft or particular patterns that you have seen  
9 emerge, whether it be on the income band or whether  
10 it is the type of industry?

11 LAURA CAMPION: Sure.

12 I know, off the top of my head, the service  
13 industries are, you know, generally a challenge.

14 And you can go on to our -- the dashboard  
15 that I mentioned in my remarks, and narrow to see  
16 things by different industries and whatnot.

17 I wouldn't be able to give you a full  
18 accounting off the top of my head. But we can  
19 certainly follow up with some more specifics.

20 SENATOR MYRIE: Great. Thank you.

21 I think that would be helpful for the  
22 committees, certainly as we're trying to craft  
23 prevention efforts by statute, to see if there are  
24 particular industries that need some tailored focus,  
25 and who are more susceptible to taking advantage of

1 workers.

2 And to Mr. O'Malley, I'm going to turn the  
3 focus a little bit to virtual currency.

4 And the conversation around the market  
5 structure and all of the things happening on the  
6 federal level is complicated and fraught, like many  
7 things, with politics.

8 But here in the state, I think the DFS has  
9 been on the forefront from many years ago, and under  
10 previous and current leadership, in trying to  
11 establish some regulatory framework, to allow for  
12 both accountability in the industry, but also to  
13 have the market continue to do what the market does.

14 You issued last November -- I think you were  
15 already there, but maybe not -- okay, last  
16 September, rather, guidance on blockchain analysis  
17 for entities.

18 Can you talk to me, one, about how that has  
19 gone from a compliance side?

20 And, also, what challenges remain in folks  
21 being able to comply with doing this type of  
22 analysis and safety, and what -- where there might  
23 be room for improvement?

24 GABRIEL O'MALLEY: Sure. Thank you.

25 So on the "how is it going?" analysis front,

1 the Research and Innovation Division houses a  
2 virtual currency unit that performs examinations of  
3 all of our licensees on a periodic basis.

4 I'm not able to comment on specific  
5 examination findings.

6 But what I can say is very important to DFS  
7 in assessing current licensees and other -- and  
8 applicants is redeemability of assets.

9 So if a consumer wants to get his or her  
10 assets back, are they able to do so immediately; or,  
11 if not so, in a timely manner? And, also, the  
12 ability to freeze funds.

13 And that really is important for especially  
14 criminal and civil actions, where, once you find out  
15 something has happened, the wheels of justice  
16 sometimes move slowly for the ultimate result. But  
17 it's important to be able to move quickly to freeze  
18 funds.

19 And so that's an important aspect of what we  
20 look at when we're reviewing various companies.

21 SENATOR MYRIE: And I know you can't comment  
22 on specific examinations, and whether or not they  
23 may or may not be investigations.

24 Can you say, more broadly, whether you have  
25 found, specifically for bit licensees, whether there

1 has been compliance on this guidance?

2 GABRIEL O'MALLEY: I'm going to have to come  
3 back to you on that, and I'm happy to provide more  
4 information. But I want to make sure that what  
5 I provide you is correct.

6 So I'll pause on that and come back to you on  
7 it.

8 SENATOR MYRIE: Okay, and I appreciate it.

9 I'm certainly not attempting to shame any  
10 particular actor. The hope is, you know, whether we  
11 need to go further than regulatory, and whether we  
12 should consider statutory requirements. And it  
13 would be helpful to know, given you guys's proximity  
14 to the industry, to see what may be needed.

15 On the student loan front, and you spent a  
16 significant amount of your testimony, and certainly  
17 given your position in DFS, talking about the work  
18 that is done on that front.

19 Can you -- for the everyday New Yorker who  
20 does not tune in at 10 a.m. in the morning on  
21 Tuesday to a public protection and consumer  
22 protection hearing, if I'm a student loan borrower,  
23 and right now I am, you know, paying, and I'm --  
24 I feel overburdened or I feel like something is  
25 awry, what do I do?

1           And how would DFS be helpful in that instance  
2 where I feel like, my servicer, I can't reach them  
3 or I feel like I'm being overcharged, and this is  
4 someone that is under regulation by DFS?

5           GABRIEL O'MALLEY: Sure.

6           Well, first of all, just to harken back to  
7 something you said at the outset, about folks being  
8 held captive in relationships and being potentially  
9 exploited.

10           I think the servicing relationship is an  
11 example of how that can happen, because consumers  
12 don't choose their servicers, in most instances,  
13 relating to mortgages or their student loans.

14           And so you don't have the equality of  
15 relationship, where you're able to make an informed  
16 choice, after the transaction happens, to move to  
17 another provider the way you would, for example,  
18 with a cell phone.

19           And so servicing is really an area where  
20 folks are held captive by whoever it is that's  
21 servicing the loans.

22           Our SPU unit does public outreach.

23           I believe in the budget negotiations there  
24 are some discussions about getting us more  
25 resources; and also more resources for EDCAP which

1 does a fantastic job in communicating with  
2 consumers.

3 Candidly, now, there have been so many  
4 changes on the federal front, that it is confusing  
5 for folks about what their rights are for federal  
6 student loans and what the best decision is for them  
7 to make.

8 One thing that we have seen is that, as a  
9 result of the One Big Beautiful Act Bill, there have  
10 been and will be changes to federal student lending.  
11 And that might, I would say, is likely to push some  
12 number of consumers into private student loans, to  
13 bridge the gap in the amount of money that they need  
14 to get for their education and what they can  
15 actually get through federal loans.

16 The Governor has highlighted her interest in  
17 ensuring that consumers understand their rights when  
18 they're refinancing federal loans into private  
19 student loans, because, as I think you're alluding  
20 to, under the federal loan structure, there are  
21 certain benefits that consumers can take advantage  
22 of. Income-driven repayment plan is one. The  
23 public student loan forgiveness plan is another.

24 But once you consolidate those loans and turn  
25 them private, that's an irrevocable act, and you may

1       lose certain rights.  And it's particularly  
2       confusing now because the landscape is in flux on  
3       the federal front.

4               And so the Governor has rightly proposed  
5       requiring private student loan lenders to give  
6       consumers an understanding of what rights they might  
7       be losing if they do consolidate loans into private  
8       loans.

9               SENATOR MYRIE:  Thank you.

10              And my last question, and thank you for your  
11       patience again:  What is DFS's current understanding  
12       of your authority as it relates to prediction market  
13       platforms, if any?

14              I know this is a newer thing, and we're all  
15       trying to respond and figure things out.

16              And I'm wondering if you have thoughts on  
17       whether there should be some space for conversation?

18              These are -- these markets -- and this is  
19       something Chair May has also been looking into --  
20       that are not inherently financial, but there are  
21       many financial transactions that end up taking  
22       place.

23              And wondering if DFS has any thoughts on  
24       that?

25              GABRIEL O'MALLEY:  Well, I'm aware it's a

1 complex issue, and it presents some really fraught  
2 issues.

3 The CFTC has historically had authority over  
4 futures contracts, and there has been some  
5 litigation over whether or not State action is  
6 preempted. I'm aware of that.

7 I would say, ultimately, whether or not  
8 New York is going to take some form of action in  
9 connection with prediction markets is a really  
10 important policy decision that the Governor and the  
11 legislature will have to work through.

12 And we can provide technical advice, given  
13 our understanding of the various markets that we  
14 regulate.

15 SENATOR MYRIE: Thank you.

16 There are no further questions.

17 Thank you both for taking the time to testify  
18 today.

19 GABRIEL O'MALLEY: Thank you. Appreciate it  
20 very much.

21 LAURA CAMPION: Yes, thank you.

22 SENATOR MYRIE: Okay. We are next going to  
23 hear from the office of the attorney general.

24 Good morning, and thank you for testifying  
25 today. Take it away when you're ready.

1           STEPHANIE J. SWENTON: Good morning,  
2           Chairs Myrie and May, Senator Murray.

3           Thank you for convening this important  
4           hearing, and for giving our office, the attorney  
5           general's office, an opportunity to share our  
6           experiences, feedback, and insight.

7           Attorney General James continues to  
8           appreciate the strong and constructive relationship  
9           between our office and the legislature. And we  
10          appreciate your consideration of legislative reforms  
11          that will enable prosecutors to more effectively  
12          combat white-collar crime schemes in New York State.

13          My name is Stephanie Swenton, and I have  
14          served as chief of the attorney general's Criminal  
15          Enforcement and Financial Crimes Bureau for over  
16          eight years, and as a criminal prosecutor in  
17          New York State for over 25 years.

18          I am joined by my colleague,  
19          Shamiso Maswoswe, who serves as chief of the  
20          attorney general's Investor Protection Bureau.

21          SHAMISO MASWOSWE: I began my career as  
22          prosecutor 10 years ago with the Department of  
23          Justice Criminal Division, and joined OAG 7 years  
24          ago, and began serving as chief of IPB for the last  
25          4 years, where I help lead our office's securities

1 and commodities investigations, enforcement actions,  
2 and litigations.

3           STEPHANIE J. SWENTON: The attorney general's  
4 Financial Crimes Bureau conducts investigations and  
5 prosecutions of complex financial fraud schemes  
6 across the state, including criminal securities  
7 fraud prosecutions, and supplements the valuable  
8 work done by the 62 county district attorneys in  
9 this space.

10           The attorney general's Public Integrity  
11 Bureau, Medicaid Fraud Control Unit, and Labor  
12 Bureau are also active in the white-collar space,  
13 prosecuting crimes based either on statutory grants  
14 of authority or referrals from state executive  
15 agencies.

16           Prosecution of white-collar crime cases is  
17 very time-consuming. It's document-intensive, and  
18 it involves testimony from dozens of witnesses.

19           However, a few simple reforms would greatly  
20 enhance our ability to prosecute white-collar  
21 crimes.

22           The first is simplifying the introduction of  
23 business records in the grand jury.

24           Under New York law, with few exceptions, a  
25 witness must testify in person in the grand jury to

1 admit testimony or even documentary evidence.

2 This means that a witness who has no other  
3 relevant testimony to offer must travel to the grand  
4 jury merely to be asked a few questions to show that  
5 a document is part of their business records.

6 In most states and federal districts, this  
7 type of personal appearance by a records custodian  
8 is not required in the grand jury, nor even often at  
9 trial.

10 The New York Legislature has already  
11 recognized an exception for certain phone and  
12 banking records, which can be introduced by  
13 certification in the grand jury. These  
14 certifications safeguard the reliability of the  
15 records by requiring a business representative to  
16 sign a written statement under oath, attesting to  
17 their authenticity.

18 If this already-accepted certification  
19 process were extended to all business records, it  
20 would greatly streamline our grand jury process.

21 The second proposed reform to grand jury  
22 practice is improving victim access to grand jury.

23 Large-scale fraud schemes typically target  
24 victims across the state and across the country,  
25 particularly now in the digital era, as well as

1 vulnerable victims such as the elderly.

2           Permitting witnesses who reside more than  
3 100 miles from the grand jury, or whose mobility  
4 issues substantially impair their ability to appear  
5 in person before a grand jury, to instead testify by  
6 simultaneous video testimony would enhance our  
7 ability to prosecute white-collar crimes.

8           Such live videotaped testimony would still  
9 maintain the integrity of the proceedings because  
10 jurors would have the ability to observe the  
11 witness, ask questions, and a certified recording  
12 would be retained for future review.

13           The third reform is adding increased felony  
14 levels to the "scheme to defraud" statute.

15           Most areas of the New York State Penal Law  
16 hold the most egregious offenders accountable by  
17 establishing increase in felony levels based on the  
18 scope of the crime. For example, the larceny  
19 statutes, someone who steals less than \$1,000 is  
20 guilty of a misdemeanor; more than \$1,000, an  
21 E felony; and so forth, with a theft of over  
22 \$1,000,000 constituting a B felony.

23           In New York, however, thefts must be charged  
24 separately as to each victim. This means that a  
25 stock broker who steals \$1.1 million from a single

1 wealthy client can be held accountable on a Class B  
2 felony. However, if a stock broker steals  
3 \$1.1 million by taking \$1,000 each from 1,100  
4 lower-income investors, that conduct is only  
5 punishable in New York as a series of A misdemeanors  
6 and an E felony scheme to defraud.

7 An example of this is the attorney general's  
8 recent indictment of a tax preparer in  
9 Madison County who was charged with operating a  
10 massive Ponzi scheme over three decades, by which he  
11 stole over \$50 million from 988 investors.

12 Because he did not steal more than \$1,000,000  
13 from any one of those investors, the top counts  
14 charged are only C felonies.

15 Adding increased felony levels to the  
16 "scheme to defraud" statute would allow us to hold  
17 the most egregious offenders accountable, and ensure  
18 that offenders who target low- and middle-income  
19 victims are equally accountable as those who target  
20 wealthy New Yorkers.

21 Lastly, I would like to note the exceptional  
22 partnership that the attorney general has had with  
23 the legislature, particularly Senator Myrie in  
24 combating deed theft.

25 Preventing deed theft has long been a

1 priority of Attorney General James.

2 The attorney general's office created a  
3 dedicated Real Estate Enforcement Unit to  
4 investigate and prosecute deed theft schemes, and  
5 since 2019, has chaired the Deed Theft Fraud Task  
6 Force.

7 The attorney general remains deeply committed  
8 to rooting out deed theft in all of its forms, and  
9 we look forward to continuing to work with the  
10 legislature to develop criminal and civil tools to  
11 guard against these crimes.

12 Thank you again for the opportunity to share  
13 input on this important topic.

14 And you will next hear testimony from my  
15 colleague Shamiso.

16 SHAMISO MASWOSWE: As part of our role as the  
17 a state's chief law enforcement officer, the OAG is  
18 a state securities and commodities regulator.

19 Through IPB, the OAG investigates and brings  
20 enforcement actions against those who offer or sell  
21 securities or commodities, including  
22 cryptocurrencies, fraudulently or without  
23 registration.

24 The OAG has regulated securities and  
25 commodities for over a century, and has been on the

1 crypto beat for a decade.

2 Many of the fraudulent investment secure --  
3 investment schemes that our office prosecutes today  
4 involved -- involve cryptocurrencies.

5 As some of you know, Senator Myrie hosted a  
6 roundtable on white-collar crime, which our office  
7 attended, along with several DAs, the department of  
8 financial services, and the New York State Police.

9 It was striking how many offices reported the  
10 way that traditional financial crimes and other  
11 forms of criminal conduct were generated or  
12 facilitated using crypto.

13 Whether a scheme to defraud investors through  
14 a crypto-based investment scam or using crypto to  
15 hide money stolen through an elder fraud scam, it is  
16 impossible to ignore crypto's connection to criminal  
17 conduct, including white-collar crime.

18 This growth in crypto-related crime makes  
19 sense.

20 When criminals want to lie, cheat, and steal,  
21 they often choose cryptocurrency for a few reasons.

22 When they break the law, it's good to be  
23 anonymous.

24 Second: In crypto, there is no bank or  
25 centralized authority that's tasked with identifying

1 suspicious transactions or wallets or for rooting  
2 out fraud before it happens, or even detecting it  
3 afterwards.

4 And unlike in traditional securities  
5 industry, no one is tasked with the visibility -- no  
6 one has visibility into the trading activity  
7 occurring across the marketplace.

8 And, third: In crypto, there's, largely, no  
9 do-overs on the blockchain.

10 Chainalysis, an -- a blockchain analytics  
11 firm, who I understand you'll be hearing from a bit  
12 later, conservatively reports that crimes involving  
13 cryptocurrency back in 2020 involved crypto in the  
14 amount of about 11 billion. It more than doubled  
15 the next year to 26.5 billion, and reached an  
16 all-time high in 2022, at 54.3 billion. In 2024, it  
17 estimates that it will reach -- that it reached  
18 \$51.3 billion.

19 In January of this year, our office, along  
20 with several local district attorneys' offices from  
21 across the state, joined District Attorney Bragg in  
22 a letter to Senator Schumer, Gillibrand, and Woerner  
23 about the two largest stablecoin issuers, Circle and  
24 Tether, and their failures to cooperate with law  
25 enforcement to stop fraud, and return assets to

1 victims.

2 Everyone agrees that this is a problem.

3 Congress has begun to draft legislation to  
4 resolve it. But it expressly does not include a  
5 requirement that digital asset service providers,  
6 like Circle and Tether, cooperate with state and  
7 local law enforcement, like OAG and local district  
8 attorneys' offices, which is why your help is  
9 needed.

10 We would like to bring your attention to  
11 four ways that crypto entities facilitate crime,  
12 which we believe could be addressed through  
13 legislation.

14 First: Not all crypto companies comply with  
15 law enforcement requests to freeze assets  
16 temporarily, pending court action.

17 At least one stablecoin issuer, Circle,  
18 routinely refuses administrative requests to  
19 temporarily freeze assets that would allow -- that  
20 law enforcement believes were involved in fraudulent  
21 conduct. Instead, Circle directs law enforcement to  
22 go to court and secure a court order even if there  
23 may not be time to do so.

24 Second: Even once a court order is obtained,  
25 requiring that assets be frozen, some cryptocurrency

1 firms will not comply with those orders or will  
2 unreasonably delay compliance.

3 In one instance, our office and the  
4 Queens District Attorney's Office asked Circle to  
5 voluntarily freeze assets. And when we were told  
6 no, and to get a judicial court order, we did so,  
7 and Circle was directed to freeze those assets. But  
8 it took the company three days to do so, which  
9 allowed the crypto to be transferred out and  
10 converted.

11 OAG has also been informed that platforms,  
12 such as OKX and Binance, will not honor court orders  
13 obtained by victims directly unless law enforcement  
14 is involved or unless victims choose to indemnify  
15 these companies.

16 Third: Even in the face of a court order,  
17 requiring cryptocurrency firms to return the  
18 proceeds of fraud, some entities have refused orders  
19 to return these ill-gotten gains, failed to  
20 cooperate with law enforcement to secure those  
21 orders, or declined to cooperate unless law  
22 enforcement jumps through numerous difficult and  
23 unreasonable hoops.

24 The status quo is untenable and leaves law  
25 enforcement, particularly state and local law

1 enforcement, and the victims of crypto schemes, at  
2 the mercy of these entities who derive immense  
3 financial benefit from underregulation and the  
4 opacity of the crypto industry.

5 Even those crypto law firms -- even those  
6 crypto firms that have provided voluntary compliance  
7 in the past can, at any moment, decide to stop  
8 cooperating with law enforcement to freeze and seize  
9 defrauded crypto assets.

10 Finally, while the anonymity associated with  
11 stablecoins is considered one of its prime benefits  
12 for users -- it is in fact a feature, not a bug --  
13 the opacity still applies even when law enforcement  
14 is trying to investigate criminal conduct.

15 This seems difficult to justify when it's  
16 clear that crypto has become a prime vector to  
17 enable and facilitate criminal conduct.

18 OAG thanks the committees and Chairs Myrie  
19 and May for providing the opportunity to share input  
20 on this important topic.

21 We look forward to continuing to work  
22 together, moving forward to address these issues,  
23 and are now able to answer any questions that you  
24 might have.

25 ///

1           SENATOR MYRIE: Thank you both.

2           Senator May.

3           SENATOR MAY: Thank you.

4           So let me start with you and talk about  
5 crypto, because one of the things we heard from  
6 Ms. Swenton is that there are very different  
7 penalties, depending on the amount of money  
8 concerned.

9           But, with crypto, the actual valuation of the  
10 stablecoin fluctuates.

11           Does it even make sense to have monetary  
12 levels on penalties, or, you know, assign penalties  
13 according to the amount of money that is being  
14 defrauded if you're in the crypto world?

15           Or how do you deal with that?

16           SHAMISO MASWOSWE: So IPB is a civil  
17 enforcement. And so, for us, our goal is always to  
18 just fully return assets to the victims, and then,  
19 also, to pursue penalties and disgorgement where we  
20 can.

21           The beauty of stablecoin, or the supposed  
22 beauty of stablecoin, is that the value of  
23 stablecoin isn't supposed to fluctuate. Stablecoins  
24 are supposed to be pegged one-to-one with fiat  
25 currency, so that one stablecoin is supposed to

1 equal one dollar.

2 And that's why it's often the tool of choice  
3 and the currency of choice for criminals because  
4 they don't like that other cryptocurrencies will  
5 fluctuate so much in value.

6 So, for instance, on last Friday, Bitcoin was  
7 valued at \$65. But five months ago it was at  
8 \$126 -- at an all-time high of \$126.

9 And so, often, it will go into stablecoin.

10 So because it changes value so often, and  
11 many of the different tokens, criminals, and most  
12 people, prefer to put it in stablecoin, which is why  
13 creating legislation that focuses on stablecoin, and  
14 requires compliance from Circle and Tether and other  
15 stablecoin issuers, is so important.

16 SENATOR MAY: Okay. Thank you.

17 And on that same example that you gave,  
18 Ms. Swenton, about, you know, where a stock broker  
19 could take over \$1,000,000 from one person or over  
20 \$1,000,000 from a lot of people and the penalties  
21 would be different, I'm just wondering about, always  
22 thinking from the consumer side, if you -- does each  
23 one of those consumers have to file a complaint?  
24 Does it have to be a class-action?

25 Like, it feels like it would be -- even if

1 the penalties were the same, the process would be a  
2 lot harder.

3 And I just -- I'm not being a lawyer.  
4 I would love to get your advice about how we help  
5 those people for whom losing \$1,000 may be more  
6 consequential in some ways than someone else losing  
7 a million.

8 What processes are in place to help them get,  
9 you know, what they deserve?

10 STEPHANIE J. SWENTON: Thank you, Senator.

11 Before turning to the processes, and how some  
12 of the reforms I've discussed I believe would  
13 facilitate that process, I -- the example I provided  
14 was related to monetary thresholds.

15 However, I will note that the current  
16 Senate bill, 8594, imposes multiple levels of scheme  
17 to defraud.

18 One of the ways to elevate the levels of  
19 scheme to defraud is certain monetary thresholds.

20 Another way is the number of victims.

21 So in the incidents that you've suggested,  
22 where there could be a counterargument regarding  
23 valuation of a particular asset where there was a  
24 fraud committed or a theft, that alternate provision  
25 in the elevation of felony levels for more than

1 50 victims, more than 100 victims, more than  
2 1,000 victims, so long as, you know, property is  
3 obtained, is an alternate provision to target that  
4 conduct, where not only the individual losses may be  
5 smaller, but may be more difficult to quantify.

6 That being said, going back to the general  
7 non-hearsay presumption in the grand jury meeting,  
8 there is a presumption of in-person testimony.

9 The hurdles to bringing a B felony case,  
10 where would you have to call over 1,000 victims,  
11 would likely be insurmountable. Even over 100 would  
12 be quite difficult.

13 You know, an additional amendment that I did  
14 not discuss is that, potentially, permitting certain  
15 testimony to be via affidavit rather than by live  
16 testimony.

17 For example, in the context of stolen  
18 property, stolen credit card numbers, there is a  
19 provision in the New York State statute that allows  
20 victims to -- where they're only testifying as to  
21 lack of permission and authority, to provide an  
22 affidavit as opposed to testimony, which would allow  
23 prosecutors to effectively encompass a larger scope  
24 of the scheme.

25 I think in a fraud scheme where there is

1 inducement and there is a narrative to be told,  
2 I don't know that an affidavit would be appropriate.

3 But one particular gap in the law is related  
4 to identity theft. There is clearly not an  
5 exception for victims of identity theft to testify  
6 via affidavit, simply to the fact that they did not  
7 allow their personal identifying information to be  
8 used by anyone.

9 And that is one way to attempt to, again,  
10 attack these schemes that can be very broad in  
11 scope, where a victim might have a limited scope of  
12 testimony, which would be to consider what type of  
13 testimony might be acceptable via affidavit.

14 But I also believe that the virtual testimony  
15 provision could help to greatly increase the ability  
16 of prosecutors to call more witnesses in a grand  
17 jury to demonstrate the scope of a scheme, where the  
18 individual losses for each person might be small,  
19 but, collectively, they are quite large.

20 SENATOR MAY: Thank you.

21 I know, in discussing this in our conference,  
22 people came down on either side of that.

23 Would you imagine putting guardrails on if it  
24 was a case of a large number of victims, for  
25 example, who presumably would all be giving similar

1 testimony?

2 Or, you know -- or would you think that that  
3 person who was defrauded of over \$1,000,000 would --  
4 could -- should be allowed to testify remotely?

5 What are you thinking, that there should be  
6 guardrails?

7 STEPHANIE J. SWENTON: I think the remote  
8 testimony provision, I mean, in the draft  
9 legislation we have reviewed, is based on their  
10 physical ability to appear before a grand jury and  
11 the distance to be traveled.

12 I do think there is an interest to the grand  
13 jury hearing the narrative.

14 So I would never want to say that there is a  
15 monetary threshold to whether a victim would be able  
16 to testify via affidavit or via virtual testimony  
17 versus live testimony.

18 I think there are other considerations, if  
19 implemented, that could help to achieve the same  
20 goals, which are the ones in the proposed  
21 legislation.

22 SENATOR MAY: Okay. Thank you.

23 SENATOR MYRIE: Thank you.

24 Senator Murray.

25 SENATOR MURRAY: Thank you, Chairman.

1 I'm going to kind of piggyback -- and thank  
2 you both for being here.

3 I'm going to piggyback on something  
4 Senator May brought up in the last panel, and that  
5 is, kind of, the one-stop-shopping aspect; and  
6 I want to bring up the issue that I brought up, and  
7 that is the escrow funds being stolen.

8 So is that DFS? Would that be the attorney  
9 general?

10 I know there are licensing issues when it  
11 comes to attorneys. I know there are things like  
12 this.

13 But when you're stealing the amount that  
14 appears to be being stolen now, it continues to  
15 grow, this continues to be a problem.

16 Is that something you, the AG's office, would  
17 take on directly, or would it be DFS, or a  
18 combination of both?

19 How would that work?

20 STEPHANIE J. SWENTON: The attorney general's  
21 office, our criminal jurisdiction is unique. There  
22 are certain statutes that provide us direct  
23 jurisdiction over certain subject matter areas.

24 The Martin Act, related to securities and  
25 commodities fraud, is one. It has both civil and

1 criminal provisions.

2 Certain provisions of the labor law is  
3 another, that give the attorney general direct  
4 jurisdiction for civil and criminal enforcement in  
5 that space.

6 Related to other types of crimes, the  
7 62 county district attorneys, you know, obviously  
8 have power to enforce those.

9 But that being said, we regularly partner  
10 with state executive agencies who provide us with  
11 referrals under the state Executive Law,  
12 Section 63(3), to activate our jurisdiction for  
13 areas of priority enforcement.

14 So if this is an area of priority  
15 enforcement, obviously, we welcome complaints  
16 related to all financial fraud schemes.

17 We do have an online portal that receives an  
18 incredible breadth of financial fraud complaints,  
19 and those are discussions we're happy to have.

20 SENATOR MURRAY: Okay. Thank you.

21 SENATOR MYRIE: Thank you.

22 And thank you both for the testimony.

23 For Ms. Swenton, first, I want to focus for  
24 a second on elder fraud.

25 And, you know, we have in our laws the

1 definition of what would bump up consequence and  
2 penalty for someone who has, you know, allegedly,  
3 taken advantage of an older individual.

4 But we -- currently, the "vulnerable elderly  
5 person" standard is something that, you know,  
6 I think, in some cases, is a high standard to  
7 achieve.

8 And I'm hoping you can maybe talk to us about  
9 whether this is a workable standard for older adults  
10 who we wouldn't, sort of, commonly consider them  
11 vulnerable just because they are old. They still  
12 remain sharp, et cetera, but they were still a  
13 victim of a scheme or fraud.

14 And I'm hoping you can talk to us about  
15 whether we need to reexamine that.

16 STEPHANIE J. SWENTON: I think there are  
17 opportunities to expand the definition of a  
18 "vulnerable elderly person" besides sort of an  
19 arbitrary number related to age. There are multiple  
20 issues that play into that in terms of capacity.

21 But, you know, those are definitely  
22 discussions that we would welcome.

23 And, again, yet another aspect of what  
24 I think would be incredibly powerful amendments to  
25 the "scheme to defraud" statute is elevating levels

1 when one of the persons defrauded -- at least one of  
2 the persons is a vulnerably -- vulnerable elderly  
3 individual.

4 Just, in my role, in particular, we've  
5 recently prosecuted fraud schemes in both  
6 Queens County and Suffolk County, where elderly  
7 victims were defrauded by trusted former investment  
8 advisers of their entire life savings, leaving them  
9 to have to return to work, sell their homes.

10 This is a particularly vulnerable pool, and  
11 I do think it's a fruitful area of discussion, to  
12 make sure that that definition is fully capturing  
13 the scope of those individuals who are often both of  
14 means because they have significant retirement  
15 savings and subject to being preyed upon by  
16 white-collar criminals.

17 SENATOR MYRIE: Thank you.

18 And to Ms. Maswoswe -- excuse me -- we're  
19 steeped in the cryptocurrency stuff, where we know  
20 the lingo, we know the acronyms, we know  
21 [indiscernible].

22 Most people are not.

23 And part of what makes them more susceptible  
24 to being taken advantage of is this knowledge  
25 disparity.

1           And so I'm hoping you can talk to us, and  
2           sort of say it as plainly as you can, what the  
3           problem is as it relates to people being taken  
4           advantage of.

5           If you are a person that has seen an ad or  
6           you got a message that said, "I have a real great  
7           opportunity for you to make a lot of money in  
8           crypto," turns out that that is not true, you get  
9           taken advantage of, what recourse do you have as the  
10          law stands right now?

11          SHAMISO MASWOSWE: So I think that there  
12          certainly is an information gap. There is a lot of  
13          lingo surrounding crypto that makes it sound very  
14          sophisticated and very fancy and very -- like,  
15          there's a lot of "FOMO" around it; a lot of fear of  
16          missing out. Like, this is your chance.

17          But what we have found and what studies have  
18          found, that -- is that there's a lot of predatory  
19          inclusion around this as well. There's a lot of  
20          targeting of communities of color, of young people,  
21          of, like, this is your chance to achieve the  
22          American dream of, to get out of poverty, of  
23          gambling, really.

24          And that is really taking advantage of  
25          vulnerable populations, and is of great concern to

1 us.

2 And so -- and so -- and so that -- and  
3 I think that also makes it a much more dangerous --  
4 a much more dangerous kind of product to peddle; and  
5 much more dangerous when you have celebrities that  
6 are out and influencers that are out peddling this  
7 as well, without the appropriate risks.

8 So, you know, when you're -- when they're  
9 securities or they're bonds or they're much more  
10 regulated products, there are warnings and there are  
11 disclosures, and you get a lot more information.  
12 When there's conflicts of interest, there's a lot  
13 more information that consumers and investors will  
14 get.

15 And you just don't get that with crypto.

16 So what are your remedies?

17 Your remedies are to report it.

18 Your remedies are to try and do your due  
19 diligence, and to make sure that folks are  
20 registered; that they're registered with the  
21 attorney general's office, that they are  
22 bit-licensed.

23 That you do searches to see if they are --  
24 have -- that they are -- that they -- whether or not  
25 they've been accused of being a scam. See what

1 other people are saying about them.

2 And that you, you know, are not pressured  
3 when someone is saying "that you have to do it right  
4 now." And that's a red flag.

5 The attorney general has done a number of  
6 investor alerts and consumer alerts. I think we did  
7 one just a couple weeks ago about pig butchering.  
8 That that is a really big way that New Yorkers are  
9 really being pick-pocketed by international  
10 organizations -- criminal organizations from around  
11 the world, that are coming and just picking the  
12 pockets of everyday New Yorkers, when -- you know,  
13 from romance scams and from other kinds of scams  
14 that people are falling victim to.

15 And so your recourses are to do your  
16 homework, do your diligence. And if you don't  
17 understand it, if it sounds too good to be true,  
18 then it probably is.

19 SENATOR MYRIE: Thank you.

20 And then, lastly, back to you, Ms. Swenton,  
21 you made the comparison between the different scales  
22 of consequence and penalties in the stockbroker  
23 example, and I'm hoping to expand on that a little  
24 bit.

25 If you can tell us what your office is

1 currently able to do within the confines of the law  
2 now, and what you might be able to do should we  
3 improve on the "scheme to defraud" statute, and what  
4 types of activity do you think you would be able to  
5 capture?

6           STEPHANIE J. SWENTON: Yes. So, you know,  
7 under the current tools we have, we are able to  
8 bring charges against individuals who defraud a  
9 tremendous number of investors of lower amounts,  
10 sort of in the thousands rather than the millions.

11           But the tools we have, in terms of holding  
12 those offenders accountable, are quite limited under  
13 the sentencing structures and speedy-trial  
14 structures.

15           So the hypothetical that I provided, if it's  
16 less than \$1,000, which does happen in some very  
17 pervasive schemes, that is a Class A misdemeanor,  
18 which is a summons, it's a summons ticket, that  
19 would have to be brought to trial within 90 days.

20           And a case of this kind of complexity would,  
21 pretty much, be an insurmountable hurdle.

22           If -- even though there is an E felony scheme  
23 to defraud that might encompass multiple of those  
24 petty larcenies, that is a desk-appearance-ticket  
25 offense. It's not a bail-eligible offense.

1           And any white-collar-crime penalty in  
2           New York, except for a Class B felony, there is no  
3           mandatory minimum sentence of incarceration. Those  
4           are all probation-eligible offenses.

5           You know, obviously, incarceration is not the  
6           only deterrent, and restitution is always a priority  
7           for us as well.

8           But where we are able to bring charges that  
9           most wholly reflect the scope of the criminal  
10          conduct, we are able to achieve better resolutions.

11          Whether it is millions of dollars of  
12          restitution, whether it is a deterrence of a repeat  
13          offender who is cycling through and committing  
14          frauds on different vulnerable populations, the  
15          sentencing tools and the charging tools and -- that  
16          are allowed to us over higher-level felonies are  
17          quite different.

18          And, in particular, the example I think that  
19          is now falling through the cracks is those crimes  
20          where the thefts are less than \$1,001, because  
21          they're not even felony offenses, and typically not  
22          presented to a grand jury on very accelerated time  
23          frame.

24          And those cases, I believe, are probably  
25          completely falling through the cracks,

1 unfortunately.

2           And I give the examples of the securities  
3 fraud context, but those kinds of frauds span the  
4 gamut.

5           The attorney general has done a lot of  
6 enforcement in residential contractor fraud cases.  
7 For some individuals, that may only be several  
8 thousand dollars, but it may be everything they had,  
9 and they're left with a home in ruins.

10           And those are the kinds of cases that are  
11 very impactful that, unfortunately, present hurdles  
12 under the current statute.

13           SENATOR MYRIE: Thank you very much.

14           And Senator May on a second round.

15           SENATOR MAY: Just for [indiscernible] --  
16 because of your answer before, I'm curious.

17           You basically said, if people -- the remedy  
18 for crypto fraud is for people to do their due  
19 diligence and do their research, which we always  
20 want people to do.

21           But it made me wonder if there's room for the  
22 State to actually have a seal of approval on some  
23 options that might -- you know, where people could  
24 feel more confident of them.

25           Is that something that we do, or that you

1 think about doing, with vetting some of these  
2 schemes?

3 SHAMISO MASWOSWE: Yes.

4 So, you know, I don't want to put, you know,  
5 the burden on the victim. You certainly never want  
6 to blame the victim. But, you know, everyone has to  
7 protect themselves because, you know, ultimately,  
8 you have to.

9 But, you know, making sure that folks are  
10 registered is important. And so a lot of our work  
11 around crypto has been going after folks that have  
12 not -- that are not registered with our office.

13 Making sure that folks have a bit license is  
14 also important, because, you know, when someone  
15 chooses to operate in the shadows, that often is the  
16 first sort of harbinger of fraud because, why are  
17 you doing that?

18 Get registered, get a bit license. And if  
19 you choose not to do that, then that's the first  
20 single -- the first sign of fraud.

21 And so when we have pursued these  
22 registration cases, then what we ultimately end up  
23 finding is fraud.

24 So an example is our Coinseed case. We  
25 brought that under our registration statute. And

1 then once we filed it as a registration case, then  
2 we were hit with 200 complaints from the public that  
3 said that they had been defrauded.

4 And so then we ended up going and getting a  
5 TRO, getting a receivership, and it turned out to be  
6 a massive fraud.

7 The same with KuCoin.

8 KuCoin is a major crypto platform. And we  
9 filed a crypto registration, that they failed to  
10 register a case with us.

11 And then it turned out that the feds were  
12 also looking at them for anti-money laundering and  
13 fraud. And that they contacted us -- DOJ contacted  
14 us and said, Hey, you filed a registration case.  
15 Are they going to talk to us if we contact them?

16 And we said, Yeah. We can give you their  
17 number.

18 And so that's what we're fighting, is that,  
19 if you're not willing to get registered, then  
20 there's something wrong, and that's the first sign  
21 of fraud.

22 Which is why, at the federal level, it's so  
23 important to make sure that we are not preempted at  
24 the federal level from registration, and certainly  
25 not from fraud.

1           SENATOR MAY: And that registration, is that  
2 something that's evident to the consumer who might  
3 be contemplating a transaction?

4           Is that public and transparent information  
5 for them?

6           SHAMISO MASWOSWE: Yes.

7           Whether they are registered with the AG and  
8 have a bit license with DFS, that's all public  
9 information.

10          Also, whether they are licensed with the SEC  
11 or the CFTC, all of that is public -- publicly  
12 available information.

13          SENATOR MAY: Okay. Great. Thank you.

14          SENATOR MYRIE: Sure, go ahead.

15          Senator Murray.

16          SENATOR MURRAY: Thank you, Chairman.

17          I just have one follow-up.

18          Earlier you had mentioned that young -- the  
19 younger generation is the target a lot of times.  
20 And you had mentioned celebrities, influencers.

21          Are they in any way responsible or held  
22 accountable if they are pushing a product like this  
23 and it ends up being fraudulent? Are they in anyway  
24 held responsible?

25          SHAMISO MASWOSWE: Absolutely, absolutely.

1           They have been held responsible at the  
2 federal level and they've been held responsible by  
3 our office.

4           Just this last year, one of our larger cases  
5 involved a large fund who was headed up by a very  
6 popular person who used his credentials in the  
7 financial -- in the traditional financial world.  
8 And he was involved in Luna/Terra. And at that  
9 point, Luna/Terra was trading at 33 cents --  
10 33 cents.

11           And he made a secret deal with Do Kwan and  
12 brought it over to the Western world. And, you  
13 know, went around on Twitter, saying, This is the  
14 next big thing. This is the -- it's -- it's going  
15 to go up in value.

16           And he's a holder, and that their firm is a  
17 holder, of this; all the while he was selling, he  
18 was selling, he was selling. And it went up from 33  
19 to a dollar. He said he was going to get a tattoo  
20 if it went up to 100. It went up to 100. It went  
21 higher than a 100, and then it crashed.

22           And they made hundreds of millions of dollars  
23 and everyone else lost.

24           And so we went after them, and we got  
25 \$200 million from them. And we got also reforms

1 from them, because that's also important.

2 It's important that, in addition to getting  
3 restitution and getting money, that we try to also  
4 get reforms from these companies as well.

5 And -- yeah.

6 So, yes, it's important that we also go after  
7 the people that are going and shilling on the  
8 Internet and deceiving people.

9 SENATOR MURRAY: Okay, great. Thank you.

10 SENATOR MYRIE: Thank you both.

11 And thank you for the work that the office  
12 continues to do.

13 Thank you.

14 SHAMISO MASWOSWE: Thank you.

15 STEPHANIE J. SWENTON: Thank you.

16 SENATOR MYRIE: We will next hear from a  
17 number of district attorney offices.

18 I believe that we are joined by  
19 DA Alvin Bragg who is the Manhattan District  
20 Attorney; we are joined by the Albany District  
21 Attorney, DA Lee Kindlon; and on behalf of the  
22 Brooklyn District Attorney, Eric Gonzales, the head  
23 of the virtual currency unit, Alona Katz.

24 So make your way down.

25 Okay, take it away.

1 DA ALVIN BRAGG: Good morning, Chair Myrie,  
2 Chair May, Senator Murray.

3 Thank you for the opportunity to testify  
4 today.

5 As you know, New Yorkers lose millions --  
6 billions, excuse me, to frauds and scams.

7 My office is investigating and prosecuting a  
8 wide variety of white-collar conduct, from  
9 investment scams, securities fraud, wage theft,  
10 tenant harassment, cryptocurrency that's being used  
11 to do terror financing, and all other kinds of  
12 crimes that are being underwritten.

13 We submitted written testimony, but I in  
14 particular wanted to highlight three proposals today  
15 that would really, really help our investigative  
16 work.

17 The first, the Scam Act, proposed by  
18 Senator Myrie/sponsored by Senator Myrie.

19 And I heard my colleague from the  
20 attorney general's office already talk about the  
21 scheme to defraud, so I won't belabor it.

22 But I want to add to her comments, our  
23 support from the Manhattan District Attorney's  
24 Office.

25 You know, currently, as she said, if someone

1 engaged in conduct with the intent to defraud at  
2 least 10 people, and succeeds in defrauding at least  
3 one person or obtains at least 1,000 through fraud,  
4 they're charged with a Class E felony.

5 But if the same person attempted a fraud,  
6 fill in the number, 50, 100, 1,000, they face the  
7 same charge.

8 And so we're facing the same issues that the  
9 attorney general's office is in terms of  
10 accountability, a stratified penalty system, in  
11 deterrence.

12 And so conduct that causes more widespread  
13 and severe harm should be eligible for more severe  
14 charges.

15 And I want to just underscore, in our docket,  
16 the complexity.

17 You know, we are not talking about, you know,  
18 if it's a grand larceny or petit larceny, we'll  
19 prosecute it that way.

20 The schemes to defrauds that we're  
21 prosecuting generally are complex actors who we  
22 believe, in many cases, are pricing in. And  
23 deterrence would be really, really garnered by  
24 having more penalties.

25 There's some actors, obviously, that are

1 acting impulsively, and added penalties might not be  
2 a deterrent.

3 But in our docket what we see, is the people  
4 that we're charging with scheme to defraud generally  
5 are actors that we think would be deferred --  
6 deterred by heightened penalties.

7 The second bill that I want to highlight in  
8 my oral testimony, again, sponsored by  
9 Senator Myrie, is the CRYPTO Act. It would  
10 criminalize the operation of a virtual currency  
11 business without a license.

12 And I'm sitting, listening to the testimony  
13 and the colloquy about registration.

14 And registration is great, but there needs to  
15 be a consequence if you're not licensed.

16 And, currently, an operator of an unlicensed  
17 virtual currency business in New York faces only  
18 civil penalties.

19 That's not true in a number of other states,  
20 and it's not true in the federal system where a  
21 criminal conviction carries -- can carry five years  
22 in prison.

23 We would like to have that tool in our  
24 toolbox.

25 And given the pervasiveness that we're seeing

1 with money-laundering, underwrite all types of  
2 crimes, from identity theft and types of scams we're  
3 talking about here today, but also violent crimes.

4 And, you know, we tried a crypto-terror  
5 financing case within the last few years.

6 And so the scope of the conduct that this  
7 would touch, the CRYPTO Act would establish criminal  
8 penalties for these unlicensed operators, and,  
9 again, gets to the steam of increasing the severity  
10 based on the value of the currency and the duration  
11 of the conduct: Unlicensed crypto transactions  
12 amount to \$1 million or more. Within one year or  
13 less would amount to a C Felony, carrying a maximum  
14 of 5 to 15 years' incarceration.

15 And, again, I would underscore the types of  
16 actors that we're talking about here.

17 These are people who are availing themselves  
18 of shadowy corners of our markets.

19 We have traditional brick-and-mortar banking  
20 systems that have requirements, like Know Your  
21 Customer Rights.

22 These are people who are seeking out the  
23 shadowy corners, using the anonymity to prey on  
24 individual victims. And whether it's identity  
25 theft, or even we're seeing in more violent crime.

1           And so having these enhanced penalties for  
2           not having the license, and having it be criminal,  
3           is really, really paramount.

4           The third, and I heard my colleague  
5           AG Swenton talking about, but -- and I know it seems  
6           maybe wonky, but I want to underscore the provision  
7           of the SCAM Act that aims to modernize the process  
8           for introducing routine business records in the  
9           grand jury.

10          We're just behind the times on this.

11          New York is the only state in the nation that  
12          requires an in-person custodial witness rather than  
13          a sworn affidavit to authenticate certain routine  
14          business records.

15          And, here, I would just underscore really how  
16          routine. We are talking about the same set of  
17          boilerplate questions over and over to the  
18          witnesses.

19          I hear my time is gone.

20          You have my written testimony, and you also  
21          have two phenomenal colleagues that -- to hear from;  
22          so I'll stop there.

23          Thank you.

24          SENATOR MYRIE: Thank you.

25          DA LEE C. KINDLON: Good morning, everyone.

1 Chairman Myrie, distinguished members of the  
2 committee.

3 My name is Lee Kindlon. I'm the Albany  
4 County District Attorney.

5 I am grateful for the opportunity to appear  
6 before you today, and to go on the record in strong  
7 support of the SCAM Act.

8 As the chief law enforcement officer of  
9 Albany County, I see every day what happens when the  
10 laws fail to keep pace with the ingenuity of those  
11 who seek to defraud our communities.

12 And when I talk about communities, I talk  
13 especially about our vulnerable populations: Our  
14 seniors, you know, those who might not have access  
15 to lawyers who will take their phone call right  
16 away; and also our immigrant population who have  
17 always been susceptible to scams.

18 New York's white-collar crime and fraud  
19 statutes have not been substantially updated for  
20 decades. In that time, the landscape has  
21 transformed beyond recognition. The criminals have  
22 adapted and our laws have not.

23 Your bill, this bill, seeks to correct that  
24 imbalance, which is why we are strong proponents of  
25 it.

1           Just a few months ago, in December, my  
2 office, in conjunction with the attorney general's  
3 office, prosecuted one of the first deed cases in  
4 the area, and we were successful.

5           But let me tell you, us getting to that point  
6 was far harder than it needed to be.

7           We were able to secure a conviction, the  
8 sentence is still pending.

9           But just to get from Point A to Point B, you  
10 know, such things should not take herculean efforts.  
11 It should be a very routine thing because this is  
12 something that, obviously, we want to be able to  
13 prosecute, because you find more and more scam  
14 artists are, again, attacking the elderly when it  
15 comes to, you know, the security of their home.

16           And, you know, the other thing -- and, again,  
17 I have written testimony that highlights this -- but  
18 the other thing we're finding with, you know, the  
19 vulnerable population, especially seniors, is these  
20 are very proud people who don't like to admit that  
21 they may have been conned.

22           You know, and there are seniors in my life  
23 who, educated, experienced, but they get the phone  
24 calls, they get the visits at the front door, and  
25 they are afraid to call, you know, me; they're

1       afraid to call people who could say, "no, that's a  
2       scam," because they don't want to admit that this  
3       happened to them.

4               So what this law does is, we are able to more  
5       effectively prosecute cases, prosecute cases far  
6       easier, going forward.

7               And it allows us to spread that message out  
8       into the community that, Hey, you know, your  
9       government is out there working for you, your  
10       government is out there looking to protect you, and  
11       prosecute these people who would try and take your  
12       home.

13               I also want to highlight the wage theft  
14       provisions.

15               I've now been district attorney for just  
16       about 14 months. And when I came into office, I was  
17       excited to be able to prosecute wage theft. This  
18       was one of my big things, because, you know, you  
19       find those shady contractors who are always looking  
20       to undercut, especially our unions and our labor  
21       force with cheap labor, out-of-state labor.

22               But what we found, as a practical matter,  
23       when we really dug into it, was that there are so  
24       many layers and shell companies and labor brokers  
25       and, you know, systems set up to get around these

1       outdated laws that, again, as a practical matter,  
2       especially for an office that -- you know, I have a  
3       midsized office, I have resources, but I don't have  
4       as much as I want.

5                Right?

6                But these laws make it easier for smaller  
7       offices like mine to be able to go out and prosecute  
8       wage theft.

9                And as Albany is looking at, and we're very  
10      grateful for the State to give us the money to  
11      rebuild our downtown. But we are looking at,  
12      potentially, you know, a lot of renovations coming  
13      to Albany. And I want to make sure that that money  
14      goes to the right place.

15              And so, again, this is the sign on the front  
16      door, that wage theft won't be allowed as we rebuild  
17      downtown Albany.

18              So the wage theft provisions, especially, are  
19      things that I look for, and I look to be able to use  
20      those tools to cut through a lot of these shell  
21      companies, a lot of these labor brokers, to get to  
22      the heart of the matter, and make sure we can  
23      prosecute those individuals who would defraud and  
24      undercut the labor market.

25              I always have so much to say.

1           So I'll cut to the end because, again, I have  
2 submitted written testimony.

3           Members of the committee, the people of  
4 Albany County, like New Yorkers across the state,  
5 deserve a legal system equipped to confront  
6 twenty-first century fraud.

7           The SCAM Act is a serious and overdue step in  
8 that direction.

9           It updates our statutes, closes loopholes,  
10 and introduces proportionate new tools, and sends a  
11 clear message that New York will not tolerate those  
12 who exploit its residents for financial gain.

13           So I'm proud to add the Albany County  
14 District Attorney's Office to the record in support  
15 of this bill.

16           Thank you.

17           ALONA KATZ: Thank you.

18           Thank you, Chairperson Myrie, the Senate  
19 Codes Committee, for inviting me to speak today, and  
20 for your leadership in this matter.

21           Brooklyn District Attorney Eric Gonzales  
22 strongly supports Senate Bill 8594, the Rip-Off Act,  
23 and urges the legislature to pass this bill without  
24 delay.

25           So my name is Alona Katz. I am a lifelong

1 New Yorker, and I am currently chief of the Virtual  
2 Currency Unit at the Kings County District  
3 Attorney's Office.

4 I want to share with everyone what it is like  
5 to be on the front lines of fighting to protect  
6 New Yorkers, including some of Brooklyn's most  
7 vulnerable residents -- seniors, immigrants, and  
8 non-English speakers -- from a tsunami of online and  
9 cryptocurrency scams.

10 With just a phone and an Internet connection,  
11 international scammers are in the ears of  
12 New Yorkers, targeting bank accounts, life savings,  
13 and generational wealth that parents had planned to  
14 leave their children.

15 Each year, scammers grow more adept at  
16 stealing and laundering cryptocurrency, increasingly  
17 using AI, a new technology, to exploit victims.

18 I spend most of my days talking to victims of  
19 these scams.

20 Not a week goes by that I don't find myself  
21 on the phone with a community member, struggling to  
22 accept that every cent they have, and every dream  
23 and goal they spent their whole life savings for, is  
24 gone. They tell me they feel broken.

25 I have heard from a retired New York City

1 schoolteacher who lost her entire pension.

2 I've struggled to answer a senior citizen who  
3 asked me how he would pay his rent next month, after  
4 he invested everything in what turned out to be a  
5 fraudulent cryptocurrency platform.

6 I've listened to the story of how a scammer  
7 preyed on a New Yorker who tried to invest in  
8 cryptocurrency because she was desperate to earn  
9 more money so that she could spare her family the  
10 burden of medical bills for her terminal illness.

11 In the fall of 2023, District  
12 Attorney Gonzales established the Virtual Currency  
13 Unit after hearing about the rise of Brooklyn  
14 residents asking for help after being victimized by  
15 these types of scams.

16 The unit's mission is to fight back to  
17 aggressively investigate and [indiscernible] those  
18 behind these devastating schemes, to arm our  
19 community with the knowledge needed to protect  
20 themselves, and to try and claw back stolen funds.

21 I have been an assistant district attorney  
22 for about 15 years, and I am here to tell you we  
23 need better tools, laws, and support to carry out  
24 this mission.

25 The Rip-Off Act has answers and solutions.

1           Since the creation of the Virtual Currency  
2 Unit, we have shut down hundreds of websites that  
3 look like real cryptocurrency investment platforms,  
4 replacing the fraud platform with a law enforcement  
5 warning.

6           We've disrupted scam operations and alerted  
7 victims.

8           We've expanded outreach efforts to warn  
9 Brooklyn residents about staying safe online.

10          We've even managed to see some stolen  
11 cryptocurrency. But because of the speed at which  
12 cryptocurrency moves and legal limitations, it was  
13 only a small portion of what was taken.

14          There is so much more that we could be doing  
15 for our victims through a modernization of New York  
16 State laws.

17          That's why we're urging the legislature to  
18 pass Senator Myrie's bill, which provides  
19 much-needed updates so that law enforcement can more  
20 effectively and prosecute the crimes, and return  
21 stolen cryptocurrency to victims.

22          And I just want to highlight some key  
23 provisions of the bill that would be particularly  
24 helpful.

25          It explicitly includes virtual currency as

1 property for the purpose of larceny crimes.

2 It defines a virtual currency transaction for  
3 the purpose of money-laundering crimes.

4 It would allow for the admission of  
5 cryptocurrency exchange business records as evidence  
6 in the grand jury with a business record affidavit,  
7 as traditional bank records already do.

8 And it would establish a procedure and legal  
9 process for the return of stolen cryptocurrency of  
10 fraudulent schemes to victims, including notice,  
11 hearing, and evidentiary requirements.

12 If enacted, these modernizations will help  
13 ensure that victims of cryptocurrency and online  
14 crimes are treated no differently than victims of  
15 more traditional crimes.

16 The urgency and need for this modernization  
17 at the state level is growing, worsened by the  
18 federal government's recent shift in priorities and  
19 retreat from cryptocurrency enforcement.

20 As District Attorney Gonzales testified  
21 recently at the city council, federal agencies are  
22 losing resources to focus on investigating  
23 cryptocurrency scams.

24 So what that means for most New York victims  
25 of cryptocurrency fraud, this often leaves them only

1 with their local district attorneys' offices as a  
2 meaningful defense and resource.

3 We simply can't afford to fail our victims  
4 and residents by being ill-equipped to handle these  
5 types of cases.

6 So once again, thank you.

7 SENATOR MYRIE: Thank you very much.

8 And I'm aware that Senator Murray wants to  
9 ask some questions. May have to step out for a  
10 committee meeting.

11 And so if you don't get the exchange that you  
12 need, we'll try to get you on the second round  
13 hopefully with the panel still being here.

14 SENATOR MURRAY: Thank you, Chairman.

15 I, literally, have to be at a committee  
16 meeting in three minutes.

17 So I'm just going to throw a question out,  
18 and I know I can't even listen to the answer, but  
19 I want to make sure I get it on the record.

20 In particular, I want to talk about just  
21 SNAP-benefit fraud and being stolen.

22 Is this becoming, especially in New York  
23 City, it's prevalent there -- but, first off, let me  
24 say this: That's on us; that's on New York State.  
25 We have not moved as quickly as we should to get the

1 chip technology. We are behind.

2 Thank God, the Governor's put money in the  
3 budget this time to at least start moving.

4 But we are 12 to 18 months away from them  
5 being there, and that's being generous.

6 So are you seeing that this is more of a --  
7 an organized scam, if you will?

8 This isn't just somebody, you know, stealing  
9 one thing. But this is putting skimmers on things.

10 Is this more organized; is that what we're  
11 seeing?

12 DA ALVIN BRAGG: So I really appreciate the  
13 question. It's something that we've been focused on  
14 in the office.

15 I would say it's a nationwide issue, is what  
16 we're seeing. We are closely examining it.

17 There are someone one-offs. But, certainly,  
18 from what we're seeing, it appears to be that there  
19 are organized, complex networks.

20 And so we are in the process of investigating  
21 a number of matters in this space.

22 SENATOR MURRAY: And do you have the tools  
23 you need to do that?

24 DA ALVIN BRAGG: I think from an  
25 investigative standpoint we do.

1           And I don't want to prejudge an investigation  
2 before it ends.

3           But I think this could be one where the  
4 "scheme to defraud" statute change would be  
5 particularly helpful.

6           You know, if it turns out -- and, again,  
7 I don't know, since it's a hypothetical, because we  
8 haven't, you know, reached conclusions.

9           But you could see in this space, you know,  
10 someone who is organizing across county lines,  
11 across jurisdiction lines, where, again, the "scheme  
12 to defraud" statute can also be helpful.

13           And taking amounts, you know, 500, 900, you  
14 know, increments that add up, and so the -- both the  
15 numerical victim change that's in the scheme to  
16 defraud, and also the dollar amount, could very  
17 well -- this could very well be an instance where  
18 that change would be remarkably helpful.

19           SENATOR MURRAY: That's a great point.

20           Thank you.

21           SENATOR MYRIE: Thank you, Senator Murray.

22           Okay. So I've got a number of questions.

23           And I'll start first, with gratitude, to  
24 New York City DAs who made the trip up here.

25           Thank you.

1           Our Albany DA had, you know, not too far a  
2 distance to get here, but we're still very grateful  
3 for your attendance.

4           So to DA Bragg, and thank you for your  
5 leadership and work on the CRYPTO Act, and a number  
6 of other issues.

7           You know, you've spoken about, in other  
8 forums, our need to turn our attention to our  
9 white-collar statutes.

10          And, you know, my position has been -- you  
11 know, I chair the Codes Committee. A lot of very  
12 important criminal justice issues make their way  
13 through this committee. We have had to grapple with  
14 a lot of things as a legislature.

15          But we have made a lot of investments as a  
16 state and as a system in tackling, sort of,  
17 colloquially called "street crime," and investments  
18 in that direction.

19          And I don't think that we have done the same  
20 thing on this front.

21          And I'm wondering, given your jurisdiction,  
22 and being the financial capital of the world, what  
23 value you see in us pursuing, sort of, more  
24 attention to our white-collar crime statutes?

25          DA ALVIN BRAGG: And I thank you for your

1 leadership. I think we were all here together for  
2 your convening. And so we thank you for -- I thank  
3 you for your leadership.

4 Look, I think New York, in general, is  
5 extraordinarily special.

6 Manhattan is the financial capital of the  
7 world, and many of these provisions interact, you  
8 know, with that.

9 We -- whether it's the virtual appearance.

10 We've got many victims who come for tourism,  
11 tourist capital of the world we would also suggest.  
12 And then they go back home, and reaching them and  
13 getting them back. They are victims. And someone  
14 who preyed upon them may also then prey upon someone  
15 who lives here.

16 The CRYPTO Act with a banking center. And as  
17 people shift away from the brick-and-mortar banks,  
18 there's still networks here, and so we see  
19 incredible activity.

20 I mentioned some of the matters we've done,  
21 which we were able to do, much like my colleague in  
22 Albany, we're able to do it, but it takes more work  
23 because of the structures.

24 You know, we -- we've -- within the last few  
25 years, have prosecuted a, you know, \$5 million

1 unregistered Bitcoin ATA business that was marketing  
2 to all sorts of criminal actors; a peer-to-peer  
3 trader who laundered millions in drug proceeds;  
4 a dark web drug-trafficking ring, all able to, sort  
5 of, do the work. Sometimes, because these actors  
6 take a foot out of the shadows and use the  
7 traditional banking structure, and then we're able  
8 to follow them. Sometimes it's old-fashioned  
9 surveillance. Sometimes it's puffery on their part,  
10 where they're bragging, you know, on some social  
11 media app.

12 But that's what we've been able to do.

13 We know there is so much more. This market  
14 is huge.

15 And so the licensing in particular, having  
16 criminal penalties for not having a license.

17 They don't have a license, so they don't have  
18 to know their customers, they don't have to do  
19 suspicious activity reports.

20 And so I would say, particularly, you know,  
21 what we see on our docket, having drawn in, over  
22 generations, people who are engaged in all sorts of  
23 financial transactions, they're here, they're used  
24 to being in Manhattan. And now they see another way  
25 to do it where they don't have to do this reporting,

1 and they're pivoting, and they're laundering, you  
2 know, millions and millions of dollars.

3 And so, you know, all the changes, you know,  
4 in the written testimony are particularly important.

5 But I would say the licensing regime.

6 And given the volume of our work, and this  
7 is, I would say, both street crimes and white-collar  
8 crimes, the grand jury business record. It would  
9 just -- it would allow, you know, one, from a fiscal  
10 standpoint, the amount of money that is spent, but  
11 also the amount of grand jury time.

12 Grand jury time is precious.

13 We have to go to the people and get an  
14 indictment, and the use of that time is precious.

15 And so even though that seems sort of wonky,  
16 and I know you appreciate it, but I spend time on  
17 it, because that time allows us to do more cases, do  
18 more complicated cases. Save money for the state.

19 And, you know, all we contend, without  
20 prejudice to any due process rights, because we're  
21 only talking about the grand jury process.

22 As you know, I was a federal prosecutor  
23 before this. You know, hearsay is allowed in the  
24 federal grand jury.

25 We're not proposing that. We're not -- you

1 know, this is sort of a very, I would say, a small  
2 step, but one that would be so impactful on both our  
3 white-collar and our street-crime practices.

4 SENATOR MYRIE: And if you can, DA, the  
5 bifurcation of white-collar and street crime is  
6 something, as I have spent more time on this issue,  
7 have realized, particularly in the crypto case, that  
8 they are actually becoming increasingly, if not  
9 wholly, related now, because of the mechanisms that  
10 are being used by organized crime rings.

11 So I'm wondering if you could speak to that  
12 as well.

13 DA ALVIN BRAGG: 100 percent.

14 I mean, you know, we tried a crypto case that  
15 sounds white-collar. But thing that we alleged and  
16 we proved and got a conviction, was using that money  
17 to send it overseas to finance terrorism.

18 You know, closer to home, you know, we see  
19 everything from supporting, you know, drug  
20 trafficking, and other things that are sort of  
21 traditional street crimes.

22 I mean, generally, we see, with some  
23 organized, you know, crime rings, they want to make  
24 money, and then they want to hide the money.

25 And you see this real intersection that --

1 you know, I became a prosecutor for the first time  
2 in 2003. And increasingly, this is anecdotal, but,  
3 increasingly, really, this intersection. And we see  
4 it in our docket, where -- you know, I'll give just  
5 one vignette:

6           There was, you know, someone who we suspected  
7 was engaged in gun trafficking, but we couldn't  
8 prove it.

9           He was much more open about his fraud which  
10 he was advertising on a social media channel.

11           And so we did the fraud investigation. We  
12 said, all things being equal, you know, let's do the  
13 fraud investigation on the person we think is gun  
14 trafficking.

15           And then when we brought that case down, we  
16 did a search warrant, we found a gun as a part of  
17 the search. Did a ballistics match and were able to  
18 solve a shooting.

19           We are -- we're -- you know, that's one  
20 example. But what we are seeing is sort of an  
21 overlap, in effect, with staffing, also really  
22 having more dialogue within our office between our  
23 white-collar and our street-crimes practice.

24           SENATOR MYRIE: Thank you, DA.

25           Alona, I thought the testimony on sort of

1 your day-to-day practice and what you're seeing in  
2 Brooklyn, and I'm not just saying this because I'm  
3 from Brooklyn, but I think makes it very real for  
4 people listening, to understand what the actual  
5 implications are.

6 And so I'm hoping you can spend a little bit  
7 more time talking about just the regular examples of  
8 how illicit activity in the cryptocurrency space is  
9 impacting regular New Yorkers.

10 This is not tech bros or, you know, people;  
11 just everyday folks, what the implications are?

12 ALONA KATZ: Absolutely.

13 There is no such thing as a typical victim in  
14 these scams.

15 When people ask me, "What can I do to protect  
16 myself?" I tell them, You should think of yourself  
17 as a potential victim.

18 Once you have the mentality of, "I can never  
19 fall for that," you're vulnerable.

20 We have an action center, the Brooklyn  
21 District Attorney's Office, that we regularly get  
22 calls from. And we're also looking at NYPD  
23 statistics and other federal databases to find our  
24 victims.

25 It is, the harm that occurs is irreparable.

1           When I say "generational wealth," you know,  
2 I've spoken to people that emphasized, I don't want  
3 to be thought of as "I fell for this because I was  
4 greedy."

5           I was trying to earn money in what I thought  
6 was a viable, safe alternative to traditional  
7 savings account, and that was money I was going to  
8 give to my children and grandchildren.

9           Or, I thought that I was going to increase my  
10 savings account so that I could actually retire  
11 safely.

12           And I want to stress that the scam entities  
13 that I'm talking about, they are not actual  
14 cryptocurrency exchange that -- exchanges that are  
15 operating and not registered.

16           They are simply a Telegram phone number,  
17 a website, and advertising on Facebook.

18           No entity ever existed, no cryptocurrency  
19 exchange ever existed. It was fraud from the onset.

20           What I've seen, particularly in Brooklyn that  
21 has immigrant communities or communities where a  
22 particular language is spoken, is that fraudsters  
23 are finding them in an increasingly targeted way by  
24 running advertisements on Facebook in a specific  
25 language to target that specific community.

1           That helps to build trust, which also lends  
2           to the betrayal that comes when the scam is  
3           unraveled.

4           A large part of my day-to-day is not actually  
5           going into the grand jury and arresting people  
6           because these scammers are almost exclusively  
7           overseas.

8           A large part of my day is spent talking to  
9           victims, and explaining why I am so sorry, but  
10          there's nothing that I can do as a state and local  
11          prosecutor.

12          I try to give them information because  
13          information is closure and protection.

14          I try to explain how their money, you know,  
15          disappeared, you know, within five seconds of the  
16          first send.

17          I try to offer them the resources of the  
18          Victim Services Unit of the Brooklyn DA's Office,  
19          and I try to help them protect themselves against  
20          what we call, "secondary," or "follow-up scam,"  
21          where there are scammers, knowing that this victim  
22          has already been a target. They follow up a short  
23          time later and they say that they're from a recovery  
24          service.

25          So I tell them, like clockwork, you will get

1 a call in two weeks from a recovery service. It's a  
2 scam. If you have any doubts, just call me back and  
3 I can tell you again.

4 So there's a huge social services, I would  
5 say, component to my work as well.

6 SENATOR MYRIE: Thank you.

7 Senator May, I don't know if you have --

8 SENATOR MAY: No, I don't.

9 SENATOR MYRIE: Okay.

10 SENATOR MAY: Sorry that I missed a lot of  
11 your testimony.

12 SENATOR MYRIE: Well, let me thank all of you  
13 for your testimony, and thank you for your continued  
14 work.

15 And we appreciate the feedback, and we'll be  
16 taking it all into consideration.

17 Thank you again.

18 DA LEE C. KINDLON: Thank you.

19 SENATOR MYRIE: Okay, the next panel.

20 Just before you testify, just say who you are  
21 and your organization, and then take it away.

22 RICHARD BOURAS: Thank you very much,  
23 Chairmans Murray and May.

24 My name is Richard Bouras. I'm part of the  
25 Investigations and Intelligence Solutions team for

1 Chainalysis Government Solutions, where we harness  
2 transparency of blockchains for, like, governments,  
3 banks, and businesses, to have the data they need  
4 for this new digital economy to thrive.

5 We track cryptocurrency used by illicit  
6 actors, such as those carrying out investment  
7 impersonation scams; provide data on their financial  
8 activity to private and public-sector customers,  
9 including the U.S. public sector.

10 In each of the past five years, scam  
11 operators have received over \$12 billion in  
12 cryptocurrency payments, and 2025 is estimated to  
13 have been a record year for these scam revenues.

14 Our data shows at least \$14 billion where the  
15 cryptocurrency was scammed globally. We actually  
16 expect that figure to exceed \$17 billion as we  
17 continue to retroactively identify more scams.

18 Overall scam inflows have also surged,  
19 particularly through impersonation techniques that  
20 saw a staggering 1400 percent year-over-year growth  
21 as fraudsters leverage AI to target victims more  
22 effectively than ever before.

23 Our analysis reveals that, on average, scams  
24 with on-chain links to AI vendors extract  
25 \$3.2 million per operation, compared to \$719,000 per

1 operation without those on-chain AI links. That's  
2 4 1/2 times more revenue per a scam.

3 This suggests both higher operational  
4 efficiency and, potentially, broader victim reach.

5 This increased transaction volume indicates  
6 that AI is enabling scammers to reach and manage  
7 more victims simultaneously, but also making the  
8 larger industrialized scams more persuasive.

9 Cryptocurrencies are the financial rails of  
10 choice for scammers for the same reasons legitimate  
11 users use them. Transactions are cross-borders and  
12 instantaneous.

13 But I'm here today to emphasize that  
14 fraudsters use of cryptocurrency should place them  
15 at a fundamental disadvantage, given the  
16 traceability and freezability of many of these  
17 assets.

18 At Chainalysis we analyze the transaction  
19 data from blockchain networks to provide clear  
20 visual representation of scam networks and  
21 laundering activities, a level of transparency that  
22 isn't possible in traditional forms of value  
23 transfer.

24 With this blockchain intelligence, law  
25 enforcement and regulatory bodies can disrupt these

1 networks, cut them off from the global financial  
2 system, with sanctions and asset seizures.

3           Blockchain analytics offers unique  
4 opportunities to trace proceeds of crimes, identify  
5 additional victims, and partner with the private  
6 sector to disrupt illicit networks and pursue  
7 restitution rather than relying on those one-off  
8 criminal investigations.

9           However, despite the potential for  
10 disruption, scammers are exploiting the disjointed  
11 and reactive nature of how the public and private  
12 sectors respond to scams.

13           This crisis requires a unified and  
14 technology-enabled response, preventing New Yorkers  
15 from engaging with scams altogether, and identifying  
16 and dismantling the groups responsible for  
17 perpetrating these scams.

18           As such, we have two recommendations. These  
19 include:

20           One: Leveraging advanced technology as to  
21 combat scammers' growing sophistication and prevent  
22 remediate -- and remediate scams.

23           Too often, scam victims are turned away from  
24 local authorities who are ill-equipped to properly  
25 assist crypto-enabled crimes.

1           Addressing the challenge also demands a  
2 paradigm shift from reactive enforcement to  
3 proactive disruption through AI-powered  
4 fraud-prevention technology to identify scammers  
5 before they meet their victims.

6           Tools like Chainalysis's Alteryx provides  
7 realtime proactive fraud protection for exchanges,  
8 blockchains, and wallet providers.

9           Alteryx has already helped top crypto  
10 exchanges decrease fraud by up to 60 percent,  
11 reduced scam-related disputes, and improved the  
12 efficiency of manual operations.

13           Alteryx utilizes artificial technology and  
14 other advanced techniques to identify scam  
15 activities across various online sources, enabling  
16 large-scale early upstream detection of these scams.

17           Over the past year, Alteryx has prevented  
18 more than \$300 million in losses by supporting  
19 customers and proactively reducing fraud.

20           This is what the future of combating scams  
21 looks like.

22           Our adversaries are leveraging AI to rob  
23 Americans of their life savings, and we must  
24 leverage that technology to beat them at their own  
25 game.

1           Second: Provide legislation and guidance to  
2 financial institutions and crypto businesses to help  
3 them intervene when identifying a potential scam.

4           New York's DFS has, for years, been at the  
5 forefront of regulating digital asset and  
6 cryptocurrency businesses.

7           Continuing their leadership in this space by  
8 providing clear and consistent guidelines could help  
9 firms navigate when and how they can slow, block, or  
10 scrutinize suspicious scam transactions, and what  
11 forms of friction are appropriate without  
12 overreaching.

13           Further, crypto ATMs continue to remain a  
14 critical input for scammers who often instruct  
15 victims to convert cash into cryptocurrency at these  
16 kiosks before funds are quickly transferred.

17           Increased penalties like the ones recently  
18 proposed in the CRYPTO Act would provide victims and  
19 law enforcement agencies greater recourse to shut  
20 down and prosecute unlicensed ATM operators and  
21 other virtual asset service providers not complying  
22 with the New York bit license requirements.

23           Again, thank you for this opportunity to  
24 provide testimony on this important topic.

25           We look forward to partnering with you on the

1 initiatives to better protect New Yorkers.

2 ARI REDBORD: Chair Myrie, Chair May, members  
3 of the committee, thank you for the opportunity to  
4 testify today on an issue directly impacting  
5 families, retirees, and small businesses across  
6 New York.

7 My name is Ari Redbord. I'm the global head  
8 of policy at TRM Labs, where we work with federal,  
9 state, and local law enforcement, regulators,  
10 financial institutions, and national security  
11 agencies in New York, and globally, to detect,  
12 investigate, and disrupt illicit activity in the  
13 digital asset ecosystem and beyond.

14 Before joining TRM, I served for more than a  
15 decade as a federal prosecutor at the Department of  
16 Justice, and later as a senior treasury official at  
17 the U.S. Department of Treasury's Office of  
18 Terrorism and Financial Intelligence, confronting  
19 terrorist financiers, sanctions evaders, narcotics  
20 traffickers, and transnational criminal enterprises.

21 I do not say this lightly: The  
22 industrialization of scam networks, so-called  
23 "pig butchering" schemes, targeting New Yorkers  
24 is the most pervasive and economically destructive  
25 financial crime threat I have encountered in my

1 career.

2 New York sits at the center of global  
3 finance, and that centrality brings exposure.

4 What we face is not simply more fraud, but a  
5 structural shift in how exploitation is engineered  
6 and scaled.

7 Organized scam networks now operate with the  
8 discipline and reach of multinational corporations.

9 The consequence -- the consequences are  
10 immediate and they are deeply personal.

11 Retirees lose their life savings.

12 Families absorb devastating losses.

13 Small businesses see operating capital  
14 vanish.

15 This is economic violence at scale.

16 The numbers underscore the urgency.

17 TRM's 2026 crypto crime report estimates that  
18 approximately \$35 billion float into  
19 cryptocurrency-related fraud schemes in 2025 with  
20 only about 15 percent of victims reporting.

21 The true impact is far higher.

22 In New York alone, TRM data shows more than  
23 100 million in crypto-related fraud in 2025, meaning  
24 the real damage across the state is significantly  
25 greater given chronic underreporting.

1           Artificial intelligence is accelerating these  
2 schemes.

3           Through Chainabuse, TRM's global scam  
4 reporting platform, we have documented a more than  
5 500 percent increase in AI-linked scam activity over  
6 the past year.

7           Deep-fake impersonations, AI-generated  
8 financial advisers, and automated engagement tools  
9 expand scale and credibility.

10          AI also compresses laundering timelines,  
11 moving funds across chains within days.

12          Although these networks are global,  
13 enforcement begins at the precinct.

14          When a victim walks into an NYPD station  
15 house with screenshots and transaction  
16 confirmations, the investigative clock is already  
17 running.

18          A wallet address and transaction hash anchor  
19 tracing on a public ledger.

20          If those identifiers are not captured and  
21 escalated immediately to investigators equipped with  
22 blockchain intelligence tools, like TRM, recovery  
23 prospects decline rapidly.

24          Meeting the moment requires tools and it  
25 requires training.

1           Blockchain intelligence capabilities must be  
2           deployed across NYPD and district attorney offices  
3           statewide.

4           Digital asset literacy should be mandatory in  
5           the NYPD academy so every officer can identify and  
6           preserve blockchain-based evidence.

7           Detectives and assistant district attorneys  
8           must be trained to translate on-chain tracing into  
9           admissible courtroom-ready evidence.

10          New York has shown already what specialized  
11          capacity can achieve.

12          Under Brooklyn District Attorney  
13          Eric Gonzales, prosecutors have built meaningful  
14          blockchain investigative capability with leaders,  
15          such as Assistant District Attorney Alona Katz,  
16          integrating victim narratives, and on-chain analysis  
17          into cohesive prosecutions.

18          That expertise must be scaled statewide.

19          The Rip-Off Act strengthens this response by  
20          aligning criminal penalties with the scale of  
21          AI-enabled fraud, and ensuring blockchain-derived  
22          records can be effectively presented in grand jury  
23          proceedings.

24          New York has always met evolving financial  
25          threats with innovation and resolve.

1           We must use technology for good, equipping  
2           our officers and prosecutors with the tools to match  
3           the speed and sophistication of this threat.

4           At TRM, we are here to support that mission.

5           Thank you, and I look forward to your  
6           questions.

7           SENATOR MYRIE: Thank you.

8           Senator May?

9           SENATOR MAY: Yeah, thank you.

10          Thank you, both.

11          I feel like I'm learning so much here.

12          Mr. Bouras, I wanted to talk about the crypto  
13          ATM issue that you raised.

14          As the Consumer Protection Chair, I'm always  
15          thinking from the consumer's viewpoint.

16          Like, what signals are there?

17          I mean, I honestly am nervous about using  
18          ATMs in general, because I know there are ways to,  
19          you know, scam people with that technology in  
20          general.

21          But with crypto ATMs, I've never used one.

22          But I'm wondering, what sign posts or  
23          guidelines are there for the consumer to be able to  
24          check if it's a legitimate one?

25          RICHARD BOURAS: Thank you.

1           So there's a number of posts.

2           One is just going to be, signs can be up on  
3 the legitimate licensed ATM, saying, like: Please  
4 watch out. Is this a scam? Do you know who you are  
5 sending to? Have you ever even spoken to this  
6 person before?

7           You know, and so they kind of have those  
8 warnings, both in signs on them, as well as while  
9 you're going through the operations themselves.

10          Other things to look at, too, is going to be,  
11 just with, you know, the registration and licensing,  
12 what sort of verifications do you need when you're  
13 using that ATM?

14          If they're telling you that you can send  
15 thousands of dollars without ever having to provide  
16 any sort of, you know, license or registration, and,  
17 just, you don't even need to provide an e-mail, sort  
18 of thing, [indiscernible] -- then it is -- it should  
19 kind of like raise those alarm bells with them, that  
20 this isn't normal.

21          You have to give some sort of ID. Even to a  
22 traditional ATM, you're putting in your debit card,  
23 you're putting in something, that has been checked  
24 before.

25          And if these aren't asking you for anything,

1 it's likely unlicensed, then.

2 SENATOR MAY: So is there -- is it just up to  
3 whoever put the ATM there, to put this signage on  
4 there, or is there -- are there any kind of  
5 requirements? Should there be?

6 Is there something we should be doing?

7 RICHARD BOURAS: Yes, there should definitely  
8 be requirements. And part of that is part of DFS's  
9 registration.

10 And I think a lot of that, too, will now come  
11 from, when we talk about the CRYPTO Act, of giving  
12 that, you know, those legal teeth to it, of really  
13 saying, like, now it is a criminal issue as well.

14 Different states have different regulations,  
15 both to the limit that can be done per transaction,  
16 as well as the type of KYC requirements.

17 You can also look at things then that can be  
18 registered on the websites as well.

19 SENATOR MAY: Okay. Thanks.

20 ARI REDBORD: If I may just, sort of really  
21 quickly, on that question, because it's a great one?

22 At TRM we see about double the amount of  
23 illicit activity associated with ATMs as we do to  
24 the broader ecosystem.

25 So there is no question it's a problem and it

1 should be a focus.

2 I think the challenge is, how do you allow --  
3 ensure that lawful users have access to this  
4 technology and stop bad actors?

5 And I think with these machines in  
6 particular, what's so important is to ensure that  
7 they have the licensing which really comes with all  
8 the compliance controls. Right?

9 You are required to be using blockchain  
10 intelligence tools today as a New York DFS-licensed  
11 entity; that you are -- you know, that you have the  
12 policies and procedures in place, that you are doing  
13 compliance.

14 So I think so much of this comes down to that  
15 sort of initial licensing determination, and are  
16 these entities you should be transacting with.

17 SENATOR MAY: Right.

18 Thank you.

19 And, Mr. Redbord, I appreciated your term,  
20 "economic violence."

21 I feel like that's -- we don't think about it  
22 that much, but that really is what it feels like  
23 when you get scammed.

24 ARI REDBORD: One thing quickly on that  
25 point, if you don't mind, and that is, I think one

1 thing that's been missed to some extent in the  
2 conversations today, is that these are truly global  
3 organizations. This is organized crime.

4 Much of it is in Southeast Asia; but, now,  
5 more and more all over the world, in the  
6 Middle East, in Africa. And they are attacking, in  
7 many cases, U.S. persons and New Yorkers at scale.

8 This is very different than any question to  
9 me around licensing determinations or the great work  
10 that New York DFS is doing around the bit license.

11 There is a growing lawful ecosystem.

12 These are just scammers.

13 SENATOR MAY: Yeah.

14 ARI REDBORD: And we need to target them not  
15 just with crypto tracing. We need to put all the  
16 tools in NYPD hands and prosecutors, as I mentioned.  
17 But this is a national and global security moment.

18 And when we have this conversation in front  
19 of the federal government, money -- much of it is  
20 asking to ensure that we have the national security  
21 tools and capabilities in place to actually go after  
22 these bad actors globally.

23 SENATOR MAY: Right. I don't disagree.

24 But I'm more focused on, like, what happens  
25 at the personal level.

1           So one thing you mentioned was training  
2           for -- digital asset literacy training for police.

3           Did you have in mind for all, like,  
4           rank-and-file police, or detectives, or, like, you  
5           know, what level do you think --

6           ARI REDBORD: It's a great question.

7           And it can certainly be triaged I think for  
8           everyone.

9           Look, if every crime is a financial crime,  
10          and cryptocurrencies are going to be used in more  
11          and more crimes, to include scams and other types of  
12          activity, then that means the second you walk in  
13          that precinct door with those screenshots, with  
14          those transaction hashes, the person that you're  
15          talking to, that intake officer, should know, have a  
16          sense, of what you're talking about.

17          Hopefully, they were trained at the academy  
18          on it.

19          But then, hopefully, they can get you right  
20          away to someone who has access to the tools, who has  
21          deep training, who can jump into TRM's platform and  
22          start to track and trace the flow of funds.

23          So I would say, in a perfect world, it would  
24          be a mandatory training across NYPD, but  
25          understanding, like, we're in a triage moment with

1       resourcing. But as many as possible.

2                SENATOR MAY: And I represent upstate, so,  
3       you know, it -- yeah, the resources aren't there  
4       for -- necessarily.

5                But I hear you.

6                On the other side of things, you talked about  
7       only 15 percent of victims reporting.

8                Like, how do we raise that number?

9                And I will say, as someone who was  
10       victimized, you're embarrassed, you feel like an  
11       idiot. It's, like, hard to bring yourself to go and  
12       report something where you've been scammed.

13               But what kind of tools are there out there?

14               And how can we, as a state government, be  
15       making sure that those are available to people, to  
16       really make sure that --

17                ARI REDBORD: It's really the most --

18                SENATOR MAY: -- more people report?

19                ARI REDBORD: It's really the most important  
20       question.

21                And I thought Alona's testimony was actually  
22       some of the most beautifully I've ever heard  
23       articulated on this topic and working with victims.

24                I would say that a massive public campaign  
25       around scams is something that we've been talking

1 about at a federal level, but certainly at a state  
2 level makes sense.

3 People should be able to, as quickly as  
4 possible, identify themselves as a victim, because  
5 I think part of the lack of reporting comes from,  
6 sort of, not knowing exactly what's happening to you  
7 in that moment.

8 SENATOR MAY: Right.

9 ARI REDBORD: But there's that other piece,  
10 the shame piece, and it is very, very real.

11 And my feeling is that part of that training  
12 would be for officers to understand more and more,  
13 sort of, what a victim is going through.

14 We want to meet people where they are.

15 When I was a prosecutor, for a long time  
16 I did domestic violence cases, and we talked about  
17 victim-centered approach.

18 It's as important to take in these cases.

19 So I think it's a massive public awareness  
20 campaign, as well as ensuring that when you are  
21 engaging with law enforcement, that it's a good  
22 experience.

23 I mentioned we run a website called  
24 Chainabuse.com, which is just open source. We  
25 encourage people to make sure that they are

1 reporting there. There's a portal to report  
2 directly to law enforcement through there.

3 So there's all kinds of things that can be  
4 done, but I think a lot of this is awareness.

5 SENATOR MAY: Yeah, okay. Thank you.

6 RICHARD BOURAS: I would also --

7 SENATOR MAY: We will be hearing from AARP  
8 next --

9 RICHARD BOURAS: I would also like to add --

10 SENATOR MAY: -- and I know they are very  
11 involved in that, too.

12 RICHARD BOURAS: -- that -- [indiscernible]  
13 to that, there are also the parts that people don't  
14 report because they simply do not realize yet, with  
15 some of these scams being long-term scams, that  
16 they're actually victims yet.

17 We've seen in, you know, what we call  
18 "pig butchering," where we'll -- they might even get  
19 payouts, you know, initially, where it looks like  
20 they are making money. So then they start to, you  
21 know, contribute more and more money, and they might  
22 think everything is okay.

23 There's plenty of, you know, fraudulent  
24 AI images of them showing, you know, different  
25 balance transfers, and different accounting, "This

1 is your account balance now," on these entire  
2 websites, where they think they're actually looking  
3 at their accounts, when nothing is there.

4 So I think also working with the private  
5 sector, too, when we're identifying these frauds.  
6 Work with public and private to identify that these  
7 are -- this is now a known and identified scam.

8 We're working with them so they can reach out  
9 to their -- like, their clients that might be  
10 utilizing this, and say, Hey, by the way, this --  
11 you might actually be a scam here.

12 And getting that victim knowledge out there  
13 that way as well.

14 SENATOR MAY: All right.

15 Thank you.

16 SENATOR MYRIE: Thank you, Senator May.

17 Senator Murray.

18 SENATOR MURRAY: Thank you, Chair.

19 And I apologize for scooting in in between.

20 But I had the same thing written down,  
21 15 percent, I mean, and why so low?

22 But I think we know.

23 But with that said, is there a particular  
24 target?

25 And is it because, maybe, are we targeting

1 seniors more, because they're embarrassed, or don't  
2 want to? Or are they targeting younger because  
3 maybe they don't realize it?

4 Is there a particular target?

5 ARI REDBORD: There's really an extraordinary  
6 range, and it's interesting.

7 I think we think of this, there's an  
8 elder-fraud component to it.

9 But in these specific, sort of, pig  
10 butchering scams start out as a romance scam and  
11 ultimately end up as an investment scam.

12 It is just a wide array of different types of  
13 people.

14 So in my view, the way we would need to do  
15 this is to meet all of those different demographics  
16 where they are, whether it is our elderly  
17 population. But young people, who are more  
18 crypto-savvy, have that sort of FOMO that the  
19 attorney general's office talked about earlier in  
20 the hearing.

21 Right?

22 So it is really a mix of people, which makes  
23 this even more dangerous, because that's when you  
24 can get to that 35 billion globally, the 100 million  
25 in New York.

1           It is not a subset. It is a large group.

2           SENATOR MURRAY: And that was my other  
3 question.

4           As you had mentioned, this is global.

5           But is New York one of the top targets?

6           ARI REDBORD: So New York is always a top  
7 target when it comes to the fact that it's a  
8 financial center, and just population-wise.

9           We see New York as one of the -- sort of the  
10 top states, along with Massachusetts and others,  
11 when it comes to really targeted -- these targeted  
12 pig butchering types of outreach.

13           I think the 100 million is extraordinary.  
14 But when you think about the fact that that only  
15 accounts for 15 percent or so of reports, that's  
16 when you get to some really dangerous territory.

17           SENATOR MURRAY: Wow, yeah, good point.

18           Thank you.

19           SENATOR MYRIE: Thank you, Senator Murray.

20           So if we can, just to step back for a second,  
21 I mentioned this at an earlier panel, about those of  
22 us who are somewhat familiar with the cryptocurrency  
23 space, who sort of speak fluently about it. But  
24 some of the -- what we feel are intuitive things can  
25 be lost on it.

1           So if we can -- I know we have said what  
2 "pig butchering" is. It's kind of a stark term that  
3 I don't think most people are aware what that is.

4           So to either of you, just for the record, to  
5 explain what that type of scheme is.

6           ARI REDBORD: Yeah, happy to do it.

7           It really is that sort of mix of romance and  
8 an investment fraud.

9           Oftentimes, a bad actor will reach out -- we  
10 all get these every day; right? -- "Hey, how you  
11 doing?" to your text message or social media, and  
12 we'll start a conversation. And, ultimately, that  
13 conversation will end up romantic in nature.

14           It could take weeks to grow, but then  
15 ultimately ends up with some kind of question around  
16 investment: I made a great investment. Would you  
17 be interested in this?

18           The person makes that investment. Oftentimes  
19 there's a larger return sent back, to start to  
20 really create that believability. Oftentimes the  
21 platform looks very legitimate. Maybe it's actually  
22 a fake platform based on a real one.

23           And then, ultimately, after the victim sends  
24 larger and larger amounts of funds, that's when --  
25 as horrible of a term as it is, that's when the

1 "butchering" takes place; steal all the funds and  
2 they're gone.

3 And I thought a great point earlier, about  
4 the fact that, oftentimes, the victim doesn't know  
5 for some time, because you really can't wrap your  
6 head around it.

7 And there's just been a proliferation of  
8 these types of cases. And so many of them are  
9 coming from, you know, places in Southeast Asia;  
10 Cambodia, Laos, Viet Nam, Myanmar.

11 And what this has turned into is wealth  
12 transfer from lawful Americans to criminal networks  
13 in Southeast Asia and beyond.

14 RICHARD BOURAS: Yeah, that's a great point.

15 And to add to that, too: When we're talking  
16 about those victims, and how long this has gone on,  
17 and how realistic it seems, you will even get to the  
18 point where, when they are notified that this might  
19 be, you know, a potential pig butchering scam, like,  
20 you will get pushback, where they're, like, No.

21 They are fully still invested in this.  
22 They -- again, it could be romantic. It could be  
23 just be the investment. They've may have gotten  
24 actual, you know, funds back initially and they've  
25 seen this.

1           And so it's almost, you know, trying to  
2 convince them.

3           That is part of the fight initially, is  
4 really trying to get them to understand that this --  
5 they are a part of this victim.

6           SENATOR MYRIE: And we've been talking and  
7 focusing on the illicit activity in this space.

8           And, you know, I think that there is --  
9 anytime, when we are proposing either increased  
10 regulation or proposing new legislation, to any  
11 industry, there is, I think, natural pushback on  
12 what that should look like, and are we going too  
13 far? Are we interfering in sort of the natural  
14 occurrence of what that industry is doing?

15           And I'm hoping that you can clarify for us  
16 whether your role in this ecosystem interferes with  
17 sort of the inherently good things that happen in  
18 cryptocurrency?

19           And what, if anything, we should be mindful  
20 of, as we're stepping into this space, to try to  
21 protect victims?

22           RICHARD BOURAS: Yeah, I'd say, not at all.

23           You know, our goal is to remove this illicit  
24 finance, this fear of, you know, crypto being just,  
25 you know, for, essentially, any sort of illicit

1 means. So that way, more people feel comfortable  
2 with it, and it broadens it out.

3 Again, we work with both U.S. public sector  
4 and private sector, because we want -- we want, you  
5 know, the regulatory agencies, we want the law  
6 enforcement agencies, to have this data so that they  
7 can effectively go after the bad guys here.

8 And at the same time, we also want the  
9 private sector to know, that if you're going to be  
10 held to these standards, you also have this data so  
11 that you can do the proper compliance, you can meet  
12 those regulators, and understand exactly what it's  
13 going to do to protect your clients, so you can  
14 thrive in this.

15 You know, banks have had, you know, plenty of  
16 regulation over the years, and they have grown  
17 plenty. They have not seen any, you know, issues  
18 with this.

19 And we see the same thing going from the  
20 cryptocurrency industry as well.

21 ARI REDBORD: If I may just add: We put out  
22 a report recently that said it was a record-setting  
23 year for crypto-related crime, about 158 billion.

24 That still accounts for about 1.2 percent of  
25 overall activity.

1           But that 1.2 percent is what keeps me up at  
2 night because it's about people losing their life  
3 savings.

4           So I think the challenge for this panel, and  
5 beyond, is how do we ensure that lawful users have  
6 access to truly transformative technology?

7           Right?

8           Cross-border value transfer at the speed of  
9 the Internet, for remittances, for humanitarian aid,  
10 for payments at scale, and yet at the same time,  
11 stop bad actors.

12          And to me that means a couple things.

13          One, it means ensuring that law enforcement  
14 have the tools and the training they need to go  
15 after that -- those bad actors.

16          And to ensure that lawful entities are not  
17 overregulated, but are required to act like any  
18 regulated entity is. Have deep compliance controls  
19 in place.

20          So I think that that is the challenge, is how  
21 do we sort of walk that line?

22          But I think it's primarily going after the  
23 bad actors in the ecosystem who make up this illicit  
24 underbelly that still is a relatively small  
25 percentage of overall illicit activity -- of overall

1 activity.

2 SENATOR MYRIE: Thank you, and I appreciate  
3 that.

4 And I will lastly ask, and, again, this is  
5 for the edification of the public and for the  
6 record, so that we can know:

7 Can you talk about the mechanics of the  
8 blockchain, and what makes it different than  
9 traditional financial institutions.

10 You are able to see every transaction,  
11 literally, every transaction, on the chain. But  
12 people are still able to get away with fraudulent  
13 activity.

14 And I think both of those things happening at  
15 the same time is a little hard for the public to  
16 understand.

17 So if you can give us just some insight into  
18 that, and what we need to do.

19 ARI REDBORD: Happy to kick that one off.

20 So, look, the -- every transaction that  
21 occurs in cryptocurrency is on a traceable,  
22 trackable, immutable public ledger.

23 When I was a prosecutor, I was investigating  
24 cases involving both cash smuggling and networks;  
25 the hawalas and shell companies and high-value art.

1           There were no TRM to trace and track the flow  
2 of those funds.

3           The challenge, though, is bad actors can now  
4 move larger amounts of funds faster than ever  
5 before. And so much of this comes down to speed.

6           And that is why it's so important, when you  
7 have that intake at the precinct, that that officer  
8 there is moving fast to that detective and beyond.

9           That's why the importance of public-private  
10 partnerships; that we are able to move as fast as  
11 these bad actors. That we're integrating AI into  
12 the tools that we're using because bad actors are  
13 using AI to move faster and faster.

14           So the promise of the technology, this idea  
15 of it, you can now move larger amounts of funds  
16 cross-border faster than ever before, is also why  
17 bad actors are taking advantage of it.

18           But as you know, bad actors are always early  
19 adopters of transformative technology.

20           And it's, like, how do we stop them to allow  
21 lawful users to really have the promise of it?

22           RICHARD BOURAS: And to add to your point  
23 about how the blockchain really works, it really  
24 goes down into that -- not the anonymity of it, but  
25 the pseudonymity of it.

1           So every -- so we said every transaction is  
2 recorded publicly; however, it won't just be  
3 necessarily, like, my name going to Ari, or any of  
4 that. It will just be a lot of, you know, numbers  
5 and letters in these long strings of digits, you  
6 know, going back and it shows that.

7           Where the real work comes from is how we now  
8 can identify it, how we work to attribute who those  
9 belong to.

10           So, you know, we have, you know, intelligence  
11 teams that are going out and trying to find  
12 everything; whether it be from, you know, those  
13 private partnerships telling us, like, These are all  
14 of our addresses on the blockchains.

15           So we now know this is, you know, the  
16 legitimate exchange, this is the Coinbase of the  
17 world, and every like that.

18           So our intelligence team is going out and  
19 trying to find these bad actors. They are going  
20 onto the dark-end markets, on a Telegraph, trying to  
21 see, Oh, this is a fentanyl dealership right here.  
22 This is someone trying to sell fraudulent paperwork.  
23 This is something, this is a scam.

24           And now that they've given us these addresses  
25 here, so we can now connect those right now to

1 [indiscernible]. So, that way, when we're looking  
2 in the tools, you know, law enforcement, regulatory  
3 agencies, aren't just seeing this long string of  
4 digits that really doesn't mean anything to them at  
5 that point.

6 They can say, Oh, wait. This belongs to  
7 Illicit Actor A. This is how we know it.

8 SENATOR MYRIE: Great.

9 Thank you both very much for your time, and  
10 for your expertise.

11 And I'm sure the committee will be in contact  
12 with further questions.

13 ARI REDBORD: Looking forward to it.

14 Thank you so much.

15 RICHARD BOURAS: Thank you.

16 SENATOR MYRIE: Thank you.

17 Okay. We will next hear from AARP.

18 Whenever you're ready.

19 KRISTEN McMANUS: Thank you.

20 So thank you, Senator Myrie, Senator May,  
21 Senator Murray.

22 I'm Kristen McManus. I'm the director of  
23 government affairs and advocacy with AARP New York.

24 If you're not familiar with AARP, we are a  
25 social mission organization that prioritizes the

1 needs of the 50-plus.

2 And I appreciate the opportunity to testify  
3 today because elder financial exploitation and scams  
4 and fraud that impact older adults is a very serious  
5 and growing concern.

6 We have data from the latest FBI report that  
7 shows that elder fraud saw a reported increase in  
8 about 50 percent, and the associated losses also  
9 increased around that same number, I think it's  
10 43 percent.

11 This is the equivalent of older New Yorkers  
12 losing about \$30,000 an hour to scams and fraud.

13 And, also, this is really just the tip of the  
14 iceberg. There are so many reports, about half,  
15 that don't include the age of the victim.

16 And also we know that some people are too  
17 embarrassed to report, or they have no idea that  
18 they should be reporting that they were a victim, or  
19 really don't see the point in doing it.

20 So this is like really just the tip of the  
21 iceberg.

22 We -- New York currently ranks sixth among  
23 all top states in elder fraud. Not a good list to  
24 be at the top of.

25 And we know that people can be victims of

1       scams at any age. But it's particularly harmful  
2       when it happens to older adults, because they have  
3       spent their whole lives building their nest egg or  
4       they have home equity that these thieves are trying  
5       to tap into. And it's much more difficult for them  
6       to find the financial recourse to make themselves  
7       whole.

8                You know, an 85-year-old who loses all of her  
9       life savings really has very limited ability to go  
10      back to work and try to make that money back.

11             We have a number of recommendations.

12             I first want to just give thanks to  
13      Senator Myrie for both the SCAM Act and your efforts  
14      on deed theft, particularly with the focus on how  
15      these impact older adults, and how we know that they  
16      can be sometimes specifically targeted in these  
17      scams.

18             But we think one of the most effective ways  
19      to make sure that older adults don't fall victim to  
20      scams is to stop the money from leaving their  
21      accounts in the first place.

22             Senator Cleare has a bill that would require  
23      training for bank tellers, broker-dealers,  
24      investment advisers, to recognize the signs of elder  
25      financial exploitation, and then allow those

1 financial institution employees to place a hold on a  
2 specific transaction. This gives time for it to be  
3 reported to law enforcement and/or adult protective  
4 services. And sometimes that hold is just enough  
5 time for the older adult to realize, like,  
6 "Something was off with this in my gut. This is a  
7 scam." And make sure that money doesn't leave in  
8 the first place.

9 And we've seen 40 other states have this for  
10 broker-dealers and investment advisers, and about  
11 26 for bank tellers.

12 And we've seen this be successful in  
13 intercepting some of the most egregious forms of  
14 fraud and scams, because we know that sometimes it's  
15 somebody that they know, a caregiver or a loved one,  
16 who is trying to coax them into giving them money.

17 Sometimes people come into the bank and  
18 they're on the phone with the scammer who's walking  
19 them through what to say and what to do, to be able  
20 to get this cash.

21 We also have growing concerns around crypto  
22 fraud, and we've heard a lot about that today.

23 Sometimes it's the fraudulent crypto  
24 investments, but, also, sometimes it's just the  
25 vehicle for the scam.

1           So we hear of people who are taking money out  
2 and putting it -- you know, handing it over to a  
3 courier.

4           I think the crypto kiosk is now the new  
5 vehicle for that. We see some people putting in  
6 tens of thousands of dollars, like their entire life  
7 savings, into these crypto kiosks. And it's  
8 happening around country.

9           So we have some recommendations around that.

10          Making sure that we're imposing daily  
11 transaction limits at the crypto kiosks. And,  
12 perhaps, even finding a way to let somebody get that  
13 money back within a certain amount of time, because  
14 the money is in the machine; so if it's within a  
15 certain time frame.

16          I see that I'm running out of time, so I have  
17 just a few more that I want to quickly mention.

18          We also are really grateful for the  
19 legislature for updating the General Business Law  
20 around unfair, deceptive, and abusive acts and  
21 practices.

22          But we do think that consumers -- individual  
23 consumers need a private right of action or some  
24 sort of mechanism where they can go after these bad  
25 actors.

1           And I just want to quickly plug that AARP has  
2           an entirely free resource. You do not need to be a  
3           member; anybody can use it. It's called the Fraud  
4           Watch Network. It keeps you up to date on all the  
5           latest frauds and scams. It gives you tips on what  
6           to do if you or somebody that you know has been  
7           scammed; tells you how to report them.

8           And it just has a ton of good information to  
9           keep people educated.

10          Thank you.

11          SENATOR MYRIE: Thank you.

12          Senator May?

13          SENATOR MAY: Thank you.

14          I have to run.

15          But I just want to thank you and AARP for  
16          everything you do in this space, because I just know  
17          that you all are always thinking.

18          I mean, the scams change day by day by day,  
19          and you guys are on top of that, and really helping  
20          people feel comfortable about reporting, and  
21          recognizing what the problems are.

22          And I just want to thank you for that.

23          And, yeah, the private right of action,  
24          I agree with you about that.

25          I think we haggled about that last year. But

1 we'll keep working on it, trying to make sure that  
2 that's available for consumers, because we need it.

3 KRISTEN McMANUS: Thank you.

4 SENATOR MAY: Thank you.

5 KRISTEN McMANUS: Thanks, Senator.

6 SENATOR MYRIE: Thank you, Senator May.

7 Senator Murray?

8 SENATOR MURRAY: Thank you, Chair.

9 And thank you for coming.

10 And, yeah, this is -- obviously, it's a huge  
11 issue.

12 And thank you for the fraud watch network  
13 tip. I'd like to share, because I think education  
14 is the key. I think it's getting information out  
15 there and getting people informed.

16 As far as the limitations, I will -- I like  
17 the idea, but I also have concerns, and I'd like  
18 your thoughts on this.

19 So, recently, I had an issue, where my bank  
20 had changed the debit cards they were using, and  
21 they had the chip technology and all this.

22 But I went to take money out and it was  
23 denied.

24 I went to pay something in a store, it was  
25 denied.

1 I went to another store, it was denied.

2 A vet bill, denied.

3 I went, wait a minute, wait a minute. It's  
4 not that there's not money in there. What's the  
5 problem?

6 I called the bank and they said, well, it's  
7 fraud. We're concerned about fraud, so we're  
8 protecting you.

9 And I said, But you're going too far. You're  
10 keeping me, preventing me, from getting my own  
11 money.

12 Is there a danger there; can we go too far?

13 Because I agree with you, maybe a pause is  
14 not a bad idea on investments, or something like  
15 this.

16 But could it possibly go too far is my  
17 concern?

18 What are your thoughts?

19 KRISTEN McMANUS: What I'll say is, that  
20 we've worked on this bill across the country, and  
21 have not seen widespread problems like that.

22 I think part of the issue here, and what the  
23 bill requires, is that you have to be notified.  
24 They have to tell you that they are holding that  
25 transaction. And, again, it's just the transaction,

1 it's not the entire account.

2 So the older adults who are impacted still  
3 have access to all of their finances. It's just  
4 that one suspicious transaction is not allowed to  
5 move forward.

6 And I think if there are family members or  
7 somebody who is also on the account, like a trusted  
8 contact, they get that notification, also.

9 So I think the notification here really is  
10 key so the people understand why this specific  
11 transaction is being held.

12 And we know a lot of that conversation  
13 happens at the counter. It's just that the teller  
14 doesn't have any real ability to intervene when they  
15 see something that is egregiously, obviously wrong.

16 SENATOR MURRAY: And I think maybe education  
17 on the bank levels, too, because what ended up  
18 happening was, I got a hold of someone, and they  
19 kept using the excuse that it was fraud.

20 It ended up, there was a problem with the  
21 chip.

22 So they ended up sending a new card, and  
23 everything's working fine now.

24 But they were using this excuse that it's  
25 fraud protection, it's fraud protection, which

1 really got me concerned about, could that possibly  
2 go too far?

3 So maybe even an educational thing with the  
4 bank as well, on how to respond when you get these  
5 inquiries might be helpful.

6 KRISTEN McMANUS: Yeah, I think that's a  
7 great idea.

8 SENATOR MURRAY: Good. Thank you.

9 SENATOR MYRIE: Thank you, Senator Murray.

10 And I would echo Senator May's thanks for the  
11 work that AARP does.

12 They do a lot of work in my district, we do a  
13 lot of work together. And so thank you for that.

14 We've heard a lot today about the reluctance  
15 to come forward, and some of the -- what we've heard  
16 from previous panels, just such small percentages of  
17 people that report this.

18 Is there something specific about our older  
19 adult population that might make them less likely to  
20 come forward?

21 What have you heard?

22 What do people come to you to tell you?

23 Are there folks that come to you and don't  
24 come to law enforcement, and say, you know, You're a  
25 trusted entity and organization. I trust the

1 members?

2 And if so, are there things you think we can  
3 do about that?

4 KRISTEN McMANUS: Yeah, I think there's  
5 education that's certainly needed so that people  
6 understand the importance of reporting.

7 And I totally get it. I mean, anybody can be  
8 a scam victim, truly.

9 Like, we have somebody who does these fraud  
10 education presentations for us, and almost fell  
11 victim to a grandparent scam, who only realized at  
12 the last minute, like, actually, I think something  
13 here is wrong.

14 So it can happen to the experts.

15 And I think part of it is letting people know  
16 that there could be recourse for them; not just in  
17 catching the criminal, but there may be funds  
18 available that can try to make them whole. Or, how  
19 just important it is to have all of the information  
20 possible for law enforcement to be able to follow  
21 the leads, and to prevent other people from being  
22 scammed by the same bad actors.

23 SENATOR MYRIE: Okay. Thank you; thank you  
24 for that.

25 And the low percentages and the difficulty

1 right now in trying to get restitution, I think,  
2 sort of as obstacle, as you mentioned.

3 And you put forward as a recommendation, the  
4 Senator Cleare bill, on having other actors in the  
5 system.

6 Are there any other entities in the system  
7 that you think should play a larger role; i.e., are  
8 there our family courts or other parts of our courts  
9 that could be helpful?

10 Are there law enforcement things?

11 Are there social service things?

12 And anybody else that you think we should  
13 say, Hey, you should be doing more to protect our  
14 older adults?

15 KRISTEN McMANUS: Yeah, thank you for that  
16 question.

17 And I would actually say everybody.

18 New York is like the only state that does not  
19 mandate reporting of elder abuse.

20 Every other state has some statute that  
21 reports it. The lists of professions vary state by  
22 state. But in our statute it's a "may," not a  
23 "shall."

24 So I think that that's really important,  
25 looking at who is going to be reporting this and

1 making sure that they know that they have to do it.

2 And, obviously, we can always use more  
3 funding for adult protective services, to make sure  
4 that they're able to do this work and intervene  
5 where appropriate.

6 SENATOR MYRIE: Great.

7 Thank you very much for your patience and  
8 your testimony.

9 KRISTEN McMANUS: Thank you.

10 SENATOR MYRIE: We're going to keep rolling.  
11 We've got a couple of panels left.

12 But I think we have the next panel with us  
13 here: Mark Anderson and Charles Johnson.

14 Do we want to bring the pastor -- we're going  
15 to bring the pastor up, or no?

16 OFF-CAMERA SPEAKER: Yeah, sure.

17 SENATOR MYRIE: Pastor, do you want to come  
18 down?

19 That's quite the tie you have there, Pastor.

20 [Laughter.]

21 That's how you come testify in Albany.

22 Okay. Whenever you're ready, take it away.

23 CHARLES JOHNSON: Chair Myrie, Ranking  
24 Members, and members of the Senate, thank you for  
25 the opportunity to testify.

1           My name is Charles Johnson. I serve as the  
2 political action chair for the New York State NAACP  
3 Conference, and also under the leadership of  
4 Madam President LJoy Williams.

5           Deed theft is a white-collar crime with  
6 devastating real-life consequences. It involves  
7 fraudulent or coerced transfers of real-property  
8 title, often through forgery, misrepresentation, or  
9 falsified documents, and it has stripped families,  
10 especially elderly homeowners, of homes and  
11 generational wealth across New York.

12           This is not isolated.

13           More than 6,000 deed theft complaints have  
14 been filed statewide since 2014, disproportionately  
15 impacting seniors and disabled homeowners.

16           For many victims, the first sign is not a  
17 warning. It's an eviction notice, a foreclosure  
18 action, or an unexpected ownership dispute. And  
19 once title is compromised, restoration is often  
20 slowed and costly, creating a pipeline of  
21 displacement.

22           Now, New York has taken important steps  
23 recently.

24           In 2023, the State enacted a civil deed theft  
25 protection, authorizing prosecutors and the office

1 of the attorney general to stay evictions and  
2 foreclosures, filing notice to warn the market, void  
3 fraudulent instruments, apply civil tools to address  
4 fraud after relevant convictions, and extend  
5 remedies under the Home Equity Theft and Prevention  
6 Act.

7 In 2024, the State criminalized deed theft as  
8 grand larceny, extending the statute of limitations,  
9 and granted the attorney general concurrent criminal  
10 jurisdiction statewide.

11 Now, those reforms matter, but the NAACP's  
12 position is clear: The State must continue to  
13 respond with a stronger, more coordinated approach,  
14 focused on prevention, protection, and enforcement.

15 Specifically, we urge the Governor and  
16 legislators to:

17 Prioritize deed theft enforcement in  
18 historically targeted communities because where the  
19 harm is concentrated and the impact is  
20 intergenerational;

21 Strengthen elder-focused safeguards, because  
22 seniors and disabled homeowners remain the most  
23 frequently targeted and least equipped to fight back  
24 quickly;

25 Increase funding to the homeowners protection

1 program so victims can access legal help early  
2 before displacement becomes inevitable;

3 Early warning systems and brief  
4 administrative holds. So county clerks should  
5 provide free recording alerts, either e-mails, text  
6 messages, voice plus mail notices, whenever there's  
7 a deed, mortgage, or power of attorney is filed,  
8 paired with the authority for brief administrative  
9 recording, hold when there's -- clear red flags  
10 appear;

11 LLC transparency and beneficial ownership, to  
12 ensure that the LLCs cannot be hidden behind shell  
13 entities, because we're noticing that, with LLCs,  
14 they're masking as fraud, and are used to launder  
15 ownership of stolen homes;

16 Engage in greater due diligence around lien  
17 sales, where notice, fees, process gaps can  
18 accelerate loss of homes and increase vulnerability  
19 to fraudulent transfers;

20 And, finally, enforcement must be paired with  
21 a broad awareness and education, so homeowners know  
22 the warning signs, where to seek help before damage  
23 is irreversible.

24 Thank you for your leadership on the issue,  
25 and the NAACP New York State Conference stands ready

1 to support continued reform and coordinated  
2 enforcement.

3 Deed theft is not just theft. It's also  
4 displacement and the destruction of  
5 intergenerational stability.

6 I'm happy to answer any questions.

7 Thank you.

8 MARK ANDERSON: Good morning, Senators.

9 Thanks so much for having me.

10 My name is Mark Anderson. I'm the managing  
11 partner of a firm called Anderson Bowman, which is  
12 based in Kew Gardens, Queens.

13 We're real estate and consumer litigators.

14 One of the reasons that I believe I was  
15 invited to testify here today is because we're at  
16 the forefront of a massive class-action lawsuit  
17 involving manipulation of interest rates on  
18 foreclosures across the state.

19 There's been reporting that's been done by  
20 both Gothamist and New York Focus, that piggy-backed  
21 on top of our litigation, that found that over  
22 10,000 auctions that had occurred across the state  
23 had manipulated the surplus monies that were  
24 available in foreclosures.

25 I'm joined today by my client, Dr. Bond,

1 from the Cathedral -- Citadel Cathedral in  
2 South Brooklyn. He is one of the victims of one of  
3 these crimes. And we intend to continue on with  
4 this class-action lawsuit.

5           Procedurally, it's not worth going into; it's  
6 too boring.

7           But for right now, it's a very, very  
8 hot-button issue that I really do appreciate you  
9 taking the attention to.

10           I can go through kind of the crux of the case  
11 or we can just talk about it.

12           But what it boils down to is, the amount that  
13 banks are allowed to charge in interest on  
14 foreclosure cases is being miscalculated, and  
15 they're doing it on a systematic basis and they're  
16 hiding it behind the color of law.

17           And so, right now, although I do believe that  
18 the law is very clear on not being able to charge  
19 cumulative interest against residential  
20 foreclosures, I do think that it should be more  
21 clear that what they're doing is illegal.

22           So right now, the lawsuit is -- it's going  
23 against the banks, the servicers, and their  
24 attorneys. And I'm looking forward to getting to  
25 the bottom of all this, and I do appreciate you all

1 taking the attention.

2 I did provide some prepared remarks which  
3 kind of further explains the issue, which  
4 Senator Myrie and I have talked about --

5 And thank you so much for the attention  
6 you've been giving it.

7 -- because we do want to bring some clarity  
8 and some justice to individuals, and churches like  
9 Dr. Bond's.

10 SENATOR MYRIE: Thank you, Mark.

11 Dr. Bond, if you want to say a few words?

12 DR. MARK BOND: I'm so glad to be here today,  
13 to have this space to say something, because it's  
14 even more egregious for -- in my case, because my  
15 church is Citadel Cathedral, and the Lutheran Synod  
16 has been adding thousands of dollars on to a pay-off  
17 amount, that we couldn't even get a chance to pay it  
18 off because the numbers kept shifting.

19 And then on top of all of that, after the  
20 auction, they even took the surplus of \$140,000.

21 So it's theft, theft of property, because  
22 it's ours.

23 We have a 30-year-old congregation that will  
24 be homeless unless we can do something about this.

25 ///

1           SENATOR MYRIE: Thank you.

2           And thank you for sharing the experience.

3           Senator Murray, I don't know if you have  
4 questions?

5           SENATOR MURRAY: Thank you, Chair.

6           So for the novice, give me the elevator pitch  
7 on how does it happen?

8           First the deed theft. But then, on top of  
9 that, obviously the banks, I mean -- well, let's go  
10 to the deed theft first.

11          MARK ANDERSON: So I should back up by  
12 saying, I appreciate the testimony provided, because  
13 we also litigate issues involving deed theft.

14          And we also appreciate the Foreclosure Abuse  
15 Prevention Act, because it's been extremely helpful  
16 in my practice area, because it has cleared up a lot  
17 of what I didn't view as very vague law. I think it  
18 was actually very clear before. But now it is  
19 absolutely clear, what is and what is not a  
20 time-barred mortgage.

21          So I do appreciate all the work that you guys  
22 have been putting into that.

23          I'm -- let me -- let me speed back up, and  
24 then -- I'm sorry, could I ask what the question was  
25 again?

1           SENATOR MURRAY: So deed theft, now, you see  
2           commercials.

3           And the reason I bring it up is because I'm  
4           wondering, and maybe some folks at home are  
5           wondering, you see the TV commercials all the time  
6           now, the radio commercials: We'll protect you  
7           against that.

8           And I -- and my first thought, call me a  
9           skeptic, is, is this fraud? Like, are they -- is  
10          this company real, or are they asking for money for  
11          protection that I really don't need?

12          So how does it work?

13          MARK ANDERSON: The deed theft itself?

14          SENATOR MURRAY: First the deed theft, yes.

15          MARK ANDERSON: Right.

16          So deed theft itself can take on many forms.

17          And so it could be just as simple as, someone  
18          that comes to the door of an elderly individual --  
19          it doesn't have to be elderly, but it happens a  
20          lot -- and -- or they don't speak English, or they  
21          just don't understand the law very well.

22          And what they'll be told is: Oh, I see  
23          you're behind on your mortgage. Let me help you get  
24          a modification on your mortgage.

25          And amidst those documents that they'll be

1 signing, there's a deed, and it transfers it over to  
2 a new individual. And they have no idea that it  
3 happened.

4 It's as simple as that.

5 SENATOR MURRAY: That's the one. But then  
6 there's also --

7 MARK ANDERSON: But there's other issues,  
8 yeah.

9 CHARLES JOHNSON: There's another way, too,  
10 though.

11 There's the situation where someone can pass  
12 away, an older person could pass away. And what  
13 they will do is, there's companies that will find  
14 like this long-lost relative that will come into  
15 play.

16 Another thing that we're noticing, too, is  
17 that, because there's a lack of information and  
18 education about it, you will have elderly people, or  
19 even migrants, or -- yeah, migrants in The Bronx  
20 area, who are not reporting -- because I remember  
21 you had mentioned that earlier -- they're not  
22 reporting because there's a language barrier. These  
23 people are coming to them, speaking fast. You know,  
24 telling them, Hey, we can help you with this.

25 Other pieces, that they could actually have

1       paid off their mortgage. But then there's this a --  
2       there's a notification saying that they owe  
3       \$800,000, or something to that extent.

4               And because they're elderly, they're not as  
5       quick on their feet as, you know, most people would  
6       be; so they just kind of sit on it, and not being  
7       educated in the law.

8               So then, that's that way.

9               But, again, there's a multitude of different  
10       ways. But, it's -- yeah, it's unfortunate, but,  
11       yeah.

12               SENATOR MURRAY: But I've heard of, like,  
13       even online theft, where they don't even talk to  
14       you. You just -- you get a notice that, by the way,  
15       you're being foreclosed on because you haven't paid  
16       your mortgage on this -- this house.

17               How does that happen?

18               MARK ANDERSON: I mean, if -- if people are  
19       going to -- it's -- it's really -- I mean, if  
20       there's a drain, there's going to be water that goes  
21       through it.

22               So, I mean, in this situation, I mean, it's  
23       as simple as, if somebody is going to commit a  
24       crime, there's nothing preventing them from  
25       submitting a fraudulent deed to the clerk's office.

1 It's very hard to detect because the, you know,  
2 signatures look authentic. Perhaps they forged the  
3 notary that was on it.

4 Any number of things could happen.

5 But, I mean, if -- if something does get  
6 recorded, then the clerk's office and a title  
7 company are going to look at it and say, Well, how  
8 are we to know that it's not authentic?

9 The goal I think is --

10 [Simultaneous speaking.]

11 MARK ANDERSON: I'm sorry.

12 CHARLES JOHNSON: No, no, no.

13 MARK ANDERSON: The goal is to, when it is  
14 spotted, that there should be severe consequences  
15 for it --

16 CHARLES JOHNSON: Right.

17 MARK ANDERSON: -- to deter people from doing  
18 these things.

19 But it's, also, from the judiciary and from  
20 law enforcement, which I've talked to many times,  
21 from the DA's office, the police office, and the  
22 courts themselves, is it's really a lack of  
23 knowledge about how this actually works and how  
24 title is actually transferred, because it's not  
25 actually that complicated.

1           But it can -- but when you're looking at it,  
2           it does. I mean, a deed is sometimes 8 to 15 pages.  
3           What am I looking at.

4           SENATOR MURRAY: Right.

5           CHARLES JOHNSON: Just to add on to that:  
6           I think the other thing, that goes back to just  
7           financial literacy in the community.

8           And I say that because what I notice is that  
9           they're targeting -- they're targeting people who  
10          are asset rich but cash poor, or they just have  
11          100 percent equity.

12          And a lot of communities of color don't  
13          recognize and understand how to utilize equity so  
14          they can have a home in Brooklyn where there's  
15          \$3 million in equity. And they don't realize that  
16          they could be utilizing that. And they're just --  
17          literally, there's people that are just salivating  
18          at the mouth to try to approach that.

19          I think another issue is this, too --

20          And I think back to my mom, because my mom  
21          just learned how to text not too -- a few years  
22          back.

23          MARK ANDERSON: [Indiscernible.]

24          CHARLES JOHNSON: Yeah, you know, it's the  
25          first time.

1           -- but with AI, with all these other things  
2           or whatnot, with scamming when it comes to the  
3           e-mails and [indiscernible], like, they'll publish  
4           and making it seem like it's from a government --  
5           governmental agency. But when you actually click on  
6           the address, it's some Gmail account. A lot of  
7           elderly people, they're not, you know, tech-savvy.

8           And, again, they're taking advantage of that.

9           But I think it goes back to what he was  
10          mentioning before about just the education piece,  
11          because I don't think our communities actually  
12          understand that, okay, well, once you own a home,  
13          then you're now susceptible for someone to try to  
14          steal from you.

15          They just think, that, hey, I own this home,  
16          I paid this off, and that's just what it is.

17          But, again, criminals are going to do what  
18          they're going to do. And I think now, with  
19          technology advancements, they have, you know,  
20          utilized some of those things.

21          SENATOR MURRAY: And the reason I ask, it is  
22          complicated.

23          CHARLES JOHNSON: Yes.

24          SENATOR MURRAY: And so when we talk about  
25          education, it's, where's the right spot for that

1 education?

2 To your point, is it:

3 You're about to pay off the loan on your  
4 mortgage, you're just about to own it outright.

5 Is that the point where we say, "You need  
6 this information," and we send it? Or is it when  
7 you're buying the home?

8 Like, when's the sweet spot?

9 CHARLES JOHNSON: I honestly think it's both.  
10 I think that you have to start off.

11 And I was just talking to some friends who  
12 now own homes, but they didn't realize that there  
13 were different tax breaks, things of that nature,  
14 until 10 years in.

15 And I think, also, when you're talking about  
16 just elderly, you need to -- we have to have  
17 community outreach, whether it's governmental or  
18 whether we have particular coalitions going out,  
19 including NAACP, where we're having these  
20 conversations with them, having public hearings in  
21 the local communities with them.

22 Hearing stories like the reverend here, you  
23 know, so they can actually see this.

24 But I think you have to approach it from two  
25 angles, because, yes, you have the older generation

1 that's being impacted, but then you also have a  
2 group of younger folks that don't necessarily  
3 understand what -- this could happen to them later  
4 on down the road.

5 SENATOR MURRAY: Right.

6 MARK ANDERSON: Now, with that said, you  
7 know, if we get out of the forest and we go into the  
8 trees, there are some things that I do think that  
9 the State could implement that would create a little  
10 more transparency in a lot of this process.

11 And so, as an example, and one of your  
12 questions was: Well, how does the scheme actually  
13 work, let's say, in our class action?

14 It's something that no one would ever detect  
15 unless they know exactly what they're looking at.  
16 And even if they do know what they're looking at,  
17 very few do.

18 And so the problem is, is that there is a  
19 situation where there's surplus monies that are  
20 being taken at a closing, that no one attends, and  
21 it's a bank representative, a referee from the  
22 court, and checks just get transferred, and later on  
23 we find out what happened.

24 And on that document that summarizes what  
25 exactly happened, it looks good. It looks like they

1 did the right calculations.

2 But when you do the actual math, you find out  
3 that every single time, out of 14 to 15 firms that  
4 we looked at, they're all doing them wrong.

5 And so in one of the situations, we found out  
6 that -- through the reporting of Gothamist and  
7 New York Focus, we found out that one -- that the  
8 servicers are actually dictating to their attorneys  
9 how they should be doing the calculations; not the  
10 reverse.

11 Their attorneys should actually be guiding  
12 them, and not the other way around.

13 And so one way that I think, and I've, you  
14 know, been thinking about this since we first spoke,  
15 Senator Myrie, is one way to actually systematize  
16 the calculation method would be to actually just  
17 create --

18 And I am not on the budget committee or  
19 anything else, and I don't understand what it would  
20 cost.

21 -- but I think it would be a very simple  
22 calculation and a very simple computer program,  
23 which is that the court requires them to just input  
24 the information into a computer program that  
25 actually dictates what actually they get from a

1 residential foreclosure, because every calculation  
2 is the same for a residential foreclosure.

3 Commercial, you get what you signed up for.  
4 I mean, everyone knows it's a little more  
5 complicated, people are considered to be a little  
6 more sophisticated.

7 But if the judiciary actually just said, You  
8 know what? Put it into the State calculator, and  
9 this is what comes up. That's what you get.

10 And if they end up taking more than that,  
11 then they've committed a crime, and then they lied  
12 to the court.

13 And it's as simple as that.

14 Now, the law is very simple already, and it  
15 has been for over a century, about what the law is  
16 that I'm arguing in this class action.

17 It's, just, I've been litigating with banks  
18 and servicers and their attorneys for my entire  
19 career. And they will make everything seem like  
20 everything is just fine. Everything's just fine.

21 And they'll find some judge in some county  
22 outside that agrees with them. They'll cite to it  
23 in their papers. And once it's adopted, it becomes  
24 gospel.

25 CHARLES JOHNSON: Yep.

1           MARK ANDERSON: And then it will go to the  
2           Second Department or the First Department, the  
3           Third Department, Fourth Department, maybe someone  
4           will agree with them there.

5           And then, all of a sudden, we have a  
6           disconnect between the departments.

7           And then, all of a sudden, we have judge- and  
8           lawyer-created law.

9           And that's exactly what I'm dealing with  
10          right here.

11          And I'm sure you deal with it yourself.

12          CHARLES JOHNSON: Yeah, yeah.

13          SENATOR MURRAY: Okay.

14          MARK ANDERSON: So they will -- my class  
15          action, if you look it up, you will -- they will  
16          come up with all sorts of creative arguments. But  
17          the one thing they do not say is that I'm wrong.

18          SENATOR MURRAY: Right, right.

19          If you have any suggestions, if you could  
20          submit them.

21          MARK ANDERSON: So the last page of my  
22          remarks, I can read through it if you'd like right  
23          now.

24          SENATOR MURRAY: No.

25          MARK ANDERSON: But I do have them on the

1 back page, and I look forward to any comment.

2 I've practiced in all these areas, and I do  
3 have some input that I would love to give you guys;  
4 but I obviously don't have the time for it today.

5 But I do appreciate the interest, and I look  
6 forward to helping out as best as I can.

7 SENATOR MURRAY: Thank you.

8 SENATOR MYRIE: Thank you.

9 MARK ANDERSON: Just one quick --

10 SENATOR MYRIE: Thank you, Senator Murray.

11 CHARLES JOHNSON: Oh.

12 SENATOR MYRIE: Go ahead.

13 MARK ANDERSON: I would just say, because it  
14 ties into the educational thing, but education is a  
15 preventative tool.

16 But I do think that if we look at free record  
17 alerts and brief administrative holds for clear red  
18 flags, I believe that that also helps. It stops,  
19 you know, the early fraud -- early fraud detection  
20 early, and then also avoids, you know, the expensive  
21 litigation pieces.

22 But, again, it's about actually reaching --  
23 meeting people where they are and letting them know  
24 exactly what's going on.

25 So -- yeah. That's all I want to say.

1           SENATOR MYRIE: Thank you.

2           Thank you very much.

3           And thank you, Senator Murray.

4           We've been joined by Senator Brisport who has  
5 a couple of questions.

6           SENATOR BRISPORT: Thank you, Senator Myrie.

7           And thank you all for being here.

8           To Mr. Johnson from the NAACP, thank you  
9 for your testimony on deed theft, an incredible  
10 scourge in our communities.

11           And, you know, in my office we have  
12 introduced a suite of legislation to build off of a  
13 lot of the great work that's been done by  
14 Senator Myrie and the AG.

15           I just -- I did notice in your written  
16 testimony -- I'm sorry for missing your verbal  
17 testimony -- one of your recommendations was to  
18 increase funding for HOPP.

19           And I was just curious if the NAACP had put  
20 forward a dollar amount that you thought would be  
21 good?

22           CHARLES JOHNSON: Not right at this moment.  
23 But we can definitely get back to you with a dollar  
24 amount. That's not a problem.

25           SENATOR BRISPORT: Okay. The budget is due

1 April 1st. So --

2 CHARLES JOHNSON: No, no. We can get it to  
3 you this week.

4 SENATOR BRISPORT: Thank you.

5 That was it. Thank you.

6 SENATOR MYRIE: Great. Thank you.

7 And I'll just say: This is an issue that  
8 I care very deeply about.

9 In anticipation of this hearing, I wrote a  
10 similar letter of inquiry, that I had directed to  
11 the student loan industry, to a number of law firms  
12 that conduct foreclosure proceedings.

13 Most of them ignored and flat-out did not  
14 respond.

15 And I did get a response from one particular  
16 firm, who referred to me as Senator Mylie [ph.],  
17 misspelled the name. And also said --

18 OFF-CAMERA SPEAKER: Can I guess?

19 SENATOR MYRIE: -- and said, on the advice of  
20 counsel, that they were going to refuse to answer  
21 any questions.

22 Which I think speaks to the condition that we  
23 find ourselves in, where regular New Yorkers who do  
24 not have State Senate letterhead, who do not chair  
25 the Codes Committee, who are not elected to office,

1 have no shot at getting any accountability if we  
2 don't get even a bare response.

3 So thank you for the work that all of you are  
4 doing, and continue to do. And we look forward to  
5 continuing the engagement.

6 Thank you.

7 MARK ANDERSON: Thank you, Senators.

8 CHARLES JOHNSON: Thank you.

9 SENATOR MYRIE: We will next hear from  
10 Mr. Scott Buchanan.

11 Whenever you're ready.

12 SCOTT BUCHANAN: All right. Thank you very  
13 much.

14 Chair Myrie and Chair May, and committee  
15 members, thank you for the invitation to testify  
16 today about areas of fraud concern, especially in  
17 the student lending market.

18 I am Scott Buchanan, the executive director  
19 of the Student Loan Servicing Alliance, which  
20 represent more than 95 percent of all student loan  
21 servicing in the country, including New York State.

22 We are the designated customer service  
23 operations of private lenders, as well as the  
24 federal government who itself originates more than  
25 90 percent of all student loans to 40 million

1 consumers.

2           Given that role, we are on the front lines  
3 everyday, often dealing with our impact when fraud  
4 is committed.

5           Today we see three main areas of actual fraud  
6 that are similar to what you've heard before today,  
7 that can and should be the focus of enforcement by  
8 the State.

9           The first major area of concern today is  
10 schemes to apply for and take out new student loans  
11 or refinancing them by using false identities.

12           These scammers apply for and take a loan  
13 online with a lender or school using stolen or  
14 synthetic borrower information, like SSNs, and then  
15 unenroll and leave the school, and then taking the  
16 cash and leaving the school, the lender, and the  
17 government on the hook.

18           And the borrower's identity who was stolen is  
19 left to deal with undoing the harm on credit reports  
20 and disputing the loan.

21           Lenders and schools use proprietary  
22 strategies to try to identify the fraud before the  
23 loan is made. But the fraudsters, too, have become  
24 more sophisticated today despite our best efforts.

25           The second area of fraud from the past is

1 likely to reemerge with some vigor, as Congress  
2 recently made material changes to the federal  
3 student loan program.

4 This other scheme is offering independent  
5 counseling for an up-front fee, or offering things  
6 like the ability to lower their payment below what  
7 their servicer will offer them, or access to or  
8 priority consideration for secret loan forgiveness.

9 All of these are false claims.

10 They then pocket the fee, and often lie to  
11 the servicer, to skim part of the payment the  
12 borrower thinks that they are making.

13 Months later, the borrower will often  
14 discover that the harm has been done in bad credit  
15 reporting or increased loan balances.

16 These scammers prey on borrowers when  
17 confusion or large change happens in the loan  
18 programs, as will occur this year, and are abetted  
19 by so-called "borrower advocates" who scare  
20 borrowers from talking to their actual loan  
21 servicer, the only who can offer any of these  
22 loan-forgiveness programs or better repayment  
23 options and does not charge borrowers to do so.

24 Great work has been done by the FTC, with the  
25 support of my members, to reduce this issue

1 nationally, but it continues to be a problem.

2 The final area of fraud that should be  
3 carefully overseen is deceptive or misleading claims  
4 by institutions of education themselves.

5 The vast majority do great work in educating  
6 consumers on the realities and risks and costs of  
7 getting a post-secondary education or certificate.  
8 But some in the past have made promises in marketing  
9 materials to induce students to attend, spend their  
10 money, and borrow.

11 Often these have been claims of guaranteed  
12 employment or specific salary increases that  
13 graduates of their program or school will get,  
14 knowing full well those claims are unfounded.

15 It is certainly much better today, but we  
16 must be vigilant for New Yorker consumers, to try  
17 and improve their economic prospects.

18 I know my time is limited, so I'll address  
19 what changes can reduce this kind of fraud.

20 Better focused enforcement of existing laws.

21 Today, in New York, all of these activities  
22 are illegal, especially under new authority this  
23 legislature gave, effective last month, that,  
24 essentially, expands UDAP authority.

25 Providing additional resources to the AG and

1 other agencies to root out these clearly bad actors  
2 and enforce the laws on the books is the most  
3 effective step you can take today.

4           And while I'm not sure needed, any further  
5 legislation really must ensure standards of  
6 materiality of consumer impact and intentionality to  
7 not drive out good actors; to wit: in my example of  
8 counseling services, there are many good nonprofit  
9 firms or others who are doing this work today and  
10 charging maybe a small fee. And they often can make  
11 bona fide mistakes, trying to navigate the  
12 labyrinthian system of repayment options created by  
13 the federal government.

14           Not making allowance in law or regulation for  
15 reasonable standards will likely only make the  
16 situation worse, as good-scaled and regulated actors  
17 feel for -- fear for fear -- flee for fear, if  
18 I could speak, of unintentionally making any error  
19 with little to know borrower harm.

20           This will create a vacuum in New York, filled  
21 with those who really don't care about compliance  
22 anyway and ignore licensing requirements.

23           And by the time you find who they are, they  
24 will have vanished.

25           So I urge you really to be thoughtful about

1 unintentional impacts.

2           You know, I think we want to continue to work  
3 with you all on the sort of opportunities here,  
4 share stories that we're hearing on the front lines,  
5 and continue to work with you on legislation to  
6 improve the situation, and make sure we can continue  
7 to reduce fraud and harm that's happening in the  
8 state of New York.

9           Thank you.

10           And I'm happy to take any questions.

11           SENATOR MYRIE: Thank you.

12           Senator Brisport?

13           SENATOR BRISPORT: Not yet.

14           SENATOR MYRIE: Senator Murray?

15           SENATOR MURRAY: Thank you, Chairman.

16           To be honest, I didn't realize, you brought  
17 up the first example, and that is, you know,  
18 identity fraud and people stealing from false  
19 student loans. I didn't realize it was as big as it  
20 is.

21           What percentage would you say that is of  
22 this?

23           SCOTT BUCHANAN: I would not characterize it  
24 as a huge marketplace. Right?

25           I think it is more disruptive, though,

1 because it's harder to root out, because when you  
2 take out a student loan, for example, most of those  
3 loans go into a grace period for a certain period of  
4 time.

5           So it can be many months before a consumer  
6 would know that a loan had even been taken out on  
7 their behalf, as opposed to other credit products  
8 that show up relatively instantly, right, sort of,  
9 if you pull your credit report or something like  
10 that.

11           So I would not characterize it as a huge  
12 marketplace, but it is growing, especially as  
13 synthetic identity theft continues to expand, as you  
14 heard about earlier today.

15           SENATOR MURRAY: And what's the best  
16 protection against that?

17           SCOTT BUCHANAN: Yeah, well, I mean, I think,  
18 from an average consumer perspective, there's not  
19 much you can do up front -- right? -- because, if  
20 someone steals your identity and has gotten it,  
21 there's not -- I mean, obviously, there are ways to  
22 make sure that you reduce the amount of personally  
23 identifiable information that's available for you on  
24 the Internet.

25           That's difficult to do these days.

1           But when people get synthetic demographic  
2 information or real demographic information, it's  
3 hard to do.

4           So I think being vigilant. Monitoring your  
5 credit report, monitoring your credit score, that's  
6 the one thing you can do.

7           Now, you may not be able to stop it, but you  
8 can catch it early.

9           SENATOR MURRAY: Okay.

10          Thank you.

11          SENATOR MYRIE: Thank you.

12          And thank you for your testimony.

13          I think the portion of it directed at some of  
14 the ancillary activity that happens outside of  
15 legitimate servicers I think is really concerning,  
16 and I think it's important for us to keep our eye on  
17 the ball there.

18          I just want some clarity because, as  
19 I mentioned in my opening, when I reached out to  
20 some of the servicers, they -- many of them referred  
21 me to MOHELA, and then MOHELA referred us to you.

22          And so I just want to clarify that you do  
23 represent MOHELA?

24          SCOTT BUCHANAN: Yeah -- yes. MOHELA is what  
25 [simultaneous speaking] --

1           SENATOR MYRIE: MOHELA. I'm sorry. Okay.

2           SCOTT BUCHANAN: Yes, they're a member of my  
3 trade association.

4           SENATOR MYRIE: And MOHELA suggested to me in  
5 the letter, having not answered any of the  
6 questions, that we should go through you.

7           And so I guess my question to you is: On  
8 issues of previous penalties on any of the actions  
9 that were brought to light by litigation or any of  
10 the CFPB actions, whether MOHELA and other servicers  
11 would be willing to answer this committee's  
12 questions?

13           SCOTT BUCHANAN: Well, I think one of the  
14 challenges, especially for MOHELA, is that they are  
15 a federal contractor. Right?

16           So the bulk of the student loan servicing  
17 work they do today is with the department of  
18 education data. And so they are under contractual  
19 obligations not to share that with third parties.

20           So I think there's an opportunity, though,  
21 to, you know, perhaps open a line of dialogue with  
22 the department of education whose data it is, so we  
23 can share more of what the oversight is that is  
24 conducted pretty regularly by, as you highlight, not  
25 only the department of education, the CFPB, state

1 regulators, DEEP. New York DFS oversees and  
2 regulates and licenses and examines servicers like  
3 MOHELA.

4 SENATOR MYRIE: Okay. So we should go  
5 through the department of education and not the  
6 servicers?

7 SCOTT BUCHANAN: So I -- on the federal  
8 student loan program, we are contractually obligated  
9 to refer you to the department of education. So...

10 SENATOR MYRIE: Okay. You know, I just  
11 wanted to be clear, because we have, of course, the  
12 responsibility to New Yorkers, and those are our  
13 constituents, and those are the ones that are having  
14 to shoulder the burden of the student loan payments.

15 And when there are issues, when someone comes  
16 into my office, I often don't have the luxury of  
17 saying, well, this is really not my thing, and you  
18 can go speak to someone else.

19 And so we just have to get, I think, absolute  
20 clarity on whether there's going to be any sort of  
21 dialogue with the servicer themselves who are under  
22 contract, as you mentioned, by way of taxpayer  
23 dollar, to service these loans.

24 And if you are, as I understand it, to the  
25 tune of billions of taxpayer dollars, have the

1 contract to service the loans, and are not willing  
2 to answer those questions to that public, but,  
3 instead, refer us to the department of education,  
4 I think a lot of us would find that problematic.

5 And when it's time to come collect that loan  
6 payment, there isn't a conversation about, well, you  
7 should go here or you should go there, you should go  
8 to another place.

9 The demand is, pay the amount.

10 And I think that that should work in two  
11 directions if we have questions about what those  
12 service practices are.

13 But I do appreciate you coming to testify  
14 today.

15 SCOTT BUCHANAN: Yeah, and if I might just  
16 say, that I look forward to working with you and  
17 your staff as well.

18 We do annual reports to DFS today that has a  
19 ton of data about, sort of, performance standards,  
20 delinquency, what interaction looks like with  
21 borrowers, as well as the examinations that the  
22 State does to actually go in and verify that what  
23 we're doing, and from a customer service level,  
24 whether that's looking at call reportings, checking  
25 sort of, you know, audit trails, all that sort of

1 stuff.

2 I know DFS has a lot of that data today. So  
3 maybe there's an opportunity for us to work  
4 together, to get them to share some of that with  
5 you.

6 SENATOR MYRIE: Thank you.

7 Senator Brisport.

8 SENATOR BRISPORT: [Inaudible.]

9 SENATOR MYRIE: Thank you very much for your  
10 patience and your testimony today.

11 SCOTT BUCHANAN: Thank you.

12 We are next going to hear from Winston and  
13 Andy if they are here.

14 Whenever you're ready.

15 WINSTON BERKMAN-BREEN: All right. Can you  
16 hear me.

17 SENATOR MYRIE: (Nods head.)

18 WINSTON BERKMAN-BREEN: All right, great.

19 Thank you, Chair Myrie, members of the  
20 committee.

21 My name is Winston Berkman-Breen, and I'm the  
22 legal director of Protect Borrowers, a nonprofit  
23 policy organization focused on household credit and  
24 debt.

25 Previously I was a financial regulator at

1 DFS, where I was the student loan ombudsman and the  
2 director of consumer advocacy, and was legal  
3 services attorney before that in New York and  
4 Long Island.

5 I've submitted more detailed written  
6 testimony, and so I will focus my time today on  
7 conveying a few important points.

8 Specifically, I want to stress that, for our  
9 existing consumer protection laws to have any  
10 meaningful effect, there has to be meaningful  
11 enforcement which requires a strong private right of  
12 action alongside government enforcement.

13 And I will say, a little off-script, most of  
14 what I've heard today would be addressed by a strong  
15 private right of action: crypto, deed theft,  
16 fintech, student loan servicing, et cetera.

17 Back to script.

18 So, first, I want to acknowledge the abuses  
19 that New Yorkers are facing today.

20 Just a few examples from our legal services  
21 colleagues:

22 A company persuaded a 73-year-old social  
23 security benefit recipient to charge \$22,000 on her  
24 credit card for a bogus entrepreneurial workshop;

25 A fraudulent debt-settlement company

1 charged -- or, pressured a 79-year-old woman to stop  
2 paying her credit cards and to mail them her  
3 payments instead;

4 A mortgage loan servicer charged an  
5 unauthorized convenience fee for homeowners to pay  
6 their mortgage online, rather than by mail;

7 And, again, as we've heard, deed theft  
8 remains a huge issue in the state.

9 With sky-high prices and stagnant wages,  
10 households across the state, literally, cannot  
11 afford to be price-gouged or taken advantage of like  
12 this. And with the right consumer protection law,  
13 they wouldn't have to be.

14 Unfortunately, New York's General Consumer  
15 Protection Law, GBL 349, is out of sync with the  
16 majority of the country.

17 The bedrock of consumer protection in this  
18 country is the prohibition against unfair,  
19 deceptive, or abusive acts and practices, called  
20 "UDAPs."

21 My written testimony provides more  
22 information about UDAP and its well-established  
23 history in the country, as New York's UDAP, GBL 349,  
24 is one of the weakest in the country because it does  
25 not completely prohibit unfair, deceptive, or

1 abusive conduct. Until last year, it didn't  
2 prohibit unfair or abusive conduct at all.

3           You may recall the FAIR Act which was enacted  
4 last year and took effect a few weeks ago, and  
5 increased the attorney general's authority to  
6 prosecute unfair or abusive practices. It did not,  
7 however, extend those authorities to the existing  
8 private right of action which still only applies to  
9 deception.

10           For this reason, New York's law is weaker  
11 than 42 other jurisdictions which allows for --  
12 these other jurisdictions allow for private  
13 enforcement of all of their rights.

14           As a New Yorker, I feel lucky to have a  
15 strong prosecutor in Attorney General James, who we  
16 heard from earlier. But her office cannot address  
17 every wrong that every New Yorker experiences  
18 everywhere in the state, nor should that be the  
19 objective of government enforcement.

20           The Attorney General may be the people's  
21 lawyer, but she cannot be every person's lawyer.

22           The UDAP standard is not new. But without  
23 private enforcement, there cannot be meaningful  
24 accountability.

25           For this reason, industry opposition to a

1 private right of action should be met with great  
2 skepticism.

3 Another point I'd like to make is that  
4 improving New York's law is necessary in light of  
5 what we're seeing at the federal level and their  
6 complete abdication of consumer protection.

7 The FTC and CFPB are the primary agencies  
8 responsible for enforcing federal UDAPs, but neither  
9 of them are doing that today.

10 For example: The Trump Administration is  
11 gutting the CFPB. They fired nearly all the staff,  
12 terminated most of their enforcement actions, and  
13 stopped complying with at least 87 statutory  
14 responsibilities.

15 My organization estimates that this has cost  
16 households over \$18 billion already.

17 This federal abdication is also affecting  
18 New Yorkers.

19 Based on analysis of CFPB complaint data that  
20 we've done, complaints filed by New Yorkers nearly  
21 doubled from 2024 to '25, from 180,000 complaints to  
22 over 300,000.

23 The largest percent increases were in the  
24 Fingers Lakes, Mohawk Valley, Capital Region, and  
25 Western New York, with the largest absolute increase

1 in New York City.

2 At the same time that the number of  
3 complaints coming from New Yorkers has increased by  
4 nearly 70 percent, the number of complaints closed  
5 with consumer relief has decreased by 10 percentage  
6 points, from 51 percent to 41 percent of closed  
7 complaints.

8 Put differently, while the number of  
9 complaints is increasing, the relief is decreasing.

10 It's clear that New Yorkers cannot count on  
11 the federal government to help them.

12 I'll conclude by noting that enacting a  
13 stronger UDAP now is also a sound investment in  
14 New York's future.

15 If the recent years have showed us anything,  
16 it's that we cannot say with any certainty what the  
17 next few years will bring.

18 A strong UDAP has the flexibility to address  
19 whatever issue may arise; whether that's price  
20 gouging during a future crisis or surveillance by  
21 tech and AI firms.

22 There's no need to run back to the  
23 legislature every time a new harm emerges.

24 Let me make clear: That unfair, deceptive,  
25 or abusive contact is never permitted in the state.

1 Thank you.

2 ANDY MORRISON: Okay. Thank you.

3 Good afternoon, and thank you Senators Myrie,  
4 May, Murray, and Brisport.

5 I'm Andy Morrison. I'm the associate  
6 director of New Economy Project, a New York  
7 City-based economic justice organization.

8 We are working with community groups across  
9 the city and state to build an economy that works  
10 for all, based on cooperation, racial justice,  
11 neighborhood equity, and ecological sustainability.

12 My testimony today focuses on financial  
13 technology, or "fintech," schemes that are  
14 structured to evade New York's longstanding usury  
15 and consumer protection laws.

16 As the committee members know, payday lending  
17 is categorically illegal in New York State.

18 Our civil usury law caps interest at  
19 16 percent, and it's a felony to charge more than  
20 25 percent interest on a loan; yet fintech companies  
21 operating under the label of "earned-wage access"  
22 have -- are conducting business right here in our  
23 state.

24 They're making loans with average interest  
25 rates -- average interest rates -- that exceed

1 330 percent APR.

2 We estimate that this industry has extracted  
3 more than half a billion dollars from working  
4 New Yorkers' paychecks since 2019.

5 That is, effectively, forcing workers to pay  
6 to get paid.

7 So how does an industry that charges  
8 effective interest rates so far above the usury cap  
9 that we set as a matter of public policy in this  
10 state operate here?

11 The answer is, that fintech companies falsely  
12 claim that their loans -- excuse me -- that their  
13 products are not loans in order to circumvent our  
14 robust and longstanding consumer protection laws.

15 How do they do this?

16 Well, they aggressively market their products  
17 on social media, in workplace break rooms, even on  
18 the New York City subway, only -- and that they lure  
19 New Yorkers in who are struggling to make ends meet,  
20 only to impose high and hidden fees that trap them  
21 in cycles of repeat borrowing. These are expedited  
22 transfer fees, subscription charges, and even tips.

23 They feed user data into proprietary AI  
24 underwriting systems so that they can monitor  
25 workers' accounts, so that they can ensure that they

1 get paid as soon as that worker gets paid.

2 And that -- those predictions are often  
3 inaccurate, and that leads to cascading financial  
4 harm, like overdraft fees.

5 At every step, EWA companies design their  
6 products to evade enforcement of laws that prohibit  
7 high-cost lending.

8 The industry seeks to nullify state usury  
9 protections by claiming its products are not loans,  
10 an argument that relies on strained interpretations  
11 of legal concepts, such as recourse.

12 This is regulatory arbitrage, designing a  
13 business model to exploit loopholes and sidestep  
14 laws meant to bar high-cost lending.

15 It's targeting working people and communities  
16 of color.

17 The government accountability office found  
18 that these apps are mostly used by people earning  
19 less than \$50,000 a year.

20 The Community Service Society of New York did  
21 a survey, and found that New Yorkers under 30 are  
22 using these payday loan apps frequently, or all the  
23 time in many cases.

24 Black and Latino workers were significantly  
25 more likely to report frequent use than White

1 respondents, underscoring the industry's  
2 disproportionate impact on communities of color.

3 So New York bans payday lending for a reason.

4 Our usury laws reflect longstanding public  
5 policy to protect New Yorkers from exploitative  
6 high-cost loans that strip wealth from communities  
7 and trap people in cycles of debt.

8 Fortunately, the attorney general has taken  
9 enforcement action against two leading EWA  
10 companies, finding: Gross and systematic  
11 misconduct. APR's as high as 750 percent. People  
12 borrowing multiple times a week from these apps.

13 One worker took out hundreds of advances over  
14 a two-year period, paying nearly \$1400 in fees.

15 This is part of the business model.

16 And so what we are asking for this --  
17 demanding, really, this session is that the Governor  
18 and the legislature step up and protect working  
19 people from widespread financial predation and  
20 wealth extraction.

21 We can't rely on enforcement alone.

22 It's important what the attorney general is  
23 doing, but the legislature needs to step up. And it  
24 can do that by passing the Stop Taking Our Pay Act  
25 sponsored by Senator Brouk. That's 8939. And that

1 would clarify existing law that EWA advances are  
2 loans, and that New York's usury laws and the  
3 interest rate caps apply to this industry.

4 So thank you very much for inviting us to  
5 testify today.

6 SENATOR MYRIE: Thank you, both.

7 Senator May.

8 SENATOR MAY: Thank you.

9 Thank you for your testimony.

10 I wanted to ask -- sorry --  
11 Mr. Berkman-Breen, a question.

12 I really appreciate the data in your written  
13 testimony that shows how the -- effectively, the  
14 closure of the CFPB is affecting New York.

15 And I'm wondering if you have an analysis of  
16 why, basically, my district, or the Finger Lakes,  
17 Mohawk Valley, Central New York, would be  
18 dramatically higher than other areas of state?

19 Like, what would be driving these regional  
20 differences, in your opinion?

21 WINSTON BERKMAN-BREEN: Thank you, Senator,  
22 for that question.

23 I should follow up and say, too, that happy  
24 to follow up with the committee or any member on  
25 district-specific. I just need your ZIP Codes, and

1 then we can go from there.

2           You know, it's hard to say, because there's a  
3 lot of factors that go into our lives. You know, we  
4 sometimes bucket these things into different terms  
5 or committees.

6           But, ultimately, we're all living as sort of  
7 holistic people who have different experiences.

8           And it could be anything from fewer cops on  
9 the beat. Right? The federal government isn't  
10 doing its job. And maybe your region doesn't have  
11 as strong of a local consumer protection.

12           I'm a New York City resident. The department  
13 of consumer and worker protections is phenomenal.  
14 We are so lucky to have them.

15           We also have a very holistic 311 system in  
16 New York City.

17           So that, you know, local resources filling  
18 the gap can be one a reason.

19           There could also be larger macroeconomic  
20 considerations. Maybe your region has had more  
21 layoffs. People are just having, you know, tighter  
22 budgets in their household than other parts of the  
23 state.

24           So it really varies, and it's going to vary  
25 probably between regions, why they're experiencing

1 it. I don't think there's any one.

2 But I do think, having just said that, there  
3 are blanket things the State can do.

4 I completely endorse my colleague Andy's  
5 testimony about these products that -- like EWA,  
6 like buy now, pay later, which the State has already  
7 regulated -- and thank you for that -- that go in  
8 and take advantage of them. I mean, I did this, so  
9 can industry. Right?

10 And so they can go in and say, Hey, this part  
11 of the state, this part of city, people are hurting.  
12 Let's go offer them free money and then charge them  
13 for it.

14 So there's -- it's hard to diagnose the  
15 cause, but I think we can still arrive at some  
16 solutions.

17 SENATOR MAY: Okay, thank you.

18 And I just have to ask about this line on  
19 page 6, where it says that the exam -- "CFPB is  
20 making its examiners make a humility pledge" --

21 WINSTON BERKMAN-BREEN: Yes.

22 SENATOR MAY: -- "to each company before  
23 commencing an exam."

24 Can you just tell me what that is?

25 WINSTON BERKMAN-BREEN: Yes. So that is the

1 current Trump Administration, CFPB, led by  
2 Russ Vought, again, which is trying to kill itself  
3 off, like very explicitly. I'm not hyperbolizing.

4 The exams -- just so we're on the same page,  
5 and DFS does exams as well; as does DCWP, the local  
6 and New York City equivalent: An exam is just an  
7 audit for compliance with financial laws. Whether  
8 that's a sort of safety and soundness prudential,  
9 anti-money laundering, or whether that's a sort of  
10 consumer protection market conduct, "how are you  
11 treating people?" compliance.

12 But it's just compliance with state, federal,  
13 and local laws, depending on the jurisdiction.

14 So an examiner will go on-site, look at books  
15 and records. We heard from Scott Buchanan, maybe  
16 audit some calls, et cetera.

17 And, normally, they do that, and maybe that  
18 would be force of being a government regulator. You  
19 know, they -- I don't want to be crude, but they say  
20 "jump." Regulated and [indiscernible] are supposed  
21 say, "how high?"

22 And there's is a good-faith relationship  
23 there. But there can -- there has to be candor; you  
24 have to open your books and records.

25 We've seen a very robust -- under the

1 Rohit Chopra CFPBM [sic], the President Biden's  
2 Administration, a very robust, not inappropriately  
3 so, but a robust consumer protection agency out of  
4 the CFPB.

5 The response to that, in addition to rolling  
6 back, is that now examiners, when they go on-site,  
7 have to, literally, read a one-page humility pledge  
8 out loud to the industry that they're about to  
9 examine, which talks --

10 I could have appended it, and I should have.  
11 But I'll follow up with you, and send it as a link.

12 -- which, as the title suggests, basically  
13 says, you know, I am not here to overstep. And, you  
14 know, I'm not going to be aggressive like our  
15 predecessors.

16 And it is very much in the, you know, ilk of  
17 what we're seeing under this administration, really  
18 demonizing previous appropriate law enforcement; but  
19 also just, literally, putting industry up on a  
20 pedestal when it should be the reverse relationship.

21 SENATOR MAY: Okay. Unbelievable.

22 WINSTON BERKMAN-BREEN: Yeah, you can't  
23 really make this stuff up.

24 SENATOR MAY: Yeah, right.

25 And, Mr. Morrison, just following up to --

1 looking at the data in the other testimony, I'm  
2 wondering about the payday loans and some of the  
3 oversteps that you talked about.

4 Do you have regional data on that?

5 Is that something that -- where we can find  
6 out how this is affecting my district or my region  
7 of the state?

8 ANDY MORRISON: Definitely. It's linked in  
9 an end note of our testimony.

10 We put out a report last year called  
11 "\$500 million and counting." I think it's the  
12 second end note.

13 And if you take a look at that report, we  
14 broke out the wealth extraction that these companies  
15 are engaging in by region. I can't remember the  
16 regions off the top of my head, but we looked across  
17 the state, and found -- yeah, that -- you know, all  
18 over state we have a deepening affordability crisis.

19 So where people are living paycheck to  
20 paycheck, they're looking for solutions. And these  
21 companies are preying on that sort of vulnerability.

22 And so we're seeing it across the state, and  
23 it is draining money right out of people's  
24 paychecks.

25 SENATOR MAY: Thank you.

1           Yeah, I mean, I chair the Commission on Rural  
2 Resources, and I represent a district that has the  
3 city of Syracuse. But it has a lot of rural  
4 communities in it as well.

5           And what we know about smaller municipalities  
6 is they don't have the resources to fight back  
7 against a lot of these things, and so the people  
8 feel helpless, too.

9           So the more that we have kind of centralized  
10 information, and potentially centralized solutions,  
11 the better for their -- our consumers.

12           ANDY MORRISON: Oh, sure.

13           I mean, to your point, regular working  
14 New Yorkers are outmatched by an industry that's  
15 backed by Silicon Valley venture capitalists.

16           It's -- the industry is increasingly getting  
17 investment from Wall Street, banks, and investment  
18 houses. And they're spending huge amounts of sums  
19 on lobbying and campaign contributions, to normalize  
20 and entrench this business model.

21           And that is very concerning to us because,  
22 unless this legislature and Governor act, this can  
23 become just a normal part of every day life for  
24 working people.

25           And we can't accept that in New York, where

1 people have to pay to just get the paychecks that  
2 they've earned through their labor.

3 SENATOR MAY: Thank you.

4 SENATOR MYRIE: Thank you.

5 Senator Brisport?

6 SENATOR BRISPORT: Thank you, Mr. Chair.

7 Thank you both for being here today, your  
8 testimony.

9 Mr. Berkman-Breen, great to see you made it  
10 up here safely from Brooklyn.

11 I just --

12 WINSTON BERKMAN-BREEN: Senator, thank you.

13 SENATOR BRISPORT: Of course.

14 -- I had a few questions.

15 Looking at some of your recommendations for  
16 policy, I was just -- just a general-question  
17 curious: If you have identified existing  
18 legislation you wanted to uplift, or if you figured  
19 these policies would best be served by a new  
20 legislation?

21 WINSTON BERKMAN-BREEN: Thank you for the  
22 question, Senator.

23 I think there will be new legislation  
24 introduced, and that's in large part because  
25 existing legislation, such as the Community and

1 Small Business Protection Act (CSBPA), is somewhat  
2 mooted because the FAIR Act did pass. And so  
3 there's contradictory parts of what that bill would  
4 have done, that's already been accomplished, and  
5 what still needs to be done.

6 So I do think that, as a single vehicle or a  
7 sub-bill, there needs to be new legislation, even if  
8 it's just taking piecemeal parts of existing  
9 legislation and reentering them.

10 SENATOR BRISPORT: Amazing. Thank you.

11 And then I know you said New York is well  
12 behind a lot of the country on these issues.

13 Do you know if there's a state-by-state  
14 breakdown anywhere of what practices are being used  
15 in other states or not?

16 WINSTON BERKMAN-BREEN: There is.

17 So one of the footnotes is to the National  
18 Consumer Law Center's "50 State Guide."

19 But, also, I'll be able to follow up with the  
20 committee with my colleagues from -- Immobilization  
21 for Justice created a very simple 50-state color  
22 graph. And you see the 8 states in red, of which  
23 we're one, and you see the 42 other states in green  
24 where there are stronger laws.

25 SENATOR BRISPORT: Thank you so much.

1 WINSTON BERKMAN-BREEN: Sure.

2 SENATOR MYRIE: Senator Murray.

3 SENATOR MURRAY: Thank you, Chairman.

4 Thank you both for being here.

5 And, Mr. Berkman-Breen, you had mentioned --  
6 well, let's say this: We can put the laws in place,  
7 we can even get the enforcement in place. But if  
8 there is no bite to it, if there is no punishment to  
9 it.

10 I know there are some that believe that  
11 punishment is not a deterrent.

12 I disagree, I think it is. I think most  
13 agree that it is.

14 I'm reading your testimony.

15 It says, "Finally, New York's law has  
16 severely outdated damages provisions. The current  
17 statutory damages are \$50, which is meaningless  
18 deterrent for bad actors."

19 You even went on to say, "New York's UDAP law  
20 is" -- "basically, it's toothless even with some of  
21 the improvements that were made."

22 So how do we step it up?

23 I mean, you know, is punishment, is the  
24 actual punishment, is that lacking? And if so, how  
25 much; I mean, how much should it be?

1           You mentioned the \$50, what should it be?

2           WINSTON BERKMAN-BREEN: Right.

3           So in recent legislation, we proposed \$2,000.

4           I think, candidly, anywhere in the one to  
5           two thousand dollars, and this, again, where there  
6           is a finding of the legality. Right? This is not  
7           the threat of. This is a judge that's made a  
8           determination that someone broke the law. And per  
9           violation, there should be a meaningful penalty.

10           You can step it up for protected classes as  
11           we have often done. If it's a senior citizen, if  
12           it's a combat veteran or their family or a service  
13           member, et cetera.

14           There's plenty of, you know, trebling you can  
15           do there.

16           But I think it's meaningful penalties --  
17           right? -- in addition to actual damages. Make the  
18           person whole, and then add a deterrent factor on top  
19           of it.

20           But then, also, and I don't want to overlook  
21           my main point, which is, this needs to be privately  
22           doable. Right?

23           We have the private deception component now.  
24           But we know that's been failing us because it's been  
25           failing us for the last 50 years.

1           The whole point of the FAIR Act was to get  
2 everyone on board with the tools we need. And it  
3 is, again, a necessary but insufficient fix that  
4 we've given to the Attorney General because her  
5 office, we even heard from, and there's testimony,  
6 is doing such great work. We're so lucky to live in  
7 this state with her at the helm, the department of  
8 law.

9           But we need, as the legislature recognized in  
10 1980s when it added a private right of action to a  
11 law that did not have one, [indiscernible], did not  
12 start with a private right of action, and you all  
13 added it in, your predecessors, that you need to  
14 have that private partnership across the state.

15           In parts of the state where there are --  
16 I mean, I work with attorneys in the Syracuse area.  
17 They are there. This is not a sort of, you know, if  
18 you build it, they won't come. If you build it,  
19 this will get used, but the economics have to make  
20 sense for it.

21           SENATOR MURRAY: Okay. Thank you.

22           SENATOR MYRIE: Thank you, Senator Murray.

23           And thank you again, to Winston and Andy, for  
24 your testimony. Thank you for your patience, for  
25 waiting, and we look forward to continuing to

1 engage.

2 Thank you.

3 WINSTON BERKMAN-BREEN: Thank you.

4 ANDY MORRISON: Thank you all.

5 SENATOR MYRIE: And our last panel for the  
6 day, and we thank them for their patience, Emma and  
7 Christopher, who are making their way down.

8 EMMA KREYCHE: Shall I jump right in?

9 SENATOR MYRIE: (Nods head.)

10 EMMA KREYCHE: First of all, thank you for  
11 having me today.

12 My name is Emma Kreyche. I'm the director of  
13 advocacy, outreach, and education at the Worker  
14 Justice Center of New York. We are a legal services  
15 and advocacy organization serving low-wage workers  
16 across New York State, with a primary focus on  
17 immigrant workers.

18 So the people we serve include farm workers,  
19 day laborers, hospitality industry workers, domestic  
20 workers, and many others who labor in industry where  
21 wage theft and other forms of labor abuse are,  
22 unfortunately, quite widespread.

23 The crime of wage theft takes many forms.  
24 And exploitative employers can get remarkably  
25 creative with their schemes to defraud employers

1 of -- employees of their pay.

2           So we've seen it all: Paying workers off the  
3 books to avoid paying the proper overtime rate.  
4 Unlawful deductions. Misclassification of workers.  
5 Requiring people to perform preparations before they  
6 clock in. It kind of runs the gamut; the list goes  
7 on and on.

8           It's really hard to overestimate or  
9 overstate -- I'm sorry.

10           It's hard to overstate the scale of wage  
11 theft that occurs routinely in our communities or  
12 its devastating impact on working people.

13           Estimates of stolen wages and benefits range  
14 from 1 billion to upwards of 3 billion dollars  
15 annually in New York State, with the DOL only able  
16 to recover a very tiny fraction of that sum, as  
17 little as 1 percent as we heard earlier today.

18           We're talking about billions of dollars each  
19 year that workers can't use to pay their rent or  
20 feed their families at a time when the rising cost  
21 of living has already far outpaced wage increases.

22           One of the reasons it's difficult to get  
23 precise data on wage theft is because so many cases  
24 go unreported due to victims' well-founded fear of  
25 retaliation. And this is particularly true of many

1 immigrant workers who fear that any sort of  
2 complaint against their employer could prompt a call  
3 to ICE.

4 We've even been contacted about suspected  
5 schemes involving employers purposely contracting  
6 immigrant workers, and then reporting them to  
7 immigration authorities to avoid payment of wages.

8 In most cases, however, I will say the  
9 implied threat of possible immigration consequences  
10 is sufficient to prevent workers from coming  
11 forward. We receive so many calls that never result  
12 in official complaints because workers conclude that  
13 the risk is simply too great when weighed against  
14 the likelihood of recovering their stolen wages.

15 And unscrupulous employers are making the  
16 same calculation: Building wage theft into their  
17 business model as a routine practice, thereby  
18 gaining a competitive advantage over law-abiding  
19 employers.

20 And wage theft, of course, is not a new  
21 problem. And as lawmakers, some of you have of  
22 course sought to address this crisis through the  
23 legislative process. You know, we have the Wage  
24 Theft Prevention Act in 2011; amendments to the  
25 penal code to allow criminal prosecution for both

1 wage theft and immigration-related threats; and  
2 then, more recently, the DOL's expanded authority to  
3 collect on judgments.

4 So these are all steps in the right  
5 direction. But good lawmaking does not  
6 automatically translate into effective enforcement.

7 Criminal prosecution of wage theft is  
8 relatively rare, especially outside of New York City  
9 where we work.

10 Meanwhile, DOL's capacity for civil  
11 enforcement is woefully insufficient due to chronic  
12 underfunding and well-documented staffing  
13 challenges, with a federal government that has  
14 drastically scaled back worker protections, and  
15 continues to escalate attacks on immigrant  
16 communities.

17 New York absolutely must do better.

18 The Empire Worker Protection Act is a  
19 necessary part of the solution to New York's ongoing  
20 wage theft crisis. Modeled after a successful  
21 California law that's been on the books for over  
22 two decades, the Empire Act would expand public  
23 enforcement of the labor law by creating a mechanism  
24 that allows workers, whistleblowers, and labor  
25 unions to bring claims on behalf of the State only

1 if and when the department of labor and the office  
2 of attorney general declined to investigate the  
3 matter.

4 Empire actions would allow for recovery of  
5 civil penalties, generating a projected \$211 million  
6 annually for the State to reinvest in public  
7 enforcement, compared with the \$2.2 million that was  
8 stated earlier as the total penalties collected last  
9 year. This would enable the DOL to hire more staff,  
10 raise salaries for investigators, and more  
11 effectively combat wage theft.

12 All of this has borne out in California under  
13 the PAGA law.

14 The whistleblower component of Empire is  
15 particularly important for protecting vulnerable  
16 immigrant workers, as it would allow actions to be  
17 brought without naming the workers affected by the  
18 violations in the complaint.

19 And just before concluding, I would like to  
20 acknowledge that Governor Hochul has included  
21 funding in her budget for district attorneys in  
22 rural communities to take on new criminal wage theft  
23 investigations.

24 And while this initiative may be well  
25 intended, we know from experience that most

1 vulnerable workers in New York's rural communities  
2 simply do not feel safe coming forward to law  
3 enforcement officials in their regions.

4 Without clear prohibitions on the collusion  
5 of local enforcement agencies with federal  
6 immigration authorities, immigrant workers are  
7 unlikely to come forward to report the crime of wage  
8 theft.

9 And this is just one of the many reasons why  
10 criminal prosecution of wage theft is just not a  
11 practical way to fill that gap in enforcement.

12 And while there's a place for law enforcement  
13 in combating wage theft, strengthening civil  
14 enforcement, and properly resourcing the DOL by  
15 passing the Empire Act will have a far greater  
16 impact.

17 Thank you.

18 CHRISTOPHER MARLBOROUGH: I want to thank the  
19 Senators for inviting me.

20 My name is Chris Marlborough. I am a board  
21 member of NELA New York, the National Employment  
22 Lawyers Association's New York affiliate.

23 I am a practicing attorney, with -- where  
24 I represent low-wage workers against white-collar  
25 wage thieves. And I want to tell you a little bit

1 more about the scope of the problems and things that  
2 might not be -- every legislator may not be aware of  
3 as to what workers are dealing with; not only how  
4 they're getting ripped off of 3 billion -- up to  
5 \$3 billion a year in the state of New York alone,  
6 but also how the deck is stacked against these  
7 workers from the day they start working, in many,  
8 many circumstances.

9 To start with, I will tell you that there is  
10 several categories of wage theft, but one of the  
11 biggest ones is independent contractor fraud, where  
12 people are totally misclassified as an independent  
13 contractor. Nothing independent about what they do  
14 whatsoever.

15 You could be sitting in an office all day;  
16 you could be a cheerleader -- right? -- who is lined  
17 are up to move your fingers in unison with everybody  
18 else, nothing independent about you, and they'll say  
19 you're an independent contractor, and they'll say  
20 you're not entitled to protections in the labor law,  
21 and they'll say you're not entitled to contributions  
22 to unemployment insurance, contributions to workers'  
23 compensation, social security contributions from the  
24 employer.

25 There are companies that will sell a package

1 of how to make you cut your labor costs by  
2 30 percent by reclassifying your actual employees as  
3 independent contractors. And those middlemen will  
4 often stay involved during the course of  
5 litigation -- right? -- to provide those services,  
6 when, eventually, those people get sued.

7 And let me tell you some ways that employers  
8 will stack the deck against workers even before they  
9 start.

10 They will start in the independent contractor  
11 case with an independent contractor agreement. Oh,  
12 it's not an employment agreement; it's an  
13 independent contractor agreement. But in that  
14 agreement it will say things, like:

15 You can only bring your case in arbitration.  
16 You cannot -- you waive your right to bring your  
17 case in a court of law;

18 You can -- must waive any multiple-plaintiff  
19 actions. So you can't bring in your case in court  
20 and you can't bring a class-action effectively in  
21 state court, or three plaintiffs have to bring three  
22 separate arbitrations together in the arbitration  
23 proceeding;

24 And you can be required to waive your statute  
25 of limitations, from six years under the New York

1 labor law, where New York labor has a great statute  
2 of limitations. Very few states can compete with  
3 that;

4 But as a condition of your employment, you  
5 can't start working here until you sign this. And  
6 even if you don't sign it, the fact that you're  
7 working here says that you consented enough for us  
8 to say that this can be held against you;

9 Six years, to six months, statute of  
10 limitations, losing a huge amount, more than  
11 90 percent of your potential damages.

12 And courts will say those are enforceable.

13 So those issues come up both in the  
14 independent contractor misclassification and in  
15 standard wage theft cases, where people are subject  
16 to forced arbitration class-action waivers in --  
17 more than half of New York workers are subject to  
18 that. And it disproportionately affects minorities  
19 and women, the largest two demographic groups  
20 affected by these agreements.

21 And when we're dealing with this, you know,  
22 we have a concept that, you know, the labor law will  
23 favor workers. But they don't look at it in the  
24 context of the labor law. They look at it in the  
25 context of contract law; and, look, you agreed to

1 this contract.

2 And it doesn't matter that you can't speak  
3 English or read the contract that's written in  
4 English, or that you didn't understand the legalese  
5 of the contract. Right?

6 None of that matters once you get on to the  
7 concept of following the contract laws.

8 And who's writing these laws?

9 The wage-theft lawyers are writing these  
10 agreements to make them -- to enable employers to  
11 get away with this -- right? -- to -- particularly  
12 in the context of misclassification, where they know  
13 this is a misclassification case.

14 The only thing they don't know is if -- the  
15 only thing that they are worried about, not that  
16 they're doing something illegal, but not getting  
17 caught.

18 So the department of labor can't handle the  
19 number of cases here. Independent contractor cases  
20 are very difficult to prove because there's many,  
21 many factors to an independent contractor  
22 misclassification. No matter how obvious it is, you  
23 still got to go through all of those factors.  
24 Right? A lot more work for the department of labor.  
25 Maybe they'll just take the guy who doesn't get paid

1 for his overtime.

2 And I will end there, but there is a lot more  
3 to tell you about the subject, and I'm happy to  
4 speak with any of you individually on this.

5 SENATOR MYRIE: Thank you very much, and  
6 thank you both for your testimony.

7 Senator May.

8 SENATOR MAY: Thank you.

9 I wanted to follow up on the forced  
10 arbitration piece.

11 CHRISTOPHER MARLBOROUGH: Please do.

12 SENATOR MAY: There is a bill in my committee  
13 that's just a sunshine bill, basically, that we need  
14 to know how arbitrators -- how the decisions come  
15 about, because there's a lot of evidence that the  
16 arbitration companies are associated with a lot of  
17 the companies that are -- they're arbitrating about,  
18 and they tend to decide in favor of the corporate  
19 side and against the consumers or the workers. And  
20 nobody knows who they're working for or how -- how  
21 the -- what the outcomes are. They may, you know,  
22 99.9 percent of the time be deciding in favor of the  
23 big guys.

24 And so I'm just wondering if you have  
25 proposals for how to make that whole process more

1 fair and more transparent, so that we can -- or are  
2 you aware of this bill and do you support that bill?

3 CHRISTOPHER MARLBOROUGH: I'm not aware of  
4 the particular bill you're talking about.

5 I do know that there -- that outcomes in  
6 arbitration are much less favorable than outcomes in  
7 court.

8 I also am aware of a lot of the barriers to,  
9 once you get into that arbitration world, you're no  
10 longer in a courtroom world.

11 So just as you want to have statistics, you  
12 know, I would like that, when a wage thief, when  
13 someone misclassifies -- 12 employers who bring  
14 12 arbitrations and get 12 separate rulings against  
15 them because their misclassification is so obvious,  
16 that information is not -- is private. That  
17 information is not shared. You don't have any  
18 precedential value to say, Look, this guy just did  
19 this to 12 different people. And now, look, he's  
20 doing it to Number 13.

21 I want to use that evidence, but you don't  
22 are have access to that evidence because it's a  
23 private proceeding, unlike a case in court.

24 I will also add that some issues -- some ways  
25 to work -- deal with the arbitration issue is the

1 Empire Bill that Emma just discussed. Those private  
2 attorney general actions are not subject to  
3 arbitration or class-action waivers because they --  
4 you're taking on the shoes of the attorney general  
5 who is also not subject to that. That's agreement  
6 between the employee and the employer; or sometimes  
7 not even in the employer. Sometimes it's just  
8 another company, and the employer says, Well, that  
9 should count for me, too.

10 And the courts, guess what they say?

11 Yeah, okay, it counts for you, too.

12 It doesn't matter that you didn't sign it.

13 None of that matters.

14 Getting out of this rubric where the deck is  
15 so heavily stacked against workers, and getting into  
16 an opportunity where their claims could be heard and  
17 the criminal exploitation can be made public.

18 EMMA KREYCHE: The Empire Act would bring --  
19 essentially, take the -- the -- bring the action  
20 back into the public enforcements sphere out of this  
21 privatized venue.

22 So that is why the Empire Act is one of the  
23 solutions to the issue of forced arbitration.

24 CHRISTOPHER MARLBOROUGH: I will add that  
25 I am admitted in the state of California, and I have

1       seen the transformation of this forced arbitration  
2       scenario in California, where it is a completely  
3       different world. And employers are rightfully  
4       afraid of violating the law.

5               And I don't believe that that's the case in  
6       New York.

7               SENATOR MAY: Okay. Good to know.

8               Thank you.

9               Thank you, Chair.

10              I've got to go, but I really appreciate  
11       everybody who has testified, and all that I have  
12       learned today.

13              SENATOR MYRIE: Thank you.

14              Thank you, Senator May.

15              Senator Murray, I don't know if you have any  
16       questions.

17              SENATOR MURRAY: No.

18              SENATOR MYRIE: Great.

19              Let me express my thanks to both of you.

20              And I will incorporate my closing comments  
21       for the entire hearing.

22              The point was very well taken, Emma.

23              How do you pronounce your last name?

24              EMMA KREYCHE: Kreyche.

25              SENATOR MYRIE: Kreyche. I want to make sure

1 I got that right for the record.

2 Thank you for making the point that the  
3 ability for us to prevent bad things from happening  
4 to workers and wage theft from happening is not the  
5 sole province of our criminal law. And that there  
6 are many really good reasons why workers would not  
7 feel comfortable communicating with law enforcement  
8 or pursuing a law enforcement solution.

9 So we have to also have pretty strong civil  
10 enforcement.

11 It's part of the reason why we wanted to do  
12 this as two committees, the Codes and the Consumer  
13 Protection, so that we could bring both of those  
14 views to bear.

15 I think, ultimately, whether it is wage theft  
16 or fraud in any other industry, we have a  
17 responsibility as a legislature to respond because  
18 this is as pocketbook an issue as it gets. People  
19 are, literally, having money taken from them.

20 And if we do not address that part, we are  
21 leaving a lot to be desired in way of protecting  
22 New Yorkers.

23 So I want to thank you again for the work  
24 that you do, for your testimony, for being patient  
25 throughout the entire day.

