

1 BEFORE THE NEW YORK STATE SENATE  
2 STANDING COMMITTEE ON CODES  
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3 PUBLIC HEARING:

4 POLICING (S3695), REPEALS PROVISIONS RELATING TO  
5 PERSONNEL RECORDS OF POLICE OFFICERS, FIREFIGHTERS,  
6 AND CORRECTIONAL OFFICERS  
7  
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8 Senate Hearing Room  
9 250 Broadway, 19th Floor  
10 New York, New York

11 Date: October 17, 2019  
12 Time: 10:00 a.m.

12 PRESIDING:

13 Senator Jamaal T. Bailey  
14 Chair of the Standing Committee on Codes

15 SENATE MEMBERS PRESENT:

16 Senator Brian A. Benjamin

17 Senator Leroy Comrie

18 Senator Jim Gaughran

19 Senator Andrew Gounardes

20 Senator Brad Hoylman

21 Senator Robert Jackson

22 Senator Todd Kaminsky

23 Senator Zellnor Myrie

24 Senator Kevin Parker

25 Senator Jessica Ramos

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SENATE MEMBERS PRESENT (continued):

Senator Gustavo Rivera

Senator Julia Salazar

Senator Luis R. Sepulveda

ASSEMBLYMEMBERS PRESENT:

Assemblymember Michael Blake

Assemblymember Inez E. Dickens

Assemblymember Nathalia Fernandez

Assemblymember You-Line Niou

Assemblymember Daniel O'Donnell

Assemblymember Latrice Walker

OTHER PARTIES PRESENT:

New York City Councilmember Daneek Miller

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1 SENATOR BAILEY: Good morning, everyone.

2 OFF-CAMERA SPEAKER: Good morning.

3 SENATOR BAILEY: I am state

4 Senator Jamaal Bailey.

5 I represent the 36th Senatorial District in  
6 The Bronx, in Mount Vernon, and I am the chairperson  
7 of the Senate Standing Committee on Codes.

8 And today's hearing is concerning Bill S3695,  
9 relating to Section 50-a of the Civil Rights Law.

10 I am joined by Senator Andrew Gounardes,  
11 Senator Todd Kaminsky, and Senator Robert Jackson;

12 The members of the Codes Committee that  
13 I chair:

14 Ranking Members: Andrew Lanza, Senators  
15 Gounardes and Kaminski, are members of the Codes  
16 Committee.

17 Other senators on the committee are  
18 Senators Akshar, Benjamin, Biaggi, Boyle, Gallivan,  
19 Kavanagh, Myrie, O'Mara, and Savino.

20 And many of our colleagues will be in and out  
21 today.

22 I want to thank you all for coming to this  
23 very important hearing, the beginning of a  
24 conversation, what I believe to be an important  
25 piece of legislation.

1           And I'm going to deviate from my remarks to  
2           some degree that I had prepared, and I want to talk  
3           about why these hearings are important.

4           When we pass bills in Albany, us here on this  
5           dais, we take that role very seriously.

6           We want to be as informed as possible  
7           concerning any legislation -- any legislative  
8           actions that we take, and we want to hear from all  
9           individuals.

10          And, unfortunately, prior to -- just prior to  
11          the hearing, I was advised that the CCRB, nor the  
12          NYPD, will be testifying today.

13          And -- and I am disappointed by that, as  
14          I pride myself in being somebody who is always  
15          willing to have a conversation and have a dialogue,  
16          even if our views may not 100 percent align.

17          I am hopeful, and I will remind folks, as we  
18          are being streamed live, that today is the first of  
19          two hearings, so, you have another shot, another  
20          bite at the apple, so to speak.

21          So the 24th, I implore you, I ask you, to  
22          please join us in Albany.

23          I would like to thank -- there are other  
24          members of law enforcement and PBAs here as well, so  
25          I would like to thank you for your attendance, and

1 we will hear from you shortly.

2 I appreciate you coming out and making your  
3 voices heard.

4 Again, it's critically important that we  
5 continue to hear from all sides; all voices matter.

6 We have just been joined by  
7 Senator Kevin Parker from Brooklyn.

8 So we are going to begin our testimony with a  
9 panel of impact individuals.

10 Gwen Carr, Valerie Bell, and  
11 Constance Malcolm are mothers who have sustained  
12 losses, and they are going to come testify.

13 I just want to remind everybody of the --  
14 some of the ground rules concerning testimony,  
15 though.

16 We want to limit our testimony, we don't want  
17 to limit your ideas, but we want to limit the time,  
18 because we don't want to be here all day.

19 There will be a 5-minute time limit for each  
20 person testifying, followed by a maximum of  
21 10 minutes for each of Q&A for each person who has  
22 testified. That will be myself and my colleagues in  
23 government, we will be asking questions and engaging  
24 in dialogue with you.

25 Again, this hearing is being live-fed.

1           And the transcript of the hearing, with  
2           copies of all testimony, both oral and submitted,  
3           will be available in the New York State Senate's  
4           website.

5           And your testimony, especially if you have  
6           submitted written testimony, I implore you to not  
7           read directly from the paper, in order to maximize  
8           the time that you've been allotted and given.

9           So with that being said, I want to thank,  
10          once again, my colleagues who have joined me today.

11          And I would like to ask Ms. Carr, Ms. Bell,  
12          and Ms. Malcolm to come forward and testify.

13          And please use the microphone, as the media  
14          services folks have indicated, because we are being  
15          live. So we want your -- your -- your comments to  
16          be captured accordingly.

17          Just for -- for time-keeping sake, there are  
18          a couple of clocks in the area.

19          So, again, when you're testifying, be mindful  
20          of the time ticking.

21          We will gently remind you of the time  
22          elapsing, but just be mindful of the time as it is  
23          elapsing.

24          I'm not certain which one of you ladies would  
25          like to begin, but the floor is open.



1 VALERIE M. BELL: Good morning, everyone.

2 SENATOR BAILEY: Good morning.

3 VALERIE M. BELL: Thank you for having us.

4 My name is Valerie Bell, and I'm the mother  
5 of Sean Bell who was killed on November 25, 2006;  
6 50 shots. This year will make 13 years.

7 I'm here to say very clearly to our New York  
8 State senators that 50-a must be repealed.

9 This police secrecy law is used time and time  
10 again to shield abusive officers, and when there is  
11 no transparency or accountability.

12 Just, for example, if that was one of us,  
13 everything would be put out in paper of what we have  
14 done if we had killed someone.

15 13 years ago, like I said, my son was killed  
16 by five officers, NYPD Club Enforcement -- Club  
17 Enforcement Initiative in Jamaica, Queens.

18 They boxed my son's car in, shot 50 times.

19 They said they thought there was a gun, but,  
20 of course, there was no gun.

21 It's been over a decade, but I remember all  
22 too well the trauma that me and my family's been  
23 going through, still going through, of course, our  
24 people of color still being killed by NYPD and all  
25 over different states.

1           We couldn't get any information from the NYPD  
2           or the Queens District Attorney's Office.

3           I knew my son had been at his bachelor's  
4           party, and was leaving a club in a car with his  
5           friends. And one officer decided to follow him.

6           Why?

7           Because he thought he heard something, but he  
8           didn't hear the right thing.

9           Now being able to get answers -- not being  
10          able to get answers was like losing Sean over and  
11          over again.

12          You cannot imagine the pain this causes  
13          parents and family members unless you go through it.

14          Like I said, we went through the trauma.

15          The part that was terrible was not getting  
16          the answers or who killed my son.

17          That's why I'm here today, and why I have  
18          been fighting to repeal 50-a.

19          People of color continue to be killed by the  
20          police. And I understand what it's like for the  
21          families to have fight tooth and nail for  
22          transparency.

23          Today, because 50-a has been explained  
24          through -- expanded through politics and case law,  
25          families cannot get even the most basic details

1 about the officers who have killed our loved ones,  
2 like, their names, and if they're still patrolling  
3 our streets.

4 Police departments are ready to leak  
5 information about our children and loved ones, to  
6 try to criminalize them and blame them for their own  
7 deaths. But we families cannot get basic  
8 information.

9 We don't want to know where they live.

10 We don't want their Social Security number.

11 We just want to know basic information, if  
12 they have done other wrong things during their time  
13 on the force.

14 As you hear -- as you all hear, 50-a was used  
15 to try to withhold information from Ramarley Graham  
16 and Eric Garner's families.

17 Victoria Davis may never know the outcome of  
18 the CCRB investigation of Officer Wayne Isaac who  
19 murdered her brother Delrawn Small.

20 These are just a few examples.

21 50-a is a wall that every new family will run  
22 up against when trying to uncover the truth about  
23 their loved ones' deaths.

24 Families who lose loved ones to the police  
25 deserves to know the truth.

1           Across the state, the names and misconduct  
2 records of officers who kill and abuse New Yorkers,  
3 what discipline these officers receive, are all  
4 hidden from survivors, families, and our  
5 communities.

6           The public needs this information. This is  
7 about public safety.

8           Hiding this information means that officers  
9 who are repeat offenders are allowed to keep their  
10 jobs, to keep their business going, like nothing  
11 ever happened.

12           Like I say again, I'm going to say it again  
13 and say it again: It's been 13 years. We haven't  
14 got the justice that we deserve.

15           But I'm going to fight for the other family  
16 members who are losing loved ones.

17           We meet new families and go on to more  
18 funerals. Each and every one of these families  
19 wants and deserve transparency.

20           And the truth about what happened to their  
21 loved ones, the public deserve transparency.

22           We are at risk without it.

23           In 2015, I was one of the 12 family members  
24 of New Yorkers killed by the police who came  
25 together to force Governor Cuomo to sign the special

1 prosecutor executive order.

2 We were able to do this because we understand  
3 firsthand and change -- and what change is needed,  
4 and because we are united.

5 For the families, repealing 50-a, as well as  
6 strengthening and expanding that special prosecutor  
7 by making it law, it is a top priority.

8 It is a matter of life and death, and it  
9 needs to get done.

10 We, the families, want you to understand that  
11 we're coming together to make sure it happens in  
12 2020 session.

13 Thank you very much.

14 SENATOR BAILEY: Is my mic on?

15 There we go.

16 So I -- I -- we've been joined by  
17 Senator Jessica Ramos as well.

18 So, Ms. Malcolm, I'm not sure if you want to  
19 testify as a panel, and then we can all ask -- ask  
20 questions after that.

21 I think that may be more conducive for time.

22 So, whichever one of you ladies would like to  
23 proceed next may do so.

24 Thank you, Ms. Bell, for your testimony.

25 GWEN CARR: My name is Gwen Carr. I'm the

1 mother of Eric Garner.

2 I'd like to start by thanking you,  
3 Senator Bailey, for convening this important  
4 discussion and hearing, and for co-sponsoring the  
5 bill.

6 This is a very important issue, to repeal the  
7 police secrecy act of the 50-a.

8 The whole world saw my son Eric Garner  
9 murdered five years ago. It was on video,  
10 Officer Pantaleo, who used a chokehold that had been  
11 banned for over 20 years.

12 We saw multiple police officers who forced my  
13 son to the ground, which was Pantaleo, and then the  
14 other officers pounced on him.

15 Eric pleaded, "I can't breathe."

16 But the disconcerned [sic] officers, they  
17 paid no mind to that.

18 It's been five years since my son was  
19 murdered, and there has been widespread cover-up.

20 And the scope of misconduct in my son's  
21 murder, Pantaleo is only -- is the only officer who  
22 was fired.

23 And there were at least a dozen more officers  
24 who were on the scene, who should stand accountable  
25 for my son's death.

1           There were officers there who just looked the  
2 other way, there were officers who filed false  
3 reports, and then there were officers who pounced on  
4 him, and none of them are standing accountable.

5           I'm here today because New York State police  
6 secrecy law, 50-a, is still harming us, my family,  
7 and endangering New Yorkers.

8           We need you and your colleagues in the state  
9 legislature to make sure that the 50-a law is  
10 repealed in 2020.

11           Because of Pantaleo's disciplinary trial and  
12 the media, we now know of multiple officers who lied  
13 on official reports related to Eric's killing.

14           And there should be no tolerance when police  
15 officers blatantly lie on official reports,  
16 including Officer Justin D'Amico, who claimed that  
17 there was no force used in my son's death.

18           He lied on this official report.

19           He also filed a report -- he charged my son  
20 with a felony tobacco charge, and this was after he  
21 had known that Eric was dead.

22           How do you charge a dead person?

23           And especially he didn't deserve that felony  
24 charge. He didn't have 2200 cigarettes on him.

25           That's the tobacco felony charge that he was

1 charging him with.

2 But no one seemed to care, no one brought  
3 this issue up, until we went to court with it.

4 This is where a lot of things came out.

5 And the trial wouldn't have even took place  
6 if I wouldn't have been fighting for five years,  
7 along with other community groups.

8 I fought tooth and nail to get this done,  
9 because I said I wasn't going to give up.

10 In other words, D'Amico lied, and the reason  
11 he stopped Eric in the first place.

12 He was the only one who testified, including  
13 all the officers, who claimed to see Eric selling  
14 cigarettes that day.

15 And we know that was not true.

16 And it was proven in court that he could not  
17 have seen him selling cigarettes that day.

18 And everyone else who was on the scene said,  
19 Eric had just broken up a fight.

20 But, those officers approached him with  
21 malice.

22 They took him down to the ground. Even  
23 though he begged for his life, they paid no  
24 attention to him.

25 The EMS was just as callous. They never



1       tried to save him.

2               If they could have saved him, I don't know,  
3       but they never tried.

4               So all of the officers and the EMS should  
5       stand accountable for my son's death.

6               D'Amico is not the only one who should be  
7       accountable.

8               Everyone; I want to hold everyone accountable  
9       who was involved in my son's death that day.

10              There was so much misconduct done that day.

11              We don't even know the names of most of the  
12       officers who were there that day.

13              This is what that 50-a is doing to us: It's  
14       restricting us for finding out who did what to our  
15       loved ones.

16              They victimize us. They act like my son was  
17       the one who was doing the wrongdoing.

18              He was dead.

19              And now what they want to do, they want to  
20       expose his records.

21              What about the records of the officers who  
22       killed my son?

23              We found out through leaks that Pantaleo had,  
24       "14," 14 charges against him, 14 allegations.

25              Seven of them was substantiated.

1           And then in court they said, he was an  
2 upstanding officer.

3           What do you call an upstanding officer who  
4 has all of these allegations?

5           What is your definition in -- NYPD, what is  
6 your definition of an "upstanding officer," with a  
7 person with all these charges against him?

8           Because of 50-a, if the judge's report hadn't  
9 been leaked, we would not have found out about  
10 D'Amico's lying on the stand.

11           We wouldn't have found out, the report,  
12 whether or not the force was used if there was not a  
13 video.

14           They had already concocted their story.

15           That's why these officers need to be fired.

16           They do not need to be patrolling the streets  
17 of New York.

18           They need to be replaced with upstanding  
19 officers.

20           Excuse me for a minute.

21           Over five years -- over five years later,  
22 because of 50-a, I don't have full information about  
23 the roles, the misconduct, or the names of many of  
24 the officers involved.

25           50-a makes it close to impossible for me to

1 truly fight for justice for Eric.

2 It makes it harder for other families to  
3 fight for justice for their loved ones.

4 And it is dangerous for New Yorkers, because  
5 police like Justin D'Amico should not carry a gun,  
6 and he should be fired. He should not patrol  
7 communities.

8 Because of 50-a, I can't even get full  
9 transcripts of Pantaleo's disciplinary charge --  
10 trial -- sorry -- even though the trial was open to  
11 the public.

12 Because of 50-a, I can't find out the  
13 misconduct and the discipline histories of the other  
14 officers who was involved in killing Eric and  
15 covering it up.

16 And, Sergeant Adonis, she stood there, and  
17 she did nothing, as she seen them killing my son,  
18 and had him on the ground, and as he says he  
19 couldn't breathe.

20 D'Amico says, oh, because Eric was squirming.

21 If someone was choking you, you would squirm  
22 too.

23 He wouldn't be still.

24 Would you be still if someone was choking you  
25 and you couldn't breathe?

1           Because of 50-a, the public was not aware  
2 before -- that -- before Pantaleo killed my son,  
3 that there was already these charges that I was  
4 talking about before.

5           And all they did, the CCRB, they recommended  
6 charges for those past allegations. But the NYPD  
7 did nothing; gave him a slap on the wrist.

8           If they had disciplined him properly then, my  
9 son may still be alive today.

10          It was almost three years after my son was  
11 killed that we even found out about Pantaleo's  
12 disciplinary hearing.

13          And this was all because of a whistleblower.

14          But we shouldn't have to wait for  
15 whistleblowers, and whistleblowers shouldn't be  
16 afraid of losing their jobs because they're doing  
17 the right thing by exposing these corrupt officers.

18          I have two legal actions winding their way  
19 through process right now, to demand transparency,  
20 which 50-a may block, unless you, the Senate,  
21 pass -- repeal the 50-a law.

22          So that's why I'm asking you and your  
23 colleagues to please take into consideration.  
24 I mean, we have been to have this bill passed, and  
25 we need to do it right away.

1           In 2020, when you go back to session, please  
2           make this a priority, that you repeal 50-a.

3           Families like mine in New York shouldn't have  
4           to rely on the media leaks.

5           We should know firsthand, when our loved ones  
6           are killed, we should know who did it, why they did  
7           it, and, you know, all the details.

8           But this is hidden because of 50-a.

9           50-a wasn't designed to do this.

10          50-a was to protect the police officers  
11          against knowing their Social Security numbers,  
12          knowing where they live, knowing about their  
13          children, which is all fine. But, it shouldn't have  
14          extended to this -- up to this level.

15          Any other public servant, you know, we have  
16          to go by the law.

17          Anything that happens with us -- I was a  
18          public servant myself -- anything that's reported,  
19          or anything that I put another person's life in  
20          danger, we go downtown. We get tested for drugs, we  
21          get tested for alcohol, right away.

22          The police is exempt from this.

23          They have a 48-hour, or 72-hour, window where  
24          they can get sober in case they're drunk.

25          No other agency does that.

1           We need to repeal that also.

2           And some of my son's last words was, "This  
3 stops today."

4           And I really want this to stop today because  
5 we need to repeal the 50-a law.

6           We need to repeal and end the law that  
7 protects officers who kill our children and our  
8 loved ones.

9           And I thank you for listening.

10          I hope you really take the words that I have  
11 said and put them into action, and repeal this law  
12 in the session coming up in January.

13          I thank you all.

14          SENATOR BAILEY: Thank you, Ms. Carr.

15          Ms. Malcolm.

16          Sorry.

17          We've been joined by state  
18 Senator Brad Hoylman as well.

19          Thank you, Senator.

20          Ms. Malcolm.

21          CONSTANCE MALCOLM: My name is  
22 Constance Malcolm. I'm the mother of  
23 Ramarley Graham who was killed by NYPD,  
24 Richard Haste, in 2012.

25          Thank you, Senator Bailey, for holding this

1 hearing on the need to repeal 50-a; for having me  
2 and my -- for having me and other families who loved  
3 one has been killed by police speak today.

4 So I want to say thank you again for having  
5 us here.

6 As you know, my son Ramarley was killed in  
7 our home, in front of his grandmother and his  
8 six-year-old brother.

9 Richard Haste and other officer broke down  
10 the door to our home, without a warrant, without a  
11 warning, without cause.

12 These officer murdered Ramarley in my home on  
13 February the 2nd, 2012.

14 And then the NYPD murder Ramarley again in  
15 the media.

16 As you heard Ms. Bell and Ms. Gwen testify,  
17 this often -- often -- it happen too often to  
18 family.

19 They lie about the killing.

20 They false criminalized my son in the media,  
21 and then tried to cover it up, the whole thing.

22 There was so much misconduct surrounding the  
23 murder of my son that I don't even know where to  
24 start.

25 My son body was lost for four days by the

1 police.

2 We had to call Carl Heastie to help us to  
3 find his body so we could bury him.

4 My mom/Ramarley's grandmother was  
5 interrogated for seven hours by police, and she  
6 wasn't even allow to talk to her attorney.

7 They was trying to get my mom to lie about  
8 Ramarley.

9 There's more, but I'm not going -- I'm not  
10 going to stop there for now -- I'm going to stop  
11 there for now.

12 The reason I'm here today, to tell you that  
13 we need to repeal 50-a. as soon as the legislation  
14 session starts in January 2012 [sic], not in  
15 February, or March, or in another year.

16 In 2012 -- 2020.

17 50-a need to be repealed now, because it  
18 hurts family like mine's, Ms. Carr, like  
19 Delrawn Small's family, and so many others.

20 50-a is dangerous for New Yorker, because it  
21 is protects officer who kills, officer who rapes and  
22 sexually assaults, officer who disrespect and  
23 brutalize us.

24 It lets them hide behind secrecy that the  
25 government shouldn't allow.



1           When my son Ramarley was murdered, it took us  
2 three years to find out misconduct history of  
3 Richard Haste.

4           Three years. That's too long.

5           The officer who shot and killed him, and then  
6 was only -- and then it was only because a  
7 whistleblower -- again, whistleblower -- leaked it  
8 to the media.

9           We found out Richard Haste has 6 CCRB  
10 complaints and 10 allegation in just 30 months.

11           This was showing you this man was a ticking  
12 time bomb waiting to happen.

13           Then less than 9 percent of -- less than  
14 9 percent of New York -- NYPD had that many  
15 complaints in their entire career, and almost none  
16 of them have so many complaint in such a short time.

17           Like I said, Richard Haste was a ticking time  
18 bomb, and, unfortunately, it was my son that he  
19 unleash it on.

20           Ramarley was killed just 15 months after the  
21 last complaint that we knew about from the leaks.

22           The only reason we find out that there had  
23 been prior CCRB complaint against Rich -- against  
24 Haste is because information was leaked in 2017,  
25 three years after my son was murdered.

1           Family like mine should have -- shouldn't  
2 have to rely on leaks to the media to get these  
3 kinds of basic information.

4           It took me almost six years to get Haste and  
5 Sergeant Scott Morris off the force.

6           Other officer who also should have been gone  
7 is still there.

8           The NYPD legal -- illegally leaks Ramarley's  
9 secret sealed-file records.

10          I don't even know their names because of  
11 50-a.

12          Because of 50-a, I still don't even --  
13 I still don't know the misconduct history of Morris,  
14 or Officer John McLoughlin, one of the officer  
15 involved who is still on the force.

16          McLoughlin was put on one-year dismissal  
17 probation.

18          Because of 50-a, I don't even know if he did  
19 other misconduct during that year of his probation,  
20 and whether he had a long history of past misconduct  
21 like Haste.

22          While Haste and Morris are not NYPD anymore,  
23 I need you to understand that I had to fight every  
24 day for almost six years to organize political  
25 pressure to force them to -- force them out of NYPD.

1 I lost -- I lost pay from job -- from my job  
2 because I had to do rallies, press conference.

3 I had sleepless nights.

4 I still worry every day about my other son  
5 who was six at the time, when he watched his brother  
6 murdered by officers in which should have been the  
7 safety his home.

8 My son is now 14, and every day I worry about  
9 him.

10 Just getting on a train, going to school, and  
11 scared that he might be stopped, and I don't know  
12 what become of him.

13 I don't want to have to bury another son.

14 Families shouldn't have to go through this.

15 Not every family can do what I was able to  
16 do.

17 50-a is hard for all of us family.

18 In some way, it makes it impossible for us to  
19 really fight for justice because so much information  
20 stay hidden from us.

21 This is not fair, it's not fair at all.

22 50-a is dangerous for everyone.

23 Because there's no transparency, so these  
24 officers are dangerous, and who abuse their  
25 authority and are allowed to continue patrol our

1 neighborhood, and we don't even know who they are.

2 We know that the police department in  
3 New York State doesn't discipline officer who kill  
4 and brutalize unless we organize and build major  
5 campaigns.

6 Even in the case of Ramarley, Haste and  
7 Morris wasn't even fired. They resigned.

8 They even got firsthand information before  
9 I did.

10 50-a is a horrible -- a horrible law. This  
11 is just dangerous for New Yorkers.

12 It took me over six years to get addition  
13 information about the killing of my son, and that  
14 was only because I filed a FOIL, with the Community  
15 United for Police Reform (CPR) and Justice Committee  
16 (JC), and we didn't -- we did get all the  
17 information we asked -- we didn't get all the  
18 information that we asked for.

19 The City tried to argue that I couldn't get  
20 information about the killing of my son because of  
21 50-a.

22 This is ridiculous and painful.

23 One of the -- one of the many 50-a argument  
24 the City tried to use was that because I had called  
25 for the firing of Haste and the other officer who

1 were part of the cover-up.

2 The release of information about the incident  
3 and officer would lead to safety concern for  
4 officers.

5 If we, as family, don't call for these,  
6 calling for police to be fired, I don't know what  
7 kind of parents we would be.

8 This is just rubbish.

9 We all know it's lies, and it's dangerous,  
10 because they are basically telling mothers like me  
11 that, if we call for the firing of officers who  
12 murder our children, the City will lie and say that  
13 we are putting officer at risk.

14 We know that's not true.

15 We're not giving out their Social Security,  
16 we're not giving out their address, so how we  
17 putting them at risk?

18 50-a need to be fully repealed.

19 The only purpose it serve to -- the only  
20 purpose it serve is to protect abuse cops and  
21 cover-up.

22 I am asking you today to think about my son  
23 Ramarley; I need you to think about Ms. Carr, her  
24 son Eric; to think about Valerie and Sean.

25 I lost -- I lost -- sorry.

1           To think about Delrawn Smalls [sic] and  
2           Kawasaki Trawick, Saheed Vassell, and so many others  
3           who have been killed in just -- unjustly by police.

4           I need you to think about us, our loved one.

5           I need to you repeal 50-a for us as soon as  
6           possible.

7           I need you and other senator, assemblymember,  
8           to repeal 50-a in January.

9           It has to be done in January. It can't be  
10          done any later than that.

11          We cannot keep waiting; waiting for the  
12          rights of a political movement.

13          I need you to be Ramarley's voice.

14          I need you to be Sean Bell voice.

15          I need you to be Eric voice.

16          There are not much more that I can do -- can  
17          happen, you know, in the Ramarley case right now, so  
18          I'm fighting to prevent future killing by police.  
19          I am fighting to support other families.

20          50-a must be repealed.

21          Thank you for listening.

22          Thank you for having us testify, I really  
23          appreciate.

24          Thank you.

25

1           SENATOR BAILEY: Thank you, Ms. Constance.  
2           I don't know if -- so just some housekeeping.  
3           We've been joined by Senators Comrie and  
4           Salazar; Councilmember Daneek Miller; and  
5           Assemblymember O'Donnell, who was the Assembly  
6           sponsor of the 50-a legislation as well, has just  
7           joined us.

8           I'm -- I'm not sure if anybody has any  
9           questions.

10          And I don't really have questions.

11          I just have just a couple of comments.

12          And I just wanted to -- to speak briefly  
13          about, yes, we went past the five minutes. I think  
14          we're well aware of that.

15          But I -- but I -- but I think that any of us  
16          in the situation, I think that these women are --  
17          can go over a little bit five minutes.

18          Even though, Ms. Bell, you were like  
19          5 minutes and 5 seconds. You know, you must have  
20          been a school teacher, or something like that. You  
21          were really on point.

22          But, in all seriousness, you know, levity --  
23          levity is -- is -- is good to have in times of  
24          seriousness.

25          Ms. Constance, that's -- that's my home where

1 Ramarley lived. And I remember Community Board 12,  
2 the weekend after it happens, and your strength  
3 then, and your strength now.

4 Ms. Carr, Ms. Bell, I -- I -- as a parent,  
5 I -- I simply don't know how you do it every day.

6 I just don't.

7 But I -- but I -- but I thank you for being  
8 willing to speak up.

9 I -- I don't -- I don't have much else to  
10 say, other than, thank you for being brave enough to  
11 come by and testify, and speak your truth.

12 Do any of my colleagues have anything that  
13 they would like to say, or questions?

14 That's perfectly fine.

15 Senator Jackson.

16 SENATOR JACKSON: Well, thank you, Mr. Chair.

17 And, good afternoon -- good morning.

18 Let me thank you all for coming in.

19 And, obviously, I'm sure that this is very  
20 hurtful for you, and, obviously, tears and -- are  
21 shed.

22 And I know, even though I had a brother that  
23 was killed in a fight, but not by the police, but in  
24 still talking about it today, sometimes I still cry,  
25 because it's in here, and it's up here, and you will



1 never forget.

2 So -- but I listened to the testimony, and  
3 you say -- most of you said that we must deal with  
4 50-a, and repeal that in January.

5 And you say "January."

6 January 9th the New York State Senate goes  
7 back, but you want it repealed right away.

8 In fact, the legislative session runs from  
9 January to June.

10 And, obviously, I would assume you want it  
11 during that particular session, no later than that.

12 Is that correct?

13 (All three witness simultaneously  
14 speaking.)

15 SENATOR JACKSON: Can you speak into the mic,  
16 one at a time, please?

17 VALERIE M. BELL: As soon as possible because  
18 time goes fast.

19 As you see it now, we're already in October.  
20 Three weeks now it will be November.

21 But I know you go start in January. But once  
22 you get in session, you need to talk about it.

23 SENATOR BAILEY: And, Ms. Bell --

24 VALERIE M. BELL: Yes.

25 SENATOR JACKSON: -- your son was killed

1 13 years ago?

2 VALERIE M. BELL: Yes.

3 SENATOR JACKSON: Okay.

4 Anyone else?

5 CONSTANCE MALCOLM: Seven years.

6 SENATOR JACKSON: Seven years.

7 GWEN CARR: Five years.

8 And fought, as we want it done in January,  
9 because we are asking you to prioritize this,  
10 because, last year, none of the police reform bills  
11 were passed.

12 So we're urging you to pass this, put this on  
13 the floor, and make it an urgency to our emergency.

14 SENATOR JACKSON: Now, I believe -- and  
15 correct me if I'm wrong, and I'm sure if I'm wrong,  
16 I will be corrected by future speakers -- that 50-a  
17 is in place to protect the security and safety of  
18 the officers.

19 Am I right or am I wrong in that?

20 GWEN CARR: It should be to protect them like  
21 as a civilian, like, their personal life. It should  
22 be to protect that.

23 It shouldn't be to protect them against  
24 giving us information about officers who create  
25 misconduct behave -- you know, demonstrate

1 misconduct behavior.

2 It should not be that.

3 SENATOR JACKSON: I've heard all three of you  
4 testify about the fact that -- I believe all three  
5 of you testified that, that there's information in  
6 there about the officers' -- different officers'  
7 conduct, which, from a disciplinary point of view,  
8 they've been -- some of them have been disciplined  
9 before.

10 One of you indicated that one of the  
11 officers, and I don't know which case involved, had  
12 60 complaints to the CCRB, and other formal actions  
13 may have been taken as far as discipline.

14 And so -- and that you had to FOIL that  
15 information in order to get it, to determine what  
16 type of history they have as far as conduct which is  
17 not becoming of police personnel.

18 CONSTANCE MALCOLM: A lot of time -- what we  
19 trying to say is, a lot of time they use 50-a as a  
20 block to give us information about the police  
21 backgrounds, stuff that they had did before prior to  
22 what happened to our son.

23 What I was say -- what we saying are, if they  
24 had looked into these allegation before, some of  
25 these incident would have never happened.

1           Like I said, in my case, this officer wasn't  
2 even on the force for a long period of time, a  
3 ticking time bomb waiting to happen.

4           And all these incident he had was in a short  
5 period of time.

6           SENATOR JACKSON: How many incidents was  
7 that, you said? I'm sorry.

8           CONSTANCE MALCOLM: I think it was six.  
9 One was 15 months prior to the killing of my  
10 son.

11          I could get it to you, though.

12          SENATOR JACKSON: I'm waiting one second.  
13 You just sort through there. I want to be able to  
14 hear.

15          CONSTANCE MALCOLM: Yes, he has 10 alleg --  
16 he had 6 CCB [sic] complaint.

17          SENATOR JACKSON: How many?

18          CONSTANCE MALCOLM: Six.

19          SENATOR JACKSON: Six.

20          I thought you said 60.

21          CONSTANCE MALCOLM: It's an allegation.

22          SENATOR JACKSON: So it's six allegations at  
23 CCRB.

24          CONSTANCE MALCOLM: No, 10 allegation.

25          He had 6 CCRB complaints, and 6 allegation,

1 within 13 months.

2 That's less than most officers --

3 SENATOR JACKSON: Within 13 months --

4 CONSTANCE MALCOLM: -- more than most  
5 officers.

6 SENATOR JACKSON: -- since he was on the  
7 force, you mean?

8 CONSTANCE MALCOLM: Yes.

9 SENATOR JACKSON: Okay.

10 CONSTANCE MALCOLM: So that's a big problem.

11 Like I said, that was a clear, you know,  
12 thing to look at right there as his behavior.

13 SENATOR JACKSON: Okay.

14 Well, I mean, obviously, it's important for  
15 NYPD, the commissioner and all of the supervisors,  
16 to, basically, know what their employees, meaning,  
17 the officers or sergeants or lieutenants under their  
18 jurisdiction, have been alleg -- they should know  
19 what allegations have been made against them in  
20 order to deal with that from a progressive  
21 discipline point of view.

22 And so that's what I expect as a state  
23 Senator.

24 When I was in the union, working as a union  
25 representative, progressive discipline was very

1 important in the process.

2 But in order to have that progressive  
3 discipline, we need to know what has occurred in the  
4 past.

5 So I want to thank you for coming in and  
6 giving testimony.

7 And I look forward to working with you and  
8 others regarding repealing 50-a.

9 CONSTANCE MALCOLM: Thank you for having us.

10 SENATOR BAILEY: Thank you, Senator Jackson.

11 So we were lenient on the five minutes, but  
12 we'll be less lenient with our question-and-answer  
13 period concerning the time, just because we do have  
14 a little bit more control over that.

15 Senator Salazar.

16 SENATOR SALAZAR: Thank you.

17 I'll be brief.

18 Thank you, Senator Bailey, for chairing this  
19 hearing today, and for your extraordinary leadership  
20 as the chair of the Codes Committee in the Senate,  
21 and for being the sponsor of the legislation to  
22 repeal 50-a.

23 I don't really have questions. I think your  
24 testimony was very clear.

25 But, I just want to thank all of you for the

1 courage that you have demonstrated, and, you know,  
2 using such painful experiences, of losing Sean and  
3 Ramarley and Eric, and taking those experiences and,  
4 you know, using it to advocate for change, so that,  
5 hopefully, you know, this will not happen to another  
6 New Yorker and to anyone else's son.

7 You know, it's my hope that, in the new  
8 session, we will repeal 50-a, because -- because  
9 I think it's really necessary that we have the --  
10 the transparency to prevent this from continuing.

11 OFF-CAMERA SPEAKER: Thank you.

12 SENATOR BAILEY: Thank you, Senator Salazar.  
13 Senator Comrie.

14 SENATOR COMRIE: Good morning.  
15 Good morning.

16 I want to thank also -- put on my hall voice.

17 I also want to thank Senator Bailey for  
18 having this hearing now, and to create the  
19 opportunity for this to be aired, because I do want  
20 to see this done as early in our session as  
21 possible.

22 I hope that it is done in January.

23 I hope that all of the -- our discussions can  
24 happen now.

25 I want to thank Assemblymember O'Donnell for

1           championing it on his side of the aisle as well.

2                       So we can get this done in January if we have  
3 the hard discussions now.

4                       We can get this done in January by working  
5 together and talking about these issues now.

6                       And I just want to applaud you mothers for  
7 your consistent effort, and I know it's not easy.

8                       I know that you've always stood proud, you've  
9 always stood well, and you've always represented,  
10 not just your pain, but the pain of so many other  
11 mothers and families that are going through an  
12 unjust system where there's no transparency.

13                      Transparency is important.

14                      And while we understand that people's  
15 personal lives have to be protected, their public  
16 roles need to be -- they need to understand that we  
17 all have to be responsible for everything we do in  
18 our public capacity.

19                      We as elected officials are under a  
20 microscope, where we have to show everything that we  
21 do.

22                      And we would expect that from all public  
23 servants as well.

24                      And while we know that being a police officer  
25 is particularly difficult, they have to understand



1 that they have a need, and a priority, to make sure  
2 that whatever transparency is happening for the good  
3 of the entire city.

4 And we need to work together to get to a  
5 resolution on this.

6 I hope that we get to a real resolution on  
7 50-a, and other criminal justice matters, as soon as  
8 possible, because our city and our state will be  
9 better for it.

10 So thank you for being here, thank you for  
11 your consistency, and thank you for continuing to  
12 push us to where we need to be.

13 Thank you, Mr. Chair.

14 SENATOR BAILEY: Thank you, Senator Comrie.

15 Before we go to Senator Parker, I just have  
16 one question.

17 By and large, do you -- do you believe that  
18 the police protect people, by and large?

19 CONSTANCE MALCOLM: Like he said, you know,  
20 we know they have a hard job to do. And we -- we --  
21 we not sitting here saying that all police are bad.

22 We are not saying that. There's no way we  
23 could say that.

24 But we want to make sure the good officer is  
25 being recognized for their job, and the bad ones are

1 being -- you know, being put out.

2 Because, if you -- you have a partner, and  
3 you see your partner doing something wrong, and you  
4 stand there and watch them doing something wrong and  
5 don't say, "Hey, this is wrong, you can't do this,"  
6 you're just as bad as that person.

7 And we saying that, we know they have a hard  
8 job. We see what happens.

9 We see -- we know when they go out, you know,  
10 in the field, when they have their house, their  
11 kids, their family, they hope to go back in.

12 The same where our kids go out in the street,  
13 we want them come back in too.

14 So there's no way we saying all police  
15 officers are bad.

16 They have good police officers.

17 SENATOR BAILEY: I think it's very important  
18 to make that distinction, because I -- I want to be  
19 very clear that this is not --

20 CONSTANCE MALCOLM: We're not here to bash  
21 officers.

22 SENATOR BAILEY: -- and I want to make  
23 that --

24 CONSTANCE MALCOLM: That's not what we're  
25 trying to do.

1           SENATOR BAILEY: -- abundantly clear, as the  
2           sponsor of the bill, and as the chair of the Codes  
3           Committee, and as somebody who has relationships  
4           with members of the four precincts in the city of  
5           New York and the Mount Vernon police departments,  
6           I have great respect and admiration of the men and  
7           women in blue who risk their lives every day.

8           So I want to make that abundantly clear, that  
9           this is not an effort to attempt, besmirch, or --  
10          or -- or demean police officers.

11          When I was growing up, my father used to give  
12          me "the talk," as -- as many -- I don't know about  
13          other people, but I was given "the talk" about what  
14          I may face or what I may not face outside.

15          And he told me that: You have to treat  
16          everybody differently, because you're going to run  
17          into good and bad people of every ilk.

18          So I just wanted to be very clear about, you  
19          know, the focus of that.

20          And I should have made -- mentioned in the  
21          opening, but I thought this was the appropriate time  
22          to -- to -- to mention that.

23          Ms. Carr, did you have something to say, and  
24          then we're going to go to Senator Parker?

25          GWEN CARR: Yes, because most of us, we have

1 police officers in our families. And, you know, we  
2 talk with them, we ask them questions, you know.

3 But we don't want to sound like we are  
4 bashing, no.

5 We are bashing the bad officers. You know,  
6 make that clear, we want them out of the police  
7 department.

8 And we think that the higher-ups should take  
9 action on that. You know, that's without a doubt.

10 And -- because there are, even some in the  
11 higher-up positions, like in my son's case,  
12 Lieutenant Bannon, when he knew -- the officer  
13 texted him and said, Erica --

14 I mean, sorry. I'm talking about my  
15 granddaughter.

16 -- "Eric may be DOA."

17 Officer Bannon texted back and said, "It's  
18 not a big deal."

19 So how you think that made me feel?

20 When I seen that in court, he thought that  
21 was not a big deal.

22 If that was his son laying on the ground,  
23 would he have thought it was a big deal?

24 I think so.

25 SENATOR BAILEY: Thank you, Ms. Carr.

1 Senator Parker.

2 SENATOR PARKER: Thank you.

3 First, let me give my condolences to Ms. Bell  
4 and Ms. Davis and Ms. Carr, all of which I have  
5 interacted with.

6 And, you know, there's -- nothing is ever  
7 going to make this better.

8 I appreciate -- I want to echo the words of  
9 our chairman, in terms of some -- admiring your  
10 strength and your courage to continue this fight  
11 year after year after year.

12 Many of us have been, you know, committed to  
13 this fight for a long time.

14 So we thank Senator Bailey, our co-chair, and  
15 the sponsor of the bill.

16 I actually have a bill that I've been  
17 carrying for the mayor that's a partial repeal.

18 Senator Bailey, him and I spoke about it  
19 prior to him putting it in, and he decided to put in  
20 a full repeal.

21 I am a sponsor -- I am a co-sponsor -- I'm a  
22 prime sponsor of the partial appeal. I am a  
23 co-sponsor of the full repeal.

24 I wanted to be on the record saying, whatever  
25 we get to on this thing, I'm happy with.

1           We clearly need to reform 50-a. And we're,  
2           you know, open to the process of not just working  
3           with the advocates and people who are speaking out,  
4           but, certainly, working with the police department,  
5           the BPA, the City of New York, and others, to get to  
6           the right policy direction.

7           So -- you know, so, you know, we're all here,  
8           and you're seeing that the turnout that you're --  
9           that -- that -- that's coming out, because we are  
10          all really, really concerned with this, and are  
11          looking forward on -- you know, to -- to getting  
12          this -- this legislation passed as soon as and early  
13          as possible in the legislative session.

14          But let me just quickly speak to the notion  
15          of what you spoke about as it relates to the police  
16          department.

17          I too have a great relationship -- even  
18          despite my history with the police department,  
19          I have a good relationship with the police officers,  
20          you know, in my community.

21          And the point that you're making I think is  
22          an absolute right one, that bad officers put a black  
23          eye on good officers.

24          And that this is -- and the things that we're  
25          trying to do is not about, you know, again, taking

1 down police officers, or -- or -- or not  
2 appreciating them, but really saying, you know, for  
3 us to get the kind of protection that we need to get  
4 in our communities, that it's important that we weed  
5 out -- we root out all kinds of corruption and --  
6 and -- and inappropriate things, especially when it  
7 leads to the loss of life.

8 Right?

9 This is not just a regular mistake, or, you  
10 know, things, especially in cases in which we're  
11 seeing, time after time after time, histories of,  
12 you know, inappropriate behavior, histories of  
13 misconduct, and then those histories being shielded  
14 from the public at the time of, you know -- you  
15 know, the deaths of unarmed civilians.

16 It just -- it cannot continue to happen.

17 I think that the New York State Senate, at  
18 minimum, and I'm sure members of the New York State  
19 Assembly, are -- are committed to make sure that  
20 does not continue to be what happens in the city of  
21 New York or the state of New York.

22 So, again, thank you very much for being  
23 here.

24 And thank you again, Mr. Chairman.

25 SENATOR BAILEY: Thank you, Senator Parker.

1           We've also been joined by state  
2           Senator Gustavo Rivera.

3           Senator Brad Hoylman, to close.

4           SENATOR HOYLMAN: Yes.

5           I just wanted to again thank the chair for  
6           this hearing, and my colleagues for their  
7           seriousness in addressing this issue, and our  
8           Assembly sponsor, Assemblymember O'Donnell.

9           And to thank you, from the bottom of my  
10          heart, for your courage, your persistence, for  
11          coming to Albany.

12          I'm impressed that you know that we need to  
13          get this done early in the session, because, if we  
14          don't, other issues are going to take greater  
15          consideration, and once again we'll be behind the  
16          eight ball.

17          I want to also point out the fact that we  
18          live in the media capital of the world, and our free  
19          press protects our civil liberties.

20          So it's very important that not only do you  
21          have a modicum of justice by pursuing the repeal of  
22          50-a, but we as citizens who haven't experienced the  
23          pain and suffering and loss that you have, have  
24          something at stake here as well.

25          So we really need to reset our priorities as



1 a free and fair society.

2 We don't live in a police state, and that's  
3 exactly the point: That we need to repeal 50-a, and  
4 make certain that everyone's liberties, and that our  
5 police force has the greatest incentive ever to act  
6 fairly and within the confines of the law.

7 And I think the repeal of 50-a will help make  
8 that happen.

9 Thank you again for being here.

10 SENATOR BAILEY: Thank you, Senator Hoylman.

11 We've also been joined by state

12 Senator Jim Gaughran.

13 Thank you, Jim.

14 And thank you for testifying, ladies.

15 We truly appreciate, again, echo the  
16 sentiments, hearing from you, and we have heard you  
17 loud and clear.

18 Thank you.

19 The next panel will be from our friends in  
20 law enforcement.

21 Mr. Pat Saunders from the Suffolk County PBA;

22 Elias Husamudeen from COBA;

23 Mr. Lou Matarazzo.

24 PAUL DiGIACOMO: Excuse me.

25 Elias Husamudeen is -- was scheduled for

1 12:30, and has submitted written testimony.

2 I don't expect to see him here for a little  
3 bit while.

4 Can we adjourn his testimony?

5 SENATOR BAILEY: Certainly.

6 We -- his -- his voice is -- is important to  
7 hear, and we can adjourn his testimony.

8 But we just wanted to ensure that balance was  
9 stricken.

10 And because of the late -- the late departure  
11 of some of our scheduled panelists, we just -- we  
12 felt that we wanted to hear from impacted  
13 individuals, and law enforcement as well. So we  
14 wanted to do that back to back.

15 OFF-CAMERA SPEAKER: I understand, and I'll  
16 reach out for him, to try and get him here as  
17 quickly as possible.

18 SENATOR BAILEY: Certainly.

19 So -- so those members of the PBA, if you  
20 would like to testify, you are more than welcome to  
21 testify at this time.

22 Again, we are interested in hearing all  
23 voices, and we want to hear voices in a fair and  
24 equitable manner.

25 So members of law enforcement that are here

1 that wish to testify, please come and testify.

2 And if your name was not mentioned, please  
3 state your name for the record so that it can be  
4 properly recorded.

5 LOU MATARAZZO: I'm Lou Matarazzo.

6 I'm sitting next to Paul DiGiacomo, the  
7 president of the Detectives Endowment Association.

8 I'm Lou Matarazzo. I represent the New York  
9 City detectives, lieutenants, captains, and the  
10 State Association of PBAs.

11 I was really unprepared to testify today,  
12 except that I saw that no one on the calendar was  
13 here with NYPD.

14 And I'm glad to sit down, not only testify,  
15 but answer any questions you might have pertaining  
16 to 50-a.

17 There's a total misconception out there of  
18 what 50-a does and does not do.

19 50-a is not a blanket cover for everyone's  
20 identification, everyone's past records, anyone  
21 that -- anyone that did anything as a member of  
22 NYPD, or any other police agency throughout this  
23 state.

24 50-a simply protects your personal records.

25 Any district attorney, any attorney general,

1 any judge, can certainly subpoena your records and  
2 put them for testimony, anywhere, anytime.

3 All 50-a does, is does the same thing it does  
4 to protect the people on the street, and that is to  
5 protect their backgrounds, their families, where  
6 they live, and might protect their disciplinary  
7 records.

8 And we all know there's a fallacy to that  
9 because everyone seems to know everyone else's  
10 disciplinary records here in the city of New York.

11 Now, when you speak about someone having  
12 6 CCRB complaints, you know, that's not a hell of a  
13 lot when you make 600 arrests. It's not a hell of a  
14 lot when you take 200 guns off the street.

15 And, remember, those that get CCRB  
16 complaints, and get complaints from the public in  
17 general, not the good citizens of this city, but the  
18 citizens who see fit to take advantage of other  
19 citizens in this city, they're the ones that take  
20 the people off the streets, they're the ones that  
21 will get complaints, because all the people that get  
22 the CCRB complaints, and any other complaint that  
23 may go through our department, are the people that  
24 are working.

25 Cops that do their job always get complaints.

1           It is some kind of umbrella when they get to  
2 court.

3           And it's funny, as we sit here, we know, the  
4 defendants, defendants have the right not to have  
5 their records put out into the general public unless  
6 it pertains to the case.

7           And 50-a does the same thing for police  
8 officers.

9           And what you, in fact, do when you repeal  
10 50-a, you will be victimizing the victims of crimes.

11           That's what you will be doing: victimizing  
12 the victims of crimes.

13           Think very seriously about what 50-a does.

14           And there are enough you on the panel that  
15 are attorneys, and know all about Giglio, and what  
16 that does, and what a judge can and can rule you not  
17 to do.

18           Think about the police department itself and  
19 its agencies, and what they do to their officers who  
20 they feel have -- should be disciplined. And they  
21 are disciplined.

22           Probably, I should be putting in bills to cut  
23 down on the discipline that police officers get.

24           They get 20 days for doing things that you  
25 would not believe. It would be a white-sock crime

1 and get 20 days' pay.

2 You are victimizing police officers, and not  
3 victimizing those who should be.

4 Defendants always, in criminal court, use  
5 CCRB, and any other agency they can, as some kind of  
6 cover.

7 Now, I don't sit here and say to you that  
8 there are no police officers that do anything wrong.

9 I've been connected with police now for  
10 55 years.

11 I was a police officer myself for 36 of them,  
12 right here in the city of New York.

13 And I continue to represent the police  
14 officers throughout, not only New York, but through  
15 the state.

16 And I wonder how many people in this room  
17 remember the last police officer that got killed.

18 Does anybody remember his name?

19 Does anybody remember the last three names?

20 I dare say most of you don't, because, while  
21 it seems all well and good that there's this big  
22 burial for the police officers, we forget; we forget  
23 what they really do out there, and they protect  
24 everyone, everyone, of all color, creeds, and  
25 nationalities.

1           And for one second, if you believe that  
2 police officers should have a law taken away from  
3 them that protects them and their families, you're  
4 making a very, very, very, very bad mistake.

5           You're making a bad mistake.

6           They are family members like you and I.

7           They are out there trying to earn a living.

8           By and large, most of them are the finest  
9 citizens you will have in your community.

10           Occasionally, someone goes astray, like  
11 everyone else, wherever -- whatever job you may  
12 have, whether you work on Wall Street and you're  
13 dealing cocaine, or whether you clean the streets of  
14 New York.

15           They're citizens; they're citizens of this  
16 city, and they should be given the same -- same  
17 protection as anyone else.

18           Someone that gets arrested, goes to court,  
19 you cannot speak about their past record unless it  
20 pertains to the case.

21           And you should not be able to speak about  
22 some disciplinary record of a police officer, unless  
23 a judge says you have to do so, and then he will,  
24 and so will any district attorney, and so will any  
25 attorney general, and so will any other agency that

1 monitors police officers.

2 Police officers are now monitored by their  
3 own department in terms of where they work.

4 They're monitored by internal affairs.

5 They're monitored by the attorney general.

6 They're monitored by force.

7 They're monitored by everyone you could think  
8 of, possible.

9 Just put more monitors on them and you're  
10 going to have a difficult time patrolling the  
11 streets throughout this state.

12 Think very carefully about this repealing of  
13 50-a.

14 I do have with me today Paul DiGiacomo, the  
15 vice president of the Detectives Endowment  
16 Association, and he will take the mic from here.

17 And I will be glad to answer any questions  
18 when he's done.

19 SENATOR BAILEY: Before Mr. DiGiacomo, we'll  
20 question you afterwards.

21 I'd just like to remind everyone, just brief  
22 housekeeping, you know, as everybody is speaking, we  
23 disagree, and if we agree, let's make sure everybody  
24 is able to testify in a reasonable manner.

25 And we can disagree how we disagree, but



1 let's just -- for the purpose of this testimony,  
2 let's just make sure that we are respecting each  
3 other's ability to say, even if we don't agree.

4 Can we just lay that foundation now?

5 Thank you.

6 Mr. DiGiacomo, please continue.

7 PAUL DiGIACOMO: First, thank you for your  
8 time today. It's an honor to be here.

9 I just have a couple of points to make.

10 If you look back, in 1967, there was a  
11 Police Officer Ennis, New York City Transit police  
12 officer, that made an arrest. And the perpetrator  
13 he arrested hunted him down after he was released  
14 from prison, for months, and shot and killed him in  
15 front of his house, in front of his wife and two  
16 daughters.

17 And I'd like to you look that up because,  
18 today, that could happen also.

19 And our concern here is the safety of our  
20 members of our police department, their children,  
21 and their spouses.

22 And it's a very, very real thing today.

23 The execution of police officers is happening  
24 all over, not only in the United States, but all  
25 over the world. And we have to protect our

1 officers.

2 And repealing 50-a will not.

3 You know, there's no other profession in the  
4 world, in the world, that has more oversight than  
5 the New York City Police Department.

6 The New York City Police Department has  
7 internal affairs, the inspections division, the  
8 department of investigation. You have five DAs'  
9 offices, the blue ribbon panel, you have the federal  
10 investigators, you have CCRB.

11 There's no other profession in the world that  
12 has that type of oversight.

13 There is so much oversight now, and if that's  
14 what we need, that's what we need.

15 But in regards to CCRB, active police  
16 officers that are out there doing the job are the  
17 ones that are going to get CCRB complaints.

18 And I have 37 years on this department, and  
19 I've worked in many, many areas in which you  
20 represent. And I will tell you some of the  
21 trades -- tricks of the trades of some of this  
22 criminal element out there.

23 The drug dealers and the gangs use CCRB and  
24 IAB as a tool to keep the police away from them.

25 They'll make fictitious allegations against

1 the police, to keep the police away from them  
2 dealing their drugs and conducting their gang  
3 activities.

4 And that's important to know.

5 So when you hear of a police officer that had  
6 maybe six or eight complaints, or ten complaints,  
7 that does not mean they're substantiated, that does  
8 not mean he did anything wrong, and that officer's  
9 reputation should not be tarnished for that.

10 But these are tools that are being used out  
11 there by the criminal element to keep the police  
12 away, and it's a very difficult job.

13 This job now is -- in my 37 years in law  
14 enforcement, is more difficult than I've ever seen  
15 it.

16 And we have to try and make policing a little  
17 easier -- a little easier for the cops out there on  
18 the -- in the street, instead of making it more  
19 difficult, because the only people winning are the  
20 criminal element, as we can see in the recent couple  
21 days what's been going on with the shootings and  
22 robberies and different events that are taking on  
23 throughout the city.

24 You have to be -- you have to be able to be  
25 confident, when you're out there on the street, to

1 do your job.

2 And if you're not confident and not steady on  
3 your feet, it's not good for the public, and it's  
4 not good for the police.

5 And I urge you to please keep this law in  
6 effect, and I thank you very much for your time.

7 SENATOR BAILEY: Thank you, Mr. DiGiacomo.

8 Mr. Matarazzo, Mr. DiGiacomo, it bears worth  
9 repeating the same praise that I gave to the  
10 mothers, I will give to you members of law  
11 enforcement.

12 I appreciate what you do.

13 I appreciate that you keep us safe.

14 I appreciate that, when there are problems  
15 happening, people like me call you for help.

16 That is not lost on me.

17 Mr. Matarazzo, I would like to thank you for  
18 mentioning something that is seldom heard, that the  
19 acknowledgment that there are individuals who are  
20 not necessarily the best in law enforcement.

21 So -- so I appreciate that, and that's not  
22 something that we've heard.

23 So I think that this is a thawing of the ice,  
24 and I -- and I -- and I appreciate that.

25 Concerning the last three officers that were

1 killed, I don't remember the last three.

2 But I know Mr. Brian Mulkeen was killed in  
3 the 47th Precinct, approximately five blocks from  
4 my house.

5 LOU MATARAZZO: I apologize if I had directed  
6 to it anybody individually.

7 SENATOR BAILEY: Oh, no. I was just making a  
8 statement, to show --

9 LOU MATARAZZO: All of you have seen me in  
10 Albany, and you know I'm outspoken at any given  
11 time.

12 But I really mean that sincerely, it's meant  
13 for everyone: Just think about how many officers in  
14 this state have been killed, that people don't know  
15 their names.

16 SENATOR BAILEY: I -- I -- I full -- I fully  
17 agree with you, and I think that's important.

18 Where I was going with that, was that, after  
19 Mr. Mulkeen was, unfortunately, killed, myself and  
20 other colleagues in government went to the  
21 47th Precinct roll call and spoke to the officers.

22 And we remain in constant contact with the  
23 PSA 8 folks and the 47th Precinct folks.

24 So we respect and appreciate the job that you  
25 do.

1           And I just want to make sure that, it's much  
2 like a -- this age of -- this age that we're in,  
3 it's either you agree with me 100 percent, on either  
4 side, or you don't agree with me at all.

5           And that's just not the case.

6           That's for and you other folks as well.

7           And I just wanted to make sure we stated  
8 that.

9           The question I would have for you, would be:  
10 Do you -- would you -- do you believe that there  
11 should be any changes to 50-a, whatsoever?

12          LOU MATARAZZO: No.

13          SENATOR BAILEY: Why not?

14          LOU MATARAZZO: It's not necessary.

15          All the provisions you're looking for are in  
16 50-a.

17          50-a is not a blanket.

18          You can receive all these records if they're  
19 germane to why you're asking for them.

20          It's right in the law. It's right in the  
21 subdivision of 50-a.

22          SENATOR BAILEY: So you believe that, as it  
23 stands, despite the -- I guess, the testimony that's  
24 been given of individuals not being able to receive  
25 records, that 50-a currently allows for these

1 records to be available?

2 LOU MATARAZZO: They only should be available  
3 if they're germane to whatever case they're speaking  
4 about.

5 Subdivision 2 of the -- of 50-a speaks about  
6 that in depth.

7 SENATOR BAILEY: Absolutely.

8 Again, we -- much like the mothers testified,  
9 we -- we -- we don't want the Social Security  
10 numbers and the addresses of officers to be released  
11 because those are not germane.

12 But would you not say -- would you say that  
13 disciplinary records would be germane concerning use  
14 of force, when there's an allegation of a  
15 use-of-force matter?

16 LOU MATARAZZO: No.

17 Only if they're germane to the case that  
18 you're speaking about.

19 SENATOR BAILEY: So use of force would not be  
20 germane to use of force?

21 LOU MATARAZZO: Excuse me?

22 SENATOR BAILEY: So -- if -- if there was a  
23 prior allegation of use of force.

24 LOU MATARAZZO: If they -- whether it's  
25 substantiated or not?

1 SENATOR BAILEY: So let's say substantiated.

2 If it was substantiated.

3 LOU MATARAZZO: That would be up to the judge  
4 if he feels it's germane to the case.

5 SENATOR BAILEY: Okay.

6 LOU MATARAZZO: That's why we have judges and  
7 district attorneys and attorney generals.

8 It's not in our hands alone.

9 SENATOR BAILEY: No, understood.

10 LOU MATARAZZO: The provisions in the law  
11 tell you, that if they feel it pertain -- it  
12 pertains to the case, or important to the case,  
13 being, like a use-of-force case, then I'm sure  
14 they're going to reveal it.

15 SENATOR BAILEY: Again --

16 LOU MATARAZZO: It's been done before.

17 SENATOR BAILEY: -- it has, you're correct.

18 LOU MATARAZZO: Judge -- yeah, judges have  
19 used it before.

20 SENATOR BAILEY: So the -- it depends on the  
21 judge. Right?

22 So if it depends on the judge, shouldn't we  
23 have a uniform law that would require each judge to  
24 interpret it properly and accordingly across the  
25 board, as opposed to, having treatment of one



1       appellate division versus another appellate  
2       division?

3               LOU MATARAZZO: Well, I'm not taking away  
4       from the judges, that's for sure.

5               Someone has to use their own judgment, and  
6       you can't just tell them you -- it's like telling a  
7       judge, you have to give someone 20 years, or  
8       10 years, in which the legislators fight all the  
9       time about mandatory sentences.

10              You don't not want them.

11              You want judges to sit there and say, Under  
12       the old Rockefeller laws, the drug cases, in which  
13       you get 20 years, no matter what you were selling?

14              Is that the kind of law you want to set down?

15              SENATOR BAILEY: I -- I don't --

16              LOU MATARAZZO: You have to have judges use  
17       their own discretion.

18              SENATOR BAILEY: -- well, the discretion is  
19       a --

20              LOU MATARAZZO: If you go to trial by judge,  
21       he's the guy that's going to make the decision  
22       anyway.

23              SENATOR BAILEY: That's true.

24              But -- and -- and, again, the reason why  
25       we -- we want to look at changing the law, in

1 general, because it leaves it less open to  
2 interpretation about things that should be changed,  
3 in some -- some's opinion.

4 I don't have any current questions right now,  
5 but Senator Ramos has a question.

6 LOU MATARAZZO: Hi, Senator.

7 SENATOR RAMOS: Hi. How are you?

8 LOU MATARAZZO: Good.

9 SENATOR RAMOS: Can you tell me the name of  
10 the last three people killed by the NYPD?

11 LOU MATARAZZO: Can I tell you --

12 SENATOR RAMOS: The last three New Yorkers  
13 killed by police officers in New York City, what are  
14 their names?

15 LOU MATARAZZO: Certainly.

16 Garner. Bell. And the third one I do not  
17 know.

18 (Various responses from the audience.)

19 SENATOR RAMOS: See, that's the thing about  
20 pointing fingers, and not being open to having --

21 LOU MATARAZZO: That's okay.

22 SENATOR RAMOS: -- a sincere conversation  
23 about what repealing 50-a really means for  
24 communities of color, particularly, but everyone, in  
25 general as well.

1           And so I'm -- I think, and some of my  
2           colleagues as well, were a little admonished by your  
3           testimony, because it comes across almost as if you  
4           think that, because you wear a badge, you're better  
5           than us.

6           LOU MATARAZZO: I never thought that.

7           SENATOR RAMOS: You're not.

8           LOU MATARAZZO: And there are not -- I never  
9           thought that.

10          And there are people on this panel sitting,  
11          that know me for many, many years, and I never  
12          thought I was better than anyone else.

13          I patrolled the streets of the city of  
14          New York like all police officers did.

15          SENATOR RAMOS: So can you tell me --

16          LOU MATARAZZO: I can tell you that, when you  
17          speak --

18          SENATOR RAMOS: I'm sorry, I'm still  
19          speaking.

20          -- so I -- so since can't answer my first  
21          question, what do you believe is considered a  
22          fireable offense, and who makes that determination?

23          LOU MATARAZZO: There are many fireable  
24          offenses.

25          Certainly, someone who is intoxicated,

1 certainly someone that uses drugs, certainly someone  
2 who kills someone unjustly, and that's to be  
3 determined by the law.

4 SENATOR RAMOS: So by your account, how many  
5 officers are currently still active on the force  
6 that have substantiated fireable offenses on their  
7 records?

8 LOU MATARAZZO: I don't think there are any.  
9 They would have been fired.

10 If you look at the records --

11 SENATOR RAMOS: But that hasn't been the  
12 case, just like the three women described earlier.

13 LOU MATARAZZO: If you look at the records  
14 they had, there are many, many police officers  
15 throughout this state, not only in the city, have  
16 been fired for their offenses.

17 SENATOR RAMOS: But there are, clearly,  
18 police officers on active duty who have offenses on  
19 their records, that have to do with lying, with  
20 cheating, with --

21 LOU MATARAZZO: Not that I know of.

22 SENATOR RAMOS: -- use of -- excessive use of  
23 force.

24 LOU MATARAZZO: Not that I know of.

25 SENATOR RAMOS: Yeah. Convenient.

1           Yeah, thanks.

2           SENATOR BAILEY:   Senator Rivera.

3           Brief housekeeping, we have been joined by  
4 state Senator Zellnor Myrie.

5           SENATOR RIVERA:   Good morning, sir.

6           LOU MATARAZZO:    Good morning.

7           SENATOR RIVERA:   You used the phrase, and  
8 I will quote, and I would love for you to tell me a  
9 little bit more about what you meant, because you  
10 said exactly these words, when you're talking about  
11 the fact that changing the law would victimize  
12 police officers, and you said --

13          LOU MATARAZZO:    [Indiscernible] --

14          SENATOR RIVERA:   -- sir --

15          LOU MATARAZZO:    -- okay.   Go ahead.

16          SENATOR RIVERA:   -- I quoted you directly  
17 when you said, "We need to be" -- "We need to  
18 victimize those who should be victimized."

19                 That is exactly the language that you used,  
20 you used exactly that phrase.

21                 Would you like to explain it, please.

22                 LOU MATARAZZO:   Yeah, I will explain it,  
23 probably because I used the improper language.

24                 What I meant to tell you is that, you are  
25 victimizing the victims of crime.

1           SENATOR RIVERA: "You're victimizing the  
2 victims of crime."

3           You're changing --

4           LOU MATARAZZO: Yeah, because I believe  
5 that -- I believe that certain people that would use  
6 the repealing of 50-a, and I'm not speaking about  
7 the people that repeal, I mean the people that are  
8 arrested for certain crimes, and use 50-a, like,  
9 bring up their civilian complaints, and all that,  
10 and some judge and jury decide that, you know what?  
11 He's got too many civilian complaints, therefore,  
12 the guy must be innocent.

13           The real victim of this is the person that  
14 was the victim to begin with.

15           SENATOR RIVERA: I don't have that much time,  
16 so I'm going to go plow right through.

17           Do you believe that -- for both of you, do  
18 you believe that there is such a thing as implicit  
19 bias?

20           Implicit bias, do you believe that there is  
21 such a thing?

22           LOU MATARAZZO: Do I believe?

23           Of course there's implicit bias by everyone  
24 throughout the world.

25           SENATOR RIVERA: Right.

1           And do you believe, then, that perhaps some  
2 actions that have been taken by some officers might  
3 be driven by implicit bias?

4           LOU MATARAZZO: I would not know.

5           Could be, though.

6           SENATOR RIVERA: Okay.

7           Sir, you used the term "criminal element"  
8 repeatedly in your testimony.

9           What exactly do you mean by that?

10          PAUL DiGIACOMO: People that commit crimes.

11          "Criminal elements."

12          You know, drug dealers, gang members, that  
13 are committing crimes in our communities.

14          SENATOR RIVERA: And in your -- and in your  
15 estimation as well, but -- do you believe that there  
16 is such a thing as implicit bias?

17          PAUL DiGIACOMO: I would imagine so.

18          SENATOR RIVERA: You would imagine so?

19          PAUL DiGIACOMO: Yeah.

20          SENATOR RIVERA: Okay.

21          So I know that my colleagues will -- will --  
22 will ask many more questions, but, do you believe  
23 that people should be held accountable for their  
24 actions?

25          PAUL DiGIACOMO: Absolutely.

1           SENATOR RIVERA: Absolutely.

2           Very well.

3           Certainly, the criminal element should be  
4 held accountable for their actions.

5           PAUL DiGIACOMO: Uh-huh.

6           SENATOR RIVERA: Do you believe --

7           LOU MATARAZZO: Everyone should be.

8           SENATOR RIVERA: -- so you believe -- and how  
9 about you, sir? Do you believe that people should  
10 be held accountable for their actions?

11           And do you not believe, that if someone is  
12 responsible for someone's death, they should be held  
13 accountable for it?

14           LOU MATARAZZO: If they are responsible for  
15 it.

16           SENATOR RIVERA: Use the microphone, please  
17 sir, so you can be on the record.

18           LOU MATARAZZO: If they are responsible for  
19 it.

20           SENATOR RIVERA: If someone's --

21           LOU MATARAZZO: Is responsible for someone's  
22 death.

23           SENATOR RIVERA: Yes, if someone's actions --

24           LOU MATARAZZO: Let's --

25           SENATOR RIVERA: -- lead to someone's --



1           LOU MATARAZZO:  -- but let's separate whether  
2 it was justifiable or not justifiable.

3           SENATOR RIVERA:  Justifiable or not  
4 justifiable.

5           In either case --

6           LOU MATARAZZO:  If you're talking about an  
7 out and out homicide, of course.

8           SENATOR RIVERA:  In either -- well, if  
9 somebody -- the process of being held accountable  
10 for you -- for the act -- if an individual commits a  
11 certain act, whatever that act is, pulling a  
12 trigger, pushing a person off a building, I don't  
13 know, choking them, and they are -- and then that  
14 person is deceased, the person who committed that  
15 act should be held accountable for that action?

16          LOU MATARAZZO:  Absolutely.  Yes.

17          SENATOR RIVERA:  Okay.

18          Do you believe that?

19          LOU MATARAZZO:  Yes.

20          SENATOR RIVERA:  So does that extend to  
21 police officers as well?

22          LOU MATARAZZO:  Of course.

23          SENATOR RIVERA:  And do you believe that the  
24 current system, without changes, exists to hold  
25 police officers accountable if their actions lead to

1 someone's death?

2 LOU MATARAZZO: Absolutely.

3 SENATOR RIVERA: Thank you.

4 SENATOR BAILEY: Thank you, Senator Rivera.

5 Assemblymember O'Donnell.

6 ASSEMBLYMEMBER O'DONNELL: It's very nice to  
7 see you here, and not in Albany.

8 LOU MATARAZZO: Yeah, we both like it here.

9 ASSEMBLYMEMBER O'DONNELL: Yeah.

10 I want to thank the chair for having this  
11 hearing and allowing me to participate.

12 We don't usually do things together.

13 And so it's nice to be with my colleagues  
14 from the Senate, and having this conversation.

15 And I respect and understand that we're not  
16 going to agree. Right?

17 So let's just start there: We're not -- you  
18 and I are not going to agree about this.

19 But, let me just start with a bit of a  
20 primer, that the U.S. Constitution gives someone the  
21 presumption of innocence.

22 And so with that presumption of innocence  
23 flows certain things.

24 So no one here, and certainly nobody, in  
25 repealing 50-a, would take away those fundamental

1 rights from the police officers.

2 But, the presumption of innocence only occurs  
3 when we're taking away your liberty.

4 So if you, a police officer, were to be  
5 accused of a crime, they would be entitled to all  
6 the protections that the presumption of innocence  
7 carries; not this -- okay? -- not this special  
8 protection.

9 Now, 50-a was written, as you know, when  
10 there was this fear that information about police  
11 officers could be attempt -- it could be gotten by  
12 criminal defense lawyers.

13 I'm familiar with that because I was a  
14 criminal defense lawyer for seven years, and so I am  
15 familiar with that.

16 But, first of all, the world has profoundly  
17 changed.

18 The information about where people live and  
19 what their kids' things are available every single  
20 day.

21 And my family lived for six months under a  
22 death threat last year.

23 And I want to thank the state police who were  
24 very helpful to me about that. They found out who  
25 that was.

1           But it's very frightening, the degree of  
2 information that anyone can get -- right? -- without  
3 a subpoena or other things.

4           Now, you mentioned in your testimony that a  
5 judge can grant access to this information.

6           So can you tell me why every time the judge  
7 grants information, you folks appeal that decision?

8           LOU MATARAZZO: Because we feel he shouldn't  
9 have -- he should not have exposed it.

10           ASSEMBLYMEMBER O'DONNELL: Okay.

11           So here's the problem, and I want your answer  
12 on what you think we should do.

13           Did I come up with this idea?

14           No, I did not.

15           It came from the Committee on Open  
16 Government.

17           The Committee on Open Government came to a  
18 hearing seven years ago in Albany, said, if you want  
19 to increase transparency in the government, the  
20 first thing you need to do is repeal 50-a.

21           And I said to myself, okay, someone tell me  
22 what 50-a is.

23           So I put in a bill to repeal 50-a.

24           Okay.

25           Now, at the time it was written, it was

1 designed to protect the very information that you  
2 suggest, things, like, the names of people's  
3 children, and where they go to school, and what  
4 their medical care is.

5 Right?

6 But the reality is, that through the court  
7 process, the courts have overbroadly interpreted  
8 what we wrote.

9 In fact, the Republican senator who wrote  
10 50-a, before he passed away, said, "We never  
11 intended it to be like this."

12 He said, that it's -- "that the courts are  
13 reading this wrong."

14 So if we're in a situation where courts are  
15 reading the laws we wrote in a way we didn't mean,  
16 isn't it our obligation to correct it?

17 LOU MATARAZZO: I don't believe that the law,  
18 as written, was intended to do anything other than  
19 it does right now.

20 ASSEMBLYMEMBER O'DONNELL: But I'm here to  
21 tell that you Senator Frank Padavan, a Republican  
22 senator --

23 LOU MATARAZZO: I knew him very well.

24 ASSEMBLYMEMBER O'DONNELL: -- has said in --  
25 before he passed, has said in the press, that "the

1 courts' interpretation of what that law is was not  
2 what we intended."

3 Isn't it our inherent job, as legislators,  
4 when we're faced with that conundrum, to go back and  
5 fix the law to reflect what it is that we actually  
6 wanted?

7 LOU MATARAZZO: If Senator Padavan thought it  
8 went beyond what he really meant it to do, he should  
9 have done something about it himself.

10 ASSEMBLYMEMBER O'DONNELL: Well, he was no  
11 longer a senator when he said that; but, yes.

12 LOU MATARAZZO: No, no. I remember  
13 Frank Padavan very well. He was a dear friend, and  
14 he never said that to me.

15 ASSEMBLYMEMBER O'DONNELL: Okay.

16 Well, then, I will be happy to send you a  
17 copy of the news story, where he said, "We have to  
18 repeal this because this is not what we meant."

19 So we are going to try to repeal it.

20 And I really want to thank the senator for  
21 inviting you and welcoming you here.

22 It is always a pleasure to see you, but we're  
23 just not going to agree on this one.

24 Thank you very much.

25 LOU MATARAZZO: It's always good seeing you,

1 too.

2 SENATOR BAILEY: Assemblymember O'Donnell,  
3 thank you very much.

4 Senator Salazar.

5 SENATOR SALAZAR: Thank you.

6 There was an NYPD-commissioned panel that  
7 released a report earlier this year on a review of  
8 NYPD disciplinary policy.

9 And in that report, it stated, that, "It  
10 bears emphasis that, in 40 years, that the  
11 department has regularly posted personnel orders for  
12 inspection. There was never evidence that any  
13 officer was harassed as a result of the posting.  
14 And if New York is to strike the proper balance  
15 between privacy and transparency, then concern for  
16 officer safety, of course, must be respected, but  
17 not exaggerated."

18 And I -- I agree with this statement.

19 I think we take officer safety seriously,  
20 but, it begs the question: What is the empirical  
21 evidence that increasing transparency, repealing  
22 50-a, would show any increase in a risk to officer  
23 safety?

24 PAUL DiGIACOMO: Well, it will, and could,  
25 you know, increase danger to their families, and to

1 themselves, depending on the situation or the arrest  
2 or who they arrested.

3 I mean, why would we want to take that  
4 chance, to have one of our officers or their family  
5 members injured or shot by someone that was stalking  
6 them, that they arrested.

7 SENATOR SALAZAR: So for the sake of  
8 transparency and accountability, do you know of any  
9 evidence that, when -- when information like this  
10 has previously been made public, there was an  
11 apparent risk to officer safety?

12 LOU MATARAZZO: On a number of occasions,  
13 when you had a --

14 PAUL DiGIACOMO: You know, I don't know the  
15 exact number of cases, but there are numerous cases  
16 in which -- are currently being monitored by the  
17 intelligence division, regarding officer safety, and  
18 their families' safety.

19 SENATOR SALAZAR: Got it.

20 So we know that there are other localities,  
21 police departments, in other states who have made  
22 misconduct information public. And they have not  
23 seen this lead to increased threats against officer  
24 safety.

25 Why should New York State continue to lag



1 behind those other localities and police departments  
2 of the NYPD -- why should they continue to lag  
3 behind these other places in terms of transparency  
4 and accountability?

5 PAUL DiGIACOMO: Well, depending on where  
6 you're talking about, you know, there's no other  
7 city like New York City, as we all know.

8 And there are many cases in which, you know,  
9 we have sensitive cases in which undercovers are  
10 doing different type of enforcement throughout the  
11 city, and not only in the city, but also in the  
12 state. And we have undercover detectives all over  
13 the world, as we sit here today, protecting from  
14 terrorist activities.

15 But I don't think you can compare to any  
16 other agency.

17 It depends on who you're comparing to.

18 I don't know of any agency that has the  
19 amount of undercovers and cases and the enforcement  
20 that New York City Police Department does on a  
21 regular basis.

22 SENATOR SALAZAR: So, in other professions,  
23 such as, you know, among teachers, medical  
24 professionals, when someone is accused of  
25 misconduct, and there is an investigation, and the

1 claims are substantiated, they're usually fired or  
2 disciplined in some way.

3 Why should officers in police departments be  
4 able to continue hiding behind 50-a, to not disclose  
5 when there's a record of an officer being  
6 disciplined?

7 PAUL DiGIACOMO: Well, like we went over  
8 before, the main -- you know, one of the main  
9 factors is the safety issue, that officer's  
10 testimony later on in other cases.

11 And I think a big determining factor, also,  
12 has to be determined that these are substantiated  
13 allega -- you know, substantiated allegations  
14 against the officer, because it could -- it could  
15 tarnish his reputation and the police department,  
16 for one, or her reputation, one, for promotional  
17 purposes, or, two, when testifying in other cases in  
18 court, going forward.

19 SENATOR SALAZAR: One of the --

20 LOU MATARAZZO: You know, on that same  
21 question, the Public Health Law protects, you know,  
22 doctors, and all that, and that is a fact, much,  
23 much more than 50-a does.

24 I could give you the sections of law.

25 SENATOR SALAZAR: Yeah, that would be

1 helpful.

2 LOU MATARAZZO: Yeah.

3 Other citizens of this state enjoy greater  
4 protection.

5 Sections 2805-M and 3616-A of the Public  
6 Health Law, Section 2929 of the Mental Hygiene Law,  
7 and Section 6527 of the Education Law, combined, to  
8 impose a cloak of confidentiality on all complaints  
9 against, essentially, all participants in the  
10 health-care industry.

11 SENATOR SALAZAR: So you're suggesting that,  
12 if the public were to FOIL disciplinary records  
13 for --

14 LOU MATARAZZO: I'm suggesting that we're not  
15 seeking anything more than other people have.

16 As a matter of fact, other people have more  
17 protection.

18 SENATOR SALAZAR: So when --

19 LOU MATARAZZO: Dealing with the public.

20 SENATOR SALAZAR: So when advocates call for  
21 repeal, out of concern about sexual misconduct, or  
22 gender-based violence, is it your position that, if  
23 an officer has -- has complaints against them,  
24 particularly if they're disciplined for sexual  
25 misconduct or gender-based violence, that that

1 information should be kept from the public?

2 LOU MATARAZZO: I -- I --

3 PAUL DiGIACOMO: From my experiences, when  
4 there are situations like that, and they are  
5 substantiated, that information is given out by the  
6 department to the press.

7 So, you know, that's been out there.

8 SENATOR SALAZAR: You don't think that there  
9 should be a legal requirement for it?

10 PAUL DiGIACOMO: I don't think, if somebody  
11 is convicted of, you know, sexual misconduct, that  
12 it should be hidden.

13 But, you know, the department puts that  
14 information out quite quickly.

15 SENATOR SALAZAR: Is there any kind of  
16 misconduct that an officer could potentially commit  
17 that you believe the public has the legal right to  
18 know about?

19 PAUL DiGIACOMO: Could you be more specific  
20 on what you're talking about?

21 SENATOR SALAZAR: Is there any kind of  
22 misconduct?

23 Like, if -- if -- you know, whether it's use  
24 of force -- fatal use of force, for example.

25 Is there any kind of misconduct that an

1 officer could potentially commit, like any other  
2 person could commit, that the -- that the public  
3 should have a legal right to know about?

4 PAUL DiGIACOMO: When there is a fatal use of  
5 force and there is a death involved, that  
6 information again is put out by the police  
7 department.

8 SENATOR SALAZAR: So we know that this is not  
9 true.

10 We know this from the mothers who spoke  
11 earlier, that, often, when there's fatal use of  
12 force, the names are actually never disclosed to the  
13 public of the officers who were involved.

14 PAUL DiGIACOMO: Well, you know, I think --

15 SENATOR SALAZAR: This is still the case,  
16 and, you know, the officers who were involved in the  
17 death of Ramarley Graham.

18 PAUL DiGIACOMO: -- yeah, in regards to those  
19 particular cases, I represent the detectives in the  
20 NYPD, from a union standpoint.

21 I think they would be better -- better asked  
22 of the department themselves. They would have more  
23 information on that.

24 SENATOR SALAZAR: Okay.

25 Thank you.

1 SENATOR BAILEY: Thank you, Senator Salazar.

2 Senator Jackson.

3 SENATOR JACKSON: Just two quick points.

4 SENATOR BAILEY: Oh, I'm sorry,

5 Senator Jackson.

6 We've been joined by Assemblymember

7 Latrice Walker and Senator Luis Sepulveda.

8 Brief house -- brief housekeeping.

9 Sorry about that.

10 SENATOR JACKSON: Sure.

11 So when you asked a rhetorical question

12 about, "can you name the police officers that

13 died in the line of duty?" I say to you, I tweeted

14 on September 30: Please say a prayer for

15 Police Officer Brian Mulkeen and his family.

16 He was killed trying to keep New York City safe.

17 Okay?

18 So, I mean, to understand --

19 LOU MATARAZZO: I understand --

20 SENATOR JACKSON: -- from my perspective --

21 Let me finish, please.

22 -- every time I hear something about anyone

23 being killed, that's something that touches me, as

24 an individual, and as a legislator.

25 I was at Target -- I was at -- what was

1 it? -- I was up in Yonkers, and a sergeant came over  
2 to me -- I didn't know he was a sergeant -- and he  
3 said, Hey, Robert Jackson. Right?

4 I said, Yeah.

5 You know, we played basketball up in  
6 Florsheim Park when I was younger.

7 He said, "Well, you look good," he said, "you  
8 look great."

9 I said, Where you at?

10 He said, he's in the 24th.

11 The next day, I heard on the news, the tenth  
12 officer, NYPD, to commit suicide was a sergeant in  
13 the 24th Precinct.

14 You know what went to my mind right away.

15 But, you know, it's an issue and concern for  
16 everyone.

17 And, even though we're asking questions, and  
18 want to repeal certain sections of 50-a, it doesn't  
19 mean that we're against police officers, correction  
20 officers, and firefighters, as far as anything that  
21 they may do from a negative point of view that has  
22 an impact on the other people's lives.

23 Please understand that.

24 Because I have retired members of NYPD in my  
25 family.

1           LOU MATARAZZO: I've known you a long time.

2           SENATOR JACKSON: Yeah.

3           And so I just want you to know that.

4           And then, again, you mentioned -- one of you  
5 mentioned --

6           And this is the last one. I know there's  
7 other people.

8           -- you said: Cops with CCRB complaints are  
9 out there working.

10          LOU MATARAZZO: I said it, yes.

11          SENATOR JACKSON: I know.

12          There's a lot of people out there working,  
13 that goes in, according to "CPR," you know, in which  
14 they don't have complaints to the CCRB.

15          So the only ones that are not working -- that  
16 are working, are not only the ones that have CCRB  
17 complaints.

18          Let me just say that loud and clear.

19          99 percent of the police officers out there,  
20 and detectives and sergeants, captains, and  
21 everything, you know, are out there working, and we  
22 know that.

23          But we want the bad apples taken out of the  
24 barrel.

25          LOU MATARAZZO: Well, I will tell you, then



1 I'll stand by it, that most of the CCRB complaints  
2 come to those police officers who make the most  
3 arrests.

4 SENATOR JACKSON: And that may be the case.

5 And then --

6 LOU MATARAZZO: Okay.

7 SENATOR JACKSON: -- and I wonder whether or  
8 not all of them are using the protocols and things  
9 under the law.

10 Because I watched the video, just recently,  
11 where a detective in the 34th Precinct put another  
12 individual in a chokehold, and it was on camera for  
13 24 seconds.

14 And this is, last year, a detective from the  
15 34th Precinct. It was all on video.

16 LOU MATARAZZO: Okay, there are exceptions to  
17 everything, aren't there?

18 SENATOR JACKSON: I understand that.

19 But I'm just saying to you --

20 LOU MATARAZZO: No one could refute the fact  
21 that police officers that make arrests get the most  
22 complaints. That's a fact of life.

23 No one makes a complaint if you don't give  
24 them a summons, if you don't arrest them.

25 They are the ones that get complaints.

1           Unfortunately, some may deserve it. I'm not  
2 denying that.

3           SENATOR JACKSON: Right.

4           LOU MATARAZZO: But, unfortunately, those  
5 that make the most arrests, and give the most  
6 summonses, and do most of the work out there, get  
7 the civilian complaints.

8           SENATOR JACKSON: The only thing I'm saying  
9 is that, we need to look at this from a holistic  
10 point of view.

11           And when you're painted on the police cars,  
12 CP -- "Courtesy, Professionalism, and Respect,"  
13 that's what we expect from every person, whether or  
14 not it's police, fire, security... everyone.

15           Even as an individual working as a civilian,  
16 we expect that.

17           And so when we understand that, where we  
18 feel, as legislators, that certain laws need to be  
19 changed, if we feel that way, because I'm a sponsor  
20 to the bill, then I'm looking forward to change the  
21 law.

22           LOU MATARAZZO: Okay.

23           SENATOR JACKSON: Thank you.

24           LOU MATARAZZO: Thank you.

25           SENATOR BAILEY: Thank you, Senator Jackson.

1 Senator Comrie.

2 SENATOR COMRIE: Thank you for coming,  
3 gentlemen, and thank you for expressing your point  
4 of view.

5 I think it's necessary that we do have a full  
6 airing out of these issues.

7 And as I said earlier, I would hope that we  
8 can come to a median where everyone can understand  
9 what their roles are.

10 I want to thank you for your consistency and  
11 effort for fighting to ensure that the safety and  
12 security of police officers are protected.

13 As has been said by other members, I have,  
14 maybe -- I have a lot of friends in the department,  
15 a lot of police officers that live in my district,  
16 and I understand the complications of the job.

17 That being said, I understand the need for  
18 transparency, and the need for people to -- and --  
19 and attorneys, defense lawyers, and the court system  
20 to be able to quickly get directed, the public  
21 record, the work record; not the Social Security  
22 number or a home address or phone number, or whether  
23 or not the person even has a family, none of that's  
24 what's in play here. Just the record of the actual  
25 work of the person on the job.

1           And I don't understand why we can't make sure  
2           that there's an easier process to ensure that that  
3           transparency can happen.

4           And I would hope that we can find a way to  
5           make sure that that key element happens, to make  
6           sure that we can ensure that people can have a full  
7           complement and understanding of a police officer's  
8           situation, or a peace officer's situation.

9           I understand clearly that people manipulate,  
10          and use CCRB complaints to try to manipulate and to  
11          try to gain an advantage. I understand clearly that  
12          there are people that are trying to game the system.

13          But I also understand clearly that, we need  
14          to figure out a way to create a system that makes it  
15          simple for everyone to understand, and not create  
16          these kind of hostilities.

17          Our object, I think, is to eliminate  
18          hostilities between the public and the police  
19          department, to eliminate the ability to have  
20          contentious issues over paperwork, over history,  
21          that should be given to anyone.

22          So I would hope that, after we have all these  
23          discussions, and we have this back-and-forth, and we  
24          figure -- but, at the end, we figure out a way to  
25          make sure that there's a clear path and a clear

1 understanding of what everyone's role should be, and  
2 everyone's obligation should be.

3 And I hope that we can work with you to make  
4 that happen.

5 Thank you, Mr. Chair.

6 SENATOR BAILEY: Senator -- thank you,  
7 Senator Comrie.

8 Senator Myrie.

9 SENATOR MYRIE: Thank you, Chair Bailey, for  
10 convening this hearing.

11 And I want to apologize for being late.

12 I was speaking at a rookie orientation for  
13 Brooklyn Patrol North, where I met 38 officers who  
14 had made the decision to put on the uniform, to  
15 protect our public, to make a personal sacrifice to  
16 help to keep our community safe.

17 And I want to make sure that I start with  
18 that, because I know that the PBA has oftentimes  
19 characterized any criticism of the department as  
20 being anti-police.

21 And I want to make sure, I want the record to  
22 reflect, that that is not what is taking place  
23 today.

24 I also want to respond, very quickly, to this  
25 notion that the CCRB complaints are only tied to the

1 folks who make the most arrests, and so they are  
2 absolved, or that that somehow diminishes the  
3 complaints.

4 And that, to me, is a weak argument, mainly  
5 because, if you had two restaurants, one that was  
6 open from 9 to 5, and the other one that was open  
7 from 9 to 9, but the 9-to-5 restaurant got less  
8 complaints than the 9-to-9, we wouldn't say, well,  
9 you're open four hours more, you have more  
10 availability, we're not going validate any  
11 food-poisoning complaints.

12 It doesn't make sense.

13 And, third, I just have one question for you.

14 In my previous life I worked on a pro bono  
15 case, where our client was beat by law enforcement;  
16 stomped out, ribs broken, collar bone broken, was  
17 mentally ill.

18 And we sought to bring charges against the  
19 law-enforcement officers who beat this client nearly  
20 to death.

21 And when we wanted to see if there was a  
22 history of misconduct by these very officers, we  
23 were told we could not have access to any of that  
24 misconduct.

25 And so my question to you, is what do you

1 tell that client, who has been beat, nearly to  
2 death, and we simply want to know if they have a  
3 history, "a history," of misconduct?

4 What should we tell that client?

5 LOU MATARAZZO: Did you appeal to the judge  
6 to have this done?

7 SENATOR MYRIE: Is that what you would tell  
8 the client? That's the question.

9 LOU MATARAZZO: No, I mean, I can't comment  
10 on a case I know nothing about.

11 Was the person arrested? Was the person in  
12 jail? Was the person -- where was the person?

13 I have no idea.

14 SENATOR MYRIE: Okay, so just so we're clear,  
15 I just laid out a fact pattern.

16 LOU MATARAZZO: Yeah, you did. But --

17 SENATOR MYRIE: Hold on, hold on.

18 I didn't --

19 LOU MATARAZZO: -- was he --

20 SENATOR MYRIE: I didn't interrupt you --

21 LOU MATARAZZO: -- was he --

22 SENATOR MYRIE: I didn't interrupt you when  
23 you were talking. Do not interrupt me.

24 I just laid out a fact pattern, and your  
25 response to that was, did we appeal to the judge?

1           What I want to know, and I think you know  
2 exactly what I'm trying to get at, whether or not  
3 you think a person in that scenario -- let's take  
4 away the case, because I don't want you get in  
5 trouble.

6           Let's assume those same facts.

7           Do you think that that person should be  
8 entitled to know whether or not the officers who had  
9 beat them, nearly to death, have a history of any  
10 similar conduct in the past?

11           LOU MATARAZZO: If it pertains to the case,  
12 and you went to the judge, you would have gotten it.

13           SENATOR MYRIE: What if I told you we did not  
14 get it, because of 50-a --

15           LOU MATARAZZO: I would --

16           SENATOR MYRIE: -- because of 50-a.

17           LOU MATARAZZO: -- I -- it can't be because  
18 of 50-a, because a judge can overrule it.

19           SENATOR MYRIE: So in this instance,  
20 I just -- I -- I want to make sure that we get this  
21 clear:

22           You -- you think that the person should be  
23 entitled to get the history of misconduct?

24           LOU MATARAZZO: If the judge decided that it  
25 pertains to the case, yes.



1           SENATOR MYRIE: So should we change the law  
2 in order to always entitle them when it pertains to  
3 the case?

4           LOU MATARAZZO: No.

5           SENATOR MYRIE: See, this is why I'm  
6 confused, because that contradicts what you just  
7 expressed.

8           LOU MATARAZZO: I said, that the last person  
9 to make a judgment on it should be the judge.

10          And if you went to the judge, and if he felt  
11 it pertained to the case, he would have given you  
12 the information.

13          SENATOR MYRIE: Okay, so I -- so you don't  
14 think we should touch the law; that we should just  
15 leave it up to the judges?

16          LOU MATARAZZO: Because there are provisions  
17 in the law that cover that.

18          SENATOR MYRIE: Okay, I just -- I -- I just  
19 want to express -- and I know we have other folks to  
20 get to -- that this is an incredibly confounding  
21 response, because, on one hand, you have expressed  
22 that there is a need, in certain instances, when it  
23 pertains to the case, to have a history of the  
24 misconduct. But you don't think we should touch the  
25 law to actually provide people with that when it

1       pertains to it. You think that we should just leave  
2       it up to the Court's discretion.

3               LOU MATARAZZO: I don't believe that a group  
4       of people, who know nothing about the case, should  
5       make law, saying what we should and should not do.

6               SENATOR MYRIE: I just told you, that  
7       I worked on this very fact pattern before.

8               And you are responding, that people who don't  
9       know anything about this, shouldn't be in a position  
10      to make the law.

11              So are you then saying that --

12              LOU MATARAZZO: I didn't say that.

13              What I said was, that, very simply, you're  
14      putting a case before people. We know nothing about  
15      the case.

16              And if you had went to a judge, and he felt  
17      it pertained to the case itself, then he should make  
18      the decision as to whether it pertains to it or not.

19              And if he said it does, then he'll expose the  
20      fact pattern.

21              SENATOR MYRIE: Okay, well -- and I'll just  
22      close with saying, that, we have the job of making  
23      the law --

24              LOU MATARAZZO: Yeah.

25              SENATOR MYRIE: -- and the judges have the

1 job of interpreting the law.

2 It is our responsibility to make these policy  
3 decisions, and make the law, in order to govern what  
4 the judges do on the bench.

5 Thank you very much.

6 SENATOR BAILEY: Thank you, Senator Myrie.  
7 Senator Hoylman.

8 SENATOR HOYLMAN: Good morning.

9 LOU MATARAZZO: Good morning.

10 SENATOR HOYLMAN: I wanted to just ask you  
11 about -- and, again, thank you for your service,  
12 thank you for being here today.

13 I wanted to ask you about, how you consider  
14 other police forces across the country as it  
15 compares to the NYPD.

16 For example, do you believe that your sisters  
17 and brothers in the uniform in Chicago suffer the  
18 same kind of stress and danger and challenges that  
19 your own officers, who you represent, endure here in  
20 the city of New York?

21 LOU MATARAZZO: Yes.

22 SENATOR HOYLMAN: Yes.

23 How about those in the great city of  
24 Los Angeles, would you say that they have the same  
25 kind of stress, the same kind of challenges, the

1 same kind of danger, where, every day, they put  
2 their lives on the line just like your officers do?

3 PAUL DiGIACOMO: Absolutely.

4 SENATOR HOYLMAN: You would.

5 How about Philadelphia?

6 PAUL DiGIACOMO: Absolutely.

7 SENATOR HOYLMAN: Yeah.

8 Well, then, taking that into consideration,  
9 why does the NYPD, why is it exceptional, from the  
10 perspective of having 50-a, unlike those other  
11 police forces, where they have this blanket  
12 protection here, only in the city of New York, the  
13 broadest -- the broadest blanket protection under  
14 50-a, as compared to Philadelphia, Los Angeles,  
15 Chicago?

16 Why are you exceptional in having 50-a,  
17 whereas these other police forces do not?

18 PAUL DiGIACOMO: I'm not familiar on what  
19 protections they have in those other departments, so  
20 I really can't comment.

21 But, you know, the New York City Police  
22 Department is the largest police department in the  
23 world. And the policing aspect of it is somewhat  
24 different than some of those other cities that we  
25 spoke about, just in the size of the different

1 operations that they run on a regular basis; in  
2 particular, the undercover operations.

3 I don't think there's any department that has  
4 as many undercovers as the NYPD. And their  
5 protections, I think, are very important for safety  
6 aspects of it.

7 And that's not only in the narcotics  
8 division, but, in the gang division and the internal  
9 affairs division and in joint terrorist task force  
10 and the counter-terrorism division.

11 There are quite a -- there is no department,  
12 that I'm aware of, that has the amount of undercover  
13 officers that we do.

14 So it is, as much as it is their jobs are as  
15 difficult as ours, you know, ours is a little  
16 different, and larger.

17 SENATOR HOYLMAN: Well, maybe you don't know  
18 this, then, but, the police department here in  
19 New York City has the broadest, you know, most  
20 opaque, system for protecting personnel records than  
21 any police department in the nation.

22 And my question to you again is: Why are you  
23 any different?

24 And more importantly, why is the public any  
25 different than in any of those other cities which

1 I named?

2 We have the right to know, our press has the  
3 right to know, our democracy demands the right to  
4 know.

5 So, I would urge you to compare your  
6 situation with other police forces, and determine  
7 why you're exceptional, and your sisters and  
8 brothers in other cities, where they face the same  
9 sort of challenges as your officers, are not in the  
10 same category.

11 Thank you.

12 SENATOR BAILEY: Thank you, Senator Hoylman.  
13 Senator Sepulveda.

14 SENATOR SEPULVEDA: Thank you.

15 Thank you, Senator Bailey, and everyone who  
16 is here today.

17 So I'm not going to belabor the point, some  
18 of the comments that my colleagues have already  
19 made, but I will tell you some of my personal  
20 experiences growing up in a predominantly Latino  
21 and African-American neighborhood, and what  
22 I experienced.

23 As an 18-year-old, the summer before I was  
24 going to college, I was arrested by a police  
25 officer, and I spent an evening in prison.

1           And to this day, I still don't know why I was  
2 arrested.

3           Police officer told me he didn't like the way  
4 I looked.

5           Now, that arrest could have ruined my career.

6           As a grown man, practicing law at that point  
7 in maybe 12 to 15 years, I was in a wealthier  
8 neighborhood in The Bronx. And a police officer  
9 pulled up on me and told me, You don't look like you  
10 belong in this neighborhood.

11           I have family members that have been harassed  
12 by police officers, extensively.

13           I have neighbors, where I have had to  
14 intercede when a police officer asked a young man,  
15 standing in a corner, "Let me see your ID."

16           And I've had to step in, and said, Well, what  
17 is your probable cause? Or, is he about to commit a  
18 crime? For what reason are you asking this young  
19 man for an ID?

20           And these are very common experiences in our  
21 communities.

22           Now, you indicate that police officers with  
23 the most CCRB complaints are the ones that are doing  
24 the most arrests.

25           And I don't debate that.

1           However, most of those arrests happen in the  
2 communities that most of us represent; namely, Black  
3 and Brown communities.

4           And most of the claims of abuse, police  
5 misconduct, are in our neighborhoods.

6           Because no matter how the union, and I think  
7 Patrick Lynch does a terrible disservice to the city  
8 of New York, I think the leadership of most of the  
9 unions representing police officers and sergeants do  
10 a major disservice to this city, when you try to  
11 paint us as anti-police, because we are trying to be  
12 more open about certain processes about arrests.

13           And when you create that contentious  
14 relationship, it doesn't help anyone.

15           We are legislators, and we are attempting to  
16 create a fair environment, based on the experiences  
17 and the complaints that we receive on a regular  
18 basis in our offices.

19           Now, I'm not going to say that every police  
20 officer engages in misconduct.

21           I'll say that a great majority of them are  
22 hard-working individuals.

23           In fact, I'll let you in on a little secret.

24           When I graduated from law school in 1992,  
25 I worked for a firm that represented the PBA. And



1 I defended police officers at disciplinary hearings.

2 And I'll tell you, those hearings were  
3 kangaroo courts.

4 I remember being in the bathroom --

5 LOU MATARAZZO: Thank you.

6 SENATOR SEPULVEDA: -- and hearing examiners  
7 having conversations with the members of the NYPD  
8 about how they were going decide the case, not  
9 knowing that I was in the stall next door.

10 And I've read reports on CCRB complaints, and  
11 I know former commissioners on there tell me, that  
12 the CCRB is a sham.

13 Now, rather than accepting that 100 percent,  
14 I say, let us work together, because no matter what  
15 we're discussing the next few days, things are not  
16 going to remain the same.

17 50-a is going to change.

18 You know, we have individuals now that  
19 represent Black and Brown communities and positions  
20 where we can actually effectuate change, but we want  
21 to do it in the right way. We want to work with the  
22 unions.

23 Despite his nonsense, and his disgusting  
24 rhetoric, I have no problem if I have to work with  
25 Patrick Lynch.

1 But things are not going to remain the same.

2 My suggestion, is to work with us. We want  
3 to be fair.

4 There's no one here, behind here, none of my  
5 colleagues here, who want to put anyone in danger,  
6 not just police officers, anyone.

7 I certainly don't.

8 But we're going to have to work at this, and  
9 we're going to have to work together.

10 And if your position is, nothing should  
11 change, and if you don't want to participate in how  
12 we can change it to make it safer and fairer for  
13 everyone, then you do your union a disservice, you  
14 do your membership a disservice.

15 And I urge you to work with us, so we can  
16 produce a fair piece of legislation that will  
17 protect the members, but, also, allow transparency  
18 in the cases of abuse.

19 Thank you.

20 SENATOR BAILEY: Thank you,  
21 Senator Sepulveda.

22 Senator Rivera for a follow-up.

23 SENATOR RIVERA: A brief follow-up.

24 Hi, I'm back.

25 I wanted to -- but you brought something up,

1       sir, and I wanted to make sure that I understood  
2       exactly what you meant.

3               LOU MATARAZZO:   The name -- listen, the name  
4       is Lou; it's not "sir."

5               SENATOR RIVERA:   It's, what?

6               LOU MATARAZZO:   It's Lou.

7               SENATOR RIVERA:   Lou.

8               LOU MATARAZZO:   Matarazzo.

9               SENATOR RIVERA:   What up, Lou?

10              All right, Lou.

11              So, Lou, you brought up a section of  
12       Public Health Law -- right? --

13              LOU MATARAZZO:   Yep.

14              SENATOR RIVERA:   -- Section 2805-M.

15              Is that correct?

16              LOU MATARAZZO:   I'll have to look it up.

17              SENATOR RIVERA:   Please do, because I would  
18       like some clarification.

19              LOU MATARAZZO:   I'm not an attorney.

20              SENATOR RIVERA:   No, I got it.   Neither am I.

21              Neither -- not only am I not an attorney,  
22       I don't even play one on TV.

23              But -- so you mentioned Public Health Law,  
24       and I believe that you were referring to 2805-M.

25              Is that correct?

1           LOU MATARAZZO: I was referring to Public  
2 Health Law, Section 29-29, of Public Hygiene, and  
3 Section 6527.

4           SENATOR RIVERA: All right. So this is not  
5 the section that you were referring to, but I just  
6 want a clarification.

7           LOU MATARAZZO: Yeah, you know, Senator --

8           SENATOR RIVERA: Yeah?

9           LOU MATARAZZO: -- it's all well and good,  
10 you're sitting there Googling, and making  
11 corrections, and we're not doing the same.

12          SENATOR RIVERA: Sir, if I may.

13          LOU MATARAZZO: I -- we --

14          SENATOR RIVERA: I -- sir, first of all --

15          LOU MATARAZZO: You do have a right --

16          SENATOR RIVERA: -- relax -- Lou, relax.

17          I am asking for a clarification, sir.

18          I did not --

19          LOU MATARAZZO: And I read off what I have --

20          SENATOR RIVERA: Right.

21          LOU MATARAZZO: -- from attorneys.

22          SENATOR RIVERA: So, again, what I would  
23 like, Lou, is for you to please tell me again, the  
24 section, and more specifically, how it refers to the  
25 conversation that we're having.

1           That's the clarification I'm seeking.

2           I'm making no accusations. Just a question.

3           The section of law that you referred to,  
4           what --

5           LOU MATARAZZO: Protection -- it's protection  
6           of personal information.

7           SENATOR RIVERA: -- right.

8           Protection of personal information in what  
9           context, sir?

10          LOU MATARAZZO: What do you mean?

11          All personal information.

12          50-a -- 50-a also includes before a person  
13          was hired.

14          SENATOR RIVERA: Right.

15          So it's actually -- if I'm not mistaken, and  
16          I could be, obviously, because neither of us, as we  
17          established, Lou, neither of us are attorneys, but  
18          if I'm not mistaken, it refers to an extension of  
19          the Health Insurance Portability and Accountability  
20          Act, so, "HIPAA," which refers to health-care  
21          information, specifically between medical  
22          practitioners and their patients.

23          So the question that I'm asking is: Do you  
24          believe that the relationship between a doctor or a  
25          medical practitioner and their patient, and the

1 information that is shared there, which is  
2 protected, for privacy, is equal to the information  
3 that you're referring -- or, first of all, the  
4 relationship between, say, a police officer and the  
5 person that they seek to apprehend, do you believe  
6 that that relationship is the same, and that,  
7 therefore, information in reference to that  
8 interaction should be protected in the same way?

9 LOU MATARAZZO: In reference to personal  
10 information, yes.

11 SENATOR RIVERA: But personal information in  
12 the health-care field, which is what you're  
13 quoting --

14 LOU MATARAZZO: We can argue this all day  
15 long. It's --

16 SENATOR RIVERA: -- no, we're not going argue  
17 all day long, Lou.

18 I just want to make sure that we establish  
19 that there is a distinction here. And --

20 LOU MATARAZZO: You're making the  
21 distinction, I'm not.

22 SENATOR RIVERA: -- okay.

23 I believe that there is actually -- I just  
24 want to make sure: So you believe that there is no  
25 distinction between the relationship between a

1 patient and a doctor, and a police officer and a  
2 person they seek to apprehend?

3 That is what you're saying. Correct?

4 LOU MATARAZZO: No, it's not what I'm saying.

5 SENATOR RIVERA: All right.

6 So, I will just say, again, thank you for the  
7 clarification, Lou, which was nothing of the sort.

8 But it -- it -- if you're -- it just seems,  
9 again, and I would refer to the area of law, it's in  
10 Public Health Law, in reference to a doctor and  
11 their patient --

12 LOU MATARAZZO: Personal information.

13 SENATOR RIVERA: -- a doctor and their  
14 patient, and the information related to their health  
15 conditions, and that is protected in privacy.

16 You seem to suggest that the same exists  
17 between a person who is police officer and a person  
18 they seek to apprehend.

19 We certainly will have a disagreement.

20 Thank you, Mr. Chairman.

21 SENATOR BAILEY: Thank you, Senator Rivera.

22 So, housekeeping, I was waiting for the end,  
23 we've been joined by Senator Benjamin, and  
24 Assemblymembers Fernandez, Blake, and Dickens.

25 And that concludes, I just want to -- I just

1 want to wrap up and say, I want to say thank you for  
2 your -- for your -- for your testimony.

3 (Inaudible comment made.)

4 SENATOR BAILEY: Assemblymember Fernandez,  
5 yes.

6 I just want to make we got everybody.

7 And I want to say, thank you for your  
8 testimony.

9 I want to thank my colleagues for their --  
10 for their spirited questions.

11 And -- and, again, I just want to reiterate  
12 what everybody is saying: We may not agree, but the  
13 discussion does not and should not and cannot be as  
14 polarizing as it has been.

15 LOU MATARAZZO: And I thank you for allowing  
16 us to come up here at the last minute.

17 SENATOR BAILEY: And, again, I -- I have my  
18 views, but, nobody can ever accuse me of not being  
19 fair. And -- and I consider myself to be a fair  
20 person.

21 And I will just say one thing, to conclude  
22 this, before our next person to testify: We either  
23 must change with the times or be changed by them.

24 And I am somebody who chooses to change with  
25 the times as opposed to being changed by them.



1 Thank you.

2 LOU MATARAZZO: We can agree to disagree.

3 SENATOR BAILEY: Just give me a brief second.  
4 I'm trying to work something out.

5 (All legislative participants singing the  
6 "Happy Birthday" song.)

7 [Applause.]

8 SENATOR BAILEY: We will not be singing the  
9 Stevie Wonder version of the "Happy Birthday" song.

10 Okay.

11 (Several legislative participants  
12 singing part of the Stevie Wonder version of  
13 the "Happy Birthday" song.)

14 SENATOR BAILEY: When internal jokes go too  
15 far.

16 I -- I -- I want -- I really want to bring us  
17 back to -- I really want to bring us back to our --  
18 to our order.

19 And -- and some -- some of the panelists have  
20 been gracious enough to be able to understand  
21 flexibility and certain schedules, because there are  
22 other things happening, other votes being taken  
23 today.

24 And I know our public advocate has -- has to  
25 get back across the street.

1           So our public advocate, Jumaane Williams, is  
2 going to be testifying next.

3           We usually don't get stir-crazy till 3:00, so  
4 this is unprecedented, everybody.

5           JUMAANE D. WILLIAMS: I was just agreeing --  
6 I know we all agree here in the front row, so saying  
7 greetings to everyone.

8           Afternoon, everybody.

9           SENATOR BAILEY: Good afternoon.

10          JUMAANE D. WILLIAMS: Thank you, everyone,  
11 who is here today.

12          My name is Jumaane Williams, public advocate  
13 for city of New York.

14          I want to thank Chairman Jamaal Bailey and  
15 the members of the Standing Committee on Codes for  
16 holding this hearing on the Senate's bill, S3695 --  
17 I also want to give a shout out to  
18 Assemblymember O'Donnell for his bill as well --  
19 which repeals Section 50-a of the New York State  
20 Civil Rights Law.

21          This bill will repeal provisions relating to  
22 personnel records of police officers, firefighters,  
23 and correction officers, essentially, making them  
24 available to the public.

25          The interpretation and application of

1 Section 50-a deprives the public of information  
2 fundamental to oversight, and lends a shield of  
3 opacity to the very public state and local police  
4 agencies that have perhaps the greatest day-to-day  
5 impact over the lives of citizens.

6 Section 50-a increases the harms caused to  
7 New Yorkers who experience police abuse, by denying  
8 them and their loved ones access to information as  
9 to whether the departments take disciplinary action  
10 against other -- against officers who mistreat them,  
11 which includes withholding information about  
12 officers whose actions result in a person's death.

13 It also prevents us all from creating a true  
14 system to identify officers who, with early  
15 intervention, can be put on a corrective path, or  
16 guided to another career, before the worst occurs.

17 Between 2011 and 2015, at least 319 NYPD  
18 staff committed offenses, including lying under  
19 oath, driving under the influence, and excessive  
20 force, with almost no serious consequence.

21 Given the clear lack of discipline with  
22 regard to police conduct, Chairman Bailey's bill is  
23 crucial for enforcing accountability and improving  
24 police-community relations.

25 That is why I have introduced Resolution 750,

1 with 21 other councilmembers, in support, calling on  
2 the New York State Legislature to pass, and the  
3 governor sign, S3695 in January of next year's  
4 session.

5 If we do not repeal Section 50-a, public  
6 trust in our law enforcement and the New York City  
7 administration will continue to be eroding.

8 The two areas where people are yearning to  
9 see change and transparency and accountability --  
10 are transparency and accountability.

11 And we have, unfortunately, yet to see much  
12 progress, even with this administration, in those  
13 areas.

14 Section 50-a can no longer be used as an  
15 excuse to tie the hands of district attorneys as a  
16 reason for a slap-on-the-wrist treatment of officers  
17 who have undermined their duty to protect and serve.

18 I'm sad that not much has changed in the  
19 two areas I've mentioned.

20 Repealing 50-a is a necessary step toward  
21 justice for Eric Garner, for Saheed Vassel, for  
22 Ramarley Graham, for Delrawn Smalls [sic], for  
23 Duane June, for their families, and the countless  
24 other New Yorkers, who are just asking for truth and  
25 openness.

1           For these reasons, I urge members of the  
2           Senate to pass S3695.

3           Again, thank you to Chairman Bailey and the  
4           members of the standing committee.

5           I also want to make sure that folks don't  
6           misconstrue this as people being anti-cop or not  
7           supporting our men and women in blue.

8           Quite the contrary; it is because we are  
9           supporting our men and women in blue.

10          We want to make sure that we have the best  
11          policing that we have.

12          And we want to make sure that the good work  
13          that is happening, there is some good things that  
14          are moving forward, but that gets eroded when public  
15          trust is eroding.

16          And as long as the interpretation of this  
17          stands, that's going to continue.

18          So this is in support of community, it is in  
19          support of better policing, it is in support of the  
20          women and -- men and women who come to do their job  
21          every single day and don't want to be shrouded by  
22          other's bad behavior.

23          This is a critical piece of legislation.

24          I am sad that it is the de Blasio  
25          administration that took us even backwards than we

1 were before.

2 When we had our arguments with  
3 then-Mayor Giuliani, and Mayor Bloomberg, they had  
4 different interpretations.

5 It's amazing that this is the mayor that has  
6 taken us backwards than where we were before.

7 Everyone should be in agreement for  
8 transparency.

9 There are police departments across this  
10 nation, when there is a shooting -- a police  
11 shooting, police video is immediately released.

12 We may argue whether it's redacted, or how  
13 much should be released, but something's released.

14 The largest police force in the world decides  
15 oftentimes to release nothing.

16 That is a problem.

17 This is about transparency.

18 The police department, fire department, and  
19 corrections, they are government agencies, and they  
20 are government employees, and they should be -- they  
21 should be under the same kind of transparency as  
22 everyone else.

23 If this happens in other states, and those  
24 police officers, they're not -- they don't -- they  
25 haven't used the excuse of, releasing it might put

1 their officers in danger, releasing it might help  
2 other criminals.

3 That's nonsense.

4 It's about transparency.

5 When something happens, unfortunately, many  
6 people who are killed, their records are immediately  
7 released.

8 We immediately know everything about that  
9 person, and know nothing about the person who killed  
10 them.

11 That makes no sense, and there's no one who  
12 can say it does.

13 Thank you for the opportunity that you have  
14 given me today.

15 I hope we move fast, January, in particular,  
16 get this done, so we can move on the next thing.

17 Thank you so much, and I'm happy to take any  
18 questions.

19 SENATOR BAILEY: Mr. Public Advocate,  
20 I wanted to thank you very much for -- and I know  
21 it's an incredibly busy day for you.

22 Thank you for taking the time to testify.

23 I want to make sure we thank you for your  
24 consistency in this era.

25 From community advocate, to councilmember, to

1 public advocate, you've been very consistent about  
2 making sure that you are about fairness.

3 And, again, looking at your -- well, this is  
4 the social-media era.

5 Looking at your Twitter feed, it is quite  
6 balanced. On one day you will say something is  
7 happening with police-community interaction. But  
8 the other day you will say, that we need to make  
9 sure we take care of our brother and sisters in  
10 blue, about the NYPD suicides.

11 So I want to thank you for your consistency,  
12 and understanding that we have to see both sides of  
13 the coin in order for things to make sense.

14 No pun intended there.

15 I just -- I guess I'll just have one question  
16 for you.

17 Do you believe that there are any provisions  
18 of 50-a that should be retained? Should we go for a  
19 full repeal or a -- or just reform?

20 JUMAANE D. WILLIAMS: I mean, I'm into a full  
21 repeal. I'm not -- I'm not clear why we need to do  
22 anything else.

23 We are simply saying, I don't know any other  
24 government agency or government workers where we  
25 would say we can't find out what happened with



1 disciplinary records.

2 It just doesn't make any sense.

3 This is not to endanger anyone.

4 This is just to have transparency.

5 And, again, as I mentioned, I don't also want  
6 to play "gotcha."

7 I think, if we're all looking at the same  
8 thing, we might be able to intervene when the  
9 officers who are varying in the wrong direction.

10 And myself and Councilmember Grodenchik  
11 actually put forth bills to try to set up a  
12 so-called "tickler system," so we can find out when  
13 an officer or a precinct is moving in the wrong  
14 direction, so we can intervene.

15 This is not just about "gotcha."

16 This is about safer streets, and better  
17 policing, and, also, protecting our men and women in  
18 blue, who have a hard job, to be honest.

19 If something happened right now, right here,  
20 most of us would run away from danger, and ask them  
21 to run toward it.

22 And we have to take that seriously as well.

23 SENATOR BAILEY: Thank you, Mr. Public  
24 Advocate.

25 Any of my colleagues have any questions or

1 comments?

2 Senator Comrie.

3 SENATOR COMRIE: I just want to say,

4 Mr. Public Advocate, you look good to me.

5 I don't know what that other [indiscernible].

6 [Laughter.]

7 SENATOR COMRIE: So, but thank you for being  
8 here, thank you for being consistent in this effort.

9 And we hope that your words resound  
10 throughout everyone through the state.

11 Thank you.

12 JUMAANE D. WILLIAMS: Thank you, appreciate  
13 it.

14 And you look well. I like the (indicating).

15 SENATOR COMRIE: Thank you, thank you.

16 Working on it.

17 JUMAANE D. WILLIAMS: I can't even grow that.

18 SENATOR BAILEY: Anyone else?

19 Well -- Senator Rivera.

20 SENATOR RIVERA: Thank you for joining us.

21 And I wanted to -- we're talking -- I wanted  
22 to ask, sir, first about the -- and you already  
23 answered it, related to whether you wanted a full  
24 repeal, or you believe that half a repeal or part  
25 change was part of it.

1           Could -- from your perspective, obviously,  
2           I don't know if you were here a little earlier, but  
3           we heard a perspective -- a different perspective  
4           about the current -- the current state of  
5           accountability, and what we want to get to by  
6           changing this law.

7           The -- what is -- what is your sense about  
8           the current state of accountability when a police  
9           officer does something inappropriate?

10           JUMAANE D. WILLIAMS: We have gone backwards  
11           in accountability and transparency, in many aspects,  
12           some of which we had more of, even when Giuliani was  
13           around.

14           So, it's hard to say that, because there are  
15           some places where we have done well. Obviously,  
16           stops are down.

17           There are many folks that sometimes disagree  
18           with me, but, I support full community policing,  
19           which we don't have.

20           But I do like what I see with neighborhood  
21           policing.

22           I do think we have a commissioner, that I've  
23           known even before this, that really believes in the  
24           things that many folks are saying.

25           Those are all positives.

1           But when it comes -- some -- the reason that  
2           some of those things are not felt on the ground, is  
3           because of two areas that I think are most  
4           impactful, are transparency and accountability.

5           And we've just gone backwards.

6           And the system set up, where there's only one  
7           person who can make these decisions, which is the  
8           commissioner, that is a problem.

9           And so we have to -- people will talk about  
10          some of the systems that exist, but none of them  
11          have the authority that this one person does.

12          And when it comes to transparency, as we can  
13          clearly see, it just does not exist.

14          And I know folks have spoken about  
15          Eric Garner, that officer, who I always make sure we  
16          mention, has a family as well. Right? Someone  
17          loves that officer. That officer did not wake up,  
18          I think, intending to kill someone.

19          However, he did, and there has to be  
20          accountability for that.

21          And when we looked in his record, there were  
22          things, that if people had spoken about or seen  
23          publicly, someone may have said, Wait a minute.  
24          There's something wrong with this officer's  
25          behavior. Let's intervene.

1           And that's what it's about.

2           And if you ask most folks, accountability  
3 doesn't exist in a meaningful way.

4           Even to have gotten the firing of that  
5 officer, took five or six -- five years.

6           Think about how much effort all of the people  
7 who testified had to put in to get an officer fired,  
8 that everybody saw murder someone on tape, for the  
9 entire world.

10          That's what we looked at.

11          Now, imagine when you don't have the video,  
12 or, you don't have as much as we had there, how  
13 difficult it is.

14          And then on top of that, even if it is --  
15 there's discipline, it's shrouded in secrecy.

16          And that makes no sense.

17          This is simply about transparency and  
18 accountability.

19          And I think if we get to the heart of those  
20 two things, people will start feeling better about  
21 the good stuff that is actually happening.

22          SENATOR RIVERA: Thank you, Mr. Public  
23 Advocate.

24          Thank you, Mr. Chairman.

25          SENATOR BAILEY: Thank you, Senator Rivera.

1           Anyone else?

2           So, I just wanted to say, thank you.

3           And when you speak about transparency, when  
4 each -- each of us wants to -- to -- to run for  
5 office, there is a certain designating, something.

6           I'm not going to say the word, because  
7 I don't want to get overly political.

8           But on that designating, whatever that is,  
9 our addresses have to be listed to that, and they  
10 have to be filed publicly.

11           So anybody wants to know where I live, they  
12 can do that. If anybody wants to know where any of  
13 us live, they can do that.

14           And what -- and what's about transparency is  
15 that, I don't mind that.

16           The reason why, because I am a public  
17 servant.

18           And I think that the public deserves to know,  
19 where do your elected officials live? Where do they  
20 say they live?

21           Right?

22           [Laughter.]

23           SENATOR BAILEY: That's -- that's the real  
24 question.

25           But you can ask the people in my neighborhood

1 where I live. They see me every day.

2 And they see all of us.

3 JUMAANE D. WILLIAMS: I would just like to  
4 know, I mean, I hear this issue about making police  
5 officers unsafe.

6 I'm -- I'm hoping that they'll present some  
7 evidence, that all of the other places across the  
8 country that don't have this kind of block -- this  
9 block-and-opaque secrecy, have there been any  
10 instances of which to speak of, or is this some  
11 theoretical thing that they're pushing for?

12 SENATOR BAILEY: Senator Hoylman pose --  
13 poised -- posed that on that exact question a little  
14 earlier, and we -- we got -- got an unclear  
15 response, as to whether there are tangible data.

16 And I guess there's a search for -- for --  
17 for further data.

18 But I think that is -- that -- that is  
19 something that's important to say.

20 We're not saying it doesn't exist.

21 But if it does exist, let's -- let's see the  
22 data, and let's come to the table and have a  
23 conversation about what we should do, as opposed to  
24 just the polarizing nature of this conversation,  
25 which is either been pro or con.

1           And --

2           JUMAANE D. WILLIAMS:   You mean let's be  
3 transparent?

4           SENATOR BAILEY:   Absolutely.

5           If no one else, I would like to thank you for  
6 testifying today, and for your service.

7           And thank you for coming by, Mr. Public  
8 Advocate.

9           JUMAANE D. WILLIAMS:   Thank you so much to  
10 all of you.

11          Thank you, Mr. Chairman.

12          And I also will -- you know, I understand  
13 that the folks behind me in the unions have a job to  
14 do, and to protect the members.

15          I would just ask them, when they come to the  
16 table, they also come with transparency and honesty,  
17 so that we can get to a common goal of safer  
18 streets, and better policing.

19          Thank you so much.

20          SENATOR BAILEY:   Thank you, sir.

21          Next to testify will be  
22 Mr. Elias Husamudeen, the president of COBA.

23          And I thank him for his flexibility in the  
24 scheduling concerning testimony.

25          ELIAS HUSAMUDEEN:   Good afternoon.   Thanks



1 for having me.

2 Before I read my testimony, I would like to  
3 say, basically, Senator Bailey, I understand what  
4 you said, as far as not having a problem with people  
5 knowing where you live, and wanting people to know  
6 where you live.

7 I do believe that your attitude would be  
8 quite different if you were a correction officer.

9 It would be quite different.

10 SENATOR BAILEY: Well, Mr. --

11 ELIAS HUSAMUDEEN: Wait, wait, wait --

12 SENATOR BAILEY: -- I just want to clarify,  
13 since -- since -- since you brought that back up,  
14 I wanted to clarify what I meant.

15 I meant that in terms of transparency.

16 I did not mean that in terms of, like, your  
17 specific job duties.

18 ELIAS HUSAMUDEEN: Got it.

19 SENATOR BAILEY: I am not a member of law  
20 enforcement, I've never been one, I'm not trained,  
21 and I don't do what you do.

22 I've made that abundantly clear, and  
23 I have -- and I have nothing but respect.

24 I want to be very clear about what I meant by  
25 that statement.

1 ELIAS HUSAMUDEEN: No, I got you.

2 Because, I got you, and I just have to say,  
3 because we're dealing, you know, as New York City  
4 correction officers, a little different than the  
5 NYPD and maybe some of the other law-enforcement  
6 agencies.

7 Our situation is a little different, it's a  
8 little bit more unique, than a lot of the other law  
9 enforcement.

10 Where the NYPD might be responsible for going  
11 after gangs, going after gang members, and -- and --  
12 and then we see the press conference where they have  
13 30 gang members that they're bringing out of the  
14 precinct, and those 30 gang members are going to a  
15 jail where I work. And they're going to this jail  
16 because they're being accused of conspiracy,  
17 conspiracy to commit murder, and a lot of different  
18 things that they do to the people around them.

19 So I just think that is important that we --  
20 you know, that we maintain a balance, and what it is  
21 that we're doing.

22 And to respond to the public advocate, as far  
23 as the unions, or the people behind him, being  
24 transparent, I think that there's -- the COBA,  
25 correction officers' union, has been probably the

1 most transparent union in this city when it comes to  
2 issues of law enforcement.

3 I think we are probably more transparent than  
4 the office of the public advocate, as to why we want  
5 what we want, what we want is simple: to be safe.

6 So, on that note, I'll read my testimony, and  
7 then I'll entertain questions.

8 Good afternoon, Chairman Bailey and members  
9 of the committee.

10 My name is Elias Husamudeen, and I'm the  
11 president of the Correction Officers' Benevolent  
12 Association (COBA), the second-largest  
13 law-enforcement union in city of New York.

14 My members, also known as New York City's  
15 boldest, oversee the second-largest municipal jail  
16 system in the United States.

17 I thank you for inviting me to come before  
18 you, and to share with you the grave concerns we  
19 have concerning the potential changes or proposed  
20 repeal of Section 50-a.

21 In 1981, an amendment was made to Section 50,  
22 adding local correction officers to the protected  
23 class of law-enforcement officers, which highlighted  
24 the fact that statutory protection should be  
25 expanded because of the increasing number of legal

1 actions brought by inmates and ex-inmates of  
2 correctional facilities, which had been accompanied  
3 by an increase in the number of requests from  
4 attorneys representing them for unlimited access to  
5 personnel records of correction officers.

6 Correction officers are concerned that such  
7 unrestricted examination of their personnel records  
8 increase their vulnerability to harassment or  
9 reprisals.

10 To help alleviate this concern, and to  
11 promote better relations between correction officers  
12 and their governmental employees, this legislation  
13 imposed reasonable limitation on access to personnel  
14 records in the custody of the sheriff's office or  
15 the county department of corrections.

16 Additionally, the amendment declared that the  
17 described abuses of personnel information, which the  
18 amendment was designed to prevent, included  
19 harassment or reprisals against an officer, or his  
20 or her family.

21 Currently, correction officers facing  
22 disciplinary hearings have their cases adjudicated  
23 by the Office of Trials and Hearings, which better  
24 known as "OATH," and the rulings and recommendations  
25 of OATH judges concerning the correction officers'

1 disciplinary matters are made public.

2 A couple of years ago, COBA attorneys filed a  
3 lawsuit in state Supreme Court, arguing that 50-a of  
4 New York State Civil Rights Law, which make  
5 law-enforcement records confidential, should be  
6 extended to records about corrections officers that  
7 are now published by the city administrative court,  
8 better known as "OATH."

9 Today's increased social-media climate,  
10 coupled with the rise in gang activity in our jails,  
11 necessitates taking this action to protect our  
12 officers, their families, and their loved ones from  
13 potential retaliatory action.

14 Our position in this debate over the  
15 potential repeal of 50-a is somewhat unique.

16 Not only are we calling for the personnel  
17 records of law-enforcement officers to remain  
18 private, we're also calling for added protection for  
19 our members, to prohibit OATH from publishing the  
20 disciplinary reports and recommendations made by  
21 administrative law judges concerning our members.

22 In short, correction officers should have the  
23 same protections as police officers, concerning the  
24 privacy of our personnel records.

25 Our members are exposed to dangerous gangs

1 every day; gangs that communicate from jail to other  
2 gang members on the street.

3 Increasing the accessibility of our members'  
4 personnel records not only jeopardizes the safety of  
5 our members, it also jeopardizes the safety of their  
6 families, which was raised as a legitimate concern  
7 dating as far back as 1981.

8 Sadly, our culture today is consumed with  
9 punishing and demonizing law-enforcement officers,  
10 including correction officers. Criminal-justice  
11 activists have made us all the enemy.

12 The reality is, we are all -- we are the last  
13 line of defense between public safety and  
14 lawlessness.

15 The very fact that the legislature is even  
16 considering this misguided measure that serves only  
17 to appeal to the criminal-justice activists, at the  
18 expense of our lives, and the lives of our family as  
19 well, as indeed disheart -- is as well, indeed,  
20 disheartening.

21 Perhaps whenever an inmate who served time or  
22 was accused of a violent crime reenters our  
23 community, the State of New York should post an  
24 online data, detailing the extensive RAP sheet of  
25 that individual, so neighborhoods, schools, and

1 after-school programs could be made aware of the  
2 potential threat.

3 We do that now for sexual predators, but we  
4 don't do it for all criminals.

5 In closing, on behalf of my 10,000 members  
6 who put their lives on the line every day, on behalf  
7 of this city, and on behalf of their families,  
8 I strongly urge you not to repeal 50-a, and, in  
9 fact, expand its protections to better protect my  
10 members from the clear and present danger that they  
11 face on and off the job.

12 It's about safety and security, that's the  
13 bottom line.

14 With that, I'm happy to answer any questions  
15 that you may have.

16 SENATOR BAILEY: I want to thank you for your  
17 testimony.

18 And -- and just like I mentioned to everybody  
19 else, I want to thank you for the work that you do  
20 in keeping -- it's a tough job. It's a job that,  
21 again, I'm not trained to do, that I don't believe  
22 that I could do.

23 So I thank you for doing it.

24 And to clar -- some clarity on the address  
25 matter, 50-a wouldn't allow the addresses to be made

1 public anyway.

2 Maybe we're arguing a moot point because  
3 I brought the addresses in there.

4 But your -- I don't want your address to be  
5 made public, just like I don't want anybody else's  
6 address to be made public.

7 So I just wanted to clarify that, what that  
8 does and what that doesn't do.

9 ELIAS HUSAMUDEEN: Thank you, bro.

10 SENATOR BAILEY: And I guess a question that  
11 I would have for you is that, since you mentioned  
12 that, not only are you not in favor of repeal, you  
13 want added protections.

14 Would you be open to any modification of 50-a  
15 whatsoever?

16 ELIAS HUSAMUDEEN: Here's the reality:

17 I sat through part of the testimony before  
18 me.

19 I think that what I would like for you and  
20 your colleagues to understand, is this, and  
21 especially speaking for correction officers:

22 My members, we always feel as if everything  
23 that the lawmakers are interested, especially  
24 lately, in doing, is totally against us.

25 That's how my members feel like.



1           Most of the laws that are looking to be  
2 repealed, and all of these other type of things, are  
3 things regardless of whether it's -- they're things  
4 in there that protect us or not, we want to repeal  
5 it.

6           I mean, we want to talk about, you know, the  
7 people say Black and Brown, people of color,  
8 whatever it is.

9           65 percent of my members are people of color.

10          65 percent of my members, of my  
11 10,000 members, are people of color.

12          And -- and -- I'm sorry.

13          85 percent of my members are people of color.

14          65 percent of us live in the city, in the  
15 five boroughs.

16          And, you know, without being redundant,  
17 whatever laws you're looking to change, appeal, do  
18 over, all we're asking is that you consider, us, our  
19 safety, our security, just as much as you consider  
20 the -- the issues and concerns of the advocates who  
21 come here, and sit here, and, for the most part,  
22 "for the most part," are one-sided. Very one-sided.  
23 Very lopsided.

24          And that's our interest: We're just  
25 concerned at being at the table, and having a fair

1 say in what it is that's being determined or  
2 discussed that's going to affect our lives.

3 SENATOR BAILEY: I certainly appreciate that  
4 sentiment, and I think that's one of the main  
5 reasons why I wanted to convene this hearing,  
6 because I legitimately want to hear from people.

7 But, again, as I've said in other -- and  
8 I sound like a broken record, and I don't mean in a  
9 demeaning fashion, but, the reason why we're doing  
10 this is because, everybody, people on either side,  
11 whatever it is, they've been recalcitrant to hear  
12 what the other side has been saying.

13 We're in the same room. You got to hear what  
14 people are saying.

15 ELIAS HUSAMUDEEN: Absolutely.

16 SENATOR BAILEY: Echo chamber is an echo  
17 chamber.

18 I'm a Met fan. I think the Mets are the  
19 greatest team in the world. Right?

20 ELIAS HUSAMUDEEN: Well, me and you in the  
21 same boat. I'm a Knick [sic] fan.

22 SENATOR BAILEY: See, me too. Right?

23 ELIAS HUSAMUDEEN: You're a Met fan, I'm a  
24 Knick fan.

25 SENATOR BAILEY: So, but, look, but -- but --

1 but we're in that Knick-fan [sic] bubble, and  
2 everybody else on social media is hashtag "lol  
3 Knicks."

4 Right?

5 Everybody is laughing at the New York Knicks,  
6 and we're still standing with them.

7 I use that as a moment of levity to  
8 understand that we have to consider each other's  
9 thoughts, and we have to have conversations like  
10 this.

11 And they may get contentious, and they may --  
12 and they are difficult to have, because they are  
13 dissenting in differing world views.

14 We do different things for a living. We live  
15 in different places.

16 So, obviously, where we live, where we work,  
17 who we see, what we do, is going to shape that world  
18 view.

19 But things like this, and forums like this,  
20 are very important for me, and, to a person,  
21 I believe for all of my colleagues here, to  
22 understand exactly what it is that you're facing,  
23 and we legitimately want to hear you out.

24 Not saying we're going to agree, but we want  
25 to hear you out.

1           So that point, certainly, sir, has been heard  
2   loud and clear with you, and anybody else.

3           Does anybody have any questions?

4           Senator Rivera.

5           We've been joined by Assemblymember Niou.

6           So we're going to go to Senator Rivera,  
7   briefly.

8           SENATOR RIVERA:   Sir, thank you so much for  
9   joining us.

10          Your members work in Rikers Island?

11          ELIAS HUSAMUDEEN:   Rikers Island and the  
12   borough facilities.

13          Or what used to be Rikers Island.

14          I think today they're voting to close it.

15          So, what used to be Rikers Island.

16          SENATOR RIVERA:   Rikers Island and the  
17   borough facilities?

18          ELIAS HUSAMUDEEN:   Yes; yes, sir.

19          SENATOR RIVERA:   And the -- so the folks that  
20   you watch over are folks that have been arrested.

21          And I think, if I'm not mistaken, it's, like,  
22   70 percent of them are just been accused of a crime?

23          ELIAS HUSAMUDEEN:   85 percent of them.

24          SENATOR RIVERA:   85 percent have been accused  
25   of a crime.

1           But -- but do -- do you believe that people  
2           are innocent until proven guilty?

3           ELIAS HUSAMUDEEN:    Sure.

4           SENATOR RIVERA:    Okay.

5           So if 85 percent of the folks, because -- the  
6           reason -- the reason I'm asking is just to establish  
7           it for the record, because it -- I certainly don't  
8           want anyone who is -- does any job to be -- to be in  
9           danger.

10          But it -- it seems that, as you were -- as  
11          you were talking about this situation of your new  
12          members, it -- it -- it kind of felt like you were  
13          speaking as if you go into a -- into enemy territory  
14          every time that you go into one of these facilities.

15          And if -- I'm just trying to -- what I'm  
16          trying to figure out is, if most -- if most of the  
17          individuals --

18          ELIAS HUSAMUDEEN:    [Indiscernible  
19          cross-talking] --

20          SENATOR RIVERA:    And I'll finish in a second,  
21          to get -- to allow you to respond, sir.

22          -- the -- if most of the individuals there  
23          are being accused of a crime, and if you -- but they  
24          are not found -- they have not been found guilty, at  
25          least not yet -- right? -- then why did I get -- did

1 I get the wrong impression from what you were  
2 saying?

3 You were describing the situation of your  
4 membership as if though they go into an enemy  
5 territory every day?

6 ELIAS HUSAMUDEEN: I think that -- well, I'm  
7 not going to disagree with you, "enemy territory,"  
8 because, basically, as a correction officer, I'm  
9 walking into an area where there are 50 people who  
10 don't want to be there. I'm walking into an area  
11 where there are 50 people who are there for  
12 various -- who have been accused of various type of  
13 crimes, be it robbery, be it felony assault, be it  
14 assault in the first degree, be it nonpayment of  
15 child support.

16 At the end of the day, the environment that  
17 I work in is not kindergarten, it's not college;  
18 it's jail. And jail is not a happy place. It never  
19 has been, and it never will be.

20 So, when I am going in, I am actually being  
21 responsible for 50 people who don't want to be  
22 responsible for, who don't want to be there.

23 So, is it -- is it hostile? Is it enemy?

24 Yeah, at times it is.

25 SENATOR RIVERA: Okay.

1 ELIAS HUSAMUDEEN: Is it all the time? No.

2 But, at the end of the day, I think that it's  
3 important for you and your colleagues to understand,  
4 here's the reality:

5 The 12 people who killed Guzman, "Junior,"  
6 all of you back there want them in jail. And  
7 they're all proven innocent until proven guilty.

8 Although we watched the video, we saw what  
9 they did, you still want them in jail.

10 They either don't have a bail, or they --  
11 they either have a bail and can't make the bail, or  
12 they're remanded.

13 But the reality is, you and every New Yorker  
14 who watched that, want these 12 people in jail.

15 SENATOR RIVERA: And I would also --

16 ELIAS HUSAMUDEEN: Wait, wait --

17 SENATOR RIVERA: -- I would also --

18 ELIAS HUSAMUDEEN: -- wait.

19 Now --

20 SENATOR RIVERA: -- but I would also argue --

21 ELIAS HUSAMUDEEN: -- now -- now --

22 SENATOR RIVERA: -- [indiscernible

23 cross-talking] --

24 ELIAS HUSAMUDEEN: -- these 12 people --

25 SENATOR RIVERA: -- hold on a second.

1           ELIAS HUSAMUDEEN:  -- these 12 people who  
2 have been locked up for that particular crime come  
3 to jail where I work, and they continue to commit  
4 the same type of crimes that they've been accused  
5 of.

6           So, again, I'm just trying to get back to  
7 you --

8           SENATOR RIVERA:  Got you.

9           ELIAS HUSAMUDEEN:  -- as far as when you say  
10 "a hostile environment."

11          SENATOR RIVERA:  To respond --

12          ELIAS HUSAMUDEEN:  A hostile environment,  
13 that's where I work.

14          SENATOR RIVERA:  -- that happened in my  
15 district, to respond to that.

16          Certainly, I believe that anyone that is --  
17 that commits a crime should be held accountable.

18          ELIAS HUSAMUDEEN:  Although they're innocent  
19 until proven guilty.

20          SENATOR RIVERA:  But first of all --

21          Certainly, certainly.

22          -- but two things:

23          First:  I would argue that -- that there  
24 is -- there is a level of failure that we, as a  
25 society, have to acknowledge, these individuals did



1 not commit the crime in a vacuum.

2 Certainly, they should be held accountable  
3 for their crimes.

4 The argument that we are making,  
5 consistently, is that so should officers be held  
6 accountable for their crimes.

7 ELIAS HUSAMUDEEN: But I think --

8 SENATOR RIVERA: Sir --

9 ELIAS HUSAMUDEEN: -- I think you're going  
10 somewhere else from where you started.

11 SENATOR RIVERA: -- I'm not -- I'm not done.

12 ELIAS HUSAMUDEEN: Wait, wait, wait.

13 SENATOR RIVERA: I'm not done, sir.

14 ELIAS HUSAMUDEEN: I think you're going  
15 somewhere else from where you started.

16 I'm not debating or arguing with you, Rivera,  
17 as far as what -- what they should be held  
18 accountable for.

19 All I'm saying to you is, I'm responding to  
20 what you said --

21 SENATOR RIVERA: Yeah.

22 ELIAS HUSAMUDEEN: -- as far as the  
23 environment that Correction Officer Elias Husamudeen  
24 works in.

25 That's all I'm saying.

1           It's not the job of the correction officer to  
2 decide guilt. That's not our job.

3           SENATOR RIVERA: Okay.

4           So since my time --

5           ELIAS HUSAMUDEEN: We're there for care,  
6 custody, and control.

7           SENATOR RIVERA: -- my time will be limited,  
8 so let -- so I just want to make sure that I'm --  
9 the question -- the questions were asked, in the  
10 sense of, trying to figure out exactly how you view  
11 your responsibility as a -- as a corrections  
12 officer, and I was going to go down that road.

13          ELIAS HUSAMUDEEN: Okay.

14          SENATOR RIVERA: You turned in a different  
15 direction when you talked about these individuals  
16 that committed this crime.

17          ELIAS HUSAMUDEEN: Well, I just used them as  
18 an example --

19          SENATOR RIVERA: Sir, if I may --

20          ELIAS HUSAMUDEEN: -- so that you understand  
21 what we're working with.

22          SENATOR RIVERA: -- if I may.

23          I understand.

24          But what I'm trying to tell you, number one,  
25 as I said, I believe that everyone should be held

1 accountable for their crimes.

2 I believe that, even these individuals who  
3 committed this crime, if they get to the point where  
4 they accept and acknowledge the crime that they have  
5 committed, and through the time in the correction  
6 system actually become better people, that they  
7 eventually should be let out.

8 I believe that.

9 ELIAS HUSAMUDEEN: Okay.

10 SENATOR RIVERA: And I also believe that  
11 there's a level of responsibility that we, as a  
12 society, have to these young people, who found that  
13 they had no other choice except to join this gang.

14 And then -- I'm not taking away  
15 responsibility from them as individuals, but to  
16 acknowledge that we, as a society, also, and me  
17 personally, as somebody who works in government, has  
18 a responsibility, to make sure that we create a  
19 condition where that thing, where those individuals  
20 do not have "that." That they have better choices.

21 So that's number one.

22 ELIAS HUSAMUDEEN: Agreed.

23 SENATOR RIVERA: Number two: On the issue of  
24 the individuals -- the majority, 85 percent, you  
25 said, of the folks that are there are accused of a

1 crime.

2 And the overwhelming majority of them are not  
3 accused of the crimes that these 12 people were  
4 accused of.

5 So it is the larger -- and I don't want to  
6 get off on a tangent.

7 The core of this whole conversation, the  
8 whole core of this whole conversation is,  
9 accountability.

10 And the -- you believe, and you have stated  
11 on the record, that you do not believe that changing  
12 any part of it.

13 That if we're going to change 50-a, that we  
14 should increase the amount of protections that  
15 exist, as you called them, as opposed to either  
16 getting rid of it completely or changing parts of  
17 it, so that there's more transparency, and there  
18 could be more accountability for individuals who  
19 have histories of misconduct, as either police  
20 officers or corrections officers.

21 That is what you have stated on the record.

22 You do not believe that we need to change it  
23 to provide the level of accountability that we  
24 believe they need to have.

25 ELIAS HUSAMUDEEN: And I'm here to add, that

1 if you're going to change it, as I said before  
2 I started reading it, if you're going to change it,  
3 then it should be clear that, my members, correction  
4 officers, are considered; our safety, our security.

5 The safety of the environment that we work in  
6 should be considered if it's going to be changed, or  
7 if it's -- if there's going to be -- like, no, I'm  
8 not looking for a total repeal of this thing.

9 But if you're going to change it, don't sit  
10 here and just change it without taking correction  
11 officers, and what we do for a living, into  
12 consideration, as city workers, or as workers for  
13 our government.

14 SENATOR RIVERA: And we will do so during  
15 this process.

16 Thank you, Mr. Chairman.

17 Thank you, Mr. [indiscernible].

18 SENATOR BAILEY: Thank you, Senator Rivera.  
19 Senator Hoylman.

20 SENATOR HOYLMAN: Yes, good afternoon.

21 It struck me that you said that the cause to  
22 repeal 50-a is primarily being generated by  
23 criminal-justice advocates.

24 That's what you said in your testimony.

25 I just wanted to point out, sir, that there

1 is a widespread coalition, here, and elsewhere  
2 throughout the city and state, that supports the  
3 repeal of 50-a, including organized labor; good  
4 government groups, like Citizens Union and  
5 The Committee on Open Government; legal-service  
6 providers, like Brooklyn Defenders, New York County  
7 Defenders, Legal Aid Society, Bronx Defenders; legal  
8 experts from the New York City Bar that have issued  
9 a memo in support; newspaper publishers, as  
10 represented by the New York News Publishers  
11 Association; LGBT groups, and women's groups, who  
12 are here today, the Transgender Law Center and  
13 Girls for Gender Equity; civil liberties groups,  
14 like the New York Civil Liberties Union.

15 So I think what I'd like just to impress upon  
16 you, sir, is that this issue is more than just about  
17 the jobs of your members.

18 It goes to the essence of our democracy, and  
19 living in an open society, and the need to have  
20 public officers, no matter where they serve,  
21 accountable to the public.

22 So I would urge you to broaden your  
23 perspective, and think about, today, as we live in a  
24 nation where people of privilege, who hold high  
25 government offices, say they're above the law, that

1 we can't stand for that.

2 And we, as public officials, all have to be  
3 subject to it.

4 ELIAS HUSAMUDEEN: Senator, let me say this  
5 to you:

6 I don't need to broaden my perspective.

7 I clearly understand what I said, and what  
8 I meant.

9 As far as you, and anyone else, sitting  
10 around and making decisions about the job that I do,  
11 of course, as lawmakers, you have that right.

12 All I am asking is that, if you're going to  
13 make rules and make laws concerning the job that  
14 I do, because you need to understand that, every day  
15 that I put on my uniform, that I, "I," risk my life.

16 That's not every job.

17 Every job that everyone does doesn't have  
18 those type of dire consequences.

19 The other thing is, you're talking to someone  
20 who understands this completely.

21 I am one of seven.

22 One of seven.

23 I have five brothers who have been on and off  
24 Rikers Island for the last 20 years.

25 I have a sister who just came home from doing

1 5 1/2 for attempted murder.

2 I have a sister who is a correction officer.

3 I have a son who is a correction officer.

4 I have a nephew who is a correction officer.

5 So you're not talking to someone who don't  
6 understand this from both sides, because, at the end  
7 of the day, I don't want my mother to get a call for  
8 the ones on this side or on that side.

9 So my -- my perspective? I don't think it  
10 gets any broader.

11 My perspective doesn't get any broader.

12 And all the people that you name who are  
13 interested in repealing this particular law, again,  
14 I'm saying to you, I understand what I said in my  
15 testimony, but I also understand what I said in the  
16 beginning.

17 If you're going to repeal, if you're going to  
18 do anything with this, then you make sure that you  
19 do it with the thought of New York City correction  
20 officers in mind, because it's very important.

21 We put our lives on the line every day.

22 And I will not allow anybody to marginalize  
23 what we do as if what we do is something that  
24 everybody does every day.

25 It's not.



1           SENATOR HOYLMAN:  And that's, I think, why  
2           the chair has you here, and why we're eager to hear  
3           your testimony.

4           ELIAS HUSAMUDEEN:  I'm simply responding to  
5           you --

6           SENATOR HOYLMAN:  And I appreciate --

7           ELIAS HUSAMUDEEN:  -- saying that I have to  
8           broaden my horizon.

9           SENATOR HOYLMAN:  Well, I was -- I was only  
10          trying to --

11          ELIAS HUSAMUDEEN:  I just want you to  
12          understand I'm sitting before you.

13          SENATOR HOYLMAN:  -- I was only trying to  
14          correct your statement, that this is the -- the  
15          interest in this is only around, as you put it,  
16          criminal-justice advocates.

17          I would -- I would argue --

18          ELIAS HUSAMUDEEN:  I didn't say criminal  
19          justice.

20          I said "advocates," which I would assume  
21          would have covered everybody that you named.

22          I never said criminal-justice advocates.

23          SENATOR HOYLMAN:  Okay.  Well --

24          ELIAS HUSAMUDEEN:  I said "advocates."

25          SENATOR HOYLMAN:  -- I wrote it down as such.

1           But, nevertheless, then I am glad we agree,  
2           sir.

3           Appreciate your service, and look forward to  
4           hearing more from you as my colleagues continue to  
5           ask you questions.

6           Thank you, sir.

7           ELIAS HUSAMUDEEN: Thank you.

8           SENATOR BAILEY: Thank you, Senator Hoylman.  
9           Senator Myrie.

10          SENATOR MYRIE: Thank you, Mr. Chair.

11          And thank you, Elias, for your testimony  
12          today, and thank you for your service.

13          And thank you to your members for their  
14          service as well.

15          I want to focus on one thing you said in your  
16          testimony, and you said, we should consider, when  
17          people are released, to have their information and  
18          their past histories made public, so that the  
19          neighborhoods that they're returning to should be  
20          made aware.

21          Now, is that because, is it your position,  
22          that someone who has committed a crime in the past  
23          is more likely to commit that crime in the future?

24          ELIAS HUSAMUDEEN: No.

25          The reason --

1 First of all, happy birthday.

2 [Laughter.]

3 SENATOR MYRIE: Thank you.

4 ELIAS HUSAMUDEEN: The reason -- the reason  
5 I said that, was to make a point, and here's the  
6 point:

7 If we're talking about repealing 50-a, if  
8 we're talking about making correction officers'  
9 personnel records and making correction officers'  
10 history of, whether it's a use of force, good or  
11 bad, making that available, we're talking about  
12 doing that -- what? -- to protect the public, to  
13 protect inmates, to protect the people.

14 So, I simply put that in there to say, if  
15 we're that concerned about the public, about the  
16 people, then the guy that just came home for rape,  
17 attempted murder, assault, let's make his  
18 information just as available.

19 That's the reason I put it in there.

20 That's the reason -- I'm saying, let's be  
21 fair across the board.

22 Let's just not look at correction officers,  
23 police officers, and others, and act as if we are  
24 some type of -- you know, like we're over here by  
25 ourselves.

1           That's the reason I put that in there.

2           Let's just be fair.

3           I mean, when my brother come home, if he come  
4 home because he did time for robbery, then let's let  
5 their whole neighborhood know that he did time for  
6 robbery.

7           You're going to let the whole neighborhood  
8 know that I'm a correction officer, and I had a bad  
9 day, I had a bad use of force, so I did something  
10 wrong.

11           You're going to let the neighborhood know.

12           Let's let the neighborhood know everybody.

13           Let's let the village know everybody that's  
14 in the village.

15           That's the reason I put that in there.

16           SENATOR MYRIE: So here's why I ask, you  
17 know, and I brought this up with SBA earlier:

18           If a victim of an illegal assault, or some  
19 crime perpetrated against them, is unable to get the  
20 history of this public official, someone who is paid  
21 for by the taxpayer dollar, what then prevents this  
22 person from perpetrating that misconduct, going  
23 forward?

24           Let me be more specific.

25           Don't you think that someone who has been a

1 victim of an assault by a CO --

2 And I'm going put it out there and say, that  
3 the overwhelming majority of our correction officers  
4 are in a hostile environment. It is different, in  
5 kind, I think, than what RPD faces because of the  
6 environment.

7 -- but in the event that they have  
8 perpetrated an assault, or something illegal against  
9 a victim, what rationale is there -- if we're trying  
10 to determine the culpability, that person's guilt,  
11 what rationale is there for us not to know whether  
12 they have done this in the past?

13 ELIAS HUSAMUDEEN: I was here a little  
14 earlier when somebody was going back and forth with  
15 Lou Matarazzo.

16 I'm -- like you, I'm not a lawyer, but, I've  
17 been a correction officer for 31 years.

18 And I do know that, when a correction officer  
19 is accused of violating the use-of-force policy, or  
20 accused of using excessive force or unnecessary  
21 force, you, as well as I do, know that correction  
22 officers have been arrested.

23 And that correction officer, just like  
24 everyone else who is arrested, is innocent until  
25 proven guilty.

1           They go through the court process of their  
2 lawyer requesting this document, that document, and  
3 different things of that nature.

4           I was under the impression that this is  
5 something that still happens in court.

6           I was under the impression that the district  
7 attorney and -- you know, they're still able to  
8 request people's records -- prior records, and prior  
9 records as far as whether they have prior bad use of  
10 force or good use of force.

11           So I don't know where that right of the  
12 courts went.

13           And, at the end of the day, here's the  
14 reality:

15           When that officer -- that correction officer  
16 gets his or her chance in court, and, whoever it is  
17 that he or she has been accused of violating gets  
18 his or her chance in court, I'm -- honestly,  
19 Senator, I'm missing something as far as that whole  
20 process is concerned, because I do believe that they  
21 get the opportunity to know whether -- well, I've  
22 got to tell you, unlike anybody else, I know that  
23 the New York City Department of Corrections provides  
24 this information even when they're not asked for it.

25           But, at the end of the day, I just thought

1 that that was still a part of the process as far as  
2 our criminal justice system is concerned.

3 SENATOR MYRIE: Well, I think that's what  
4 we're trying to discuss today, and this is the  
5 principle of the law, and I'll end on this, because  
6 I've also had experiences where clients have been  
7 assaulted by correction officers. And we were not  
8 able to have access to the disciplinary history of  
9 that person because of 50-a.

10 And so what we're asking is for the  
11 transparency to adjudicate the process.

12 We're not -- we're not saying that you should  
13 not go through a trial and that you should not have  
14 a fair hearing.

15 But if there has been a finding that there  
16 has been misconduct on the -- on the -- on behalf of  
17 the CO, then the person who has been allegedly  
18 assaulted by that person should have access to that  
19 record.

20 It is not to put people on BLAST.

21 It's not to make people more vulnerable.

22 This is, just like we always bring up victims  
23 in our criminal-justice discussion, this is about  
24 someone who has had something perpetrated against  
25 them, trying to get to the root of what happened.

1           ELIAS HUSAMUDEEN: Help me -- help me out  
2 here. Help me out.

3           You're saying that, I, Correction  
4 Officer Husamudeen, used excessive force on  
5 Inmate Brown.

6           What you want is, what?

7           SENATOR MYRIE: So if you used excessive  
8 force on Mr. Brown, and then you, allegedly, use  
9 excessive force on me, what I want to know, when  
10 we're going through the process -- right? -- because  
11 I have accused you in a complaint, all that good  
12 stuff, we're going through the process, what I want  
13 to know is, have you assaulted people like me in the  
14 past?

15           That's what this is about, so that we can  
16 figure out whether that you have a propensity to do  
17 this.

18           It's not to put you on BLAST.

19           It's not to embarrass you.

20           It's not to say you don't sacrifice for the  
21 community.

22           It's to say, I had something, an injustice  
23 done to me, and I just want to know if this person  
24 who was in this position of power has done it in the  
25 past.



1           ELIAS HUSAMUDEEN:  And here's what the  
2           concern of a lot of law-enforcement officers are,  
3           including correction officers, when we're talking  
4           about what you're saying:

5           I, Correction Officer Husamudeen, have been a  
6           correction officer 30 years.  And in my 30 years  
7           I've had, let's just say, 10 use of force, maybe  
8           even more, especially depending on where I work in  
9           the jail.

10          Most of our concern is --

11          And I don't know how the lawmakers can help  
12          make this help correction officers.

13          You know what most of our -- and I'm just  
14          being straight, genuinely.

15          You know what most our concern is?

16          Most of our concern is, is that you're going  
17          to take my record, and, totally, even if it's not  
18          fair, use that to destroy my career, or to destroy  
19          my life.

20          That's most of our concern.

21          My question to you would be:  How is it --  
22          how can you, as lawmakers, help us in a situation  
23          where, here, it's all available, and in my 30 years,  
24          out of my 10 use of forces, I've had two that were  
25          bad.  But -- and not even, for lack of a better --

1 not even insanelly bad, but, bad, or, outside of what  
2 the rules say.

3 Now, I, as a correction officer, have to sit  
4 here and wonder whether or not, although, out of my  
5 30 years, my 30 years have been shining, my 30 years  
6 have been exemplary, my 30 years have been good, now  
7 I am here, and I'm going to be facing, not just  
8 losing my job, but maybe even doing time on  
9 something that most, most times, I had a split  
10 second to make a decision on.

11 And, I mean, brother, listen, ya'll have to  
12 understand something.

13 You guys -- I don't know want to say you.

14 You guys are never going to get it.

15 There's certain parts of our job, our duty,  
16 and what we do, that you're never going to get,  
17 because most of you have never been in a fight.

18 Do you understand that we have, like,  
19 3,000 fights, we have a 1,000 fights, a day, that  
20 we're -- correction officers involved in?

21 And we're not -- Senator, we're not asking  
22 for it.

23 This is just something that, every day,  
24 happens, and we have to make these decisions.

25 And then we have to be judged, based on how

1 many times we made the decision to use it or not to  
2 use it, or if we went over.

3 If you're going to consider repealing, if  
4 you're going to consider making rules that's going  
5 to affect me and what I do, damn, can I be at the  
6 table?

7 I'm sorry.

8 SENATOR MYRIE: I'm going to yield to my  
9 colleagues, but I appreciate your candor.

10 Thank you.

11 SENATOR BAILEY: Just to respond to that,  
12 without getting myself in trouble, I grew up in  
13 The Bronx.

14 [Laughter.]

15 SENATOR BAILEY: So, like, I -- I don't --  
16 I -- I'm -- I --

17 ELIAS HUSAMUDEEN: If I take a tally, it  
18 might be three.

19 SENATOR BAILEY: I grew up in The Bronx.

20 ELIAS HUSAMUDEEN: Because I grew up in  
21 Harlem, and maybe I had one fight.

22 Most of the people who grew up in Harlem  
23 didn't have fights.

24 It's, like, most of our inmates don't give us  
25 problems.

1           It's, like, most correction officers do the  
2 right thing.

3           But it's not the "most" that we're talking  
4 about.

5           We're talking about the one.

6           SENATOR BAILEY: And we have to legislate for  
7 the many instead of the few, because the few don't  
8 give us the problem, because, the many, they do the  
9 right thing.

10          ELIAS HUSAMUDEEN: Yes.

11          SENATOR BAILEY: By and large, you do the  
12 right thing.

13          But the few, "the few," 10 percent of the  
14 crime, 10 percent of the crime is committed by  
15 10 percent of the people.

16          The few.

17          ELIAS HUSAMUDEEN: And here's the problem:  
18 We don't want you painting with a broad  
19 brush.

20          We don't want you trying to catch the few,  
21 and putting your net out there and getting all of  
22 us, when we don't -- all of us don't belong in  
23 there.

24          And that's some of our fear when it comes to  
25 dealing with lawmakers.

1 I mean, look, I -- look, I lived in Harlem  
2 most of my life. I was raised in Harlem.

3 Have I been stopped by police officers?

4 Hell, yeah.

5 I'm 59 years old, I'm the president of the  
6 Correction Officers' Union, and I still get pulled  
7 over.

8 But at the end of the day, if you want to  
9 deal with the few, then let's figure out a way we  
10 can deal with the few without taking this brush and  
11 painting this picture as if we all are guilty of  
12 doing what the few may be guilty of.

13 SENATOR BAILEY: I don't think anybody would  
14 disagree with that -- with that statement.

15 I just I just think about, in error,  
16 Patrick Dorismond. Right?

17 I think about how I know his name, and how  
18 his records were released. And after he was killed,  
19 like, I remember that growing up.

20 I remember Anthony Baez.

21 I remember Diallo.

22 ELIAS HUSAMUDEEN: Eleanor Bumpurs.

23 I mean, we could go through the list.

24 We could do that all day --

25 SENATOR BAILEY: Absolutely.

1           ELIAS HUSAMUDEEN:  -- we would go through the  
2 list.

3           But at the end of the day, if we're going to  
4 make laws, let's make laws that's really just.

5           Let's make -- because, see, here's the  
6 reality, and -- and -- and I know, you know, my guys  
7 would be, like, listen, you're talking too much.

8           Here's the reality for me:

9           You know, I'm a Black man.  And it used to be  
10 against the law for my people to know how to read.

11           And it was legal.  It was right, it was good.

12           So I'm saying that to say, the law ain't  
13 always right.

14           But let's try to get it, since all of you  
15 guys are lawmakers, if you're going to make laws  
16 concerning correction officers, if you're going to  
17 make laws concerning law-enforcement officers, let's  
18 try to get it right.

19           Let's try to get it as right as we possibly  
20 can, so that my guys -- 65 percent -- do you know  
21 that 55 percent of my 11,000 correction officers are  
22 women?  Mothers, aunties, grandmothers.

23           I just don't want my people to be painted  
24 with no broad brush.

25           And we're not here trying to cover for

1 someone who wants to break the law, whether they're  
2 a correction officer or not.

3 Whether they're a correction officer or not,  
4 if you did wrong, then you should be subjected to  
5 whatever it is the law says you should be subjected  
6 to. We're not opposing that.

7 We're not opposing that.

8 But all we're saying is, with this 50-a,  
9 if -- if -- if you're going to change it, let's --  
10 let's just -- let's just -- let's put as much  
11 protection in there, or keep as much protection in  
12 there, for correction officers and law-enforcement  
13 officers as we can.

14 SENATOR BAILEY: Thank you.

15 Senator Benjamin.

16 SENATOR BENJAMIN: I'm not going to get into  
17 how many fights I did or did not have.

18 I will promise you it was more than three,  
19 but my mom might see this, so I don't want to get  
20 into the specifics.

21 But, let me -- let me ask you a couple  
22 questions.

23 I want to take step back for a second.

24 One, let's start off with this: How many of  
25 your officers, of the 11,000, you would say have

1 disciplinary records, percentage-wise.

2 ELIAS HUSAMUDEEN: Out of my 11,000,  
3 honestly, probably less than 1 percent.

4 SENATOR BENJAMIN: Less than one --

5 ELIAS HUSAMUDEEN: Maybe less than -- less  
6 than one -- less -- believe it or not, it's not a  
7 lot.

8 SENATOR BENJAMIN: It's small.

9 I assume you would say it's small.

10 ELIAS HUSAMUDEEN: I'm not just saying it's  
11 small. I mean, I'll get you the numbers and send it  
12 to you. But, at the end of the day, it's small.

13 SENATOR BENJAMIN: But it's less than  
14 1 percent. Right?

15 So the population that you're -- that we're  
16 talking about here, in terms of when we talk about  
17 repealing 50-a, it's -- the impact is really to less  
18 than 1 percent of your membership -- right? -- in  
19 terms of the implications of that information being  
20 made available to the public.

21 Is that correct? Or do you --

22 ELIAS HUSAMUDEEN: Well, here's the thing:

23 You know, it's still going to affect the  
24 other 99 percent --

25 SENATOR BENJAMIN: Why --



1           ELIAS HUSAMUDEEN:  -- because we're going to  
2 be subjected -- look, we're going to be subjected to  
3 whatever this rule is.

4           I, as the good officer, who is not a part of  
5 the 1 percent, or less than 1 percent, will still be  
6 judged the same way by the same rules.

7           See, you have to -- honestly, Senator, you  
8 have to understand the mindset that you're dealing  
9 with when you're talking to us.

10          You have to understand the mindset.

11          And the reality is, is that, in the  
12 department of corrections, they come up with all of  
13 these different type of rules and directives and  
14 operational orders.

15          And these things end up having a negative  
16 effect on a good officer; on an officer who did his  
17 or her 20 years, and did everything that was right.

18          But because we have this new rule, you have  
19 to do -- it's basically what I said earlier, you  
20 know, it's this broad brush that ends up being  
21 painted.

22          SENATOR BENJAMIN:  So -- I'm sorry.

23          So how much time do I have, Senator Bailey?

24          I don't want to over-ask questions.

25          SENATOR BAILEY:  Senator Benjamin, you know,

1 we -- we want to make sure that -- you know, look,  
2 I'm just going to let you know, like, you can stay  
3 here.

4 SENATOR BENJAMIN: Okay, I got it.

5 SENATOR BAILEY: But the air and the lights  
6 might not be here.

7 SENATOR BENJAMIN: I got it, I got it.

8 So -- so -- no, because I think -- let's go  
9 back -- because I want to go back to the 1 percent.

10 So less than 1 percent, in my opinion -- and  
11 I'm not an expert on 50-a -- I know less than  
12 1 percent is actually -- would actually be impacted  
13 by this repeal, if there was a full repeal, because  
14 less than 1 percent of your members actually have  
15 disciplinary records.

16 I mean, that's what Senator Myrie was just  
17 talking about, the inability to get these records.

18 But it would apply to less than 1 percent of  
19 your 11,000.

20 I mean, do you -- is that -- am I -- I just  
21 want to make sure I'm -- I'm -- I'm getting that  
22 right.

23 Is that right?

24 ELIAS HUSAMUDEEN: Yeah, I'm sorry, I told  
25 you less than 1 percent.

1           SENATOR BENJAMIN:   Okay.

2           ELIAS HUSAMUDEEN:   But go ahead, keep going  
3 with the 1 percent.

4           SENATOR BENJAMIN:   So, therefore, your  
5 response is that, the other 99 percent is impacted  
6 because, just the fact that the less than 1 percent  
7 information is made available to the public, the  
8 other 99 percent is painted with a brush of the less  
9 than 1 percent?

10          ELIAS HUSAMUDEEN:   See, here we go again.  
11 Right?

12          SENATOR BENJAMIN:   That's a question.   That  
13 was not a statement.

14          ELIAS HUSAMUDEEN:   Here we go again.

15                 I'm still trying to figure out, why, when a  
16 correction officer or a police officer, or whoever,  
17 is arrested for using excessive force, or whatever  
18 it is, why the other people at the other table  
19 cannot ascertain his or her records.

20                 I'm just finding that -- I'm just not  
21 understanding that at all.

22          SENATOR BENJAMIN:   So you're --

23          ELIAS HUSAMUDEEN:   Again, I can't speak for  
24 the other agencies or the other unions, but I have  
25 to say, for mine's, I know, dealing with OATH (the

1 office of trials and hearings), I know that our  
2 records are made available.

3 I know they are.

4 And what we're saying is, we're concerned  
5 about a personnel record. We're concerned about the  
6 other type of information that is available.

7 Look, as a New York City correction officer,  
8 I'm really, really concerned.

9 Of our 7500 inmates, about 2300 of them are  
10 known gang members.

11 "Known." Known gang members.

12 And, again, we are very -- we don't want our  
13 information out there.

14 And, again, just to go back to the --  
15 I forgot which one -- I think it was Senator Myrie  
16 that I was talking about, the reality is, is that  
17 those officers who violate are few and far and in  
18 between.

19 And I don't know, but, just speaking as the  
20 president of my union, I know that my guys are  
21 arrested. I know they are. And I know that their  
22 records are made available.

23 I know their records are made available.

24 So, I'm kind of trying to figure out where  
25 we're coming from if their records not made

1 available.

2 SENATOR BENJAMIN: Well, you're saying  
3 they're made available.

4 They're not made available to the public.

5 ELIAS HUSAMUDEEN: Well, if they're made  
6 available to the Court, to the DA, and to the jury,  
7 I mean that's damn -- isn't that the public?

8 SENATOR BENJAMIN: So let me ask you -- let  
9 me ask you a question.

10 So you've got 11,000 members. Less than  
11 1 percent, to your point, have made mistakes.

12 What is the process?

13 Because I'm not sure I'm clear on this.

14 What is -- so let's assume I am an inmate,  
15 and a correctional officer does something to me  
16 that's misconduct.

17 What is the process by which I am able to get  
18 that information, to get to the point where someone  
19 can get arrested, et cetera?

20 How does that all work?

21 ELIAS HUSAMUDEEN: Well, New York City  
22 Correction is -- we have more oversight units,  
23 agencies, than probably any agency in the freaking  
24 city, besides the fact that we have 12,000 cameras  
25 throughout our jails, and there's not an area of the

1 jail where there isn't a camera.

2 If an officer is accused of violating, we  
3 have so many different -- we have the investigation  
4 division, they're looking at it.

5 We have the inspector general, he's looking  
6 at it.

7 We have the board of corrections, they're  
8 looking at it.

9 We have people over here in the city council,  
10 they're looking at it.

11 So it's -- the information is there.

12 As far as corrections is concerned, we don't  
13 have -- I don't -- we don't have any secrets when it  
14 comes to what we do, good or bad, despite what  
15 people may come to these microphones and say.

16 SENATOR BENJAMIN: Got it.

17 So, just in closing, your basic position is  
18 that, the correctional officers should not be in  
19 this legislation?

20 Or, do you -- or do you think that there may  
21 be some things within 50-a that are not that bad,  
22 and so, if you want to make that public, fine?

23 Or -- or -- where are you on -- in terms of  
24 what you care the most about within 50-a, and versus  
25 what you don't?

1 ELIAS HUSAMUDEEN: I don't want to misquote  
2 Senator Bailey.

3 Can you say what you said a little bit  
4 earlier, about change?

5 You said two things about change.

6 SENATOR BAILEY: You can either be changed --  
7 you can either change with the times or be changed  
8 by them.

9 ELIAS HUSAMUDEEN: That's my answer.

10 The reality is, is that -- the reality is, is  
11 that if a change --

12 SENATOR BENJAMIN: That's a non-answer.

13 ELIAS HUSAMUDEEN: -- if change is  
14 inevitable --

15 SENATOR BENJAMIN: Yep?

16 ELIAS HUSAMUDEEN: -- then we -- look,  
17 I don't want to sound like a broken record.

18 If change is inevitable, then we want to  
19 ensure that the change takes our safety, our  
20 security, and what we do for a living, into account,  
21 and that it's a part of this change --

22 SENATOR BENJAMIN: But that's why I'm asking  
23 you the question specifically.

24 ELIAS HUSAMUDEEN: -- if you're telling me  
25 that this is going to happen.

1           SENATOR BENJAMIN:  You're saying what I'm  
2           thinking.  Right?

3           So that's why I'm --

4           ELIAS HUSAMUDEEN:  I'm not that good.

5           SENATOR BENJAMIN:  -- well, that's why I'm  
6           asking you.

7           Senator Bailey has brought you here, and  
8           we're all sitting here.

9           And so the thought is, you know better than  
10          me about the safety and security of your members.

11          And so my question to you, in terms of the  
12          safety and security of your members, as it relates  
13          to 50-a, is:  Are there parts of 50-a that are much  
14          more impactful than others?

15          And if your argument is, no, or, you want to  
16          give me a speech about something else, then you're  
17          not really being helpful, in my opinion, because  
18          that is, ultimately, what we're trying to figure  
19          out.

20          What do you care about more with the 50-a  
21          versus not?

22          ELIAS HUSAMUDEEN:  I care that if 50-a is  
23          going to be appealed --

24          SENATOR BENJAMIN:  Or changed.

25          ELIAS HUSAMUDEEN:  -- or changed, that,



1 again, I'm saying the same thing: That correction  
2 officers, and what we do for a living, is taken into  
3 consideration, as far as our safety and our security  
4 is concerned, and what we do.

5 SENATOR BENJAMIN: So your argument is --

6 [Cross-talking] --

7 ELIAS HUSAMUDEEN: It may not be the answer  
8 that you're looking for, but that's the answer  
9 you're getting.

10 SENATOR BENJAMIN: -- well -- no -- well,  
11 I'm --

12 Okay. I'm sorry.

13 I'm not going to get confrontational.

14 No, what I'm say is -- that's fine.

15 What you're ultimately saying is, do whatever  
16 you want, but just keep us in mind.

17 That's what you're saying.

18 I'm asking you to say --

19 ELIAS HUSAMUDEEN: No, I'm not saying do  
20 whatever you want.

21 I'm saying, whatever you do, make sure that,  
22 as lawmakers --

23 SENATOR BENJAMIN: I got it.

24 ELIAS HUSAMUDEEN: -- that you are not as  
25 more -- more concerned about the other half than you

1 are about this half.

2 Be concerned about the whole, equally, is  
3 basically what I'm saying.

4 SENATOR BENJAMIN: Got you.

5 Well, I think -- I think we're doing that.

6 I think that's why you're here, and why  
7 I've -- I think I've probably asked you the same  
8 question three times.

9 And I get that you don't want to answer it.

10 That's fine.

11 I yield the rest of my time.

12 SENATOR BAILEY: Thank you, Senator Benjamin.

13 To close, Senator Salazar.

14 SENATOR SALAZAR: Thank you.

15 And thank you for your testimony.

16 As you mentioned, and as we know, city  
17 corrections officers, their disciplinary cases are  
18 already publically available.

19 We haven't seen evidence that -- of any  
20 correlation between the availability of those  
21 records and increased risk or violence against  
22 corrections officers, a direct correlation between  
23 the availability of those cases and risk for  
24 officers -- for corrections officers.

25 Why should police officers, who currently

1 are -- their records are shielded by 50-a, why  
2 should they be privileged over your members, since  
3 50-a is currently used to keep their records  
4 [indiscernible] secret?

5 ELIAS HUSAMUDEEN: I don't think any anybody  
6 should be privileged over my members.

7 SENATOR SALAZAR: Got it.

8 Thank you.

9 ELIAS HUSAMUDEEN: Thank you.

10 SENATOR JACKSON: Let me thank you for your  
11 testimony.

12 With that, we'll move to the next panel.

13 ELIAS HUSAMUDEEN: Thank you.

14 SENATOR JACKSON: The next individual is  
15 Gabrielle Seay from 1199 SEIU.

16 Welcome.

17 GABRIELLE SEAY: Thank you for having me.

18 SENATOR JACKSON: Just give your name and  
19 title, and you may begin your presentation,  
20 five-minute time limit, if you don't mind.

21 GABRIELLE SEAY: Sure.

22 My name is Gabby Seay. I'm the political  
23 director for 1199 SEIU, United Healthcare Workers  
24 East.

25 And thank you for having us here today, and

1 thank you for convening this very important panel.

2 Ramarley Graham, Delrawn Small, Sean Bell,  
3 Akai Gurley, Patrick Dorismond, all these names have  
4 something in common: Not only were these unarmed  
5 men killed by members of the New York City Police  
6 Department, but they are also a part of the larger  
7 1199 SEIU family.

8 And on behalf that family of  
9 450,000 health-care workers, half of which are  
10 in New York State, we're here to support the repeal  
11 of Bill 3695 to repeal 50-a, which has been  
12 interpreted broadly to completely shield  
13 disciplinary records from public scrutiny.

14 Let's talk about why this law was created in  
15 the first place.

16 In 1976, the New York State Legislature  
17 passed 50-a, out of concern that defense attorneys  
18 were gaining access to unsubstantiated claims in  
19 order to impeach police officers on the witness  
20 stand.

21 Subsequently, court decisions and local  
22 governments have repeatedly broadened the  
23 interpretation of this law, holding that it prevents  
24 any public disclosure of substantiated allegations,  
25 even though disciplinary actions taken by public

1 bodies, like the CCRB.

2 As "The New York Times" wrote in 2015: The  
3 law now gives, quote, the public far less access to  
4 information about police officers than workers in,  
5 virtually, any other public agency, despite the  
6 power that police officers have over the lives of  
7 New Yorkers."

8 Only one other state has laws as restrictive.

9 And as the New York City Bar Association  
10 states: There's no evidence, no evidence, that  
11 officers in those 48 other states are any less safe,  
12 or any less capable of testifying in court to defend  
13 their conduct of police officers -- than police  
14 officers in New York State.

15 Our union approaches this issue in two ways.

16 First: We approach it as an organization  
17 largely comprised of people of color who have been  
18 historically and systemically over-policed and  
19 routinely experience discriminatory policing,  
20 including police violence.

21 Our members and their families, some of whom  
22 you heard from this morning, have experienced police  
23 harassment, assault, and even killed by members of  
24 the police department.

25 The struggles our members have faced just to

1 find out what, if any, disciplinary charges were  
2 pursued against officers involved in their loved  
3 ones' killing is a struggle that no family  
4 especially one that is grieving, should have to  
5 endure.

6 We also approach it as a labor union which  
7 fully supports every worker's rights to due process  
8 and employer discipline, full stop.

9 But we're also a labor union who represents  
10 many workers whose disciplinary records are subject  
11 to far greater transparency than 50-a applies to  
12 police records.

13 For example, if you're a nurse, a registered  
14 nurse or a licensed practical nurse, the state  
15 department of education publishes a monthly summary  
16 of online actions of professional misconduct and  
17 discipline, including the registered nurse's name,  
18 their license number, a summary of the charges, and  
19 the regis actions.

20 Individual certified nurse, home health, and  
21 public care -- personnel-care aides can be searched  
22 by name in the state's registry, which includes  
23 administrative findings of misconduct.

24 Enforcement actions taken against individual  
25 workers by the New York State Attorney General's

1 Office of Medicaid Fraud and Control, which is  
2 charged by the federal government to enforce quality  
3 standards in nursing homes, are also publicly  
4 available.

5 And just to put a finer point on it,  
6 Constance, the mother of Ramarley Graham, who we  
7 heard from this morning, is a nursing home worker  
8 represented by 1199.

9 If there's misconduct, if she performs any  
10 misconduct, her records are immediately made public,  
11 but not the officer who killed her son.

12 This information is available to the public  
13 because of the position that health-care  
14 providers -- for the position of trust that  
15 health-care providers play in our communities,  
16 because we care for the sick and the vulnerable.

17 Police officers, armed, and given the power  
18 to arrest, certainly hold no less of a position of  
19 trust.

20 And for these reasons we encourage and urge  
21 the legislature to repeal 50-a, and improve police  
22 accountability and transparency.

23 Thank you.

24 SENATOR BAILEY: Thank you.

25 Is this -- all right.

1 Thank you, Gabby.

2 I appreciate your -- your -- your patience in  
3 waiting. I know the testimony has been  
4 flip-flopping.

5 And I appreciate you testifying, and drawing  
6 that interesting -- that very good parallel, because  
7 I know Ms. Malcolm, and I know that she was an 1199  
8 member. But I think that served as a good -- good  
9 piece of context, to understand that, you're in the  
10 same universe.

11 And if one of us does something, everybody  
12 knows what happens.

13 But if somebody else does something to that  
14 individual, nobody can find out.

15 I think it has to be bigger than simply just  
16 officers or correction officers or firefighters.

17 I think we have to look at it, my mom always  
18 told me, Don't do something to somebody that you  
19 wouldn't want done to you.

20 It comes back to -- to -- to rules of -- of  
21 basic decency.

22 But I guess I would just have one question  
23 for you --

24 GABRIELLE SEAY: Sure.

25 SENATOR BAILEY: -- concerning 1199's



1 position on it.

2 Your belief is a full repeal as opposed to  
3 a -- as opposed to a partial repeal?

4 GABRIELLE SEAY: Correct.

5 SENATOR BAILEY: Okay.

6 You mentioned that folks like Ms. Malcolm are  
7 subject to their records being exposed if they  
8 commit misconduct that's substantiated.

9 Do you believe that, in that situation,  
10 that -- I'm not saying Ms. Malcolm does -- but if  
11 somebody in the -- similarly situated to  
12 Ms. Malcolm, if they did something that was  
13 substantiated, should their records be released even  
14 if they are a public employee?

15 GABRIELLE SEAY: So, first, just a point of  
16 clarification, many health-care workers are not  
17 public workers. In fact, most health-care workers  
18 are not public workers.

19 And so there is an extra layer of scrutiny  
20 against health-care workers, whether you work for a  
21 public hospital, a private hospital; whether you're  
22 a home health-care aide; whether you work in a  
23 nursing home; whether you're a janitor at  
24 Montefiore Hospital.

25 Because you are in a position of trust,

1       there's a higher level of accountability, and our  
2       workers understand that.

3               They understand that, because of the  
4       position, because they are trusted, because they are  
5       a person that a person comes to you when they are in  
6       their highest moment of need. If you're in need of  
7       medical care and you need someone else to provide  
8       it, that's a very vulnerable position of being in.

9               And so we understand that some misconduct is  
10       made public, and it's not -- it's automatic.

11              We don't have to go to a judge. There isn't  
12       a district attorney. There isn't anyone that says  
13       yes or no.

14              It is automatically made that way, because of  
15       the position of trust that caregivers have in our  
16       communities, and should continue to have.

17              SENATOR BAILEY: That's very fair.

18              Senator Jackson.

19              SENATOR JACKSON: So thank you for coming in  
20       and giving testimony.

21              Did you sit through testimony of other  
22       individuals earlier, where questions were asked  
23       and -- about the records, and I believe the response  
24       was, that they could to go court and request a judge  
25       to view the records to determine, if, in fact, those

1 records should be put into court regarding any  
2 allegations like that.

3 What do you think about that?

4 I mean, that is the process now.

5 And we heard a response that, if -- I think  
6 one of our colleagues asked, and the response was,  
7 he asked, every time a judge makes a decision that  
8 goes against the police, it's automatically -- not  
9 automatically -- the police department, or whoever  
10 involved, appeals it.

11 GABRIELLE SEAY: Right.

12 SENATOR JACKSON: And I've said to people, as  
13 far as education, sometimes you got to go the  
14 distance to prove your point.

15 So what do you think about, is that  
16 sufficient, in your opinion as a political action  
17 director for 1199, that a judge will make a final  
18 determination of whether or not records regarding  
19 someone's history of, let's say, violence against  
20 individuals should be released or not given?

21 GABRIELLE SEAY: Well, sir, we're here in  
22 support of the repeal of 50-a.

23 And so I think I answered the question, that  
24 we don't believe that an individual judge. We  
25 believe in -- should -- should make that

1 determination.

2 We believe that we should make laws that  
3 benefit the public good, and greater transparency  
4 for people who are in positions of trust in our  
5 community.

6 Particularly, people that have the ability to  
7 take life, to detain, to interrogate, should be held  
8 to higher standard of accountability and  
9 transparency across the board.

10 And that's why we're here in support of this  
11 repeal.

12 SENATOR JACKSON: And so 1199 represents how  
13 many employees within 1199?

14 GABRIELLE SEAY: 450,000 workers.

15 SENATOR JACKSON: 450,000?

16 GABRIELLE SEAY: Yes, sir.

17 SENATOR JACKSON: Okay.

18 I appreciate that.

19 Thank you very much.

20 GABRIELLE SEAY: Thank you.

21 SENATOR BAILEY: And I just have one more  
22 statement, about the intersectionality of labor and  
23 the justice system, and some of the comments that  
24 we've heard.

25 And some would -- why -- would ask -- not me,

1 but some would ask: Why would labor take such a  
2 position on this?

3 And it's simple, because, the 450,000 members  
4 that you represent, they face injustice just like  
5 anybody else, just like the wonderful mothers that  
6 testified today.

7 And I think it's critical that labor's voice  
8 is heard in this matter, because you've heard the  
9 union perspective, and they are doing what they  
10 believe is right; they are doing what they believe  
11 protects their membership.

12 And we cannot fault anybody for doing what  
13 they believe is right.

14 But I believe that making sure that we  
15 understand that these are not siloed issues, and  
16 that health care, housing, justice, poverty, all of  
17 these things, are inextricably intertwined, as they  
18 say.

19 And -- and -- and I'm glad that you have a  
20 different perspective, and you brought that to us  
21 today.

22 And I appreciate your testimony.

23 GABRIELLE SEAY: Thank you.

24 SENATOR BAILEY: Thank you.

25 The next panel, speaking of patience,

1 Michael Sisitzky, Alvin Bragg, Rachel Bloom, and  
2 Joo-Hyun Kang.

3 I always mess up her name. I apologize to  
4 her.

5 Michael is from NYCLU;

6 Alvin Bragg is from New York Law School's  
7 Racial Justice Project;

8 Rachel is from Citizens Union;

9 And Joo-Hyun Kang is from CPR (Communities  
10 united for Police Reform). She is the -- serves as  
11 director.

12 So, I thank you all for your patience.

13 I was going to refer to somebody in the  
14 Bible, but this is separation of church and state,  
15 and you can't do it.

16 You said it, I didn't.

17 Jobe-like patience.

18 I just repeated what you said.

19 Mr. Bragg, I think you said you're going to  
20 begin. I think you won the coin toss.

21 ALVIN BRAGG: Thank you, Mr. Chair.

22 SENATOR BAILEY: Yes, sir.

23 ALVIN BRAGG: Alvin Bragg from the  
24 Racial Justice Project at New York Law School.

25 I wanted to speak -- you have the written

1 testimony.

2 I wanted to speak primarily --

3 SENATOR BAILEY: Could you pull the mic a  
4 little closer to you?

5 ALVIN BRAGG: Sure.

6 -- primarily in response to the panel from a  
7 couple hours ago, from the union folks from  
8 Suffolk County.

9 Prior to joining New York Law School, I was a  
10 federal prosecutor. And before that, and after  
11 that, a state prosecutor. Finally serving as the  
12 chief deputy attorney at the New York State Attorney  
13 General's Office.

14 And I draw a completely opposite conclusion  
15 from my time in law enforcement than that panel  
16 does, and so I wanted to talk about that.

17 And I find that their discussion either was  
18 intellectually dishonest, and I don't use that  
19 lightly, or, uninformed, because they had about  
20 two hours of time, I believe, and I don't think they  
21 mentioned the FOIL statute.

22 They said they want to be on equal footing  
23 with others, the same treatment.

24 Well, I was a local and state employee for  
25 almost 20 years. And the FOIL statute applies to

1 all state and local employees. And, they didn't  
2 talk about it.

3 And that statute expressly talks about the  
4 issues that they expressed concern about.

5 It talks about --

6 And I want to, you know, be specific about  
7 the language.

8 -- it protects from disclosure, information,  
9 that, if disclosed, would, quote, interfere with law  
10 enforcement investigations.

11 And it protects from disclosure, information  
12 that would constitute an unwarranted invasion of  
13 personal privacy or, quote, could endanger the life  
14 or safety of any person.

15 No one is talking about repealing the FOIL  
16 statute.

17 I think I'm probably, I don't want to mix  
18 church and state again, but preaching to the choir,  
19 perhaps.

20 So to talk about their addresses being on,  
21 or -- or their safety being compromised, or  
22 investigations, you know, I worked side by side with  
23 the FBI, with the NYPD. I did -- I worked with some  
24 of the most courageous men and women. I worked with  
25 folks from Suffolk County, not the folks who here



1 testified today.

2 And so I take umbrage at the fact that they  
3 suggest that folks are saying 50-a being repealed  
4 are necessarily putting officers in harm's way.

5 It's a fiction, it's baseless, it's  
6 fear-mongering.

7 So I just wanted to talk about that from the  
8 perspective of law enforcement.

9 And what they didn't address was what we're  
10 talking about, and Ms. Carr talked about this  
11 morning.

12 The Racial Justice Project is proud to  
13 represent Ms. Carr, and Joo-Hyun, and others, in a  
14 Carr versus de Blasio, in which we speak -- seek  
15 public accounting of a number of the facts that  
16 Ms. Carr talked about this morning.

17 And these are the things that the City is  
18 using 50-a as a block, as a bar, to produce.

19 The identity of the officers who were at the  
20 scene, who leaked Mr. Garner's alleged arrest record  
21 and his alleged medical information, what is the  
22 City doing about the officer, Officer D'Amico, who  
23 the City, through a leaked document, we know has  
24 decided, lied in an arrest record and said that no  
25 force was used.

1           What is the City doing about two sergeants  
2 who were at the scene and lied, and said that  
3 Mr. Garner didn't suffer any distress during the  
4 arrest?

5           Those are the types of on-duty conduct that  
6 the public, the populace, is entitled to know.

7           So that's what we're talking about.

8           We're not talking about where someone lives,  
9 or something else, which is already protected by  
10 FOIL.

11           And that's why you can have a full repeal of  
12 50-a, and I say this as having worked at the highest  
13 levels of the chief law-enforcement officer of this  
14 state, you can repeal 50-a and not jeopardize a  
15 single law-enforcement step. Not a single one.

16           And so to come before this body and to  
17 suggest otherwise I think was baseless and  
18 inappropriate, and not to even mention the FOIL  
19 statute, is misleading.

20           So I wanted to start with that.

21           So on to a more positive note, what  
22 disclosure can do.

23           When I was at the attorney general's office,  
24 we affirmatively disclosed, at the request of, you  
25 know, Communities United, and Ms. Carr, and others,

1 when they pushed and got the attorney general the  
2 authority to act as a special prosecutor.

3 Along with that, they said, comes the  
4 responsibility of public disclosure, you need to  
5 release the findings.

6 And we did that, and that opened up a public  
7 discussion and a public dialogue that was rich.

8 We -- when we concluded investigations,  
9 namely, the officers who were present, we talked  
10 about what we found when we interviewed them. We  
11 released video footage.

12 And so that is an example of what the type of  
13 positive dialogue that can come from disclosure,  
14 just one example.

15 There are lots of different ways that these  
16 disclosures can happen.

17 Others, as I talked about in the Carr versus  
18 de Blasio we seek.

19 So I wanted to just maybe start with that.

20 And I just, on a very personal note, I was  
21 offended by the speaker who talked about,  
22 essentially, the CCRB as a sham process, just for  
23 folks who want -- who are criminals, in his words.  
24 [Indiscernible] drug dealers, or people who are in  
25 gangs, who are going to go before the CCRB to,

1 basically, file false complaints.

2 He didn't use that exact word, but that was  
3 his suggestion.

4 I filed a CCRB complaint when I was stopped.  
5 I wasn't a lawyer at the time.

6 I am now.

7 But I know -- I knew when I was 15 it was an  
8 unlawful search.

9 It takes a lot of courage to go, particularly  
10 as a young person, to the CCRB. It's not a fun  
11 process.

12 I would say that the rate of people who are  
13 unlawfully stopped, versus those who actually go to  
14 the CCRB and complain, I at least know from me, I've  
15 only filed one CCRB complaint, and the number of  
16 times I've been unlawfully stopped is much higher  
17 than one.

18 So I think he has his facts wrong on that.

19 It's not 100 percent germane, but I just  
20 wanted to respond on that point.

21 So I know we've been here for a while, and  
22 I know others have a lot to say, so I'll rest on the  
23 papers, with that.

24 SENATOR BAILEY: Thank you, Mr. Bragg.

25 Who will be next?

1 MICHAEL SISITZKY: So, good afternoon.

2 My name is Michael Sisitzky. I'm lead policy  
3 counsel with the New York Civil Liberties Union.

4 I also had some prepared remarks that I'm  
5 going to depart from, to respond to a lot of what we  
6 heard in the union's testimony a little while ago.

7 But I want to start with some context, and  
8 also by reading from the FOIL statute a bit.

9 So, New York's Freedom of Information Law  
10 starts off by declaring that "a free society is  
11 maintained when government is responsive and  
12 responsive to the public, and that people have a  
13 right to know the process of governmental  
14 decision-making."

15 And I think it's very clear that Section 50-a  
16 flies in the face of these principles.

17 You know, on a national level this provision  
18 is an outlier.

19 New York is one of just two states in the  
20 country that elevates police personnel records to  
21 the level of state secrets.

22 And there's 28 states that make these records  
23 available in at least some cases.

24 You know, we heard earlier whether or not  
25 50-a is surveying the original intent of the

1 legislature from 1976.

2 I want to read what Senator Padavan had told  
3 "The Times Union," in saying that the law was no  
4 longer serving that purpose.

5 Senator Padavan said, that, "The sole  
6 intention of the statute was to stop private  
7 attorneys from using subpoenas to get unfettered  
8 access to personnel records, but that the law was  
9 never intended to block the public disclosure of  
10 records of police misconduct."

11 But that is exactly what it does.

12 It was said earlier that the only thing  
13 covered by Section 50-a are personnel records that  
14 cover things like addresses, sensitive, you know,  
15 private information, safety concerns.

16 But that's not what has happened.

17 Section 50-a has been applied to cover the  
18 withholding of records of substantiated complaints  
19 of police misconduct. But it's also been attempted,  
20 thankfully, not always successfully, to block the  
21 release of things like body-camera footage, and even  
22 anonymous statistical information on how many times  
23 police departments engage in use of force.

24 So that's what the police departments and  
25 unions have tried to expand 50-a to cover.

1           You know, the -- so 50-a was also said to not  
2 be a blanket provision that allows for withholding  
3 these records, but, that's exactly what it is.

4           And I can say that because it's, in part  
5 coming from an NYCLU case that got us there.

6           In December 2018, the state Court of Appeals  
7 basically made 50-a a FOIL exemption on steroids.  
8 It operates unlike any other exemption in state law  
9 to block these records.

10           The NYCLU, back in 2011, had filed a FOIL  
11 request, to seek access redacted decisions from the  
12 NYPD trial room. And the reason was, we wanted to  
13 understand better how department decisions were  
14 reached; what were the factors being relied on. But  
15 we explicitly did not seek any information that  
16 would have identified officers.

17           The Court of Appeals rejected our request,  
18 and said that not only does 50-a allow police  
19 departments to permissibly refuse to withhold those  
20 records, it bars them from releasing those records.

21           There is no way to get access to them through  
22 FOIL.

23           And the types of records that are covered by  
24 this are the most important records for  
25 understanding whether these systems operate

1 effectively.

2           Senator Ramos I think asked earlier if there  
3 were officers currently on the force who should be  
4 fired for committing fireable offenses.

5           And the response was, you know, "I don't  
6 know."

7           But thanks to leaks to the media, we do know.

8           In 2018, "Buzzfeed" reported on a leaked  
9 database of disciplinary actions from 2011 to 2015,  
10 that included over 1800 officers.

11           And more than 300 of those officers were  
12 still on the force, despite the fact that they had  
13 committed offenses that, according to NYPD policy,  
14 are fireable.

15           It included officers who had lied under oath,  
16 lied to investigators.

17           And NYPD policy, absent specific exceptions,  
18 says that the general rule is that officers are  
19 required to be fired if they lie under oath.

20           But these officers were still on the force.

21           So without a leak to the media, 50-a would  
22 have prevented us from knowing whether or not the  
23 NYPD is actually applying its own policy  
24 consistently.

25           And, you know, it was also, I think it was



1 Mr. DiGiacomo who said, that there's no other  
2 profession in the world subject to as much oversight  
3 as the NYPD.

4 I would say there is no other profession in  
5 New York City that we send out into the streets,  
6 armed with a gun, and State power to use it, and to  
7 deprive people of their liberty.

8 So New Yorkers need to know whether that  
9 responsibility -- or, whether that power is being  
10 wielded responsibly.

11 You know, he also said that this idea that  
12 CCRB complaints were interfering with officers doing  
13 their job, and that officers needed to be competent  
14 out there, and not distracted by complaints being  
15 filed against them and information being public.

16 I would say that New Yorkers need to have  
17 confidence in officers when they go out into the  
18 street.

19 And the only way that we get that confidence  
20 is through trust that comes from transparency and  
21 accountability, and knowing whether or not these  
22 systems work.

23 And, lastly, you know, as has been said, FOIL  
24 already covers all of the concerns that have been  
25 raised by police departments and unions.

1           There are exceptions that cover withholding  
2 of information that constitutes an unwarranted  
3 invasion of privacy, that -- records that could  
4 endanger the life or safety of any person.

5           And to add some statistics to back that up:

6           So some other police departments were cited;  
7 Chicago, for instance. There were questions about  
8 whether or not those officers are operating safely  
9 and effectively even though more of their records  
10 are open.

11           There is an online searchable database that  
12 includes more than 240,000 disciplinary records from  
13 the Chicago Police Department.

14           And since that was published, there's been no  
15 reported increase in the number of threats to  
16 officer safety.

17           This is something that can be done without  
18 jeopardizing officer safety because our FOIL law  
19 already covers that, includes it.

20           This is all just about making sure that the  
21 public has access to the information that we need to  
22 hold our public officials accountable.

23           Thank you.

24           SENATOR BAILEY: Thank you.

25           RACHEL BLOOM: Good afternoon, Senator Bailey

1 and members of the New York State Senate.

2 My name is Rachel Bloom, and I'm the director  
3 of public policy for Citizens Union.

4 Thank you for holding this hearing, and for  
5 inviting us to testify.

6 As a watchdog group for the public interest,  
7 and a historic advocate of open and honest  
8 government in New York City and state, for the past  
9 decade, Citizen's Union, which is known as being a  
10 good government group, has been exploring the issue  
11 of police accountability.

12 Today, we urge you to repeal Section 50-a of  
13 the Civil Rights Law, which will bring not only much  
14 needed transparency and accountability to the  
15 New York City Police Department, but to the public  
16 as well, and, consequently, we believe will improve  
17 relations between the NYPD and the public.

18 The effect, and as many people have said  
19 today, of Section 50-a is to significantly deprive  
20 the public of information necessary to ensure the  
21 accountability of police officers for misconduct.

22 It also limits the police department's  
23 ability to ensure accountability through its system  
24 of civilian complaints and disciplinary proceedings.

25 That information is to the outcome of such

1 proceedings in substantiated cases.

2 It is impossible to know if these systems are  
3 functioning properly.

4 Section 50-a nullifies New York City's own  
5 effort to provide a measure of disclosure and  
6 accountability.

7 Citizens Union has firsthand experience of  
8 this problem.

9 At our urging, the police department and the  
10 Civilian Complaint Review Board, entered into a memo  
11 of understanding in 2012, in which the police  
12 department authorized the CCRB to undertake all  
13 administrative prosecutions of civilian complaints  
14 against police officers, which have been  
15 substantiated by the CCRB, and which the CCRB has  
16 recommended that charges and specifications be  
17 preferred.

18 The MOU further provides that in any case  
19 substantiated by the CCRB in which the police  
20 commissioner intends to impose discipline that is of  
21 a lower level than that recommended by the CCRB or  
22 by an NYPD trial commissioner, that the police  
23 commissioner needs to send the CCRB a detailed  
24 written explanation of the reason that they deviate  
25 from that decision, and including each factor that

1 they considered in making that deviation.

2 In light of the position of the police  
3 department, that all disciplinary records are  
4 confidential under Section 50-a, Citizens Union and  
5 the public are unable to monitor compliance with  
6 this provision.

7 One potential argument against repeal, as  
8 opposed to modification, of Section 50-a, is that  
9 police officers should be protected against the  
10 disclosure of records pertaining to unsubstantiated  
11 complaints or charges against them.

12 We are sympathetic to that concern, but  
13 believe that police officers, like other public  
14 officials and employees, already enjoy significant,  
15 if not absolute, protection against such  
16 disclosures.

17 Again, I mean, this is not to say that FOIL  
18 would never require that, but, relating to  
19 unsubstantiated reports of misconduct; for example,  
20 in high-profile cases in which the nature of the  
21 complaint and the name of police officer, which we  
22 heard many today, were already a matter of public  
23 knowledge and where the controversy surrounding the  
24 adequacy of the investigation, the appropriate  
25 balance between the public interest in the matter

1 and the privacy interests of police officer might  
2 tip in favor of disclosure.

3 It is precisely that kind of careful weighing  
4 of factors that FOIL mandates and Section 50-a  
5 precludes.

6 When there is complete secrecy surrounding  
7 police officer misconduct and discipline, as  
8 Section 50-a currently imposes, then New Yorkers  
9 have no confidence in the city's own police  
10 oversight apparatus, which is they are often urged  
11 to when they have problems -- go to when they have  
12 problems with the police.

13 Every police officer is impugned when we  
14 cannot tell whether officers are held accountable or  
15 face consequences for misconduct.

16 This poses a serious risk to both civilians  
17 and police officers.

18 And that is why it is so urgent to repeal  
19 Section 50-a of the Civil Rights Law.

20 Having access to police disciplinary records,  
21 knowing when allegations of misconduct have been  
22 substantiated, and knowing the outcomes of  
23 disciplinary proceedings, will allow us to identify  
24 individual and systemic problems in the police  
25 force, and bolster the dignity and professionalism

1 of the department.

2 Thank you.

3 SENATOR BAILEY: Thank you.

4 JOO-HYUN KANG: Good afternoon.

5 Joo-Hyun Kang with Communities united for  
6 Police Reform.

7 First, I want to thank Senator Bailey for  
8 convening this hearing, as well as the hearing next  
9 week in Albany.

10 And, secondly, I also want to really you  
11 thank you for putting the families first this  
12 morning, and allowing them the opportunity to speak  
13 before the NYPD.

14 It's unfortunate, and disappointing, that the  
15 New York Police Department didn't come.

16 I wish they had.

17 We have been at many hearings with them,  
18 where they have left and not been able to hear the  
19 mothers of Ramarley Graham, Eric Garner, and  
20 Sean Bell speak.

21 And I wish they had heard today, to be able  
22 to hear the reasons for why 50-a actually harms  
23 people directly.

24 I'm not going to go through prepared remarks.

25 There's three things I think, three main

1 points, I want to make.

2 One is, simply, that the reason we support  
3 full repeal is because 50-a is bad law.

4 It's that simple.

5 50-a's only purpose is to actually protect  
6 and hide police violence. And as you know, it hides  
7 the misconduct and disciplinary records of officers.

8 Secondly, it actually enables and emboldens  
9 abusive officers to continue abusive actions,  
10 because there is no consequence when the public  
11 doesn't know that something's happening.

12 Constance Malcolm, the mother of  
13 Ramarley Graham, and, Gwen Carr, the mother of  
14 Eric Garner, made this very clear in their  
15 testimony, in terms of the past misconduct that they  
16 were able to find out about Richard Haste, as well  
17 as Daniel Pantaleo, only because whistleblowers  
18 leaked it to the media.

19 And they, and New Yorkers, shouldn't have to  
20 be waiting for whistleblowers, or begging for  
21 whistleblowers, to leak information. That's a rare  
22 instance.

23 Most families, most police-brutality victims,  
24 and most people who are subject to police  
25 gender-based violence, do not have the benefit of



1 having a whistleblower leak information about  
2 officers involved in their cases.

3 And so we need to actually equalize the  
4 playing field.

5 Second point I want to make is really around  
6 the testimony this morning, and the responses from,  
7 the law-enforcement unions.

8 We were going to go -- I was going to go  
9 point by point, but I'm not going to.

10 We can do that at some other point if that's  
11 helpful.

12 But I think the big-picture message I want to  
13 make, is that everything we heard this morning was  
14 bad-faith fear-mongering, and it was baseless in  
15 terms of what they were actually saying a 50-a  
16 repeal would do.

17 What we know is, as Alvin and as Michael  
18 said, 50-a -- if 50-a were repealed tomorrow, there  
19 would be no sudden release of personal  
20 information -- personal as in, P-E-R-S-O-N-A-L,  
21 information -- of law enforcement.

22 In fact, FOIL already protects all of those  
23 categories.

24 So it's completely bad faith for them to  
25 continue to say that officers can be put at risk

1 because their home addresses will be leaked, or  
2 information about their families will be leaked.

3 That has no basis in fact, and they need to  
4 stop saying it.

5 We all need to actually call it what it is,  
6 which is a bald-faced lie.

7 The second piece I wanted to say is that,  
8 what they will -- are refusing to acknowledge is  
9 that 50-a, right now, harms New Yorkers.

10 It harms New Yorkers who are victims and  
11 survivors of police brutality, but also harms all  
12 New Yorkers, because there is decreased faith in any  
13 kind of government.

14 It's not only decreased faith in law  
15 enforcement, it's decreased faith in the functioning  
16 of government, when you have the largest -- if you  
17 take New York City as one example within the state  
18 of New York, we have one of the largest armies in  
19 the world, in terms of the size of the New York  
20 Police Department.

21 And yet, with this army, and with the  
22 tremendous power, and often unilateral power, that  
23 they have to set policy, to define what public  
24 safety is, they are the least transparent and  
25 accountable when they cause harm to New Yorkers.

1           And that's completely unacceptable.

2           We're in 2019.

3           Families like -- or, mothers, like  
4 Eric Garner's mother, should not be fighting to  
5 still try to get information about what happened in  
6 relationship to her son's murder in 2014, over  
7 five years ago.

8           And if the legislative -- if the legislature  
9 doesn't repeal 50-a in this next session, what that  
10 guarantees is that she will not get the answers she  
11 needs to continue to fight for justice.

12          It's that simple.

13          The last thing I want to say is that,  
14 Constance Malcolm, the mother of Ramarley Graham,  
15 earlier this morning talked about this being an  
16 issue of fairness; that it's actually not fair that  
17 New Yorkers are not able to get information about  
18 misconduct and about violence that individual police  
19 officers commit and that police departments hide  
20 across the state.

21          Not only is it about fairness in that way,  
22 but it's really a question of just weighing the  
23 safety of all New Yorkers against the unchecked  
24 power of the NYPD, or police departments.

25          And what we're asking, and hoping, is that

1 the legislature does, come January, or as soon as  
2 possible in the session, is to fully repeal 50-a  
3 without modification.

4 Thank you.

5 SENATOR BAILEY: I'd like to thank you all  
6 for your testimony, once again for your patience in  
7 getting to the point of testimony.

8 There were a number of questions I was going  
9 to ask, but, as I wrote some down, then the  
10 subsequent person answered the question that I was  
11 going to ask.

12 But I do have a couple questions, and  
13 Senator Salazar as well.

14 So -- so some of the unions were speaking  
15 about potential safety issues with their -- their --  
16 their membership, with either FOIL or 50-a.

17 Can you speak to that?

18 I know you spoke to it a little bit.

19 Can -- like, because, at the end of the day,  
20 people deserve to be safe no matter what pro -- you  
21 know, what profession that they're in.

22 They have families that they want to protect  
23 just as much as we want to protect our families.

24 So is there any kind of safety issue that you  
25 can possibly see with the repeal or modification of

1 50-a or -- or the FOIL statute?

2 ALVIN BRAGG: I don't see one.

3 I mean, I've overseen FOIL reviews, and the  
4 language of the statute is clear.

5 And so, you know, if you -- if you have an  
6 agency, I mean, still, if you do a FOIL to the NYPD,  
7 I mean, it may be that they don't trust their  
8 leadership. You know, I don't know.

9 But -- so it's up to the reviewer of the  
10 FOIL, but I would think that the NYPD would be, you  
11 know, looking out for officer safety.

12 So, if not, then they should take that up  
13 with their commissioner.

14 But the language in the statute's clear.

15 And when I was at the attorney general's  
16 office, and we had our own, you know, investigative  
17 force, and not just that, I mean, we have attorneys  
18 working on highly sensitive matters, and worried  
19 about all of our employees' safety.

20 Of so we took the language of the statute,  
21 you know -- you know, very -- you know, took it very  
22 seriously.

23 So the language is clear, and, you know,  
24 should be applied, you know, measured against,  
25 obviously, uh -- you know, the interests of -- of

1 transparency.

2 I mean, it's -- it's -- it's -- you know,  
3 I read it before, and it's "unwarranted invasion of  
4 personal privacy."

5 You know, so -- you know, the language  
6 I think is clear.

7 The legislature drafted it, and it should be  
8 applied.

9 I think 50-a -- what 50-a adds is, as  
10 Joo-Hyun said, is a -- is a layer, one that adds  
11 sort of, you know, veto power for the officer.

12 It allows the unions to intervene on appeals,  
13 as I believe Senator Jackson or someone else asked  
14 earlier, when it -- when it -- when it goes to  
15 litigation for the court, as the sort of procedural  
16 points in which the -- the union can -- can -- can  
17 put itself in.

18 But it doesn't add substantively.

19 And what happens is, it's a layer that --  
20 that -- that slows things down procedurally, and it  
21 allows for sort of, you know, bad-faith assertions  
22 to be a part of a process that don't really have to  
23 do with safety.

24 Who leaked Eric Garner's, you know, alleged  
25 arrest record has nothing to do with an officer's

1 safety.

2 JOO-HYUN KANG: If I could just add, I feel  
3 like there's two ways that I heard those comments  
4 today.

5 One, if I want to give it as much possible  
6 credence as possible, I go back to what my therapist  
7 has told me many times, which is that feelings  
8 aren't facts.

9 And the reason I say that is because, if  
10 I want to give them the benefit of the doubt that  
11 they meant what they said this morning, I would say  
12 there seems to be some fear around this.

13 But that feeling of fear is not factual, and  
14 there's no evidence around the country that it's  
15 factual.

16 In fact, the "Buzzfeed" article that Michael  
17 mentioned from 2018, that was leaked to "Buzzfeed,"  
18 of over 300 officers who had been found guilty of  
19 egregious acts, including lying in official reports,  
20 lying to district attorneys, sexual violence, police  
21 brutality and excessive force, all of those  
22 officers' names are public because "Buzzfeed"  
23 actually released that as a database that's  
24 searchable.

25 And there has been no increased violence,

1 even in New York City, if you want to talk about  
2 New York City the way one of the representatives  
3 this morning talked about New York as being  
4 exceptional.

5 The second thing, though, is that I actually  
6 fear that it's not that they don't understand that  
7 feelings aren't facts, but it's actually just  
8 bad faith fear-mongering, and lies.

9 And I feel like we actually have to stand up  
10 to that.

11 It's unacceptable that 50-a has been expanded  
12 as much as it has, especially in the past few years,  
13 as Public Advocate Williams said, since 2016 under  
14 the de Blasio administration.

15 And that expansion has meant that routine  
16 things, like the names of officers involved in  
17 police -- in incidents where there is a civilian who  
18 is killed by police, those names are not released  
19 anymore.

20 And, in fact, we had to fight 16 weeks, with  
21 the family of Saheed Vassel, every single week, to  
22 get the names released of officers who killed  
23 Saheed.

24 Families recently who have lost loved ones,  
25 like Kawasaki Trawick earlier this year in April in



1 The Bronx, that family is still fighting to try to  
2 get the names of the officers who killed their son.

3 That is completely unacceptable.

4 And, in fact, we were able to get this  
5 information quicker, and without this kind of legal  
6 hurdle, when it was Bloomberg and Giuliani.

7 So it says a lot that we're saying that  
8 police transparency has gone backwards under  
9 de Blasio, and the state of New York, actually,  
10 other police departments, are copying what the NYPD  
11 is doing, which creates incredibly dangerous  
12 conditions for all of us.

13 SENATOR BAILEY: So when you mentioned the  
14 FOIL process, so, I'm looking for police records.

15 Walk me through that.

16 What does that look like?

17 How long does it take to get records?

18 What kind of records do you usually obtain  
19 even when requesting those things?

20 MICHAEL SISITZKY: I mean, there's the  
21 question of what it should look like, and what it  
22 does.

23 You know, agencies are supposed acknowledge  
24 their requests, respond --

25 SENATOR BAILEY: Could you speak more into

1 the microphone so we can make sure we're getting it.

2 MICHAEL SISITZKY: So agencies, when they  
3 receive FOIL requests, are supposed to promptly  
4 acknowledge that, either disclose the records or  
5 give a timetable for how long it will take to  
6 produce them.

7 When it's FOIL requests concerning police  
8 departments, and the NYPD in particular, it's just  
9 kind of like a lingering question mark; you don't  
10 know if you're ever going to get any kind of records  
11 from that agency.

12 The NYCLU engages in a lot of FOIL requests,  
13 a lot of FOIL litigation.

14 Recently, a few years ago, we filed 23 FOIL  
15 requests to police departments across the state,  
16 seeking a lot of categories of information, things  
17 like arrest statistics, use-of-force numbers, and  
18 questions about how many officers were investigated  
19 on complaints of misconducts.

20 And what we saw was that, some departments  
21 would respond and produce everything, or most  
22 everything, within a few months. But others took  
23 years of litigation.

24 And, you know, to give some non-New York City  
25 examples of some bad 50-a practices that we've seen:

1           We had to sue the Buffalo Police Department,  
2           because they refused to turn over their use-of-force  
3           reports, because they claimed that use-of-force  
4           reports are 50-a personnel records.

5           We didn't get any information on misconduct  
6           complaints or investigations by the Syracuse Police  
7           Department, because they claimed that even numbers  
8           of -- how many officers have been investigated and  
9           face some kind of disciplinary action were personnel  
10          records within the meaning of 50-a.

11          So with FOIL it's really just a crapshoot as  
12          to what it is you're going to get from these  
13          departments, because they have so many  
14          opportunities, like 50-a, to claim blanket  
15          exemptions and to refuse to turn over records.

16          SENATOR BAILEY: You mentioned "23"?

17          What was the temporal nature of that, like,  
18          how long did it take?

19          Was that within a year, or six months?

20          How long did it take?

21          MICHAEL SISITZKY: We filed the 23 requests  
22          in the summer of 2015. And there are some  
23          departments that were still sending us information  
24          responsive to that request as late as the end of  
25          2017.

1           So it's a long process.

2           SENATOR BAILEY: So at the quickest, you got  
3 it probably in a year? Would that be the  
4 [indiscernible cross-talking] --

5           MICHAEL SISITZKY: I think, you know, some of  
6 the smaller departments that didn't have as many  
7 records to compile were able to respond within  
8 six months.

9           But, it was a year or more was the default.

10          SENATOR BAILEY: Okay.

11          And repealing 50-a would do, what, in your  
12 opinion, as related to having -- not having to the  
13 FOIL these?

14          MICHAEL SISITZKY: It may not speed up their  
15 timing of their responses, but it would guarantee  
16 that we get more access to the types of records that  
17 we want to see.

18          It would take away the bad-faith ability to  
19 use 50-a as a shield to hide data, to hide records,  
20 that departments don't want getting out there,  
21 because it shows that they don't take complaints  
22 about misconduct seriously, or it shows that they  
23 have excessive use-of-force problems, that they were  
24 trying to use this statute as a reason for  
25 withholding those records.

1           So it would make sure that we have more  
2 opportunity to get access to those types of records  
3 in making these requests.

4           SENATOR BAILEY: Thank you.

5           Mr. Bragg, do you have something to add?

6           And then Senator Salazar has some questions.

7           ALVIN BRAGG: I was just going to say, after  
8 the -- after the recent case that was litigated by  
9 NYCLU last year, there's an entire category of  
10 materials that can't be FOILED.

11          So...

12          SENATOR BAILEY: Senator Salazar.

13          SENATOR SALAZAR: Thank you all for your  
14 testimony.

15          My question is specifically for Mr. Bragg.

16          I realize that you're here in your capacity  
17 with your law school's Racial Justice Project.

18          But I remember you from when you were with  
19 the AG's office, and you led the prosecution of  
20 Wayne Isaacs who killed Delrawn Small.

21          And so I wanted actually to ask you about  
22 that previous capacity, and that experience, and  
23 how -- if you don't mind speaking to how that  
24 experience, you know, working with families who --  
25 who -- who have lost someone, who was killed by

1 police, how that experience informs your position on  
2 50-a?

3 ALVIN BRAGG: I would say the -- the entire  
4 experience of serving in the role as heading the  
5 special prosecutor's unit informs it a lot, from the  
6 very first meeting with Communities United and --  
7 and the first panel, and hearing their deep  
8 frustration with the lack of transparency, and in  
9 many instances, the lack of respect, accountability,  
10 information, responsiveness, and sort of a charge of  
11 us, you know, them having gotten us this  
12 jurisdiction.

13 You know, obviously, no one can control the  
14 facts of any instance, and the law remains the same.

15 But, our charge, which we took to heart, was  
16 to take control of the process, and, from the  
17 beginning to, you know, engage with families, you  
18 know, make them, you know, a part of the process,  
19 update them, be as transparent as the law allowed.

20 We structured our investigations in a manner  
21 that -- that, you know, would minimize grand jury  
22 use, so that, at the end of our investigations, if  
23 we concluded that had charges weren't warranted, we  
24 could produce reports.

25 And I remember the first report, presenting

1 on it to a number of folks who had lost loved ones,  
2 and saying, they hadn't seen anything produced like  
3 that.

4 And so, you know, it's the most meaningful  
5 and sobering work I've done.

6 The -- the, you know, prosecution of -- of --  
7 the case is under seal, but you said it, prosecution  
8 of Wayne Isaacs was -- was probably the most  
9 challenging part of my career, you know, because,  
10 you know, it did not end the way, you know, we  
11 wanted it to.

12 I know, you know, Ms. Davis was supposed to  
13 testify today.

14 I'm still in touch with her -- her -- her  
15 family, and her feelings about the process, as, you  
16 know, one -- one piece of it that gives me a measure  
17 of comfort.

18 I have strong views about the case. I'm sort  
19 of constrained from talking about it too much  
20 because, you know -- you know, it ended the way it  
21 does. There's an acquittal, it's sealed, and the  
22 jury has spoken.

23 But -- but -- but learned -- learned a lot  
24 from that process, about -- about the need to -- to  
25 engage with families.

1           And, ultimately -- you know, and I've been  
2           sort of writing about this, wearing my sort of  
3           scholarship hat, at New York Law School, sort of  
4           opining for other legal changes sort of in the -- in  
5           the justification defense, which, you know, may not  
6           come before the Senate at some point, in terms of  
7           what we -- what we allow, you know, lawyers to do,  
8           they sort of -- you know -- not lawyers, allow  
9           officers, you know, more -- they're allowed more  
10          deference in terms of -- of the sort of  
11          self-defense.

12           And that's appropriate, they should have more  
13          deference than sort of all of us as they're  
14          affecting arrests.

15           You know, but how much, I think is a question  
16          we should revisit, which wasn't as much in the  
17          Wayne Isaacs' case because he was off-duty.

18           But it's something I think that -- that --  
19          that case caused me to think about, which is  
20          something that, as we talk about, it's not the --  
21          the -- the issue for today, but we should talk about  
22          the special prosecutor, making that law.

23           But I think we also should be talking about  
24          what law should govern the use of police force,  
25          because we can make a lot of changes to sort of



1 Section 50-a disclosure, to who was bringing in a  
2 case.

3 But, one big lesson to me, as I investigated  
4 a number of those cases, which we, ultimately, did  
5 not bring charges in, and I think we have made  
6 improvements in transparency, and improvements in  
7 how we interacted with families, you know, but we  
8 need to look at the underlying law, and what governs  
9 our police [indiscernible] interactions very  
10 closely.

11 SENATOR SALAZAR: Great. Thank you.

12 And I do really appreciate your work on that  
13 case.

14 I think that, despite the outcome, it really  
15 is a testament to how valuable it is to have a  
16 special prosecutor in cases where a civilian is --  
17 is severely harmed or -- or killed by law  
18 enforcement.

19 And -- and I think that it -- it actually  
20 demonstrates the need for us to codify the special  
21 prosecutor.

22 But I -- I only want to also ask, because we  
23 all know, and this is for all of you, how -- how  
24 infrequent, how rare, and exceptional it is for an  
25 officer to be -- actually be prosecuted when -- when

1       they kill a civilian.

2               Do you think that there is a relationship  
3 between -- you know, if we were to pass a repeal of  
4 50-a, do you see a relationship between that and,  
5 potentially, you know, more justice in cases like --  
6 like this?

7               Not just the families knowing the  
8 disciplinary history of an officer, but related to  
9 the out -- potential outcomes of cases, and how  
10 frequently they're brought?

11              ALVIN BRAGG: [Indiscernible] turn to others,  
12 I think that more transparency leads to more  
13 dialogue about systemic reforms. So it may not  
14 change a particular outcome, but it fosters the  
15 discussion. And those systemic reforms, you know,  
16 when brought to scale, can then, you know, end  
17 tragedies before they occur.

18              MICHAEL SISITZKY: So, you know, we talked  
19 earlier about the fact that Daniel Pantaleo, the  
20 officer who killed Eric Garner, had a long history  
21 of substantiated complaints against him by the CCRB,  
22 you know, a record that really made him among the  
23 worst officers on the force.

24              And this was years before he ever put Eric in  
25 a fatal chokehold against department rules.

1           So to the extent that we're able to get more  
2           of that information in the front end, about whether  
3           departments are actually responding when their  
4           officers are breaking those rules, whether there are  
5           officers who are known to departments, who engage in  
6           excessive force, who engage in other forms of  
7           misconduct that are still being employed, it gives  
8           us, as advocates, the information that we need, and  
9           you-all, as lawmakers, the information that you  
10          need, to see whether or not these systems are  
11          working, to see what policies need to be changed, to  
12          get a sense of what kind of structural changes we  
13          can be making in these police departments, because  
14          we're seeing what the end result is of the existing  
15          systems of accountability.

16                 SENATOR SALAZAR: Thank you.

17                 I don't know if anyone else has questions.

18                 SENATOR JACKSON: So when we talk about FOIL,  
19                 I know FOIL has time frames within each level of  
20                 appeal.

21                 It seems as though, based on your testimony,  
22                 those time frames are not being adhered to.

23                 Am I right or am I wrong?

24                 MICHAEL SISITZKY: I mean, it depends.

25                 They have to respond within a certain amount

1 of time. But if it takes them longer to actually,  
2 you know, compile all the documents, they can go  
3 operate on a longer timescale.

4 You know, you can reach a certain point where  
5 it's taking so long for a department to respond,  
6 that it, you know, constructively, is a denial of  
7 your request, which can then be challenged in court.

8 SENATOR JACKSON: So -- but from a FOIL point  
9 of view, there are how many levels in the FOIL  
10 request?

11 First to the agency. Is that correct?

12 MICHAEL SISITZKY: First to the agency. If  
13 there's been a denial, you can appeal it within that  
14 agency. And then from there --

15 SENATOR JACKSON: To where -- you're  
16 appealing to it to, where?

17 MICHAEL SISITZKY: To that agency, to --  
18 within the agency, to do to an administrative  
19 appeal.

20 SENATOR JACKSON: Go ahead.

21 MICHAEL SISITZKY: And then from there, if  
22 there's still a denial, or if there's an improper  
23 withholding of records, you can file a proceeding in  
24 state court.

25 SENATOR JACKSON: State Supreme Court?

1 MICHAEL SISITZKY: State Supreme Court.

2 And then up the level of appeal from there.

3 So that's how the NYCLU case, seeking the  
4 police disciplinary decisions from the NYPD trial  
5 room began, with a FOIL request to the NYPD, that  
6 was appealed within the NYPD, that was then filed in  
7 state Supreme Court, resulting in the Court of  
8 Appeals' ruling in December 2018, that put us in the  
9 landscape where, now, 50-a has this categorical ban  
10 on access to these records.

11 SENATOR JACKSON: And that's the reason why  
12 legislation is so important to repeal 50-a.

13 MICHAEL SISITZKY: And it's what the dissent  
14 pointed out very pointedly in the Court of Appeals  
15 case, that this has gotten -- that the courts have  
16 gotten this so wrong, that it is now incumbent on  
17 the legislature to fix this.

18 SENATOR JACKSON: And -- go ahead, please.

19 JOO-HYUN KANG: I just wanted to add that, we  
20 absolutely agree with that, that, in terms of the  
21 FOILs, that is one problem.

22 But I do want to make clear that the reason  
23 we're calling for repeal of 50-a is not only because  
24 of the FOIL process.

25 So I want to share one example.

1           Constance Malcolm, who I think is still --  
2           yeah, who's still here, the mother of  
3           Ramarley Graham, when she -- when there was a  
4           trial -- a disciplinary trial that the NYPD held  
5           against the officer who killed her son,  
6           Richard Haste, she had to take off work to go to  
7           that trial every day.

8           And when she went the first day of trial,  
9           before trial, and sat with the deputy commissioner  
10          of trials, Kevin Richardson, and asked, "What are  
11          the actual specific charges, disciplinary charges,  
12          that Haste is facing?" he refused to tell her, and  
13          cited 50-a.

14          So she had to sit through days of trial  
15          without being told what those charges were.

16          And we were able to have other folks in the  
17          room, of course, to be able to get the charges.

18          But that kind of level of secrecy is not  
19          something that we would have to go through FOIL  
20          with.

21          That's the sort of information that should be  
22          routinely provided. And there is no justification  
23          for it, but 50-a is providing that kind of cover for  
24          daily secrecy.

25                 SENATOR JACKSON: So you heard the testimony

1 of -- for Lou, that basically said, that, well, you  
2 can ask the judge to review the records, and that he  
3 will release. That's, basically, what he responded.

4 And my question is, especially to the legal  
5 organizations: Have you determined, for example,  
6 how many cases, where the information for the  
7 plaintiffs, or for -- meaning the people that are  
8 either suing or seeking justice for their family,  
9 how many cases have been denied?

10 And whether or not we're tracking?

11 Have they won on appeal to get the  
12 information that they need?

13 Is anyone tracking that, as far as, like, how  
14 many -- how many times a judge has to look at  
15 documents and say, yes, they're getting this?

16 Or, if they say no, based on what I heard  
17 earlier, we know that the NYPD, or whatever police,  
18 or whether it's corrections or fire, or whatever,  
19 because those are these category, they're going to  
20 appeal it?

21 Any statistics on that, anyone?

22 ALVIN BRAGG: I don't have any.

23 The -- the -- the one reaction I did have to  
24 that earlier testimony, though, from, both, Lou, and  
25 then also the gentleman from corrections, was that

1 it does presuppose that there is an action.

2 So the general for corrections was -- was  
3 presupposing that there's a criminal action, and  
4 there generally isn't.

5 Right?

6 I mean, these cases don't get charged a lot.

7 So, if you're relying on a criminal  
8 litigation for the material to come out, it's  
9 unlikely to come out.

10 And in the context of a -- of a civil case,  
11 just to -- and I hope it's okay -- I'll use, you  
12 know, Ms. Carr's case, you know, that case settled  
13 relatively early on.

14 It's a lot to ask of a family to -- to, you  
15 know, delay a potential settlement, you know, for  
16 disclosure purposes.

17 There are obviously other reasons for a civil  
18 matter.

19 And so we have a -- basically, a sunlight  
20 litigation now to get answers.

21 You know, I think that's just a -- a -- an  
22 undue burden to put on a private litigant which is  
23 basically, you know, a public good.

24 Transparency and information, is -- you know,  
25 it's all of ours, we should all get it, and it



1 shouldn't be singularly imposed on the aggrieved.

2 SENATOR JACKSON: Now, you heard the  
3 president of the correction officers union basically  
4 said, that whatever you do, they want you to  
5 consider them.

6 And, basically, that's what he said on a  
7 continuous basis.

8 And I think that one of our colleagues asked  
9 about -- you know, Gustavo talked about, where,  
10 there's, you know, abuse or criminality by COs --

11 And you've seen, I've seen, a lot of them on  
12 videos.

13 -- but that they should be held accountable.

14 And -- but he said that he wants us to take  
15 into consideration of the correction officers,  
16 overall, in doing their job with the environment  
17 they're in.

18 And I think our colleague Brian Benjamin  
19 asked, so are you basically saying, should we remove  
20 the correction offices [sic] out of this?

21 I don't think that that's what we want to do,  
22 I mean, because the law basically says police, fire,  
23 and corrections. Is that correct?

24 ALVIN BRAGG: We want to repeal it. Right?

25 [Indiscernible] repeal it, so it would be --

1 you know, we'd all be -- there would be no law, you  
2 know, no 50-a.

3 I -- I -- I -- I -- but since we're talking  
4 about that, I was troubled by his testimony, because  
5 he -- he suggested, you know -- you know, should --  
6 should these correction officers be troubled, should  
7 be judged by a bad day?

8 My answer is yes.

9 Right?

10 I mean, you know, if you are a corrections  
11 officer, your bad day is to brutalize someone, yes,  
12 we should judge you by that bad day. We should have  
13 that information.

14 So he asked that rhetorically.

15 And so, since you asked, I wanted to answer  
16 that.

17 MICHAEL SISITZKY: And I would just add, you  
18 know, again, FOIL already considers those concerns  
19 of correction officers, of firefighters, of police  
20 officers, by allowing these agencies to withhold  
21 information if there is a threat to their safety, if  
22 there is an invasion of their privacy. So it's  
23 already taken into account.

24 The problem is, that 50-a applies this  
25 special layer of secrecy and protection above any

1 other public employee, which, actively, you know, to  
2 think about who to include in these conversations,  
3 the people being left out right now are not police  
4 officers or correction officers.

5 It's families, like Gwen Carr, like  
6 Constance Malcolm, like Valerie Bell, who have been  
7 fighting for so long, and been given so little  
8 access to basic information about what these  
9 agencies are doing to abuse -- to take  
10 accountability steps for account -- or, for abusive  
11 officers.

12 SENATOR JACKSON: Well, let me thank you all  
13 for coming in and giving testimony.

14 Have you all submitted your testimony in  
15 writing?

16 Yes?

17 If you have not, can you please submit it,  
18 even at a later date, or if you have copies of it  
19 now, so we can take it and put it as part of the  
20 record.

21 Thank you very much.

22 The next will be David McCraw, senior vice  
23 president, deputy general counsel, New York Times  
24 Company.

25 Good afternoon.

1           DAVID McCRAW: Thank you.

2           SENATOR JACKSON: You're welcome.

3           DAVID McCRAW: Same to you.

4           Much appreciate the committee taking a look  
5           at this issue, which has been a serious problem for  
6           the news industry in New York for years, and we're  
7           happy to see that it's finally getting the attention  
8           it deserves.

9           I'm the senior newsroom lawyer for  
10          "The New York Times."

11          In that role, I work closely with reporters  
12          across the country as they cover the difficult  
13          issues the communities face, as those communities  
14          try to find the appropriate balance between civil  
15          liberties and the need for effective law  
16          enforcement.

17          There are few issues that are more important  
18          to New Yorkers than safety and the police practices  
19          employed in their towns and cities.

20          The press plays a vital role in raising  
21          public awareness and assuring public accountability  
22          by reporting fully on incidents when the conduct of  
23          a police officer is called into question.

24          Whether police officers have done wrong or  
25          been unfairly accused, we all lose when the public

1 is kept in the dark about internal police  
2 investigations.

3 Citizens need to know the facts so they can  
4 make informed decision about law-enforcement  
5 priorities and resources, community policing,  
6 training for officers, and the adequacy and fairness  
7 of disciplinary processes.

8 The reality is, that Civil Rights Law 50-a  
9 prevents that from happening.

10 By barring the press from getting and  
11 reporting official information about incidents of  
12 alleged misconduct, the blackout imposed by  
13 Section 50-a serves to engender suspicion about  
14 whether justice is being done, and it leaves the  
15 public with little choice but to act upon rumors and  
16 emotional appeals and partial or wrong information.

17 Our reporters do their best to get at the  
18 truth in these cases, cases that often involve  
19 conflicting and complicated narratives. But that  
20 important work is undermined when the official  
21 records are kept under lock and key.

22 Section 50-a broadly makes secret the  
23 personnel reports of law-enforcement officers,  
24 firefighters, and corrections officers.

25 As a result, it hampers routine reporting on

1 public safety when the employment background of a  
2 uniformed officer is central to a story.

3 It also undermines journalists' ability to  
4 report on trends in law enforcement, like the story  
5 that was done recently by "USA Today," that showed,  
6 among others things, that a large number of  
7 police-misconduct complaints across the country  
8 involved just a small number of officers who are  
9 repeatedly under investigation.

10 But Section 50-a's impact on journalism is  
11 most pronounced at times when there are allegations  
12 of serious police misconduct; in other words, at  
13 times when the public has a powerful and legitimate  
14 interest in knowing whether their police force has  
15 betrayed the public trust, and how senior  
16 law-enforcement officials are responding.

17 Courts in other states grappling with these  
18 same issues of confidentiality and transparency have  
19 recognized the special importance of assuring the  
20 public oversight of police disciplinary matters.

21 In my testimony -- in my submitted testimony,  
22 I call attention to a Massachusetts case involving  
23 the "Worcester Telegram & Gazette," a paper formerly  
24 owned by The New York Times Company.

25 "The Telegram & Gazette" sought records about

1 an alleged false arrest, and took that case to the  
2 highest court in Massachusetts.

3 And the Court warned of the danger of giving  
4 police agencies broad discretion to declare  
5 materials from investigations secret.

6 Case was remanded to the Court of Appeals in  
7 Massachusetts, and the Court said something very  
8 important, and that is, that records about internal  
9 investigations and personnel proceedings involving  
10 the police should be more open, not less open, than  
11 the records of other agencies and other public  
12 employees.

13 So the Court wrote, "It would be odd, indeed,  
14 to shield from the light of public scrutiny, as  
15 personnel files or information, the workings and  
16 determination of a process whose quintessential  
17 purpose is to inspire public confidence."

18 That point is worth stressing.

19 Openness about police disciplinary actions is  
20 an essential factor in inspiring public confidence  
21 in our police departments.

22 Ultimately, law-enforcement agencies depend  
23 on the trust and support of New Yorkers to be  
24 partners with the police in fighting crime and  
25 assuring community safety.

1           That bond is frayed when secrecy shrouds  
2           investigation into alleged police misconduct.

3           While a news story about police misconduct  
4           may strike some as detrimental to law-enforcement  
5           efforts, precisely the opposite is true.

6           And we should be a leader in that kind of  
7           transparency that helps support public confidence in  
8           the police.

9           As many speakers have said today, the repeal  
10          of Section 50-a would not mean that, suddenly,  
11          personnel information would be flowing out to the  
12          public.

13          FOIL has many protections that would still be  
14          in existence. They're in existence now; they would  
15          now apply just the same to uniformed officers.

16          Those of us who use FOIL every day also know  
17          that it is far from a disclosure statute. It is  
18          most often used as a way to prevent information.

19          And I don't think that we're going to find  
20          that changing when 50-a disappears.

21          That said, eliminating 50-a goes a long way  
22          to helping journalists do their jobs more  
23          effectively as they work to provide the public with  
24          accurate, comprehensive reporting on law-enforcement  
25          matters.



1 I'm reminded of what the U.S. Supreme Court  
2 has said about the need for openness in our court  
3 system.

4 "People in an open society do not demand  
5 infallibility from their institutions, but it is  
6 difficult for them to accept what they are  
7 prohibited from observing."

8 The same applies here.

9 Thank you very much.

10 SENATOR BAILEY: Thank you, Mr. McCraw.

11 Thank you, Senator Jackson, for stepping in  
12 while I got a brief bite to eat.

13 So I just -- I want to thank you.

14 We know the importance of a free press,  
15 and -- and we -- we know the importance of news  
16 organizations being able to have accurate  
17 information from reliable sources.

18 And speaking of that, do you -- do you  
19 believe that -- that 50-a -- and I guess -- I don't  
20 know how -- exactly how to ask this question, but,  
21 what I'm thinking is, do you believe that reporters  
22 are less inclined to be able to report on instances  
23 of police misconduct because of the 50-a veil?

24 DAVID McCRAW: I think they have become  
25 frustrated. Most of the veteran reporters I know

1 understand that they run into a wall when they seek  
2 information that's clearly under 50-a.

3 I don't think that stops them from pursuing  
4 it. I don't think it stops them from trying to  
5 develop it through sources and other ways.

6 But they should not have to go to those kind  
7 of measures to get at information that the  
8 government should recognize -- and I hope the  
9 legislature recognizes -- is a valuable part of  
10 accountability, a valuable part of enhancing law  
11 enforcement, so there's trust.

12 Reporters are going to continue to pursue the  
13 stories, but they shouldn't have to work their way  
14 around 50-a to get at records that shed light on  
15 very important public issues.

16 SENATOR BAILEY: Do you believe, or have  
17 you -- do you know of any instances where  
18 journalists' safety would be compromised?

19 For example, if they're speaking -- and I say  
20 "safety" with a double-edged kind of sword, so to  
21 speak; safety of the sanctity of their sources  
22 and/or their personal safety.

23 Because, as you mentioned, sir, the -- a  
24 reporter's -- one of the reporter's -- a reporter's  
25 greatest tools are their sources who they have to

1 have an element of trust with.

2 And, do you think that this veil impedes  
3 that -- the ability of a source to be as forthcoming  
4 with a reporter?

5 DAVID McCRAW: Let me address both parts of  
6 your question, Senator.

7 I do think that sources are obviously  
8 concerned whenever they know that -- that a law  
9 prohibits them from revealing information.

10 Fortunately, this state has a very strong  
11 shield law that allows reporters to protect their  
12 sources.

13 That protection doesn't extend to the  
14 employee who is attempting to shed light on  
15 injustices who decides to step forward.

16 So, yes, the -- this -- because this bill is  
17 in -- because this law is in place, I do think it --  
18 it causes sources who might otherwise come forward  
19 to decide not to.

20 I'd also like to speak to the other point you  
21 raised about safety.

22 Safety is a huge concern, as we all know, in  
23 this time.

24 There is not a day in my work life where I am  
25 not asked to talk and work on issues involving

1 threats against reporters. Reporters are threatened  
2 every day in their work.

3 We have had, at "The Times," to take  
4 extraordinary measures over last two years to ensure  
5 our employees' safety.

6 That includes having a hotline for threats.

7 That includes, as you walk by our building  
8 now, we actually have barricades out there to  
9 prevent car bombs.

10 It involves working with the New York Police  
11 Department when there are credible threats.

12 This month, in Boston, a man who threatened  
13 "New York Times" reporters and threatened  
14 "Boston Globe" reporters is being sentenced for  
15 those threats.

16 We have an obligation, as a company, to make  
17 sure our employees are safe. The same is true for  
18 the City of New York and the State of New York.

19 We cannot let the mob decide what our laws  
20 are.

21 We have an obligation to do everything we can  
22 to tamp down violence and to protect employees.

23 That -- there's no doubt that I accept in  
24 good faith when people say that they're concerned  
25 about safety.

1           But I think the testimony here today has been  
2           that those threats have not been realized, and we  
3           all can take measures to assure safety when there  
4           are concerns.

5           SENATOR BAILEY: And just to speak to that  
6           point, one of the -- Nicole Hanna Jones, one of the  
7           reporters at "The New York Times Magazine," spoke  
8           about, on social media, that because she dared to do  
9           something concerning the horrors of slavery, that  
10          she received letters, I think, sent to her personal  
11          home.

12          And so it's -- it's -- it's -- it's important  
13          to understand that -- that safety is paramount to  
14          everybody, but, having laws that shield some, while  
15          opening up areas for others, is -- is a concern that  
16          I have.

17          And I -- I just wanted to make sure that I --  
18          that we -- as a state legislature, we understand  
19          that the press has a -- has a vital role, and not  
20          just the -- the information on issues like this, but  
21          the day-to-day things.

22          So we want to thank you for that.

23          Senator Jackson.

24          SENATOR JACKSON: Let me ask you about  
25          intimidation, by the pressure, in this particular

1 case, it would be the unions that support police,  
2 fire, and correction officers.

3 Do you feel the pressure from the other side  
4 of the reporters, so that, for them to back off a  
5 little bit, or somewhat, from what they're doing, by  
6 receiving pressure from those unionized forces or  
7 organizations that are against repealing 50-a?

8 DAVID McCRAW: As a lawyer who often tries to  
9 get reporters to do things that they would prefer  
10 not to do, change a story, change a word, do,  
11 whatever, I can assure you, they don't back down.

12 And that's a good thing when they're dealing  
13 with me, and it's a good thing when they're dealing  
14 with their sources.

15 What I -- I hope we are able to do, and here  
16 speaking on behalf of the press broadly, is to  
17 treat, fairly, everyone, even those people who may  
18 not like political stance we are taking on our  
19 editorial page, or, believe that 50-a is a good  
20 thing, when we believe it actually is harmful to  
21 society.

22 We have to press forward and we have to be  
23 fair.

24 SENATOR JACKSON: And did you -- were you  
25 here earlier when testimony was given by Lou and the

1 other individual from the detectives union?

2 I don't know if you heard any of their  
3 testimony, if you have any comments on what they had  
4 to say?

5 DAVID McCRAW: I heard the response to it,  
6 and I was here for one of the union presentations.

7 The one thing that I would respond to is, the  
8 view that, somehow, 50-a only reaches personal  
9 information, like addresses and phone numbers, and  
10 whatnot.

11 What we have seen is that it sweeps broadly,  
12 and the agencies are willing to exert it at every  
13 turn.

14 The New York Civil Liberties Union  
15 representative pointed out that, we have seen it  
16 brought into play about footage on body cams. We  
17 have seen it brought into play on statistical  
18 information.

19 The -- if we look through the cases from the  
20 Court of Appeals, you will see "The Daily Gazette"  
21 case, where 18 officers, off-duty, are accused of  
22 violating regulations by throwing eggs out of a bus.

23 And the idea that somehow that needs to be  
24 protected information strikes me as absurd.

25 That strikes me as the information that the

1 citizens of Schenectady need to know, so they  
2 understand what kind of police force they have, but  
3 more importantly, they understand how the department  
4 dealt with it.

5 SENATOR JACKSON: Well, let me thank you, on  
6 behalf of transparency and openness in government.

7 DAVID McCRAW: Thank you so much.

8 I appreciate the opportunity.

9 SENATOR BAILEY: Thank you for your  
10 testimony, sir.

11 And -- and before you go, I just want to say  
12 that, the -- "whose quintessential purpose is to  
13 inspire public confidence."

14 I think that -- let that be a lesson, not  
15 just for the police, but for the press, the  
16 legislators, and for the members of the public.

17 "Our existence, our quintessential purpose,  
18 should be to inspire public confidence."

19 Thank you for your testimony, including this  
20 case law.

21 I'm going to Westlaw this one and -- and --  
22 and research that one.

23 DAVID McCRAW: I think I have it right.

24 Thank you, sir.

25



1           SENATOR BAILEY: The next panel, thank you  
2 for your patience in advance, will be:

3           Quadira Coles from the Girls for Gender  
4 Equity;

5           Monifa Bandele from MomsRising;

6           Milo Inglehart from Transgender Law Center;

7           Isaiah Quinones -- Quinones (different  
8 pronunciation) -- excuse me -- from Make the Road;

9           Loyda Colon from Justice Committee.

10          DARIAN X: Isaiah couldn't be with us today,  
11 so I'm going to be testifying on their behalf.

12          SENATOR BAILEY: And, again, thank you for  
13 your patience, and thank you for showing up early to  
14 hear all of the testimony.

15          And you can make the decision as to who will  
16 be beginning.

17          I just ask that you intro -- introduce you --  
18 introduce yourself by name before you begin  
19 testifying.

20          Thank you.

21          MONIFA BANDELE: Hi. My name is  
22 Monifa Bandele, and I'm senior vice president at  
23 MomsRising.

24          And we are here, of course, to support  
25 repealing 50-a.

1 I'm just, for some context, MomsRising is a  
2 national organization of more than a million people.

3 We're working to achieve health equity,  
4 economic security for all moms, and community  
5 safety.

6 In New York, our 50,000 members are working  
7 to bring greater independent oversight,  
8 transparency, accountability, and justice for  
9 victims of police brutality and misconduct.

10 Every day we are working towards a day where  
11 mothers no longer fear that our children could come  
12 to harms at those who are charged with protecting  
13 and serving them.

14 A lot of discussion today talked about  
15 excessive use of force, and that is something that  
16 is of great concern to our members.

17 But, actually, I want to talk about the  
18 second most frequent complaint charged against the  
19 police, and that's the charge of sexual misconduct.

20 Because of the secrecy that exists, there is  
21 not publicly disclosed information about the number  
22 of complaints of sexual misconducts and -- that  
23 the -- misconduct that the NYPD receives, or the  
24 scope of the crisis in New York.

25 But one study surveyed almost 1,000 youth in

1 New York City, and found that two out of five young  
2 women had been sexually harassed by police officers.

3 High-profile incidents of horrific abuse also  
4 reveal a troubling problem that must be addressed.

5 Of course, I think everyone here heard about  
6 the most recent case of two New York City police  
7 officers raping an 18-year-old girl in the back of  
8 an unmarked van.

9 Here's the thing: In my child's high school,  
10 all of the adults that they interact with, their  
11 disciplinary records have to be made transparent, to  
12 the parents and to the public, who go to the school,  
13 you know, families, everyone.

14 But for those same high school students, the  
15 people who patrol them, people who may ultimately  
16 sometimes put them in custody, that same information  
17 is not available.

18 And in those incidents, they're in a much  
19 higher risk than they are engaging with the gym  
20 teacher or janitor or teacher at their school.

21 So we just want to say that, in communities  
22 across New York City, women, men of color, trans,  
23 gender non-conforming, and non-binary civilians are  
24 specifically targeted, face humiliation, and abuse  
25 during their interactions with the police every day.

1           And we need transparency in order to get to  
2           the justice.

3           So we urge that you repeal 50-a.

4           SENATOR BAILEY: Thank you.

5           QUADIRA COLES: Good afternoon, Chair Bailey  
6           and members of the Senate standing committee.

7           My name is Quadira Coles, and I'm the policy  
8           manager at Girls for Gender Equity.

9           Thank you for holding this important hearing  
10          on police and transparency, and opportunity to speak  
11          today.

12          Girls for Gender Equity is an  
13          intergenerational advocacy and youth-development  
14          organization that is committed to the physical,  
15          psychological, socio- and economic development of  
16          girls and women.

17          GGE is committed to challenging structural  
18          forces, including racism, sexism, transphobia,  
19          homophobia, and economic inequality, which  
20          constricts the freedomful [sic] expression and  
21          rights of trans and cis girls and young women of  
22          color and gender non-conforming youth.

23          Our work daily with young women, and  
24          transgender, non-conforming, youth of color, who are  
25          policed at every juncture of their lives: on their

1 way to and from school by NYPD officers, and school  
2 by NYPD school safety agents and police, while  
3 assessing [sic] city services, simply being in  
4 public space.

5 Young women, and non -- and transgender,  
6 non-conforming, young people are criminalized for  
7 everyday behavior, oftentimes hypersexualized due to  
8 historically locator, racialized, and gender-based  
9 stereotypes. And they are regularly policed because  
10 of their race, ethnicity, sexual orientation, gender  
11 identity, and/or gender expression.

12 As an organization that has worked to address  
13 gender-based violence for over 16 years, we  
14 understand the acts of gender-based violence are  
15 often pattern and repetitive. Frequently, sexual  
16 harassment and sexual assault are not a one-time or  
17 isolated incident.

18 Further, survivors who report sexual  
19 misconduct by police officers are met by a  
20 disciplinary system that benefits from hiding  
21 misconduct, especially repeated misconduct, from the  
22 public eye.

23 This secrecy unnecessarily cause undue  
24 [indiscernible] to survivors of police misconduct,  
25 including families who have lost loved ones to

1 police violence.

2 While there is little transparency on the  
3 full scope of prevalence of police sexual  
4 misconduct, research indicates that police officers  
5 sexually harass and assault women and girls at  
6 alarming frequency.

7 I want to talk about a "BuzzFeed" fact that  
8 was mentioned in a previous testimony, about how  
9 police officers are allowed to keep their jobs after  
10 egregious offenses, and these offenses often are  
11 happening in schools.

12 The database shows that 206 cases involving  
13 school safety agent or representative of the NYPD  
14 included 52 instances of substantiated charges,  
15 including physical contact with students, including  
16 acted inappropriately with a student, unnecessary  
17 and excessive force against a student, wrongfully  
18 searched a student and made them disrobe, and  
19 dragged the student by the arm, all responded to  
20 with the forfeiture of vacation days.

21 Further, those 206 cases, on average, of  
22 391 days passed between the date of charge and the  
23 date of disposition.

24 Greater transparency around the history of  
25 police disciplinary records through the repeal of

1 50-a and the passage of S3695 would be a significant  
2 step in ensuring that officers who harm community  
3 members are held accountable, and, simultaneously,  
4 advancing safe and supportive schools.

5 The full repeal of the law is necessary to  
6 advance true community safety for girls, and  
7 transgender, non-conforming, youth of color in  
8 New York.

9 We thank you again, New York State Senate  
10 Committee on Codes, for holding this hearing.

11 SENATOR BAILEY: Thank you very much.

12 DARIAN X: Peace, again.

13 My name is Darian.

14 I'm going to be testifying on behalf of  
15 Isaiah Quinones who is a youth member at Make the  
16 Road New York.

17 SENATOR JACKSON: (Microphone off.)

18 Darien, [inaudible].

19 DARIAN X: Yeah, sure. No problem.

20 So my name is Darian X. I'm a youth  
21 organizer at Make the Road New York, for justice and  
22 community safety.

23 I met a lot of y'all in Albany, and have  
24 pretty cool relationships with you as well.

25 Today myself and many other community groups

1 gather before the Senate to continue to call for a  
2 full repeal of Civil Rights Law 50-a, because young,  
3 Black, and Latinx -- Black and Latinx and queer and  
4 trans people in our communities regularly experience  
5 police violence and abuse, that we are lack -- we  
6 lack the ability to identify officers who commit  
7 these egregious acts of harm.

8 Police secrecy laws, like 50-a, make it  
9 nearly impossible for families who have lost loved  
10 ones to police, and individuals who have been  
11 brutalized, sexually assaulted, and abused by law  
12 enforcement, to hold police departments and officers  
13 accountable.

14 The need to act and fully repeal 50-a has  
15 never been more clear in the state of New York.

16 Eric Garner, 43 years old, was lynched by the  
17 hands of NYPD officers, and left to die on the  
18 sidewalk in Staten Island.

19 However, in the wake of our community's  
20 mourning of Eric Garner, 50-a was used as an excuse  
21 to not disclose disciplinary records and information  
22 about substantiated CCRB complaints against  
23 Daniel Pantaleo, the officer who put Eric into the  
24 NYPD-banned chokehold, while multiple other officers  
25 tackled him and forced him to the ground.



1           Many of those same officers who participated  
2           in killing him remain anonymous and shielded by  
3           Civil Rights Law 50-a.

4           Saheed Vassel, 34 years old, was executed in  
5           front of his family and friends and his community.

6           His assailants were then allowed to remain  
7           anonymous, yet present in our communities, able to  
8           continue to commit harm.

9           How long will our policymakers continue to  
10          allow members of our communities to be killed, and  
11          their killers walk away with anonymity and impunity?

12          However, we know that this has not always  
13          been -- this -- this blue wall of silence has not  
14          always been the type of New York that we have lived  
15          in.

16          For the last -- for 40 years, the NYPD used  
17          to publish outcomes of disciplinary proceedings,  
18          including officers' names, until they decided to  
19          reinterpret 50-a in 2013, and claim that it lets  
20          them withhold even basic summary information.

21          So while the police unions may joust  
22          rhetoric, suggesting that officers will be injured  
23          or harmed or that the sky will fall, we know that  
24          this is simply a gross act of political data and is  
25          in no way accurate.

1 Civil Rights Law -- Civil Rights Law 50-a  
2 serves no function to protect an officer's safety or  
3 personal privacy.

4 However, it has served to permit police  
5 departments to withhold, virtually, any information  
6 related to outcomes of police department  
7 disciplinary trials, and even misconduct documents,  
8 which have now been redacted to remove any  
9 identifying officer information.

10 Our communities have a right to know officers  
11 who abuse their powers and commit harm and violence  
12 to our friends and families in our communities.

13 We can no longer allow or wait for the police  
14 department to cherry-pick information to disseminate  
15 to our communities.

16 We know, that in the moments where our  
17 community members are abused, mistreated,  
18 traumatized, and are dying, the NYPD agencies have  
19 prioritized protecting critical information from  
20 public view, as opposed to protecting or -- or  
21 prioritizing justice and humanity for our  
22 communities, as we have seen in cases like  
23 Delrawn Smalls [sic].

24 Maintaining 50-a means telling young people  
25 in our communities that our state lawmakers and

1 policymakers will prioritize State-paid killers' and  
2 abusers' reputations over their own lives.

3 It means telling police officers, who  
4 continually seek to harm members of our communities,  
5 who repeatedly break the law and violate patrol  
6 guide regulations, that their actions are okay, and  
7 that they will be protected by this body of  
8 policymakers.

9 As our brother Desmond Tutu said, "If you are  
10 neutral in instances of injustice, you have chosen  
11 the side of the oppressor."

12 Today we re-urge and beckon the state  
13 legislature to prioritize a repeal -- repealing --  
14 fully repealing Civil Rights Law 50-a, and to choose  
15 accountability, to choose transparency, to choose  
16 justice for our communities.

17 Thank you.

18 SENATOR BAILEY: Thank you.

19 MILO INGLEHART: Hi. I'm Milo Inglehart.

20 I'm a legal fellow at the Transgender Law  
21 Center, and I will be testifying on behalf of the  
22 Transgender Law Center, once I adjust this  
23 microphone.

24 The Transgender Law Center is the largest  
25 national trans-led organization, advocating

1 self-determination for all people, and we support  
2 the full repeal of New York Civil Rights Law 50-a.

3 Transgender people in New York, particularly  
4 transgender people of color, face alarming rates of  
5 police harassment.

6 The 2015 U.S. Transgender Survey results for  
7 New York found that, in the past year, of  
8 respondents who interacted with law-enforcement  
9 officers, who knew or thought they knew they were  
10 transgender, 61 percent experienced some form of  
11 mistreatment, ranging from verbal harassment to  
12 sexual abuse.

13 TLC attorneys have worked with  
14 self-transwomen who were profiled as sex workers by  
15 the police, and threatened with arrest unless they  
16 performed sexual acts on the officers.

17 Once they performed the acts, however, the  
18 officers would arrest the women anyway.

19 The current lawsuit brought by the ACLU and  
20 NYCLU against the New York Police Department, on  
21 behalf of Latina transwoman Linda Dominguez, is one  
22 example of the kind of behavior that is often only  
23 addressed behind closed doors, if at all.

24 Dominguez was charged with false personation  
25 in 2018 when she told police officers both her birth

1 name and legal name upon her arrest.

2 NYPD officers left her chained to jail-cell  
3 bars in pink handcuffs all night, to humiliate  
4 Dominguez, and verbally harassed her, while she was  
5 locked there.

6 This kind of harassment is also why most  
7 transgender people feel unsafe going to the police.

8 58 percent of New York State respondents to  
9 the U.S. Transgender Survey said they would feel  
10 uncomfortable asking police for help if they needed  
11 it.

12 This is a particular problem for transgender  
13 people who experience intimate partner violence or  
14 transphobic attacks.

15 TLC attorneys have worked with several trans  
16 New Yorkers who have called police for help and been  
17 ignored, or, worse, arrested themselves.

18 While our attorneys have made complaints  
19 about these patterns, there is no way to know if  
20 officers are being held accountable because 50-a  
21 shields such records from the public.

22 Correctional officers also disproportionately  
23 abuse trans people, particularly trans people of  
24 color.

25 The U.S. Trans Survey found that one in five

1       incarcerated respondents had been physically or  
2       sexually assaulted by prison staff in the last year.

3               Among those who were physically assaulted by  
4       staff, about half reported that this had happened  
5       multiple times in the past year.

6               The U.S. Trans Survey also found, more than a  
7       third of trans respondents had been deprived of  
8       medical care while incarcerated.

9               The tragic death of a Layleen Polanco, an  
10       Afro-Latinx trans woman who died on Rikers Island  
11       this past summer, is one example of the dire  
12       consequences of this kind of neglect.

13              Polanco was held in solitary confinement, as  
14       many transgender people in prisons and jails are,  
15       despite prison staff knowing that she had an  
16       epileptic condition.

17              Polanco had a seizure while in isolation, and  
18       died alone in her cell, without treatment.

19              Advocates have spoken out about conditions  
20       for transgender people on Rikers Island for decades,  
21       but the protections of 50-a make it difficult to  
22       know how seriously correctional officers' violations  
23       of trans people's rights are being taken.

24              In order to understand how such tragedies can  
25       occur, we need to be able to see how internal

1 systems are responding when harm occurs.

2 We need to be able to understand patterns of  
3 behavior and discipline in order to fully hold  
4 violent individuals and systems accountable.

5 Therefore, TLC supports the full repeal of  
6 CRL Section 50-a.

7 Thank you for your time.

8 SENATOR BAILEY:

9 Thank you.

10 So I just want to thank you all for being  
11 outspoken about the need for repeal.

12 I would ask, in the same way I've asked  
13 everybody that's come before, I think except  
14 "The New York Times," full repeal or modification?

15 Are you standing just full repeal?

16 I just want to be on the record.

17 DARIAN X: Full repeal.

18 MONIFA BANDELE: Full repeal.

19 QUADIRA COLES: Full repeal.

20 MILO INGLEHART: Full repeal.

21 SENATOR BAILEY: I have a -- Senator Salazar,  
22 do you have something?

23 SENATOR SALAZAR: Yeah, I have one -- I have  
24 one question.

25 SENATOR BAILEY: No, I want you to, because

1 I don't know exactly how to ask the question.

2 So I want you to ask first, and then I'm  
3 going to try to be more artful in what I --  
4 because -- what was I'm thinking, I don't know.

5 SENATOR SALAZAR: Yeah, no problem.

6 So I guess I'll specifically ask Milo --  
7 But, of course, anyone, feel free to answer  
8 this.

9 -- because you referenced, of course, the --  
10 the case of Layleen Polanco, and how on -- on  
11 Riker -- or -- or corrections officers at Rikers,  
12 because of the protections of 50-a, it's difficult  
13 for us to know how seriously correction --  
14 correctional officers' violations are -- are taken.

15 Earlier, we heard testimony, saying that --  
16 that the disciplinary cases of corrections officers  
17 are made public.

18 But there -- there wasn't -- I think there's  
19 a lack of clarity about -- about access to those  
20 records.

21 Right?

22 So I'm curious if you could, you know,  
23 enlighten us on -- on exactly what access there is,  
24 and -- and what the problem is that 50-a poses?

25 MILO INGLEHART: We don't represent Layleen



1 in that case, so we don't know the exact law.

2 But from what I understand, there were the  
3 same kinds of, sort of, hiding the facts of who was  
4 involved in putting her in solitary, what kind of  
5 medical care she was given, whether they had even  
6 actually accurately recorded her medical conditions,  
7 like, it was on one form, but it wasn't on another  
8 form.

9 So there was this same kind runaround,  
10 I think, that you see in other cases of police  
11 violence, and other cases where there's kind of this  
12 lobbying used to shield accountability.

13 I don't know if other folks know.

14 MONIFA BANDELE: Yeah, I wanted to add, that  
15 even if you're able to access a specific file for a  
16 specific incident, the fact that you can't get  
17 information about patterns that officers have,  
18 whether they're correction officers or police  
19 officers, really still also becomes a challenge in  
20 seeking justice, because, you know, there could be  
21 one person's word against another.

22 But if you knew the history, if you knew the  
23 pattern, then you can maybe access other people who  
24 have filed complaints.

25 And that is a big wall for people seeking

1 justice.

2 QUADIRA COLES: (Microphone off.)

3 I also think -- oops. I think this is off.

4 (Microphone on.) I also think this is a case  
5 of accountability, like we seen in the  
6 Kalief Brother -- Browder case.

7 Like, we just want these officers to be held  
8 accountable for their actions, and, to be held  
9 accountable, we need to know if they have a past  
10 history of this.

11 SENATOR SALAZAR: Thank you.

12 SENATOR BAILEY: So I -- I was able to  
13 artfully ask my question.

14 How important do you believe that it is for  
15 impacted individuals, and individuals who are not in  
16 law enforcement or work directly with law  
17 enforcement, to be involved in this bat -- in this  
18 battle around 50-a?

19 DARIAN X: Sorry, could you repeat that?

20 SENATOR BAILEY: So, like, the average  
21 person -- I don't like to use the word "layperson"  
22 because it's -- it makes it seem like we're on  
23 unequal footing.

24 But, a person who is not employed in the  
25 fields of criminal justice, law enforcement, or

1 government -- right? -- how important is it to make  
2 sure that this is conveyed to the general public --  
3 I think that might be a better term -- as to why  
4 this is so be important to get involved in?

5 DARIAN X: I think, like, for us, like, as  
6 we're talking to young people who may be very  
7 disconnected from political processes and, you know,  
8 most of our schools don't get this type of  
9 education, I think, like, when we explain this to  
10 them, that, like, these type of records are not  
11 already available to communities, that they're in  
12 shock and disbelief. Right?

13 So I think it's of the utmost importance that  
14 we connect everyone to our communities, to  
15 understand that there is a level of secrecy that is  
16 maintained when it comes to policing, that is very  
17 different than everyone else in our communities,  
18 than you or I, than a teacher or a doctor or a  
19 lawyer, or anyone else.

20 Right?

21 So I think it's super-imperative that  
22 everyone in our community is connected to being a  
23 part of creating transparency and accountability in  
24 New York, but also very much aware and educated  
25 about the fact that police, and a lot of the cases

1 in our city and in our state, are treated as above  
2 the law -- right? -- are treated as more than just a  
3 regular person in our communities.

4 QUADIRA COLES: I think the same way we have  
5 these educational campaigns around drug use and the  
6 harms it cause, and how it's just out there in every  
7 school, I think it could be the same way, just  
8 educating the communities through educational  
9 campaigns.

10 MONIFA BANDELE: Yeah, how I heard your  
11 question the first time, I thought you were asking,  
12 how involved should people in law enforcement be in  
13 designing this particular mechanism of oversight?

14 I got some of that from that question.

15 SENATOR BAILEY: Sure.

16 MONIFA BANDELE: And that came up earlier,  
17 too, when the PBA representative was testifying  
18 about the amount of input that people in law  
19 enforcement should have in determining whether 50-a  
20 should be modified or repealed.

21 You know, that's some of what surfaced in  
22 that testimony.

23 And so we really believe that oversight is  
24 independent -- right? -- and that it's very  
25 difficult to police one's self, you know, as an

1 individual or as an agency.

2 And so that's why CPR fought to get an  
3 inspector general in New York City.

4 You know, there have to be these independent  
5 mechanisms that decide, and that look, you know,  
6 very objectively, at what's best for the public.

7 And so I think that you-all, state senators,  
8 you know, the public, of course feedback from the  
9 agencies that are involved.

10 But, those agencies, and those unions, should  
11 not be allowed to block, or give input to the point  
12 where it alters, the type of oversight that they  
13 will have to be accountable to.

14 SENATOR BAILEY: Very fair.

15 So to that point, are you willing to -- and  
16 this is just a general question that just popped up:

17 Would you be willing to have a conversation  
18 with the -- the -- those same -- those very folks  
19 that testified about that, as a collective?

20 QUADIRA COLES: Yeah, of course.

21 MONIFA BANDELE: The union -- not the people  
22 that didn't show up, the ones that came?

23 SENATOR BAILEY: Yes.

24 So we can only speak about the individuals  
25 who testified.

1 Yes.

2 MONIFA BANDELE: Well, of course.

3 MILO INGLEHART: Definitely. Just want to  
4 make folks safer, so, if working with them does  
5 something.

6 DARIAN X: I would also add that, like, our  
7 groups have never blocked conversation with other  
8 groups around this issue. Right?

9 At the very least, we've tried to come to the  
10 table and negotiate. We've tried to talk about the  
11 issue.

12 It hasn't been us that has created  
13 resistance.

14 SENATOR BAILEY: Oh, I'm not saying that you  
15 have at all.

16 I'm just saying that, we just want to make  
17 sure that, as legislators, you as activists, and  
18 individuals who are impacted, you're willing to sit  
19 down.

20 And I think that's what this hearing is  
21 about, for the -- how many times have we said  
22 this? -- for the 43rd time, maybe, today?

23 Like, that's what the hearing is about: to  
24 hear voices that may not necessarily agree, get them  
25 to a place where we can have a conversation, and

1 then build on that topic of conversation.

2 The one thing I'll add is this:

3 In law school I learned, like -- I learned a  
4 lot of things, but the first couple of things  
5 I learned were: Rule 1.1. Professional conduct.  
6 You're a lawyer everywhere you go.

7 Right?

8 Everywhere you go, you're a lawyer. Right?

9 And it applies to being an elected official:  
10 Everywhere you go, you're an elected official.

11 And, also, ignorance is no defense to the  
12 law. Just because you don't know something doesn't  
13 mean that you can't violate the law. Right?

14 Like, those are the things that, like, ring  
15 true from the first week of being at [indiscernible]  
16 law school.

17 And I think that's why it's important, to  
18 your point, Brother Darian, that you make sure that  
19 you educate our -- the people in our communities,  
20 because I think we work hard to do it, but we have  
21 districts of 318,000-plus, and we can't get to every  
22 person at every time about everything.

23 So I would just ask that you continue the  
24 mission, and to continue to provide information to  
25 the community about, what this is, what it's not,

1 and how people can avail themselves of the  
2 information.

3 I just really want to thank you all for your  
4 testimony.

5 MONIFA BANDELE: Thank you.

6 QUADIRA COLES: Thank you.

7 SENATOR BAILEY: All right, we are moving  
8 along.

9 The next group of panelists will be:

10 Jacqueline Renee Caruana;

11 Chris Boyle from the New York County Defender  
12 Services.

13 Jacqueline is from Brooklyn Defender  
14 Services.

15 Karen Thompson from New York State  
16 Association of Criminal Defense Lawyers;

17 Molly Griffith [sic] from Legal Aid;

18 And Oded Oren from Bronx Defenders.

19 Please apol -- I apologize in advance, and,  
20 before and after, if I have messed up any of your  
21 names.

22 So you can self-determine the order that you  
23 go.

24 I would just ask that, prior to your  
25 testimony, you -- you just indicate who you are.



1           And I would also like to thank you for your  
2           patience, and -- and -- and sitting through the  
3           hearing, and I appreciate it.

4           JACQUELINE RENEE CARUANA: I've been voted to  
5           go first, I think.

6           My name is Jacqueline Caruana. I am a senior  
7           staff attorney with Brooklyn Defender Services.

8           I want to thank the -- Senator Bailey and the  
9           rest of the committee for inviting our organization  
10          to testify today.

11          I have been a public defender for 10 years,  
12          and I wanted to start off by saying that, because  
13          I wanted to address one of the comments by one of  
14          the representatives from PBA on the previous panel.

15          I believe what was said was that: Defendants  
16          record -- the defendant's record is protected in  
17          court.

18          I think that's what was said.

19          That's just absolutely not true. It's  
20          categorically not true.

21          In fact, the fact that a police officer's  
22          disciplinary record is protected more than a  
23          defendant's record when that police officer's  
24          liberty and freedom is not at stake, is not only  
25          categorically unfair, but it is simply unacceptable.

1           And I just wanted to start out by addressing  
2           that, because that was one of the things that stuck  
3           out, as a defense lawyer, and as a public defender  
4           for 10 years, that that was just one of the most  
5           untrue things that was said, amongst the many other  
6           untrue things that were said during that testimony.

7           Police officers have become the most common  
8           witnesses in the criminal legal system, and  
9           nearly -- a nearly ubiquitous presence in everyday  
10          lives of low-income people of color.

11          And yet because of Civil Rights Law 50-a, our  
12          communities, public defenders, and journalists have  
13          absolutely no information about police officer  
14          misconduct or mechanisms to hold police accountable.

15          For example, when my requests for police  
16          disciplinary records are denied, pursuant to 50-a,  
17          my client's constitutional right to present a  
18          defense and confront his accusers has been greatly  
19          infringed upon.

20          In practice, the inability to access these  
21          police records severely limits the ability to  
22          impeach and cross-examine police officers.

23          And I think it was Senator Salazar who asked  
24          a question of a previous panel, about getting access  
25          to these records, and how that would affect

1 outcomes.

2 And I can say that New York has a very high  
3 rate of wrongful convictions.

4 And getting access to these records would  
5 greatly impact that, and would greatly decrease that  
6 number, because the inability to cross-examine a  
7 police officer about their credibility is a central  
8 issue to the majority of the cases that are going to  
9 trial.

10 And, also, it's essential to be able to  
11 advise our clients about how to proceed with a case.

12 Should they take a plea?

13 Should they go to trial?

14 What is the best outcome for them?

15 And the inability to access those records is,  
16 essentially, tying our hands with the ability to  
17 advise our clients in that way.

18 Judges routinely deny defense requests for  
19 police disciplinary records because they interpret  
20 50-a to mean that defense lawyers need to show proof  
21 that an officer has a disciplinary history in order  
22 to access the disciplinary records, which we  
23 obviously can't do without accessing the records.

24 So, again, it's the ultimate catch-22.

25 And what's -- what's also very troubling, is

1 that police and prosecutors are routinely opposing  
2 defense requests for officer disciplinary records,  
3 and, as a result, police officers in New York are  
4 granted a very special privacy right that no other  
5 professional or civilian witness is granted.

6 And I wanted to talk about two specific  
7 instances that were clients of colleagues of mine,  
8 because I think it sheds some light on what's going  
9 on in terms of both police and prosecution responses  
10 to defense requests for police disciplinary records,  
11 in regards to 50-a.

12 The first one deals with an individual who  
13 was charged with a felony offense as a result of an  
14 investigation by an identification procedure by --  
15 conducted by a detective with NYPD.

16 That particular detective had been the  
17 subject of multiple lawsuits that were settled by  
18 the City.

19 The attorney for this individual requested  
20 the detective's disciplinary records, and NYPD  
21 opposed access to the records, and they opposed  
22 access to the records in writing.

23 So we have their -- the opposition papers in  
24 writing.

25 And in their opposition papers, the attorney

1 for the detective, for NYPD, acknowledged the  
2 detective had been subjected to civil litigation.

3 So they acknowledged that.

4 And they also acknowledged that this  
5 detective failed to, quote, properly document  
6 investigative activity.

7 But then argued that that did not  
8 demonstrate a, quote, history of actual misconduct,  
9 because the number of lawsuits attributed to this  
10 particular detective is, quote, miniscule when  
11 compared to the number of police interactions in  
12 which the detective has been involved.

13 The judge agreed with the NYPD and denied  
14 access to these records.

15 To me, that's like saying this officer has  
16 made 100 arrests, and only lied about 5 of them, so  
17 that's okay.

18 What if you were to say that a doctor had  
19 performed 100 surgeries, and only operated on the  
20 wrong limb 5 times?

21 Would that be okay?

22 I don't think anybody would answer yes to  
23 that.

24 And that's the response that we're getting  
25 from NYPD.

1 I just want to talk briefly about the  
2 responses that we're getting from the prosecution,  
3 because this is important in light of the fact that  
4 there has been some conversation about prosecutors  
5 getting access to these records.

6 Even when prosecutors are getting access to  
7 the fact that there exists a disciplinary history of  
8 an officer, it does not mean that they are also not  
9 opposing defense access to these records.

10 And so we had a similar situation with a  
11 client, where the prosecution actually had access to  
12 the disciplinary record, disclosed a list of prior  
13 misconduct from the officer to the Court and defense  
14 counsel, but none of the details or anything  
15 associated with it.

16 And then when we filed the request for the  
17 records, pursuant to 50-a, the prosecution opposed  
18 our request, calling it a, quote, foray into a  
19 witness's confidential records in the hope of  
20 finding some unspecified information that can be  
21 used to impeach the witness.

22 It's just gotten to the point of beyond  
23 ridiculous.

24 And the bottom line is that, police officers  
25 are repeatedly engaging in misconduct.

1           We are starting to see body-cam footage  
2           trickle in that shows this, confirms this.

3           And this misconduct includes providing false  
4           information while under oath.

5           And instead of acknowledging these serious  
6           issues, the City of New York and local governments  
7           across the state are willingly overlooking it, and  
8           allowing these officers to remain employed, paying  
9           out countless millions of dollars in lawsuits to  
10          civilians on their behalf.

11          CRL 50-a must be repealed.

12          Again, I want to thank the committee for the  
13          opportunity to speak.

14          And, also, we ask the Senate and Assembly to  
15          vote for the passage of Senate Bill 3695, and also  
16          the corresponding Assembly Bill 2513.

17          SENATOR BAILEY: Thank you.

18          KAREN THOMPSON: Good afternoon, Senator, and  
19          Chairman Bailey, and also to Senators Salazar and  
20          Riveria -- Rivera. Excuse me.

21          Thank you for providing us with the  
22          opportunity to testify.

23          Jackson, I'm so sorry.

24          Thank you for providing us with the  
25          opportunity to testify today.

1           My name is Karen Thompson, and I am a member  
2 of the board of the New York State Association of  
3 Criminal Defense Attorneys [sic] (NYSACDL), and the  
4 co-chair of NYSACDL's legislative committee.

5           NYSACDL was formed in 1986 by a group of  
6 defense attorneys who felt it was time to speak in a  
7 unified voice about criminal defense issues in  
8 New York State.

9           We are a statewide organization with over  
10 1,000 members, responsive to the needs of both  
11 private practitioners and public defenders, and  
12 dedicated to assuring the protection of individual  
13 rights and liberties for all.

14           NYSACDL's guiding principle is that, vigorous  
15 defense is the strongest bulwark against error and  
16 injustice in the criminal justice system.

17           In an error -- in an era when the  
18 United States has the highest incarceration rate in  
19 the world, we expand on the question most often  
20 posed to our members, and ask: How can we defend  
21 our clients most effectively?

22           Today, as part of that mission, I am here to  
23 urge for the repeal of 50-a and support of S3695.

24           Such a repeal would provide much-needed  
25 transparency on police misconduct and discipline in



1 New York State, and help address the systemic lack  
2 of accountability for officers who engage or engaged  
3 in misconduct.

4 I urge for the repeal of 50-a not only as a  
5 board member of NYSACDL, but also as a former senior  
6 staff attorney at the Innocence Project, and a  
7 current senior staff attorney at the ACLU.

8 Both of these professional experiences have  
9 made it amply clear that a lack of transparency with  
10 regard to police misconduct leads to terrible  
11 outcomes, including, but not limited to, the  
12 wrongful incarceration of innocent people.

13 While all public servants are entitled to  
14 confidentiality, they are not entitled to hide  
15 behind civil rights laws to obscure histories of  
16 forced confessions and shoddy police work, and to  
17 avoid public accountability.

18 Such a systemic, fundamental, and pervasive  
19 lack of transparency leads to horrific outcomes that  
20 could be easily avoided.

21 By way of example, the committee may be  
22 familiar with the case of Huwe Burton, who was  
23 exonerated in January of this year of the murder of  
24 his mother, after an exhaustive collaborative  
25 two-year investigation between the Innocence Project

1 and the Bronx DA's Conviction Integrity Unit.

2 Mr. Burton was convicted largely on a  
3 confession he made to three detectives from the  
4 47th Precinct, Frank Viggiano, Stanley Schiffman,  
5 and Sevelie Jones, who used several  
6 psychologically-coercive techniques, from  
7 threatening additional criminal charges, to sleep  
8 deprivation, to obtain that confession.

9 Mr. Burton was eventually convicted and  
10 spent 19 years in prison.

11 Mr. Burton's conviction was also  
12 based on false statements from a man named  
13 Demanuel [ph.] [sic] Green who had rented an  
14 apartment downstairs from the Burton family.

15 Five days after Mr. Burton confessed, those  
16 same police detectives stopped Mr. Green driving  
17 Mr. Burton's mother's car.

18 While police secured written and videotaped  
19 statements from Green, claiming that Burton had  
20 asked him for help in the murder, it was eventually  
21 revealed that Mr. Green, who had a long history of  
22 violence, had killed Mr. Burton's mother.

23 During the course of this reinvestigation, it  
24 was also revealed that these same officers had  
25 exacted false confessions from two other individuals

1 in unrelated cases three months before Mr. Burton  
2 was arrested.

3 It is unknown how many false confessions  
4 these three men extracted; how many wrongful  
5 convictions they secured.

6 But these histories should not be hidden  
7 behind some idea of confidentiality that ignores the  
8 necessity of public accountability, and leaves  
9 actual perpetrators on the street and innocent  
10 people in prison.

11 Similarly, Lewis Scarcella, a former homicide  
12 detective in Brooklyn, had a reputation for being  
13 able to persuade the most hardened suspects to  
14 confess.

15 In 2013, evidence emerged that a man accused  
16 of killing a rabbi had been framed, leading to his  
17 release after serving 23 years for a crime he didn't  
18 commit.

19 Since then, the King County --  
20 Kings County DA's Office has asked judges eight  
21 times to reverse guilty verdicts that Scarcella  
22 helped obtain.

23 The Kings County DA's Office is currently  
24 leading an inquiry into more than 70 homicides that  
25 Scarcella helped investigate.

1           In some of these cases, judges noted that  
2           Scarcella had not been truthful in his testimony,  
3           yet he has never been charged with official  
4           misconduct or breaking the law.

5           While this may be a case of a few bad apples,  
6           we can't ignore the second half of that proverb,  
7           which is "that a few bad apples can spoil the  
8           bunch."

9           Repealing 50-a would help ensure that nothing  
10          spoils at all.

11          Indeed, expanding public access to these  
12          kinds of records is critical to keeping good cops  
13          employed and the bad ones unemployed.

14          We have an obligation, as pursuers of  
15          justice, to reveal and understand a police officer's  
16          prior histories and misconduct.

17          Police officers cannot be shielded from  
18          public scrutiny at the expense of accountability and  
19          safety.

20          This is particularly true when the same  
21          police officers who hide behind their blanket right  
22          to privacy engage in misconduct that irreversibly  
23          damages the lives of chilled -- of citizens caught  
24          up in their deceit.

25          Indeed, in the case of Daniel Pantaleo, as

1 you heard earlier today, this lack of transparency  
2 withheld from public view, the fact that Pantaleo  
3 had accrued more civilian complaints than  
4 95 percent of NYPD officers prior to killing  
5 Mr. Gardner [sic].

6 Who watches the watchmen, and who pays with  
7 their lives, with the destruction of their families,  
8 with the fracturing of communities, when the  
9 watchmen are allowed to indulge in the most  
10 dishonest behaviors without sanction or  
11 repercussion?

12 A recent national effort by "USA Today,"  
13 reviewing the records of 85,000 police officers  
14 nationwide, found individuals who had beaten members  
15 of the public, planted evidence, used their badges  
16 to harass women, lied, stolen, dealt drugs, driven  
17 drunk, and abused their spouses.

18 2500 had been investigated on 10 or more  
19 charges, and 20 faced 100 or more.

20 5,000 had their credibility as witnesses  
21 called into question.

22 These same officers' records were rarely seen  
23 by anyone outside of their departments.

24 A record number of exonerations in 2018  
25 involved misconduct by police or prosecutors, and a

1 record of number of exonerees had wrongful  
2 convictions stemming from perjured testimony,  
3 including testimony from officers.

4 Wrongful convictions are particularly tragic  
5 because they are preventible.

6 A history of misconduct is clear in what it  
7 tells us: Dishonest actors are more likely to make  
8 a wrongful conviction occur.

9 It is within the public's interest to prevent  
10 such results from occurring.

11 The repeal of 50-a could make it easy --  
12 could make harder to shield dishonest actors behind  
13 the blue shield.

14 We can do better.

15 We must do better.

16 And I respectfully and sincerely urge for the  
17 repeal of 50-a.

18 Thank you.

19 SENATOR BAILEY: Thank you very much.

20 MOLLY GRIFFARD: Good afternoon.

21 My name is Molly Griffard. I am a legal  
22 fellow with the Legal Aid Society.

23 We thank you, Senator Bailey, for the  
24 opportunity to provide testimony here today on  
25 repealing 50-a.

1           Civil Rights Law 50-a prevents the public  
2 from receiving critical information about the police  
3 officers who serve in their communities, officers  
4 entrusted with an immense amount of power.

5           In recent years, 50-a has been invoked to  
6 remove NYPD disciplinary summaries, including those  
7 stemming from CCRB prosecutions, that had been  
8 publicly available for decades from city hall.

9           It's also been used to close a public  
10 courtroom, to mask an officer's disciplinary  
11 history, and it's also been used to refuse to answer  
12 community members' and reporters' many calls to  
13 identify officers who have committed acts of  
14 brutality.

15           Blocking from public view the disciplinary  
16 histories of officers has a multitude of harmful  
17 effects.

18           Shielding the identities of officers who have  
19 killed civilians amplifies their families' and  
20 communities' trauma, and it sows distrust in the  
21 police.

22           50-a also undermines the public civility to  
23 collectively analyze, understand, and participate in  
24 reform of the CCRB's accountability measures.

25           When the outcomes of CCRB investigations or

1 prosecutions are not made public, the police  
2 department can claim that a fully functional police  
3 accountability system exists, whether or not that's  
4 true.

5 Members of over-policed communities are, in  
6 turn, left without recourse to understand whether  
7 police or other oversight agencies and  
8 accountability systems have made any efforts to  
9 eradicate the systemic abuses they face, which  
10 results in the belief that the police simply cannot  
11 police themselves.

12 This past December, the Court of Appeals gave  
13 50-a its broadest ever interpretation, reframing it  
14 to a blanket protection for police officers' privacy  
15 that far exceeds those of all other state employees.

16 It is now clear that the only way forward for  
17 New Yorkers to gain insight into police departments'  
18 disciplinary systems is through a legislative repeal  
19 of Section 50-a.

20 Counter to claims that 50-a -- or, that  
21 repealing 50-a would compromise the privacy rights  
22 or safety of officers, the repeal of 50-a will  
23 simply not allow public access to personal  
24 information.

25 As was talked about earlier, FOIL exemptions



1 already exist to prevent officers' residential,  
2 Social Security, and medical information from being  
3 released.

4 So repealing 50-a would only place the police  
5 on equal footing with other working professionals,  
6 like doctors, lawyers, state employees, who are  
7 subject to discipline that's reported online.

8 Repeal would facilitate accountability  
9 systems similar to these other professions, and  
10 would allow for public trust in the ability of state  
11 agencies -- or, of the state to police -- or, state  
12 police agencies to oversee their own officers.

13 And, in conclusion, just thank you for  
14 hosting this hearing, and allowing us to testify.

15 SENATOR BAILEY: Thank you very much.

16 ODED OREN: Thank you, committee members --

17 Can you hear me?

18 -- for holding this important session, and  
19 thank you for the opportunity also to speak and make  
20 a written submission on this matter.

21 My name is Oded Oren. I'm a staff attorney  
22 at the criminal defense practice of the Bronx  
23 Defenders.

24 As a practicing attorney, I've personally  
25 seen the ways that Section 50-a works as an

1       impediment to justice and basic fairness, and how it  
2       negatively affects the lives of the people I serve  
3       in court.

4               Access to these misconduct records is  
5       essential for a fair and efficient process in the  
6       criminal justice system.

7               These records are used to negotiate a better  
8       pleas for our clients, to test the credibility of  
9       officers at trial, and to discourage unlawful and  
10      unconstitutional behavior and conduct by these same  
11      officers.

12              The records thus play an important role in  
13      incentivizing unlawful -- sorry -- lawful  
14      law-enforcement behavior, while, at the same time,  
15      providing a criminal defendant the fair and speedy  
16      process that he or she deserve.

17              Releasing these records would allow defense  
18      attorneys to question officers about patterns of  
19      racist profiling, as they do under the  
20      Stop-and-Frisk policy that is still with us.

21              Releasing these records would allow juries to  
22      consider prior instances of lies and fabrications by  
23      the same officer who is testifying before them.

24              Releasing these records would allow defense  
25      attorneys and prosecutors to negotiate better pleas,

1 and to save time and taxpayer money resulting from  
2 lengthy litigation surrounding the release of these  
3 records in the first place.

4 Repeal of Section 50-a will result in  
5 systemic changes.

6 In The Bronx, where I practice, a large  
7 proportion of our cases, at any given time, have at  
8 least one officer involved with a misconduct record.

9 By repealing this section, we will litigate  
10 better and faster for our clients, resulting in a  
11 net gain for the entire system, both in terms of  
12 fairness and in terms of resources.

13 Release of these records will also boost  
14 public's confidence in law enforcement, and create  
15 mechanisms of accountability for officers who  
16 repeatedly act improperly.

17 Release of these records publicly will create  
18 an incentive for officers to act lawfully and  
19 properly when they interact with citizens or  
20 residents.

21 Releasing these documents would allow  
22 policymakers, like you, to gain more insight into  
23 the problem of police misconduct, and rely on the  
24 analysis of input of other now-informed groups.

25 Repealing this section will result in net

1 gains for the state.

2 It is time for New York State to live up to  
3 the progressive banner that it has raised, and to  
4 join other states who have realized that a better  
5 justice system requires transparency and  
6 accountability.

7 Thank you.

8 SENATOR BAILEY: Thank you.

9 CHRISTOPHER BOYLE: Good afternoon, everyone.

10 My name is Christopher Boyle. I'm the  
11 director of data research and policy at New York  
12 County Defenders Services.

13 I have been a public defender for over  
14 20 years. I feel like I'm the old guy in the room  
15 right now. I've been doing it for a long time.

16 You have my office's written materials, and  
17 I just want to highlight a couple of areas.

18 And I'd certainly like to join in, that all  
19 the issues that have been raised here by my fellow  
20 public defenders, and agree with every point that  
21 they've made.

22 But, first, the interpretation of the  
23 50-a statute has imposed an extremely high cost on  
24 our communities.

25 New York City alone pays out hundreds of

1 millions of dollars every year for torts that are  
2 committed by NYPD.

3 In fiscal year 2018, there was approximately  
4 their \$229 million in payouts for claims made  
5 against the NYPD.

6 This amount has increased in time despite the  
7 drastic drop in police-to-civilian contact from the  
8 results of the Stop-and-Frisk litigation, and the  
9 City's efforts to decrease arrests in general.

10 I believe that part of the answer here, is  
11 allowing officers to be confronted with their bad  
12 acts when they testify at criminal trials.

13 When an officer knows that their  
14 effectiveness as an officer or detective can be  
15 jeopardized by having their prior bad acts be  
16 exposed in open court, I believe meaningful  
17 corrective action would begin to happen, starting  
18 with pulling those officers off the streets and out  
19 of the courtrooms.

20 So one of the things that came up from one of  
21 the other speakers, I think it was Lou from the  
22 Suffolk County Police Department, talked about that  
23 these records should be turned over.

24 Clearly, in most cases, when you file the  
25 50-a motion in front of a judge, the judge has the

1 capacity to give this material over. Right?

2 I'm probably the unicorn in the room.

3 Of 25 years being a lawyer, I won one, and  
4 I'm going to tell you that story of this case.

5 So this case, the person was charged with a  
6 drug felony here in New York County. Denied the  
7 allegations.

8 The entire team of officers here were from a  
9 VIPER unit.

10 I'm not sure if anybody is familiar with the  
11 VIPER unit, but I wasn't at the time. This was  
12 around, 2010, 2011.

13 VIPER unit, apparently, is a unit for, they  
14 monitor video of housing projects. So they're out  
15 there, they're watching video of things that happen  
16 out on the street.

17 Right?

18 So this housing unit, this is "The New York  
19 Post" highlight:

20 "Outcast cops still rake it in.

21 "NYPD keeps 300 cops on the payroll, at an  
22 annual cost to taxpayers of \$22 million."

23 And it goes on and talks about, "Hundreds of  
24 officers, detectives, supervisors, who have killed,  
25 assaulted people, violated civil rights, beat up

1 their wives or girlfriends, including ones that have  
2 been sidelined for 12 years, are still being paid  
3 salaries."

4 So I find this out. Right?

5 This is the unit that is going to testify.

6 So I file -- I file the motion, with these  
7 news articles.

8 Right?

9 I say, Look, they're from the VIPER unit.  
10 These are bad cops.

11 Obviously, what?

12 There would be stuff in their personnel  
13 records that would be relevant to their credibility  
14 when my client is saying, this didn't happen, and  
15 they're saying it did happen.

16 I lost.

17 So the case moves on.

18 It turns out, my client was actually  
19 interviewed by the internal affairs department.

20 I had not known that.

21 I later learned it before the case was over.

22 He's investigated by the internal affairs  
23 unit because they're investigating the cops that are  
24 involved in the case.

25 I refile the motion, and so the judge says,

1       Okay, now you get it.

2               And that's what I mean by the interpretation  
3 that's been happening lately, which is relevant to  
4 the case.

5               Judges are looking at this relevant to the  
6 cases. It has to be in the case itself.

7               So that was the only reason why we got  
8 material here.

9               So now those records, they didn't come to me.  
10 They went to the judge. Apparently, it was a lot of  
11 stuff. I got some of it. And the case was  
12 eventually dismissed, because the prosecution then  
13 saw what kind of material was there, and just  
14 realized they just could not possibly put these  
15 officers up on the witness stand.

16               But this happens often.

17               I have filed these motions, I lose them  
18 routinely.

19               And I know that I have other colleagues here  
20 who lose it routinely.

21               And it's a travesty that that happens, it  
22 really is.

23               The second thing I would want to say is,  
24 I just want to talk about, one of my colleagues  
25 here, Michael, from NYCLU, talked about that



1 New York has the weakest transparency law in the  
2 country.

3 Almost every other state does better.

4 I mean, you can look at all of them.

5 California just passed one in January of this  
6 year.

7 There is no reason why we have to have this  
8 statute. It really doesn't make any sense to hide  
9 this material from the public.

10 You know, I sat and watched the family  
11 members of those people, and it's just so hard to  
12 listen to that. You get choked up by it.

13 And then not to know all the information that  
14 was there, not to know there was any corrective  
15 action?

16 I mean, if people -- if officers are doing  
17 this kind of thing, wouldn't it be better to know  
18 when they've done something little?

19 We don't find out about that. We don't know  
20 what corrective actions are taken, because it's all  
21 hidden, it's all behind closed doors.

22 It's unfair.

23 Thank you very much.

24 SENATOR BAILEY: Thank you all for your --  
25 for your -- I'm sorry.

1 I apologize.

2 CYNTHIA CONTI-COOK: That's all right.

3 It's not your fault. I'm not actually on the  
4 list.

5 I'm Cynthia Conti-Cook from Legal Aid  
6 Society.

7 I have litigated several FOIL litigation  
8 cases about 50-a, and written several articles about  
9 it.

10 I just wanted to mention three things to make  
11 sure they're on the record, and not just on Twitter.

12 So there has been a lot of talk today about  
13 what can happen in the courtroom, and what judges  
14 can do and cannot do.

15 I just want to be very clear that 50-a was  
16 originally, in its legislative history, formulated  
17 for the purposes of regulating what happens around  
18 access in the courtroom.

19 And as Assemblymember O'Donnell said earlier,  
20 the courts have expanded that to determine also what  
21 is publicly accessible.

22 And when we say we want to repeal 50-a and  
23 nothing less, that's because we want public access  
24 and not just limited courtroom access.

25 So we're not talking about what judges can

1 and can't, sort of, look at and limit and reveal.

2 We want public access to public official  
3 misconduct that are complaints made by members of  
4 the public.

5 So I just wanted to clarify that.

6 I have been a public defender at the  
7 Legal Aid Society for the past five years.

8 Before that I was a civil rights attorney,  
9 and 50-a also inhibits civil rights attorneys from  
10 being able to identify patterns of misconduct by  
11 officers, and, also, it censors them from being able  
12 to name police officers' misconduct histories in  
13 future lawsuits.

14 So if I have sued Officer Pantaleo in the  
15 past, and I know Officer Pantaleo's misconduct  
16 history, I am under a protective order, even in  
17 federal court, from being able to name that  
18 misconduct history in a future lawsuit.

19 So it really prevents us all from being able  
20 to learn about the patterns of misconduct that  
21 proliferate in the police department.

22 The other thing I just wanted to mention, is  
23 that we have not seen any prosecutors testifying  
24 today against 50's-a repeal.

25 And I would point you all to Cy Vance's

1       dispute with the NYPD last year, in which he made it  
2       very clear that the local prosecutors in  
3       New York City have been demanding more direct access  
4       to police misconduct information, and that the NYPD  
5       has been fighting them on it.

6                So I just want, despite the fact that  
7       Subsection 4 of 50-a does allows prosecutors to have  
8       access to police-misconduct material, in practice,  
9       in operation, that is not happening, because the  
10      NYPD is basically telling the prosecutors, we're not  
11      giving it to you until your case is on for trial.

12              And they're litigating between the NYPD and  
13      the DA when the DA actually gets access, in addition  
14      to the DA fighting with us about when we get access.

15              So that does not protect our clients in the  
16      way that they say it does.

17              The other piece of information I just wanted  
18      to mention is, in Chicago, 30 years of internal  
19      police complaint, misconduct information, is  
20      available online, and it's a searchable database,  
21      and it's mapped.

22              It is, I think, the goal post, it is the gold  
23      standard, for operationalizing transparency, and it  
24      is what we should shoot for here in New York City.

25              And Mary Joe White, who led the disciplinary

1 blue-ribbon panel last January, in her report  
2 actually called the police union in Chicago, and  
3 asked them, Have you seen any increase in violence  
4 towards police or brutality towards police as a  
5 result of this information being online and  
6 available to the public?

7 And he said "no."

8 SENATOR BAILEY: Thank you, for all of that.

9 And the Twitter comments, you know, we --  
10 we -- we appreciate it.

11 [Laughter.]

12 SENATOR BAILEY: No, because social media can  
13 be instructive as to -- as to sometimes what you  
14 don't know.

15 And I think something that I have realized a  
16 long time ago, is that I don't know a lot of things.  
17 And what I don't know I need to learn from people.

18 And that's why it's important and instructive  
19 that members of the defense bar, who you would think  
20 would not necessarily have a nexus to the police  
21 misconduct, are here today.

22 And it shows that -- it shows a couple of  
23 things.

24 It shows that you really care about people,  
25 and that you are public servants in your own right.

1           And it also shows how that issues are not  
2           siloed, and I think that that's something I'm going  
3           to keep hammering here, and I've said it before in  
4           hearings, and, after this, I'm going to continue to  
5           say it: That all of these things are interrelated.

6           But I guess the -- the question that I would  
7           have, and -- and if anybody wants -- wants -- wants  
8           to answer this: Why -- why is it important for a  
9           defense attorney to have the records that are  
10          currently shielded by 50-a?

11          And that's open for anyone to answer.

12          CYNTHIA CONTI-COOK: So the Constitution  
13          allows people who have been accused of crimes to  
14          confront their accusers.

15          Any witness that is on the witness stand in a  
16          courtroom is going to, potentially, face  
17          impeachment, based on any number of things, but,  
18          that could include their prior bad acts.

19          So anytime that you have put yourself above  
20          society, and there is any documentation of that,  
21          you, as a witness, standing in a courtroom, can be  
22          cross-examined about that.

23          And police officers have deliberately tried  
24          to create 50-a in order to prevent defense  
25          attorneys, on behalf of their clients accused of

1 crimes, from being able to cross-examine them the  
2 way that any other witness would be cross-examined.

3 SENATOR BAILEY: So I guess, prior to -- and,  
4 I guess, other folks have mentioned that the  
5 treatment of 50-a -- or, the interpretation of 50-a,  
6 I should say, by the City of New York was different  
7 before than it was now.

8 And -- and I'm not sure who's been --  
9 I guess, who would be able to speak to that?

10 Is there a stark difference in -- in -- in  
11 how your -- in how your practice has been pre and  
12 post with this 2016, I think, interpretation has  
13 been? Or, can anybody tackle that that?

14 CYNTHIA CONTI-COOK: So we have always fought  
15 50-a motions, or Gitz [ph.] and Danner [ph.]  
16 motions, in the courtroom.

17 The difference happened in 2016, when  
18 I submitted a FOIL request for five years of  
19 disciplinary summaries.

20 And those disciplinary summaries had been  
21 posted in the "DCPI," in the deputy commissioner of  
22 public information's office, for the press to report  
23 on for -- since 1972.

24 In 2016 I did a FOIL request for five years  
25 of those summaries, and they told us that they were

1 removing those from -- they were removing those from  
2 the press room. And they would also removed  
3 40 years of disciplinary summaries from city hall  
4 archives.

5 SENATOR BAILEY: In -- in response  
6 specifically to that FOIL request?

7 CYNTHIA CONTI-COOK: Yeah.

8 I can share it if you want.

9 SENATOR BAILEY: I -- I -- I don't doubt you.  
10 I would like to -- to -- to -- to review that  
11 at some point.

12 CHRISTOPHER BOYLE: The actual motions that  
13 we filed had been the same prior to 2016. We got  
14 the same response, I think. It was just that  
15 specific instance.

16 So don't confuse the two in the sense that,  
17 the actual motion practice, when we would file these  
18 motions, we weren't getting that prior to 2016  
19 either.

20 CYNTHIA CONTI-COOK: Again, it was the  
21 expansion of 50-a limiting what happened in the  
22 courtroom, to what happened in the public arena.

23 So when I did the FOIL request about access  
24 in the public arena, is what -- de Blasio's  
25 administration really took 50-a and -- and ripped it



1 wide open and expanded it, so that it was  
2 interpreted to prevent public access, so that  
3 40-plus years of official misconduct information was  
4 erased from city hall archives.

5 That was de Blasio.

6 SENATOR BAILEY: Senator Salazar, any --  
7 anything?

8 I don't -- I don't want to create -- it's  
9 like law school. They used to ask me, like,  
10 question -- just ask the question.

11 I don't have any of those.

12 SENATOR SALAZAR: Yeah, no, uhm, I'm not sure  
13 if Senator Bailey already asked this, but, as with  
14 all of the -- everyone who previously testified,  
15 just to have it on the record: Do all of you  
16 support a full repeal, or, one of the other  
17 legislative proposals to amend?

18 CHRISTOPHER BOYLE: Full repeal.

19 OFF-CAMERA SPEAKER: Full repeal.

20 OFF-CAMERA SPEAKER: Full repeal.

21 Great.

22 JACQUELINE RENEE CARUANA: Very, very  
23 briefly, I just wanted to add, because this also  
24 includes corrections officers and firefighters. And  
25 we did hear from the union from the corrections

1 officers earlier.

2 And I did provide in my testimony an example  
3 of a trial I did involving a corrections officer.

4 So these documents are also not being turned  
5 over for corrections officers as well.

6 That's a very big misconception, that we're  
7 somehow getting more access from documents from the  
8 department of corrections as opposed to the police  
9 department.

10 I just wanted to put that out there.

11 CYNTHIA CONTI-COOK: I'll just add that,  
12 there's a few reasons why reform would be  
13 insufficient to address the concerns that you've  
14 heard today.

15 What the -- what the Court of Appeals did  
16 last December was lift 50-a up to be a privacy right  
17 for officers, and not just an exemption under FOIL.

18 It removed all of the -- all of the language  
19 in FOIL that is about public transparency, public  
20 oversight, that it is government for the people, and  
21 all of that language, that is about our principles  
22 of open government, all of that was removed from  
23 50-a. It was taken out and given its own sort of  
24 privacy -- privacy status, different from any other  
25 FOIL exemption.

1           So anything other -- less than repeal of 50-a  
2 would not do that work of changing how 50 --  
3 changing how -- changing the privacy status of the  
4 law.

5           SENATOR BAILEY: And I guess I would ask one  
6 more question, the question that I asked to, I think  
7 it was the last group.

8           If we're able to convene some sort of  
9 roundtable discussion, and I -- you know, I don't  
10 assume anything, but, I assume that you're going to  
11 be on the same page, would you -- would you be  
12 willing to sit down with individuals who you have  
13 not -- who you substantively disagree with  
14 concerning this matter?

15           OFF-CAMERA SPEAKER: Yes.

16           CYNTHIA CONTI-COOK: Yeah, I think we thought  
17 that's what was happening today.

18           SENATOR BAILEY: Again, creation of the CUNY  
19 law taught me well: Just the creation of the  
20 record.

21           I just want to make sure we create the  
22 record.

23           I thank you all for your time and your  
24 testimony.

25           And we have reached our final person who is

1 going to testify.

2 I thank you all for your patience.

3 Miss Franklin Stone, from the committee on --  
4 the board chair of the New York State Committee on  
5 Open Government.

6 FRANKLIN STONE: Yes.

7 My name is Franklin Stone. I'm the board  
8 chair of the New York State Committee on Open  
9 Government, often known as "COOG."

10 I'm a former federal prosecutor in the  
11 Southern District of New York.

12 I am also a former board chair of the  
13 New York City Civilian Complaint Review Board.

14 I am truly the old gal in the room.

15 I will provide complete testimony, but I'm  
16 pleased to report that, virtually, everything I was  
17 going to say has been said, particularly in this  
18 afternoon's testimony.

19 So I just want to make three very brief  
20 points.

21 One is, the importance, as several witness --  
22 several sections of testimony have talked about, the  
23 evolution of 50-a into a law on steroids.

24 That's very important, as a legal  
25 distinction, in the fact that it is contrary to what

1 the legislature intended.

2 Secondly is, that the protections afforded by  
3 FOIL, and the inherent power of the courts, are very  
4 important. And that also has been covered.

5 Thirdly, and I think it's been beautifully  
6 presented here, are the specious arguments about law  
7 enforcement.

8 I loved the phrase: A bad-faith  
9 fear-mongering, and, feelings aren't facts.

10 I think those are very important catch  
11 phrases that really capture what the arguments that  
12 are being made by law enforcement.

13 48 other states aren't practicing what we  
14 practice in New York.

15 And I thought I was going to be able to make  
16 the point about Chicago, but, unfortunately, it was  
17 just made five minutes ago by someone, that the  
18 Chicago Police Union has confirmed that there has  
19 been no increase in threats against officers or  
20 their families as a result of the public  
21 police-misconduct database in Chicago.

22 I think that's really important to combating  
23 the fear-mongering that comes from law enforcement.

24 The last point I would like to make, is just  
25 to remind you that COOG is right down the street

1 from you in Albany.

2 And we are -- we have written six, now,  
3 annual reports, addressing the problems with 50-a,  
4 and other issues.

5 Please consider us a resource for advice and  
6 for research of any -- of any sort. We'd be happy  
7 to help.

8 And our catch phrase is: Sunshine is the  
9 best disinfectant.

10 SENATOR BAILEY: Thank you very much,  
11 Miss Stone.

12 Senator Salazar, anything?

13 SENATOR SALAZAR: I can't think of anything.

14 Thank you, Ms. Stone.

15 FRANKLIN STONE: Okay.

16 Thank you for including me.

17 SENATOR BAILEY: Thank you for your  
18 testimony.

19 So -- so that concludes today's testimony.

20 But before we -- before we go, I wanted to  
21 make sure I -- I -- I thank everybody who testified.

22 I want to thank my colleagues in government,  
23 Senator Salazar, Senator Jackson, Senator Myrie,  
24 Benjamin, Kaminski, Gounardes, Parker, Ramos,  
25 Rivera, Hoylman, Comrie, and Gaughran.

1           On a busy October afternoon, you have a good  
2 amount of people from the Senate Democratic  
3 Conference who made sure, made it their priority, to  
4 get, for some of us, all the way downtown, to make  
5 sure they testify.

6           To some people, it's a train ride away.

7           I'm from The Bronx.

8           I want to thank members of the Assembly:  
9 O'Donnell, my -- the -- my -- the sponsor in the  
10 Assembly of this bill; Niou, Walker, Blake,  
11 Fernandez, and Dickens, for stopping by.

12           In addition, Councilmember Deneek Miller  
13 stopped by as well, and Public Advocate  
14 Jumaane Williams.

15           I want to make sure we thank -- I thank my  
16 staff: Jason, Jackie, Sal, and Noelle;

17           Central staff: Nadia, Dorothy, and Donovan.

18           250 Broadway staff: Francine and John in  
19 media services and conference services.

20           Thank you for being a part of this -- this  
21 hear -- this hearing.

22           I thought -- I thought it was a really great  
23 exchange of ideas, even if we did not agree.

24           The -- one of the things I like to say is:  
25 That the greatest thing about democracy is sometimes

1 dissent.

2 I thank you all for your time and your  
3 testimony.

4 Thank you.

5

6 (Whereupon, the public hearing held before  
7 the New York State Senate Standing Committee on  
8 Codes concluded, and adjourned.)

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