

1 BEFORE THE NEW YORK STATE SENATE FINANCE  
AND ASSEMBLY WAYS AND MEANS COMMITTEES

2 -----

3 JOINT LEGISLATIVE HEARING

4 In the Matter of the  
5 2022-2023 EXECUTIVE BUDGET ON  
6 PUBLIC PROTECTION

6 -----

7 Virtual Hearing  
8 Held via Zoom

9 January 25, 2022  
10 9:36 a.m.

11 PRESIDING:

12 Senator Liz Krueger  
13 Chair, Senate Finance Committee  
14 Assemblywoman Helene E. Weinstein  
15 Chair, Assembly Ways & Means Committee

16 PRESENT:

17 Senator Thomas F. O'Mara  
18 Senate Finance Committee (RM)  
19 Assemblyman Edward P. Ra  
20 Assembly Ways & Means Committee (RM)  
21 Senator Brad Hoylman  
22 Chair, Senate Committee on Judiciary  
23 Assemblyman Charles D. Lavine  
24 Chair, Assembly Committee on Judiciary  
25 Senator Jamaal T. Bailey  
26 Chair, Senate Committee on Codes  
27 Assemblyman Jeffrey Dinowitz  
28 Chair, Assembly Committee on Codes

1 2022-2023 Executive Budget  
Public Protection  
2 1-25-22

3 PRESENT: (Continued)

4 Senator Julia Salazar  
Chair, Senate Committee on Crime Victims,  
5 Crime and Correction

6 Assemblyman David I. Weprin  
Chair, Assembly Committee on Correction

7 Assemblyman Kenneth P. Zebrowski  
8 Chair, Assembly Committee on Governmental  
Operations

9 Senator Diane J. Savino  
10 Chair, Senate Committee on Internet and  
Technology

11 Senator Gustavo Rivera

12 Assemblyman Harry B. Bronson

13 Senator Pete Harckham

14 Senator Andrew Gounardes

15 Assemblyman Erik M. Dilan

16 Assemblywoman Jenifer Rajkumar

17 Assemblyman Phil Steck

18 Senator Zellnor Myrie

19 Assemblywoman Dr. Anna R. Kelles

20 Senator James Tedisco

21 Assemblyman Robert C. Carroll

22 Assemblyman Joseph M. Giglio

23 Senator Luis R. Sepúlveda

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3 PRESENT: (Continued)

4 Senator Anna M. Kaplan

5 Assemblyman Thomas J. Abinanti

6 Assemblywoman Karen McMahon

7 Assemblyman Ron Kim

8 Assemblyman Philip A. Palmesano

9 Assemblywoman Catalina Cruz

10 Assemblyman Mike Lawler

11 Senator Kevin Thomas

12 Assemblyman Michael Tannousis

13 Assemblywoman Marcela Mitaynes

14 Assemblyman Harvey Epstein

15 Senator Anthony H. Palumbo

16 Assemblyman Michael Cusick

17 Senator George M. Borrello

18 Assemblywoman Rebecca Seawright

19 Assemblywoman Latoya Joyner

20 Assemblyman Michael Reilly

21 Assemblywoman Alicia Hyndman

22 Senator James Gaughran

23 Assemblyman William Colton

24 Assemblywoman Monica P. Wallace

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3 PRESENT: (Continued)

4 Senator Jeremy A. Cooney

5 Assemblywoman Marjorie Byrnes

6 Senator Sue Serino

7 Assemblyman Angelo J. Morinello

8 Senator Phil Boyle

9 Assemblywoman Latrice Walker

10 Assemblyman Chris Burdick

11 Assemblyman Mark Walczyk

12 Senator Patrick M. Gallivan

13 Assemblywoman Linda B. Rosenthal

14 Assemblyman Jeffrion L. Aubry

15 Assemblyman Kenny Burgos

16 Senator Fred Akshar

17 Assemblywoman Vivian E. Cook

18 Senator Peter Oberacker

19 Assemblyman John T. McDonald III

20 Assemblyman J. Gary pretlow

21 Senator Patty Ritchie

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5 J. Anthony Jordan  
President  
6 District Attorneys Association  
of the State of New York

7 -and-  
Imogene V. Jones  
8 President

NYS Court Clerks Association  
9 -and-

Elena Sassower  
10 Director  
Center for Judicial  
11 Accountability

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1                   CHAIRWOMAN KRUEGER: Good morning,  
2 everyone. Hi. I'm State Senator Liz  
3 Krueger, the chair of the Finance Committee  
4 in the Senate.

5                   I'm joined by many legislators, but --  
6 perhaps most importantly for budget  
7 hearings -- my colleague in the Assembly  
8 Helene Weinstein, the chair of the Assembly  
9 Ways and Means Committee, which means  
10 "Finance Committee" in Senate language.

11                   We take turns in these budget  
12 hearings, and today's hearing is the first of  
13 13 hearings, but that will be chaired by the  
14 Finance Committee.

15                   I just want to quickly go over a  
16 couple of rules of the road for all the  
17 hearings.

18                   First, if you're not speaking, please  
19 keep yourself on mute, because it's amazing  
20 how it can get so confusing if you go to  
21 answer a phone or somebody walks into the  
22 room.

23                   Second, everyone will be getting --  
24 excuse me, the government representatives

1 will be getting 10 minutes to testify and  
2 then the legislators will be able to ask  
3 questions. The chair of the committee also  
4 gets -- of the relevant committee gets  
5 10 minutes to ask questions. All the other  
6 legislators get five minutes. And we go back  
7 and forth between Senate and Assembly until  
8 we complete that particular testifier's  
9 questions.

10 And this is a long hearing, for people  
11 who have followed Public Protection, so that  
12 will continue as a pattern throughout the day  
13 and I suspect evening. Hopefully just early  
14 evening.

15 Again, if you want to ask a question,  
16 please raise your hand with the hand button  
17 at the bottom of your screen, Assemblymembers  
18 and Senators, and we will be calling on you.

19 I want to just make the opening  
20 statement first, and then I will start to  
21 introduce Senators and Helene will start to  
22 introduce Assemblymembers.

23 So again, good morning. Today is the  
24 first of 13 hearings conducted by the joint

1 fiscal committees of the Legislature  
2 regarding the Governor's proposed budget for  
3 state fiscal year '22-'23. These hearings  
4 are conducted pursuant to the New York State  
5 Constitution and Legislative Law.

6 Today the Senate Finance Committee and  
7 the Assembly Ways and Means Committee will  
8 hear testimony concerning the Governor's  
9 proposed budget for the Judiciary, the State  
10 Commission on Judicial Conduct, the Office of  
11 Indigent Legal Services, the New York State  
12 Division of Homeland Security and Emergency  
13 Services, the New York State Office of  
14 Information Technology, the New York State  
15 Division of Criminal Justice Services, the  
16 New York State Department of Corrections and  
17 Community Supervision, and the New York State  
18 Division of State Police.

19 Following each testimony there will be  
20 some time for questions from the chairs of  
21 the fiscal committees and other legislators.

22 I will now introduce members of the  
23 Senate, and Assemblymember Helene Weinstein,  
24 chair of the Assembly Ways and Means

1           Committee, will introduce members from the  
2           Assembly. In addition, Tom O'Mara, my  
3           ranking member of the Senate Finance  
4           Committee, will introduce the members from  
5           his conference.

6                     And now let me just get to the list of  
7           people who are here already. All right.  
8           It's a little tricky because we're looking at  
9           boxes and lists, but we do our best here.  
10          All right, as I mentioned, we have the Senate  
11          chair of Codes, Jamaal Bailey; Senator Luis  
12          Sepúlveda; Senator Andrew Gounardes;  
13          Senator Anna Kaplan; Senator Brad Hoyleman,  
14          chair of Judiciary; Senator Gustavo Rivera;  
15          Senator Jeremy Cooney; Senator Zellnor Myrie.

16                    And Tom O'Mara, I'm going to ask you  
17          to introduce the Republican Senators here  
18          with us.

19                    SENATOR O'MARA: Thank you,  
20          Senator Krueger.

21                    In addition to myself, at this point  
22          we are joined by Senator Jim Tedisco on the  
23          minority side. And that's it right now. I  
24          think a bunch of our members are finishing up

1 another meeting right now, so I'm sure there  
2 will be more joining us.

3 Thank you.

4 CHAIRWOMAN KRUEGER: Thank you very  
5 much.

6 And so now Helene Weinstein to  
7 introduce the Assemblymembers.

8 CHAIRWOMAN WEINSTEIN: Thank you,  
9 Chair Krueger. It's a pleasure to join you  
10 today and start probably our longest budget  
11 hearing of the series. And as everybody  
12 knows, since we're virtual there is a  
13 little -- we'll catch up with -- as things go  
14 along.

15 I want to introduce our committee  
16 members who are here: Assemblyman Dinowitz,  
17 chair of our Codes Committee;  
18 Assemblyman Weprin, chair of our  
19 Corrections Committee; Assemblyman Bronson,  
20 Assemblyman Burdick; Assemblyman Carroll;  
21 Assemblyman Epstein; Assemblywoman Hyndman;  
22 and Assemblywoman Rajkumar.

23 I also just wanted to clarify the time  
24 frames, because -- for the chairs are

1 10 minutes, and the chairs of each of the  
2 committees are the only ones who will have a  
3 second round of three minutes. The rankers  
4 have five minutes. And so that we end before  
5 the next hearing begins, all other members  
6 who are here have three minutes.

7 I just would encourage members to ask  
8 questions, not make statements, so that the  
9 witnesses have time to answer the questions.

10 And now I'd like to turn it over to  
11 the ranker of the Assembly Ways and Means  
12 Committee, Assemblyman Ed Ra.

13 ASSEMBLYMAN RA: Thank you,  
14 Chair Weinstein. Good morning, everybody.

15 We are currently joined by  
16 Assemblyman Joe Giglio, our ranker on the  
17 Corrections Committee; Assemblyman Mike  
18 Lawler, the ranker on the Gov Ops Committee;  
19 Assemblyman Angelo Morinello, our ranker on  
20 Codes; as well as members Palmesano, Walczyk,  
21 and Tannousis.

22 CHAIRWOMAN KRUEGER: Great. Thank you  
23 very much.

24 And Helene, thank you so much for

1 clarifying on the second-round issue and on  
2 the three minute versus five minutes. It's  
3 so easy to get lost in the details of these  
4 hearings as we re-practice what we'll be  
5 incredibly good at by Day 13, for those of us  
6 who stick it out with us.

7 With that, I would like to introduce  
8 the Honorable Lawrence Marks, Chief  
9 Administrative Judge of the Office of Court  
10 Administration, as our first testifier.

11 And all the legislators should have  
12 already received the testimony. And I  
13 believe the public also has access to the  
14 testimony for following along.

15 Good morning, Judge Marks.

16 CHIEF ADMIN. JUDGE MARKS: Good  
17 morning, Chair Krueger, and good morning,  
18 Chairperson Weinstein. And I'd like to say  
19 good morning and acknowledge the Judiciary  
20 chairs, Senator Hoylman and Assemblyman  
21 Lavine, as well as all the other members  
22 participating today.

23 I'm Lawrence Marks. I'm the  
24 Chief Administrative Judge of the state court

1 system. And thank you for the opportunity to  
2 be here with you this morning to discuss the  
3 Judiciary's budget request for the 2022-2023  
4 fiscal year.

5 Our budget request will enable the  
6 courts to continue to fulfill their mission  
7 of providing justice to the people of  
8 New York. It calls for an appropriation of  
9 approximately \$2.4 billion in state operating  
10 funds. Our budget also projects a  
11 \$58.2 million increase in state operations  
12 spending, which is a 2.5 percent increase  
13 over our current cash plan.

14 So as was the case last year, this  
15 year's budget request must be viewed in the  
16 context of the ongoing COVID-19 pandemic.  
17 The pandemic has presented the Judiciary with  
18 multiple challenges. These have included the  
19 unprecedented task of keeping the courts open  
20 consistent with rapidly changing public  
21 health needs -- and, at least in the early  
22 stages of the pandemic, to do so with  
23 significantly less funding than would  
24 otherwise have been available during a normal



1 year.

2           Throughout the course of the pandemic,  
3 the court system has adapted its operations  
4 to comply with the prevailing guidance  
5 provided by public health authorities. And  
6 very early on, while determined to keep the  
7 courts open for business, we limited our  
8 in-person operations to essential and  
9 emergency applications only. That was  
10 quickly followed by a program of virtual  
11 court operations which used the latest in  
12 technology. And this made it possible for  
13 judges and staff to safely adjudicate cases  
14 in all of our courts across the state.

15           But as time passed and as we learned  
16 more about COVID-19, we were able to resume  
17 in-person court appearances in critical  
18 matters such as grand jury proceedings,  
19 criminal arraignments, evidentiary hearings,  
20 and criminal and civil jury trials. In doing  
21 so, we followed a rigorous screening program  
22 of temperature checks, self-reporting of  
23 exposure and symptoms for court personnel and  
24 court users, extensive use of masks and other

1 personal protective equipment in all public  
2 court spaces, social distancing, and cleaning  
3 protocols.

4 In addition, beginning in the late  
5 summer of 2021, we were one of the leaders in  
6 the state in introducing a mandatory testing  
7 program requiring all unvaccinated judges and  
8 nonjudicial staff to undergo weekly COVID  
9 testing; and, subsequently, in introducing a  
10 mandatory vaccination program requiring  
11 judges and staff to be vaccinated unless they  
12 qualified for a medical or religious  
13 exemption.

14 Looking forward, we are committed to  
15 resuming full court operations, including the  
16 full resumption of jury trials, in the  
17 upcoming fiscal year. And this budget will  
18 enable us to do so.

19 In following through on this  
20 commitment in 2022-'23, we will continue to  
21 make every effort to fill vacant nonjudicial  
22 positions in the courts. During the pandemic  
23 the court system has seen hundreds of  
24 employees retire and leave for other reasons.

1 And at the same time, because of the state's  
2 fiscal crisis in 2020-'21, the Judiciary, at  
3 the urging of the Executive, cut its planned  
4 spending through a variety of austerity  
5 measures, which included a system-wide hiring  
6 freeze.

7 These circumstances prevented the  
8 courts from filling vacancies, although  
9 fortunately this past year we were able to  
10 end the freeze and resume hiring. And the  
11 budget we have submitted will enable us to  
12 continue to fill vacancies during the  
13 upcoming fiscal year.

14 While this will still leave us with  
15 vacancies to fill to return to pre-pandemic  
16 employment levels, the new hires will allow  
17 us effectively to resume full court  
18 operations. This in turn will enable us to  
19 continue our commitment to Chief Judge Janet  
20 DiFiore's Excellence Initiative, our  
21 comprehensive effort to achieve operational  
22 and decisional excellence throughout the  
23 Unified Court System.

24 Our budget submission will also permit

1 us to meet other critical goals. These  
2 include the funding of three new court  
3 officer academy classes to help ensure safety  
4 in courthouses statewide, and an upgrading  
5 and expansion of the courts' technology  
6 capacity to facilitate virtual court  
7 appearances where appropriate, to expand case  
8 management systems, to enhance cybersecurity  
9 for the courts' computer network, and to  
10 increase our ability to provide the  
11 Legislature and the public with critical  
12 information regarding caseload activity.

13 Another crucial goal addressed in our  
14 budget request is enhancement of the  
15 Judiciary's support for civil legal services.  
16 In our budget we ask for an increase from  
17 \$85 million to \$95.7 million in funding for  
18 nonprofit agencies that provide direct legal  
19 services and access to justice services to  
20 help low-income New Yorkers across the state  
21 secure the essentials of life. We also ask  
22 for an increase from \$15 million to  
23 \$16.8 million in funding for the Interest on  
24 Lawyer Account Fund, likewise to be

1 distributed to nonprofit agencies that  
2 provide legal services to the poor. These  
3 increases are necessary to help fulfill the  
4 state's longstanding commitment to civil  
5 legal services.

6 I'd like to mention briefly three  
7 other key initiatives that we are actively  
8 pursuing, and the first is our commitment to  
9 expanding our statewide program of  
10 presumptive alternative dispute resolution.

11 And in the interests of time, I won't  
12 go into the details of this, but I would  
13 refer you to the written remarks that I've  
14 submitted to the members.

15 But we are also continuing our full  
16 commitment to implementing the  
17 recommendations of the Johnson report. In  
18 2020 the Chief Judge appointed Jeh Johnson,  
19 the prominent New York City attorney and  
20 former U.S. Secretary of Homeland Security,  
21 to serve as our Special Advisor on Equal  
22 Justice in the Courts. His charge was to  
23 conduct a broad review of the programs,  
24 practices, and policies of the court system

1 for evidence of systematic and implicit  
2 racial bias.

3 In the fall of 2020 he reported that,  
4 notwithstanding the hard work of Judiciary  
5 personnel, there is ample evidence that  
6 New York's court system remains  
7 underresourced and overburdened, and that  
8 this has a disparate impact on people of  
9 color. In his report, Secretary Johnson  
10 presented numerous recommendations to broadly  
11 improve the court experience for people of  
12 color.

13 We have fully embraced all of them,  
14 and our efforts have yielded numerous  
15 accomplishments, which are summarized in an  
16 annual report released last November by the  
17 Chief Judge. Many challenges remain,  
18 however. And in the year ahead, we will  
19 redouble our efforts to keep faith with  
20 Secretary Johnson's recommendations to  
21 promote a court system free of bias and  
22 discrimination.

23 Finally, in 2022 we will renew our  
24 effort to simplify our trial court system

1 through a constitutional amendment to merge  
2 our nine major trial courts into two courts:  
3 a Supreme Court and a Municipal Court. In  
4 making this effort, we will be joined by a  
5 coalition of over 100 groups representing all  
6 corners of the community -- bench, bar, legal  
7 services providers, business, and good  
8 government.

9 Our task is challenging, but it is not  
10 insurmountable. The end we seek -- a court  
11 system that can be more efficiently managed,  
12 that distributes its resources more evenly to  
13 ensure that every community has fair access  
14 to justice, and that is more easily  
15 accessible and understandable to the  
16 public -- is one we all should share. We  
17 look forward to working with you in the days  
18 ahead to make it happen.

19 So I close by emphasizing that even  
20 while the COVID-19 pandemic stays with us,  
21 the courts remain committed to assuring the  
22 fair and prompt administration of justice.  
23 And the budget we have submitted, if  
24 approved, will enable us to meet that

1           commitment.

2                       So thank you for your attention, and  
3           of course I'm more than happy to answer any  
4           questions you may have.

5                       CHAIRWOMAN KRUEGER: Thank you very  
6           much, Judge.

7                       And before we turn it over to the  
8           first questioner, Judiciary Chair Brad  
9           Hoylman, I want to announce that we have been  
10          joined since the last time we went through  
11          the list by Senator Diane Savino, by Senator  
12          Jim Gaughran, by Senator Patrick Gallivan, by  
13          Senator Pete Harckham.

14                      I don't know if you have additional  
15          Assemblymembers, Helene. Okay, I don't think  
16          so right now.

17                      Then I'm going to turn it over to --  
18          oh, hi. Did you have additional  
19          Assemblymembers you wanted to announce?

20                      CHAIRWOMAN WEINSTEIN: Yes, if we  
21          could.

22                      CHAIRWOMAN KRUEGER: Sure.

23                      CHAIRWOMAN WEINSTEIN: We've been  
24          joined by Chair Zebrowski of the Government



1 Ops Committee; Assemblyman Abinanti;  
2 Assemblyman Cusick; Assemblywoman McMahon;  
3 Assemblywoman Mitaynes; Assemblywoman  
4 Seawright; Assemblyman Steck; and  
5 Assemblywoman Walker.

6 Thank you.

7 CHAIRWOMAN KRUEGER: Thank you.

8 All right, so our first questioner is  
9 Senator Brad Hoylman, chair of the Judiciary  
10 Committee.

11 SENATOR HOYLMAN: Thank you,  
12 Madam Chair -- Madam Chairs.

13 Good to see you, Judge Marks. I look  
14 forward to discussing further with you the  
15 plans on court reorganization. We've already  
16 had some preliminary conversations. I know  
17 how important this initiative is.

18 And I also am happy to see that your  
19 budget has increased by 2.5 percent. I think  
20 you know that we in the Legislature want to  
21 continue to support your efforts with the  
22 state resources available.

23 I wanted to ask you first about what's  
24 in the news recently -- of course, bail

1 reform. Since the enactment of bail reform  
2 we've seen, I believe, an inconsistent  
3 application of the laws by judges across the  
4 state. Many tragic incidents that have been  
5 blamed on bail reform stem from situations  
6 where the defendant was bail-eligible but the  
7 judge, it appears, in some instances declined  
8 to exercise their discretion.

9 I was wondering if you could inform us  
10 what kind of training has the Office of Court  
11 Administration and the Judicial Institute  
12 provided to judges about the new laws. And  
13 in some cases, judges know the law but  
14 apparently purposefully flout it.

15 And as a follow-up, what are the  
16 consequences for those judges who do flout  
17 the law?

18 CHIEF ADMIN. JUDGE MARKS: Well, I  
19 guess I'd have to take issue that judges are  
20 deliberately flouting the law. I mean, I'm  
21 not aware of that.

22 Judging obviously is not a science.  
23 Judges don't have a crystal ball. And, you  
24 know, it's impossible to predict -- you can

1 try to predict but it's impossible to predict  
2 with any certainty what the consequences  
3 would be of releasing someone to the  
4 community or not releasing someone to the  
5 community.

6 But in terms of the training that  
7 judges received on the bail legislation, they  
8 did receive extensive training, in-person  
9 training in 2019 at our summer judicial  
10 seminars following the original enactment of  
11 the legislation.

12 And the amendments that were made to  
13 the bail legislation in the -- around the  
14 adoption of the budget in 2020, again --  
15 although judges I don't believe received  
16 in-person training. But there was extensive  
17 online training and webinars on bail reform.  
18 There have been memos and educational  
19 materials, extensive educational materials  
20 that have been distributed to judges in the  
21 early stages of the enactment of the  
22 legislation, so -- look, you can never do  
23 enough training.

24 But I'm comfortable in saying that

1 judges did receive extensive training on the  
2 new legislation, both the original version  
3 and then the amendments that took place in  
4 the early months of 2020.

5 SENATOR HOYLMAN: Thank you.

6 I would point to a Nassau County  
7 district judge; in news reports, it appears  
8 that the judge ignored the bail reform law  
9 last year.

10 But to change tack, Judge, I was  
11 wondering if we could discuss briefly the  
12 eviction moratorium, which of course sadly  
13 has expired, but thankfully there are still a  
14 variety of protections for tenants, including  
15 ERAP, the Tenant Safe Harbor Act, and various  
16 protections from legislation in the Housing  
17 Stability and Tenant Protection Act.

18 Can you explain to us how courts are  
19 assisting tenants in understanding what their  
20 rights are and what the instructions to  
21 judges are on how to process these cases?

22 CHIEF ADMIN. JUDGE MARKS: Well,  
23 firstly, in New York City -- and the  
24 overwhelming, overwhelming number of these

1 pending eviction cases are in New York City.  
2 The number dwarfs the number of cases in the  
3 57 counties outside New York City. And more  
4 cases will be filed, certainly, but the vast  
5 percentage of these cases are pending in  
6 New York City and will ultimately be filed in  
7 New York City.

8 And the most important thing that a  
9 judge can do to ensure that tenants' rights  
10 in these cases are recognized or understood  
11 by tenants and are realized in the court  
12 process is the appointment of counsel. And  
13 fortunately in New York City, going back to  
14 the prior mayor's administration and  
15 continuing in the current mayoral  
16 administration, tenants who can't afford a  
17 lawyer will be matched with a lawyer. And  
18 we've established a process in New York City  
19 Housing Court where the first appearance will  
20 be a virtual appearance -- and actually this  
21 has been going on -- this isn't taking effect  
22 now, this has been going on for a number of  
23 months now in the New York City Housing  
24 Court.

1           The first appearance will be for the  
2           purpose of connecting the tenant with a  
3           lawyer if the tenant can't afford a lawyer.  
4           And the second appearance will be an  
5           in-person appearance with the tenant, if the  
6           tenant chooses to appear, but the lawyer  
7           that's been assigned to the tenant will  
8           appear in person. And the landlord, and if  
9           the landlord has a lawyer, the landlord  
10          and/or the landlord's lawyer will be in  
11          person, with the goal of trying to resolve  
12          the case without further litigation.

13           So hopefully that answers your  
14          question, that the critically important step,  
15          so that not only the tenants understand what  
16          their rights are, but that their rights are  
17          protected by legal representation, is  
18          something that is assured in New York City,  
19          again where the vast, vast percentage of  
20          these cases are pending and will be filed.

21           Outside New York City, less of a  
22          guarantee that a lawyer will be assigned to a  
23          tenant who can't afford one. But I know the  
24          Governor has thankfully identified that as a

1           problem and has suggested at least that maybe  
2           there will be funding from the state to  
3           replicate sort of the very positive situation  
4           in New York City, in that lawyers will be  
5           provided to replicate that in landlord/tenant  
6           cases outside of New York City.

7                     SENATOR HOYLMAN:  Yes.  I mean, that's  
8           obviously an enormous problem outside of  
9           New York City, and thank you for supporting  
10          the efforts of the Governor in that regard.

11                    Just to make one more pivot with my  
12          remaining time, when we're discussing court  
13          reopenings, particularly during the pandemic,  
14          many stakeholders have continued to point to  
15          significant issues with court plans.  Of  
16          course since that time we've had vaccines but  
17          also variants that continue to threaten the  
18          public's safety.

19                    What have you learned since the  
20          pandemic in terms of reopenings?  And have  
21          you considered returning to virtual  
22          arraignments as requested by the defense bar?  
23          Are there any plans in place for, say, the  
24          safe operation of Housing Court as you

1 described this new process?

2 CHIEF ADMIN. JUDGE MARKS: Well, let  
3 me just say in general, and then I'll get to  
4 the specifics on the question you raised, in  
5 general we've learned a lot over the last  
6 nearly two years, and there have been steps  
7 forward we've had to take, and steps  
8 backward, based on the public health  
9 circumstances. And, you know, public health  
10 is critically important to us. I mean, that  
11 goes without saying.

12 With respect to arraignments, for a  
13 very substantial percentage of the last two  
14 years now of the pandemic, arraignments were  
15 conducted virtually. I can tell you -- and I  
16 viewed many, many virtual arraignments in  
17 this time.

18 (Zoom interruption.)

19 CHAIRWOMAN KRUEGER: Would everybody  
20 please mute unless they are Judge Marks or  
21 Brad Hoylman.

22 CHIEF ADMIN. JUDGE MARKS: Sorry.  
23 That it -- the virtual approach to  
24 arraignments is not ideal. And in fact





1 Court it's fair to say are still virtual, and  
2 we believe it can be effective. I mean,  
3 ideally we would have full in-person, but at  
4 the moment that's just not practical and  
5 feasible. And -- but we can conduct even  
6 virtual trials in Housing Court. They're not  
7 jury trials, they're judge trials. And we  
8 feel a lot can be accomplished and the rights  
9 of the litigants can be protected and  
10 vindicated with a combination of in-person  
11 and virtual proceedings in Housing Court  
12 cases.

13 SENATOR HOYLMAN: Thank you, Judge.

14 CHAIRWOMAN KRUEGER: I'm sorry, the  
15 time is up, shockingly, for 10 minutes.

16 I'm turning it over to Assemblywoman  
17 Helene Weinstein to announce the first  
18 Assemblymember.

19 CHAIRWOMAN WEINSTEIN: Thank you.

20 The first questioner will be -- and  
21 actually, he joined us while Judge Marks was  
22 speaking -- chair of the Assembly Judiciary  
23 Committee, Assemblyman Charles Lavine, for  
24 10 minutes.

1 ASSEMBLYMAN LAVINE: Thanks,  
2 Chair Weinstein.

3 And good morning, Judge Marks. Always  
4 great to see you.

5 CHIEF ADMIN. JUDGE MARKS: Good  
6 morning.

7 ASSEMBLYMAN LAVINE: Judge, during the  
8 course of our sessions at times some members  
9 have criticized the Judiciary, shocking as  
10 that may seem, for its inability to open the  
11 courts the way the courts were open  
12 pre-pandemic. Now, that's an argument I  
13 don't accept. I'm not even going to ask you  
14 to comment on that. But having spent much of  
15 my life in the courts, that's not the way it  
16 is.

17 But can you describe what's been the  
18 human toll on the Judiciary and court  
19 personnel as a result of the pandemic?

20 CHIEF ADMIN. JUDGE MARKS: Well, at  
21 the outset of the pandemic there was, I think  
22 it's fair to say, a devastating toll. We  
23 lost three judges, who passed away in the  
24 early spring of 2020. Of course there's no

1 way to know whether they contracted COVID  
2 while in the courthouse or in their -- at  
3 home or, you know, in their personal lives.  
4 But regardless, it was a devastating  
5 circumstance for us.

6 We also lost -- fortunately, a small  
7 number, a very small number, but we did lose  
8 to COVID, again, back in the early spring of  
9 2020, we did lose a small number of employees  
10 who passed away.

11 And we've been very fortunate since  
12 then in that there haven't been further  
13 deaths. But a lot of our people, judges and  
14 judicial staff, have contracted the virus.  
15 We keep careful tracking of this. We know  
16 when someone's tested positive; they're  
17 required to report that to us.

18 And aside from the human toll, it's  
19 had a very substantial and difficult impact  
20 on court operations, particularly I would say  
21 under the latest resurgence of the virus,  
22 which -- knock on wood -- has not been  
23 anywhere near as devastating in terms of the  
24 health consequences but has exerted itself on

1 a much larger scale than prior resurgences.

2 And we do the best we can. I mean,  
3 you know, we haven't been able to operate --  
4 you know, particularly with this latest  
5 resurgence, at full staffing, but we do the  
6 best we can, relying on virtual proceedings  
7 where it's necessary to do that, but relying  
8 on in-person proceedings. And our goal is to  
9 go back to full in-person proceedings when  
10 public health circumstances would allow for  
11 that.

12 ASSEMBLYMAN LAVINE: Judge, I  
13 understand that at a recent jury trial on I  
14 believe a criminal matter, more than one  
15 courtroom had to be utilized. One courtroom  
16 had to be used to house the jury, and another  
17 courtroom for arguments. It was a total of  
18 three courtrooms. Is that accurate? Are we  
19 now in a logistical situation, a logistical  
20 conundrum, so to speak, where we have to use  
21 multiple courtrooms in order to conduct a  
22 single jury trial?

23 CHIEF ADMIN. JUDGE MARKS: You're  
24 absolutely correct in what you're describing.

1           The reason for that is we've adhered and  
2           continue to adhere to the six-foot social  
3           distancing rule, which is the CDC guideline  
4           for indoor public places where there's no  
5           assurance that people coming into those  
6           indoor public spaces have been vaccinated,  
7           which is a category that the courthouses and  
8           courtrooms fall into.

9                        So -- and the State Health Department  
10           has adhered to the six-foot social distancing  
11           rule in these situations.

12                       We would like to get the backing of  
13           the CDC and the State Health Department to  
14           mitigate the six-foot social distancing rule,  
15           because it would allow us to conduct many  
16           more trials, which is something that we are  
17           very determined to be able to do. As I say,  
18           a court system can't be a full court system  
19           without being able to conduct a significant  
20           number of jury trials.

21                       I mean, as you know as a former  
22           practicing lawyer, most cases on both the  
23           criminal side and the civil side are resolved  
24           without the necessity of a trial. But we

1           need to do trials. Trials can keep the  
2           system honest. And again, under existing  
3           protocols, it's been very difficult to do  
4           that on a large scale.

5                     But our goal is to be able to return  
6           to conducting jury trials on a large scale,  
7           and hopefully that will happen.

8                     ASSEMBLYMAN LAVINE: Last question, on  
9           a microeconomic scale.

10                    For capital projects, the Judiciary  
11           Budget includes \$25 million for continued  
12           improvements to court technology  
13           infrastructure. Can you describe how that  
14           money will be used?

15                    CHIEF ADMIN. JUDGE MARKS: Well, it  
16           will be used to upgrade and expand our case  
17           management systems. For those of you not  
18           familiar with that term, our case management  
19           systems that every court in the state has, it  
20           is a part of -- it's where all the relevant  
21           information and data about the case is  
22           entered. And it would be hard to imagine  
23           running a court system these days, with the  
24           volume and complexity of cases we have,

1 without a robust and efficient and effective  
2 case management system.

3 So some of the funding would go to  
4 that. Some of it would go to things like  
5 enhancing sound within courtrooms, which  
6 believe it or not can be a problem,  
7 particularly with participants -- witnesses  
8 and lawyers -- wearing masks. Audio, there  
9 are audio challenges with that. So some of  
10 the money would be going to enhancing sound  
11 competency in courtrooms. Money will go to  
12 replacing x-ray machines and magnetometers in  
13 the lobbies of courthouses. Some of it will  
14 go to continuing our digitization of court  
15 records, which is an enormous undertaking  
16 that's been underway for several years.

17 So those are some of the examples of  
18 where that money will be very well spent.

19 ASSEMBLYMAN LAVINE: Thanks,  
20 Judge Marks. I have no further questions.

21 CHIEF ADMIN. JUDGE MARKS: Thank you.

22 SENATOR RIVERA: You're muted, Liz.

23 ASSEMBLYMAN LAVINE: Am I supposed to  
24 just continue on and on?



1           CHAIRWOMAN KRUEGER: I apologize. I  
2 apologize, everyone. I for some reason lost  
3 my unmute button for a second. We are now  
4 turning it over to --

5           CHAIRWOMAN WEINSTEIN: Senator,  
6 before -- can I just announce some of the  
7 members who have joined us while --

8           CHAIRWOMAN KRUEGER: Of course. Of  
9 course.

10          CHAIRWOMAN WEINSTEIN: -- questions  
11 have been going on? Assemblywoman Cruz,  
12 Assemblyman Cusick, Assemblyman Dilan,  
13 Assemblywoman Kelles, Assemblyman Kim,  
14 Assemblywoman Rosenthal.

15          Thank you. Now to the Senate.

16          CHAIRWOMAN KRUEGER: Thank you.

17          And actually we've been joined by  
18 Senator George Borrello and Senator Fred  
19 Akshar since the last list was called up.

20          And I believe our next questioner, for  
21 three minutes, is Senator Zellnor Myrie.

22          SENATOR MYRIE: Thank you,  
23 Madam Chair.

24          And thank you, Judge Marks. I'm going

1 to try and be as efficient as possible in my  
2 questioning, and my hope is that you will do  
3 the same in answering.

4 I want to talk about Surrogate's Court  
5 very briefly. And if you can, again, try and  
6 be brief in your responses. Am I correct in  
7 understanding that the Surrogate's Court and  
8 specifically the Kings County Surrogate's  
9 Court handles upwards of tens of millions of  
10 dollars in real and personal property every  
11 year?

12 CHIEF ADMIN. JUDGE MARKS: That's  
13 correct.

14 SENATOR MYRIE: And it is correct that  
15 that is also handled by the Kings County  
16 public administrator's office?

17 CHIEF ADMIN. JUDGE MARKS: The public  
18 administrator's office handles cases where  
19 there's no will and there's no family member  
20 or relative or someone who will step forward  
21 to serve as the administrator of the estate.

22 SENATOR MYRIE: Thank you. So they do  
23 handle, in many cases, pretty valuable real  
24 and personal property, correct?

1 CHIEF ADMIN. JUDGE MARKS: Yes.

2 SENATOR MYRIE: And is there an  
3 auditing function by the OCA? Do you oversee  
4 that particular office to assure that general  
5 accounting principles are met and that the  
6 estates of the deceased are being handled  
7 correctly?

8 CHIEF ADMIN. JUDGE MARKS: We don't  
9 have any formal oversight role. The public  
10 administrator and the staff of the Public  
11 Administrator's Office are city employees.  
12 The public administrator is appointed by the  
13 surrogate judge, and in Brooklyn there are  
14 two surrogates, so they would be appointed by  
15 the two surrogates.

16 There have been problems that have  
17 plagued that office for a number of years,  
18 and there have been audits done by the  
19 New York City Comptroller's office, which has  
20 jurisdiction and authority to conduct those  
21 audits.

22 SENATOR MYRIE: Thank you for that,  
23 Judge Marks. And speaking of those audits,  
24 the Comptroller's office has done, I think,

1 recently one in 2021 and another one in 2015.  
2 They issued I believe 18 recommendations.  
3 That office has not adopted the overwhelming  
4 majority of those. Is there any consequence  
5 from OCA for that office not complying or not  
6 fulfilling its duty as recommended by the  
7 audits by the Comptroller's office?

8 CHIEF ADMIN. JUDGE MARKS: Since I've  
9 been in this position, although I have no  
10 formal role in the public administrator's  
11 offices in Kings County or any other  
12 counties, for that matter, I've tried to  
13 facilitate disputes and disagreements between  
14 surrogates in that court to try to address  
15 and get the public administrator to try to  
16 address some of those problems.

17 By the way, I believe the current  
18 public administrator has announced that he is  
19 resigning. So --

20 SENATOR MYRIE: So Judge Marks, I'm  
21 sorry, just because my time has expired. So  
22 there is no function for a public  
23 administrator's office that has been found  
24 not to meet the recommendations -- some of

1           those recommendations include competitively  
2           bidding vendor contracts. They can flout  
3           that without consequence from OCA?

4           CHIEF ADMIN. JUDGE MARKS: If you look  
5           at the relevant statutes, the surrogates  
6           themselves have direct oversight, the ability  
7           to hire the public administrator and the  
8           ability to dismiss the public administrator.  
9           And there's been serious disagreement on that  
10          topic among the surrogates in that court.

11          SENATOR MYRIE: Thank you, Judge.

12          CHAIRWOMAN KRUEGER: Thank you,  
13          Senator Myrie. We need to do more work on  
14          this issue, I agree with you.

15          I'm turning it over to Assemblywoman  
16          Weinstein.

17          CHAIRWOMAN WEINSTEIN: We've been  
18          joined by Assemblyman Colton.

19          And to chair of the Codes Committee,  
20          Assemblyman Dinowitz, for 10 minutes.

21          ASSEMBLYMAN DINOWITZ: Thank you.

22          Good morning, Judge Marks. It is very  
23          good to see you.

24          CHIEF ADMIN. JUDGE MARKS: Good

1 morning.

2 ASSEMBLYMAN DINOWITZ: I have a few  
3 different, unrelated questions, but I'm going  
4 to talk fast because I want to get all my  
5 questions in.

6 So the backlog. I know at least in  
7 the Bronx there's not a whole lot of trials  
8 going on. There are some, but not a lot.

9 Given two years of this, and a  
10 continuing pandemic, in terms of time, how  
11 long do you think it will take to clear up  
12 the backlog, just the backlog from the  
13 pandemic, let alone what we had before the  
14 pandemic?

15 CHIEF ADMIN. JUDGE MARKS: That's a  
16 great question, but a very difficult question  
17 to answer.

18 You know, the thinking and the wisdom  
19 about civil litigation in particular, but it  
20 applies to criminal litigation as well -- and  
21 I think, Assemblyman Dinowitz, is your  
22 question more focused on the civil term of  
23 Supreme Court when you ask that, or is it  
24 both?

1 ASSEMBLYMAN DINOWITZ: Well, I think  
2 it's both. While I'm more familiar with, you  
3 know, the goings on on the civil side, the  
4 fact is in terms of, you know, really  
5 affecting people's lives in an extremely  
6 serious way, I think perhaps on the criminal  
7 side is what we really need to focus on.

8 CHIEF ADMIN. JUDGE MARKS: Yeah.  
9 Yeah. Yeah. Yeah, I agree. But I think  
10 it's both sides.

11 But the conventional wisdom was always  
12 that you needed the real and credible threat  
13 of a trial -- and this is to the lawyers --  
14 to resolve cases, to either settle them on  
15 the civil side or to achieve guilty pleas on  
16 the criminal side. And that conventional  
17 wisdom is still the conventional wisdom, but  
18 there have been dispositions and resolutions  
19 of many, many cases during the pandemic on  
20 the civil side and the criminal side without  
21 the realistic threat of -- throughout the  
22 pandemic of a robust capacity to try cases.

23 But that's had its limitations. You  
24 know, I think alternative dispute resolution,

1           which we're committed to and sort of -- we  
2           were in the process of institutionalizing  
3           that throughout the state as we came into the  
4           pandemic in the spring of 2020 -- that can  
5           play a very significant role in resolving  
6           backlogs. And getting judges actively  
7           involved in trying to resolve cases can play  
8           an important role.

9                         But I'm not going to minimize the  
10           importance and utility of trials to resolve  
11           cases. And, you know, we have been  
12           conducting jury trials. It's a limited  
13           number compared to pre-pandemic levels. And  
14           I'll mention again the comment to Assemblyman  
15           Lavine, which is that if we could get some  
16           relief with the six-foot rule, which  
17           requires -- makes it so much more difficult  
18           to conduct jury trials than under normal  
19           circumstances -- if there could be some  
20           relief with that.

21                         And that's obviously influenced by the  
22           circumstances of the pandemic. But if that  
23           can happen, you know, we can return to  
24           something resembling the normal court system



1           that we had pre-pandemic, where the  
2           overwhelming percentage of cases get resolved  
3           without the necessity of a jury trial, but  
4           the jury trial is critically important to  
5           achieving dispositions and resolutions of  
6           cases.

7                     ASSEMBLYMAN DINOWITZ: I will rely on  
8           Dr. Fauci as to whether or not six feet is  
9           the right and correct distance. Personally,  
10          I'd rather have a larger distance, but okay.

11                    On a separate issue, I held a hearing  
12          back in October, a Codes Committee hearing,  
13          not on the subject of bail reform, but  
14          several witnesses decided that was their  
15          opportunity to talk about bail reform,  
16          including some of the top police people,  
17          including then-Commissioner Shea.

18                    And I make it a habit of not  
19          necessarily believing everything I read in  
20          certain newspapers unless -- unless there's a  
21          second source, I suppose. But I asked the  
22          commissioner -- and I know my colleague  
23          Assemblymember Walker will remember this  
24          well -- I asked him does he have any data

1           that shows that people who are accused of  
2           certain offenses and were out without bail  
3           then committed the same offense.

4                     And he said that it happens rarely. I  
5           don't know if that was his exact words, but  
6           that was essentially what he said. Meaning  
7           that the people who were out were not  
8           necessarily committing the same offense  
9           again.

10                    And I was wondering if you -- I don't  
11           know if you would have data on that.  
12           Because, you know, reading one thing in some  
13           of the newspapers, that all the people that  
14           are out without bail are committing crimes,  
15           but the data doesn't seem to back that up.  
16           And I just would like to know what the  
17           reality is.

18                    CHIEF ADMIN. JUDGE MARKS: Yes, we  
19           have extensive data that's on our website.  
20           We worked with the State Division of Criminal  
21           Justice Services on this. And I know the  
22           DCJS commissioner is testifying, and you  
23           should, if you're able to, ask her that  
24           question as well.

1           But we have extensive data. I can  
2           tell you I haven't absorbed it all, it's not  
3           sort of on the tip of my brain right now.  
4           But I can tell you that there have been  
5           people who have been released either on their  
6           own recognizance or non-monetary conditions,  
7           or for whom bail was set and they posted bail  
8           and have been released.

9           There have been a fair number of  
10          people who have been arrested while they were  
11          released. I mean, the good news on bail  
12          reform is that only 14 percent statewide were  
13          detained over the period of time we looked  
14          at, which means that approximately 200,000  
15          people were released. And if you're a  
16          proponent of bail reform, that's I think a  
17          positive statistic. But at the same time,  
18          there have been -- 22 percent of that number  
19          were rearrested.

20          Were they rearrested for the same  
21          offense for which they were charged, on the  
22          pending charge? I can't answer that. But I  
23          can tell you that if you have specific  
24          questions or queries that you could send us,

1           you know, we can answer probably most if not  
2           all of the questions that you might have.

3                   ASSEMBLYMAN DINOWITZ: On a separate  
4           issue, as you know, I was not happy about  
5           the -- I'll call it the firing, for lack of a  
6           better word, of the 70-year-old-plus judges  
7           at the end of 2020, most of whom or many of  
8           whom are back.

9                   I'm concerned that this could happen  
10          again. And I'm just wondering what future  
11          you see in terms of budget and whether we  
12          would see a repeat performance of that.

13                   CHIEF ADMIN. JUDGE MARKS: Well, as I  
14          think you know, it was entirely 100 percent  
15          driven by what we viewed as very dire budget  
16          circumstances that we found ourselves in in  
17          the 2020 calendar year.

18                   Thankfully, that budget situation  
19          turned around. And I want to thank the  
20          Legislature for that, because the budget that  
21          was approved for the current fiscal year, the  
22          one we're still in, allowed us to lift our  
23          hiring freeze and undo a number of the strict  
24          austerity measures that we imposed, including

1 we invited back the judges who because of the  
2 budget problem were not certificated.

3 In the fall of 2020 we invited them to  
4 reapply. Many of them did. And judges  
5 returned as certificated judges and are  
6 sitting on the bench handling cases today,  
7 which is a great thing.

8 In terms of the future, I can tell you  
9 last fall, when the next class of judges were  
10 up for certification or recertification, they  
11 were all approved. I think it was -- I think  
12 it was 27, approximately 27, who were all  
13 approved.

14 So to answer your question, I'm not  
15 the -- clearly not an economics expert. But  
16 from everything I read and hear and people  
17 tell me, that the state's economic situation  
18 looks pretty rosy for the next few years.  
19 And if that's the case, you know, we will  
20 continue to have a full and robust  
21 certification program.

22 ASSEMBLYMAN DINOWITZ: I have a few  
23 seconds left. You had mentioned earlier that  
24 the judges in the system, basically they're

1 all vaccinated, or pretty much all. I  
2 thought I read -- I mean, shockingly, I  
3 thought I read that one of the Court of  
4 Appeals judges has refused to be vaccinated  
5 and therefore is not appearing in person in  
6 court. Am I wrong about that, or is that  
7 true?

8 CHIEF ADMIN. JUDGE MARKS: You're  
9 correct in saying that you read that. I'm  
10 reluctant to talk about individual judges  
11 because there's an exemption process where  
12 you can apply -- either be vaccinated -- and  
13 98 percent of the judges across the state  
14 have been fully vaccinated. But there's a  
15 process to apply for a medical exemption or a  
16 religious exemption. And that's a strictly  
17 confidential process.

18 But I can tell you that there are a  
19 very small number, you could count them on  
20 one hand, or part of one hand, who are not in  
21 compliance with our program, who either have  
22 not provided proof of full vaccination or  
23 have not received a religious or a medical  
24 exemption. There's a tiny number of judges

1           who fall into that category. And hopefully  
2           you'll understand why I don't want to  
3           identify individual judges by name.

4                     ASSEMBLYMAN DINOWITZ: Right. Well,  
5           the newspaper took care of that anyway.

6                     Anyway, thank you very much,  
7           Judge Marks.

8                     CHIEF ADMIN. JUDGE MARKS: Thank you.

9                     CHAIRWOMAN KRUEGER: Thank you very  
10          much.

11                    So there was a little confusion and  
12          Assemblymember Dinowitz, the chair of Codes,  
13          was given 10 minutes. So I want to make sure  
14          that I give my chair of Codes, Jamaal Bailey,  
15          the remainder of his 10 minutes. He had  
16          three minutes already, so we'll give him  
17          another seven minutes, please, Mr. Clock.  
18          Thank you.

19                    SENATOR BAILEY: Thank you, Madam  
20          Chair.

21                    Judge Marks, good to see you.

22                    CHIEF ADMIN. JUDGE MARKS: Good to see  
23          you.

24                    SENATOR BAILEY: Thank you for

1           testifying today.

2                        To piggyback off of what  
3           Assemblymember Dinowitz was talking about  
4           regarding the data in relation to bail and  
5           securing orders, how was that data collected?

6                        CHIEF ADMIN. JUDGE MARKS: That data  
7           is collected from the state court system's  
8           database as well as some of it, particularly  
9           rearrest data, comes from the State Division  
10          of Criminal Justice Services database.

11                       And the statute reflected that by  
12          requiring the court system and DCJS to work  
13          together to develop data and to post it on  
14          our websites.

15                        SENATOR BAILEY: Sure.

16                        So in terms of the aggregation of that  
17          data, how was that aggregated? Is it  
18          aggregated based upon offense? Is it  
19          aggregated based upon bail eligible and  
20          non-bail eligible? How is that data  
21          aggregated?

22                        CHIEF ADMIN. JUDGE MARKS: Yes, all of  
23          the above. It's categorized in a number of  
24          ways which we think will be helpful.



1           And we added additional data fields  
2           because researchers from Vera and John Jay  
3           and the center for court innovation were very  
4           interested in this data, and we added fields  
5           at their request. And we provide it in a  
6           format that we think is very user-friendly so  
7           that they can do, you know, extensive  
8           research and really dig down into this data  
9           and draw, you know, whatever conclusions they  
10          draw from it.

11           SENATOR BAILEY: Excellent. Because  
12          it will be helpful to be able to find out --  
13          you know, because there's much ado -- as  
14          Senator Hoylman mentioned, maybe certain  
15          judges may or may not be flouting the law.  
16          And if it was aggregated based upon bail  
17          eligibility and non-eligible offenses, I  
18          think that would go a long way in helping us  
19          determine what judges are in fact not setting  
20          bail when they have the ability or  
21          discretion, as has been asked.

22                  So I think that would be very helpful  
23          to do that.

24                  Also another point that you mentioned

1 in your prior commentary with Assemblymember  
2 Dinowitz, do we have data about individuals  
3 who pay bail and reoffend? And do we have  
4 percentages of that data as well? Is that in  
5 the aggregate as well? Because we always --  
6 like the conversation is generally about  
7 those who are released on bail reform, or  
8 based upon what people believe bail reform  
9 is. But individuals who pay bail and are  
10 out, they often also reoffend, correct?

11 CHIEF ADMIN. JUDGE MARKS: Yes, they  
12 do. And there's data on that, and it's  
13 categorized and available to whoever is  
14 interested.

15 SENATOR BAILEY: Okay, excellent.

16 A question about Raise the Age. You  
17 know, when an adolescent is arraigned in a  
18 youth part of the criminal court, what  
19 criteria are used to determine whether that  
20 kid should stay there or be moved to -- be  
21 moved to Family Court or be moved to criminal  
22 court?

23 CHIEF ADMIN. JUDGE MARKS: Don't hold  
24 me to the precise language, but I'm pretty

1           sure there's a presumption that the case  
2           would stay -- would go to Family Court. An  
3           application would be made by the prosecutor.  
4           If the prosecutor would like to see the case  
5           transferred over to Family Court, or the  
6           attorney for the child would like to see  
7           that, there's an application that's made.  
8           The prosecutor could argue the case should  
9           stay in criminal court; you know, the  
10          converse of that. And the precise  
11          standard -- I apologize --

12                    SENATOR BAILEY: No problem. I just  
13           want to get to the heart of it, is that each  
14           of these cases are handled on a case-by-case  
15           individual basis, correct?

16                    CHIEF ADMIN. JUDGE MARKS: Absolutely.

17                    SENATOR BAILEY: And it's not like a  
18           blanket policy, right?

19                    CHIEF ADMIN. JUDGE MARKS: Correct.

20                    SENATOR BAILEY: So like these  
21           individuals, they would know the facts of the  
22           specific case better than anybody else  
23           because it's individualized, correct?

24                    CHIEF ADMIN. JUDGE MARKS: It's a

1 case-by-case determination, that's right.

2 SENATOR BAILEY: Okay. A question  
3 about -- thank you for the questions on that.

4 Questions about 18-B, assigned  
5 counsel. Like there's obviously been  
6 conversation about it in the media. And do  
7 you believe that, you know, a raise in  
8 attorney compensation would help alleviate  
9 backlogs that we have in the court system?

10 CHIEF ADMIN. JUDGE MARKS: Absolutely.  
11 It's been -- and I know you have a bill on  
12 that --

13 SENATOR BAILEY: Yes.

14 CHIEF ADMIN. JUDGE MARKS: And thank  
15 you. You know, we support what you're trying  
16 to do, and thank you for your leadership on  
17 this. I think it's been 18 years now, am I  
18 correct, since the last increase in the 18-B  
19 fees?

20 SENATOR BAILEY: Correct.

21 CHIEF ADMIN. JUDGE MARKS: And that's  
22 having like a serious, serious impact on the  
23 processing of cases. The attorney panels or  
24 rosters from which -- these attorneys apply

1 and get on rosters and then take assignments  
2 to these cases in the criminal courts and in  
3 the Family Court. Those rosters are  
4 depleted. Fewer and fewer attorneys are able  
5 to -- they've concluded they can't afford to  
6 take these cases because the rate is so low  
7 and there's been no increase in such a long  
8 period of time.

9 I would add that prior to the last  
10 increase, which I think was 18 years ago, it  
11 was a 16-or-17-year delay. Which I remember,  
12 actually. And there's got to be a better way  
13 to do this. It has a direct impact on delays  
14 in the criminal courts and in the Family  
15 Court, and it's just something that really  
16 must -- it just needs to be done. It's a  
17 long time.

18 SENATOR BAILEY: Thank you. I would  
19 certainly agree. As you mentioned, there's a  
20 piece of legislation that I carry. And  
21 understanding that those backlogs could be  
22 alleviated significantly and those who are at  
23 most risk could be able to receive counsel  
24 that is efficient.

1           I guess the last question that I'll  
2           have is related to diversity in the courts.  
3           And you and I have spoken about this I think  
4           at every budget hearing since I've been a  
5           member of the New York State Senate. And  
6           strides have been made in terms of the LEO  
7           Program. But in terms of greater diversity,  
8           what steps is OCA taking to make sure that we  
9           have great diversity, not just in race but in  
10          gender, in orientation, in any diverse group?  
11          What steps are we taking in OCA to make sure  
12          that this is taking place in our court  
13          system? And not just on the bench, in terms  
14          of court personnel and employees as well.

15                 CHIEF ADMIN. JUDGE MARKS: Yeah. No,  
16                 thank you for that question.

17                 There's a lot going on. We're  
18                 particularly focusing on human resources  
19                 practices and protocols. We're doing more  
20                 outreach into the community about  
21                 opportunities in the court system,  
22                 particularly when we conduct a civil service  
23                 test for court officers or court clerks and a  
24                 lot of the courtroom titles. We're doing

1 much more outreach.

2 We are providing services to people  
3 who -- it's not just hiring people into the  
4 court system, it's promoting people and  
5 having a full opportunity for everyone to  
6 have a chance of promoting within the court  
7 system. And we've organized workshops to  
8 help people with their interview skills and  
9 resume-building opportunities.

10 We are making it clear to managers  
11 that their efforts to diversify the people  
12 who work under them will be a factor in the  
13 performance evaluation of court managers. So  
14 we're taking a number of steps to further  
15 diversify our nonjudicial staff in the court  
16 system.

17 And in terms of judges, obviously we  
18 don't pick the judges, with the exception of  
19 Housing Court judges. And I think our record  
20 is strong on diversity among Housing Court  
21 judges whom we appoint. Administrative  
22 judges, a lot of diversity. The  
23 administrative judge for the New York City  
24 Criminal Court is a person of color. The

1 administrative judge for the New York City  
2 Civil Court, which includes the Housing  
3 Court, is a person of color. The  
4 administrative judge for the New York City  
5 Family Court is a person of color.

6 Three of four of our deputy chief  
7 administrative judges, which is the level  
8 below me as the chief administrative judge,  
9 three of four are judges of color. So we --

10 CHAIRWOMAN KRUEGER: Thank you, Judge  
11 Marks. I'm afraid I'm going to have to cut  
12 you off because we are beyond time.

13 I'm going to ask everybody to mute if  
14 they're not actually speaking.

15 I apologize, Senator Bailey, I need to  
16 also end your questioning.

17 SENATOR BAILEY: I am grateful for the  
18 extra time. Thank you, Madam Chair. Thank  
19 you, Judge Marks.

20 CHAIRWOMAN KRUEGER: Thank you.

21 We've been joined by Senator Phil  
22 Boyle, the ranker on Codes; by Senator Pete  
23 Oberacker, Senator Sue Serino, and  
24 Senator Pat Ritchie.



1                   And now turning it over to the  
2                   Assembly.

3                   CHAIRWOMAN WEINSTEIN: We've been  
4                   joined by Assemblyman McDonald,  
5                   Assemblyman Pretlow.

6                   And we go to Assemblyman Weprin, three  
7                   minutes.

8                   ASSEMBLYMAN WEPRIN: Thank you,  
9                   Madam Chair.

10                  And thank you, Judge Marks, for --  
11                  once again, I'm glad to see that we're  
12                  getting back to trials, although slowly.

13                  I've had a bill for a number of years  
14                  to allow for a program of allowing  
15                  televisions in the courtroom. That bill has  
16                  been dormant for many years. I've  
17                  reintroduced the bill. And I think with some  
18                  of the skepticism in the courts during the  
19                  pandemic, and the lack of trials, hopefully  
20                  the return of trials as we get out of COVID,  
21                  that's something I'd like to see you and OCA  
22                  look at to restore confidence in trials and  
23                  in the courtroom post-pandemic.

24                  Would you be able to comment on that,

1 Judge?

2 CHIEF ADMIN. JUDGE MARKS: Well,  
3 personally, and this is just my own  
4 opinion -- I don't think we have an  
5 institutional opinion or position on cameras  
6 in the courts, but personally I favor cameras  
7 in the courts.

8 I remember the statute going back a  
9 number of years that would come up for sunset  
10 every few years and would be renewed, and  
11 then ultimately was permitted to sunset. And  
12 there's been no formal authorization for  
13 camera coverage of court proceedings in New  
14 York since then, and it's been a long time.

15 ASSEMBLYMAN WEPRIN: Yeah, that was  
16 my -- my late father is the one that  
17 sponsored that original bill, Sol Weprin. So  
18 I'd like to see it restored.

19 CHIEF ADMIN. JUDGE MARKS: Yeah. I  
20 can -- again, I'm speaking for myself, not  
21 for the institution, but I think the more  
22 sunlight you can shine on court proceedings,  
23 the better that is.

24 The public -- it's difficult to go to

1 the courthouse and sit there, for people who  
2 work, have childcare or other  
3 responsibilities, and if there was more --  
4 particularly all these remote judicial  
5 proceedings that we've been conducting during  
6 the pandemic, I don't know if that supports,  
7 I'd have to think about that, whether that  
8 supports cameras in the courts for the more  
9 public viewing of court proceedings. But,  
10 you know, we need to be as responsive a  
11 governmental institution as we can possibly  
12 be, and I personally believe that audiovisual  
13 coverage of court proceedings promotes  
14 responsiveness and accountability.

15 ASSEMBLYMAN WEPRIN: Yeah, I think it  
16 particularly may be more relevant  
17 post-pandemic as we're restoring trials and  
18 the public is reenergizing.

19 So thank you.

20 CHAIRWOMAN WEINSTEIN: We go now to  
21 the Senate.

22 CHAIRWOMAN KRUEGER: Thank you very  
23 much.

24 And we're actually going to jump to

1 the ranker for Codes, Senator Phil Boyle.

2 Are you there, Senator Boyle? Well,  
3 perhaps we're not right now. Senator Boyle,  
4 are you there? Well, we're going to come  
5 back to Senator Boyle next round, and we're  
6 going to go instead to Senator Andrew  
7 Gounardes.

8 SENATOR GOUNARDES: Thank you very  
9 much, Senator Krueger.

10 Hello, Judge Marks.

11 I really have just two questions. One  
12 you kind of touched on a little bit in terms  
13 of the backlog of cases. I'd like to hear  
14 your thoughts specifically in response to  
15 what the mayor had called for yesterday,  
16 citing the 4,000 gun cases that are still  
17 pending in our criminal trials. And  
18 understanding the issues with spacing and the  
19 logistics of trying to get back to normal, he  
20 had talked about prioritizing a lot of these  
21 cases. And I would just love to hear you  
22 talk more about -- in response to what the  
23 mayor was asking the courts to undertake as  
24 part of this fight against gun violence.

1           CHIEF ADMIN. JUDGE MARKS: We support  
2 what the mayor announced yesterday. There  
3 were discussions that took place before the  
4 announcement with respect to the courts, and  
5 we're fully supportive.

6           We have an existing gun case  
7 initiative with designated judges handling  
8 gun cases. The goal is to be able to conduct  
9 more suppression hearings, which is the fancy  
10 name for a court proceeding that determines  
11 whether -- typically in a gun case, whether  
12 the gun was constitutionally seized from the  
13 accused. And so our goal is to conduct more  
14 of those suppression hearings. Which  
15 presents fewer pandemic challenges than a  
16 jury trial does because it's just a hearing  
17 before the judge with far fewer people in the  
18 courtroom.

19           And with the capacity to conduct more  
20 suppression hearings, that will lead to  
21 quicker resolution of cases even if the case  
22 needs to go to trial.

23           But the mayor also called for  
24 something which I mentioned a few minutes

1           ago, which is relaxing or reducing the  
2           six-foot social distancing protocol, which I  
3           think it was Assemblyman Lavine described  
4           very accurately requires multiple courtrooms  
5           to be able to try before a jury a single  
6           criminal case. And we're in discussion with  
7           the public health authorities about the  
8           possibility of being able to do that.

9                        So in terms of being able to conduct  
10           more trials and applying more resources to  
11           that goal, we fully support what the mayor  
12           announced yesterday.

13                       SENATOR GOUNARDES: I appreciate that.  
14           Thank you very much, Judge.

15                       And my second question is the  
16           Executive Budget is proposing to cut  
17           \$86 million in pension contributions under  
18           general state charges, mostly because a lot  
19           of the pension obligations have been  
20           fulfilled last year, as well as the growth of  
21           employees in the Tier 6 system.

22                       In my former capacity as chairman of  
23           the Civil Service Committee, we've heard a  
24           lot of issues about the difficulty in

1 recruiting and retaining state workers  
2 because of the pension benefits that are  
3 under Tier 6. As you are looking to fill in  
4 some of the open vacancies you have, both  
5 pre-pandemic and because of the pandemic,  
6 what challenges do you think you're facing  
7 because of the benefits package that we are  
8 now currently offering state employees?

9 How does that affect your ability to  
10 fully staff up your department's operations?

11 CHIEF ADMIN. JUDGE MARKS: Well, it's  
12 a good question.

13 I think, you know, in general our  
14 benefits in state government -- you know, and  
15 the Judiciary is part of the civil service  
16 benefit structure that the executive  
17 branch -- particularly health insurance that  
18 they offer, and it's pretty good, the health  
19 insurance benefits. It could always be  
20 better, but it's pretty good, particularly  
21 compared to other large organizations  
22 including, I think, in the private sector to  
23 some extent.

24 So does the Tier 6, which obviously is

1 less generous than the lower tiers, does that  
2 discourage people from looking at employment  
3 within the court system? You know, that's  
4 something I'd have to take a look at that and  
5 ask our HR people, and I could get back to  
6 you.

7 SENATOR GOUNARDES: That would be  
8 great. Thank you.

9 CHIEF ADMIN. JUDGE MARKS: But there's  
10 no question it's a less generous pension  
11 benefit than some of the other tiers.

12 SENATOR GOUNARDES: Thank you.

13 CHIEF ADMIN. JUDGE MARKS: Thank you.

14 CHAIRWOMAN WEINSTEIN: So we go to our  
15 ranker on Ways and Means, Assemblyman Ra, for  
16 five minutes.

17 ASSEMBLYMAN RA: Thank you, Chair.

18 Good morning, Judge Marks. Good to  
19 see you again.

20 CHIEF ADMIN. JUDGE MARKS: Good  
21 morning.

22 ASSEMBLYMAN RA: Just to go back to  
23 the bail reform conversation, as people know,  
24 you know, right now only in qualifying



1 offenses is it legally permissible for judges  
2 to exercise really any form of discretion,  
3 and it's really only when the judge finds  
4 bail or remand to be the least restrictive  
5 means necessary to ensure court attendance.

6 You know, in light of yesterday's plan  
7 that was put out by Mayor Adams of New York  
8 City, do you have any thoughts on his  
9 statement basically asking for discretion for  
10 your judges to consider dangerousness?

11 CHIEF ADMIN. JUDGE MARKS: Well, I  
12 haven't seen the details of the mayor's  
13 proposal. He did call for that. I can tell  
14 you -- and, you know, to be fair about this,  
15 many judges, if not most of our judges who  
16 sit on criminal cases, would like more  
17 discretion in making determinations about  
18 bail and release of people accused of crimes.

19 I mean, we don't have a formal  
20 proposal. But judges as a group, I think  
21 it's fair to say -- you know, I'm not  
22 speaking for a hundred percent of our judges,  
23 and I'm not sure what percentage I am  
24 speaking for, but I think it's fair to say

1           that individual judges would like to have  
2           more discretion in making this decision and  
3           feel that they would be able to fairly and  
4           effectively make decisions on a case-by-case  
5           basis if they had more discretion.

6                     I believe that's a fair  
7           characterization of how most judges who sit  
8           on criminal cases in the State Unified Court  
9           System feel.

10                    ASSEMBLYMAN RA: Thank you.

11                    Could whoever is unmuted and typing,  
12           please mute? It's coming through the feed.

13                    A totally different topic with regard  
14           to, you know, backlogs in eviction  
15           proceedings and all that with the eviction  
16           moratorium now having expired. And one of  
17           the issues obviously is that despite that,  
18           there is the Emergency Rental Assistance  
19           Program, and that does provide protection for  
20           an applicant, you know, with a case,  
21           requiring that to be reopened.

22                    How is OCA handling that, A, in terms  
23           of knowing -- do you have a number of how  
24           many cases are currently stayed as a result

1 of somebody applying for the Emergency Rental  
2 Assistance Program?

3 CHIEF ADMIN. JUDGE MARKS: Off the top  
4 of my head, I don't know the number, but I've  
5 seen the number. OTDA, you know, the  
6 executive branch agency that's administering  
7 the ERAP program, has that information. We  
8 can get it for you or you could get it  
9 directly from them.

10 But, you know, there is number of  
11 pending applications for ERAP grants. And if  
12 there are eviction cases pending for all of  
13 those people who have applied -- and there  
14 isn't necessarily an eviction case pending in  
15 all of those situations. But if there is, as  
16 you know, the eviction proceeding is stayed.

17 And we have data that the OTDA has  
18 shared with us on, you know, listing people  
19 who have applied. And that information is  
20 used in Housing Courts throughout the state  
21 when cases are calendared, which they have  
22 been all along and will continue to be  
23 calendared now that the moratorium has been  
24 lifted. And those lists are referenced by

1 courts to ensure that someone who has a  
2 pending application is not evicted, that  
3 their case is stayed.

4 ASSEMBLYMAN RA: And with regard to  
5 just ones that do have filed eviction  
6 proceedings, now with the -- taking out ERAP,  
7 assuming that's not a factor in a case, are  
8 those being automatically recalendared? Or  
9 is it on the litigant to come and make an  
10 application to recalendar those matters that  
11 had been, you know, subject to the eviction  
12 moratorium?

13 CHIEF ADMIN. JUDGE MARKS: The courts  
14 are recalendaring cases themselves.  
15 Particularly in the New York City Housing  
16 Court, which has, as I mentioned before, the  
17 vast lion's share of pending eviction cases,  
18 the court itself is calendaring cases -- you  
19 know, generally speaking, in chronological  
20 fashion, meaning the older cases are being  
21 calendared. That's sort of -- that's the  
22 process.

23 So the courts are calendaring cases,  
24 to answer your question.

1 ASSEMBLYMAN RA: Thank you.

2 CHIEF ADMIN. JUDGE MARKS: Thank you.

3 CHAIRWOMAN KRUEGER: Thank you.

4 Okay, now we're going to try again

5 Senator Phil Boyle, ranker on Codes.

6 SENATOR BOYLE: Thank you,

7 Madam Chair. And thank you, Your Honor.

8 Just a quick question. Obviously on  
9 Long Island we've had a long history of  
10 overburdened courts. And I'm asking you what  
11 are the steps that you're taking to advance  
12 the creation of a Fifth Department appellate  
13 division for the Long Island region?

14 CHIEF ADMIN. JUDGE MARKS: Well,  
15 interesting you raise that, because in our  
16 proposed constitutional restructuring of the  
17 trial courts -- which focuses mainly on the  
18 trial courts. We have 11 trial courts in  
19 New York; it's far more than any other state  
20 in the country has. And we're trying to get  
21 approval to consolidate and reduce the number  
22 of trial courts. But within that proposal,  
23 that issue was addressed, the Fifth  
24 Department.

1           You're in the Second Judicial  
2 Department. The four departments of the  
3 Appellate Division were created I think in  
4 1898, back when there was roughly equal  
5 population among the four. And that's  
6 changed drastically. The Second Department  
7 has over 50 percent of the population of the  
8 state within its jurisdiction, which is a  
9 problem.

10           And our constitutional proposal  
11 addresses not only consolidating the trial  
12 courts, but would specifically give the  
13 Legislature, I think every five years or  
14 every 10 years -- I apologize, I don't  
15 remember the exact time period -- but would  
16 give the Legislature authority by statute --  
17 the Constitution would be amended to give the  
18 Legislature the authority, every five years  
19 or 10 years, whatever it is, to determine the  
20 number of appellate judicial departments.

21           So it's in that proposal.

22           SENATOR BOYLE: Thank you. I hope  
23 that the need for this department is not held  
24 up by other reforms that may have been talked

1 about for a long time.

2 But thank you very much, Judge. And  
3 thank you, Madam Chair.

4 CHIEF ADMIN. JUDGE MARKS: Thank you.

5 CHAIRWOMAN KRUEGER: Thank you.  
6 Assemblywoman.

7 CHAIRWOMAN WEINSTEIN: Yes, so now we  
8 go -- next up is Assemblywoman Rajkumar,  
9 followed by Assemblywoman Walker.

10 ASSEMBLYWOMAN RAJKUMAR: Thank you.

11 Good morning, Your Honor.

12 CHIEF ADMIN. JUDGE MARKS: Good  
13 morning.

14 ASSEMBLYWOMAN RAJKUMAR: I want to  
15 talk to you about the severe backlog of cases  
16 in our courts. As is often said, justice  
17 delayed is justice denied. And yet around  
18 our state, as has been mentioned, courts are  
19 backlogged severely with cases. The district  
20 attorney of Onondaga County actually  
21 estimated that clearing his backlog will take  
22 18 months to two years.

23 Now, part of the reason may be delays  
24 related to COVID-19. And OCA I know limits

1 the number of trials conducted at once. But  
2 I'm very interested in last year's study by  
3 the Center for Court Innovation, which  
4 partnered with you at OCA. And that study  
5 concluded that the actual caseload is not the  
6 real driver of delays; the culprit is  
7 inefficient calendar management and judges  
8 setting lengthy adjournments without  
9 considering whether parties could complete  
10 the tasks sooner in between court  
11 appearances.

12 And in 2019, the Center for Court  
13 Innovation managed to launch a study with  
14 you, and in it they increased the percentage  
15 of cases disposed in six months by  
16 11 percent.

17 So could you please speak more about  
18 how OCA can resolve this backlog of cases in  
19 an expeditious manner, and how we can help  
20 make that happen?

21 CHIEF ADMIN. JUDGE MARKS: Well,  
22 again, there's a number of steps to be taken.  
23 I've mentioned some of them.

24 I think first and foremost there's



1 wide agreement that we have to be able to  
2 conduct more trials, jury trials in  
3 particular. And under the social distancing  
4 protocols currently in place, it's very hard  
5 to do that, as we discussed -- as I discussed  
6 with a previous colleague of yours.

7 So more jury trials. Broader use of  
8 alternative dispute resolution, where a  
9 judge, a court attorney, a community dispute  
10 resolution center, a private mediator gets  
11 the parties together and tries to mediate a  
12 settlement --

13 (Zoom interruption.)

14 CHAIRWOMAN KRUEGER: Somebody please  
15 mute.

16 SENATOR RIVERA: Brad. Brad.

17 It's Brad Hoylman. There you go.

18 CHAIRWOMAN KRUEGER: Oh, thank you.

19 CHIEF ADMIN. JUDGE MARKS: So greater  
20 use of ADR. Refocused attention  
21 on individual cases, inventories and -- this  
22 is a component of the Chief Judge's  
23 Excellence Initiative. Which I should say,  
24 by the way, the pandemic has presented real

1 challenges to resolving more cases in  
2 attacking backlogs. But the Excellence  
3 Initiative, which was in effect from 2016 to  
4 2020, eliminated backlogs in many courts  
5 throughout the state and greatly reduced  
6 backlogs in other parts of the state. And  
7 but for that, the situation would be even  
8 more challenging today.

9 As to the Center for Court Innovation,  
10 yes, we worked with them and supported that  
11 pilot program which tried to reduce the time  
12 between court appearances and made efforts to  
13 ensure that the lawyers performed the tasks  
14 that they were supposed to perform between  
15 court appearances. And that court  
16 appearances be meaningful, that something  
17 happened at every court appearance in a case  
18 to move the case forward.

19 We worked with them on that pilot  
20 program, and it was successful -- I don't  
21 want to say it was dramatically successful,  
22 but it was successful in reducing the age of  
23 cases and promoting the earlier disposition  
24 of cases. And we've been in discussions with

1           them to replicate that approach in other  
2           courts, which is something that we would like  
3           to do.

4           CHAIRWOMAN KRUEGER: Okay, the time is  
5           up. I'm going to take it back for the  
6           Senate.

7           Senator Sepúlveda.

8           SENATOR SEPÚLVEDA: Good morning,  
9           everyone. Good morning, Judge.

10          CHIEF ADMIN. JUDGE MARKS: Good  
11          morning.

12          SENATOR SEPÚLVEDA: You know, we've  
13          had discussions about diversity in the courts  
14          over the years. When you talked about the  
15          merger plan, the first information I received  
16          about it indicated a lot of traditional law  
17          firms, but very few -- law firms and law  
18          groups, like the Bar Association and so  
19          forth, but not many law groups, bar  
20          associations of color were included in the  
21          initial consideration.

22          Has that changed in the development of  
23          this issue of court merger? Which I believe  
24          will have a deleterious effect on

1 representation of color in the courts.

2 CHIEF ADMIN. JUDGE MARKS: Well, we  
3 just zoomed our efforts, which were on the  
4 back burner since the pandemic for obvious  
5 reason -- but we returned our attention back  
6 to the court simplification proposal, and we  
7 are reaching out to more groups and will be  
8 reaching out to and seeking input from  
9 affinity bar associations, for example.  
10 That's something that there wasn't enough  
11 opportunity to do a few years ago when we  
12 last made a push, because of the pandemic,  
13 which put a halt to the pursuit of the  
14 proposal.

15 But you're absolutely right, the  
16 affinity bar associations in particular  
17 raised some concerns. And those are concerns  
18 that, you know, realistically will have to be  
19 addressed if this thing is going to progress.

20 SENATOR SEPÚLVEDA: Judge, you know,  
21 again, we'll be battling that when the time  
22 comes. But I just wanted you to be aware of  
23 my feelings about the entire merger  
24 discussion.

1           Any particular reason why you only  
2           have two Latinos in positions of either  
3           policy or management in the entire OCA  
4           system? You have an administrative judge in  
5           the Bronx, and I believe you have Judge  
6           Rolando Acosta in the Appellate Division. No  
7           other judges exist in the entire OCA. Is  
8           there any particular reason for that?

9           CHIEF ADMIN. JUDGE MARKS: There's no  
10          reason. We did lose three Hispanic judges  
11          to -- Judge Jeanette Ruiz, who was the  
12          administrative judge for the New York City  
13          Family Court, retired. Julio Rodriguez, in  
14          your county, who was the administrative judge  
15          in the Civil Term in the Bronx, went to the  
16          Appellate Division. And Judge Joe Zayes, who  
17          was our administrative judge for the criminal  
18          term in Queens Supreme Court, went to the  
19          Appellate Division.

20          So the -- I agree with you, it's  
21          difficult sometimes, you know, in terms of  
22          who applies and who has the best  
23          qualifications for the job. And by the way,  
24          these administrative jobs are critically

1 important these days, because our focus is so  
2 much on court operations and frontline court  
3 activity. So --

4 SENATOR SEPÚLVEDA: Judge, I'm sorry  
5 to interrupt you, because I have a really  
6 critical question also on HP actions in  
7 Housing Court. You have multiple courts for  
8 holdover proceedings and nonpayment  
9 proceedings, but you only have one part  
10 that's set aside for HP actions. In light of  
11 the fires and the explosions and everything  
12 that's happening in our county, is there any  
13 particular reason why we don't increase the  
14 number of HP parts so that we can address  
15 these issues and have less fatalities and  
16 tragedies like we had?

17 And again, I apologize for cutting you  
18 off, but my time is limited.

19 CHIEF ADMIN. JUDGE MARKS: No, no, no  
20 problem at all. You're referring to Bronx?

21 SENATOR SEPÚLVEDA: I'm referring to  
22 most of the court systems, they only have one  
23 HP part --

24 CHIEF ADMIN. JUDGE MARKS: In each

1 county --

2 SENATOR SEPÚLVEDA: -- that handles --  
3 in case people don't know, they handle the  
4 complaints about building violations and so  
5 forth.

6 CHIEF ADMIN. JUDGE MARKS: Right.

7 I can promise you we'll look at that.  
8 We'll look at the inventories in those parts  
9 and if the inventories are preventing those  
10 courts from resolving those cases efficiently  
11 and fairly, we can make changes.

12 But frankly it's the first I've heard  
13 about this, but I promise you we'll look into  
14 it. And if you're right, we can make  
15 changes.

16 SENATOR SEPÚLVEDA: Hopefully we can  
17 have a discussion soon.

18 CHIEF ADMIN. JUDGE MARKS: Sure.  
19 Thank you.

20 SENATOR SEPÚLVEDA: Thank you.

21 CHAIRWOMAN KRUEGER: I do have to cut  
22 you off.

23 But Judge, I suspect that if we took a  
24 hand-raising here, you would find many

1 legislators from New York City agree with  
2 that last recommendation. So just raise your  
3 hand if you agree with Senator Sepúlveda.

4 I thought so. So yes, please, Judge,  
5 let's all look into that.

6 SENATOR SEPÚLVEDA: And this is just a  
7 question that Senator Gustavo Rivera and I  
8 were talking about, so I don't want to get  
9 all the credit for raising the issue.

10 CHAIRWOMAN KRUEGER: Fine. Well,  
11 thank you, everyone.

12 Assemblywoman Weinstein.

13 CHAIRWOMAN WEINSTEIN: We go to  
14 Assemblywoman Walker.

15 ASSEMBLYWOMAN WALKER: Thank you. So  
16 in your opening remarks, Judge, you mentioned  
17 a finding of systemic racism, inherent bias  
18 and discrimination that are found in the  
19 court system. So I guess my question is, is  
20 there a particular court such as criminal  
21 court where those findings seem to be more  
22 prevalent than others? As one note.

23 And on the other note is if we allow  
24 for the judges to have discrimination in



1           their analysis of dangerousness, do you  
2           believe that those inherent biases,  
3           discrimination and systemic racism will and  
4           can have an impact on a determination of  
5           dangerousness for the people who we have  
6           jurisdiction over?

7                    CHIEF ADMIN. JUDGE MARKS:  Okay, two  
8           questions.  Let me answer the first question  
9           first.

10                   I mentioned in my opening remarks that  
11           the Chief Judge appointed Jeh Johnson to  
12           conduct a sort of a top-to-bottom evaluation  
13           of are we doing a good enough job in the  
14           court system of combating and preventing  
15           institutional racism and bias.  And he  
16           concluded, and I think you're following up  
17           your question on his conclusion that there  
18           are two systems of justice in New York, one  
19           for the economically disadvantaged, people of  
20           color, which would include --

21                   ASSEMBLYWOMAN WALKER:  Thank you,  
22           Judge.  Judge, I'm just asking whether or not  
23           the biases that were found have the ability  
24           to be utilized in assertion of

1 dangerousness in the discretion that's being  
2 requested for people with respect to bail  
3 reform.

4 CHIEF ADMIN. JUDGE MARKS: I would  
5 hope not. But do people have biases and do  
6 judges have biases? They probably do. But  
7 they should work to ensure that they don't  
8 have biases --

9 ASSEMBLYWOMAN WALKER: Thank you.  
10 Thank you.

11 CHIEF ADMIN. JUDGE MARKS: Okay.  
12 You're welcome.

13 ASSEMBLYWOMAN WALKER: If there's any  
14 accountability or indictment -- is there any  
15 accountability or indictment on judges for  
16 exercising these biases and/or  
17 discriminations?

18 And if so, I'd like to hear more about  
19 those. Because I did notice that it was  
20 cited that there was bias and discrimination  
21 that was alleged against a judge in  
22 Surrogate's Court prior to her removal. So  
23 is there any accountability and/or indictment  
24 with respect to those judges?

1 CHIEF ADMIN. JUDGE MARKS: The -- I  
2 mean, I don't want to get into great detail  
3 about the example you raised, but that --  
4 that is an extreme situation that was brought  
5 to our attention, and we addressed it --  
6 after investigating it, we addressed it  
7 immediately.

8 But on an overall level, if people --  
9 people in the court system have biases and  
10 those biases impact decisions that they make,  
11 judges in particular.

12 ASSEMBLYWOMAN WALKER: Thank you,  
13 Judge. Last moment before I have to end.

14 So then the information that you cited  
15 with respect to DCJS may not be available  
16 prior to bail reform was implemented. The  
17 Mayor's Office of Criminal Justice also has  
18 data that contradicts the data that you just  
19 mentioned, and I'd like to discuss more with  
20 you about what happens with bail reform  
21 rearrests prior to bail reform and after bail  
22 reform, so that we are comparing apples to  
23 apples.

24 Thank you, Honorable Chairwomen.

1                   CHAIRWOMAN WEINSTEIN: We go to the  
2                   Senate.

3                   CHAIRWOMAN KRUEGER: Thank you.

4                   And we go to Senator Diane Savino.

5                   SENATOR SAVINO: Thank you, Senator  
6                   Krueger.

7                   Good to see you, Judge Marks. I only  
8                   have three minutes, so I'm going to try and  
9                   be brief because I have two areas that I just  
10                  want to mention.

11                  One of course is following up on this  
12                  continuing public discussion around bail  
13                  reform. As you know, we undertook three  
14                  years ago to change what was inherently a  
15                  discriminatory process to begin with. But as  
16                  legislators, we write laws, somebody  
17                  implements them, and then it's up to you good  
18                  folks in the judiciary to interpret them.

19                  And I think it's important that from  
20                  time to time we hear from judges as to  
21                  whether or not we've drafted a confusing  
22                  statute. And for those of you who think that  
23                  we did or we didn't, I would suggest you read  
24                  an op-ed in the January 21st Daily News

1 written by a criminal court judge from the  
2 Bronx, Jeff Zimmerman, who in fact says that  
3 what we have handed them is an incredibly  
4 complicated, confusing statute.

5 On the one hand, we are the only state  
6 in the country that says we utilize bail for  
7 the sole purpose of making sure defendants  
8 return to court. Every other state allows  
9 the consideration of dangerousness. At the  
10 same time, we amended the statute a short  
11 time later to delineate certain crimes that  
12 the Legislature determined were potentially  
13 violent.

14 So we've given them a confusing  
15 statute, and I think it's important that be  
16 part of the public debate. So I just want to  
17 leave that there. I suggest we start to talk  
18 to judges more frequently about what we are  
19 asking them to do so we have a clear statute  
20 that people can apply.

21 On to the other issue I want to talk  
22 to you about. I notice you're not asking for  
23 money to cover the cost of labor contracts.  
24 You do have some outstanding ones. And

1           you're in the middle of negotiations, I  
2           believe, with the Superior Court Officers  
3           Association -- which is not going well, from  
4           what I understand, because there's not enough  
5           money at the table.

6                        So can you talk to me about why you're  
7           not seeking more money, since we seem to be  
8           printing it in the basement right now.

9                        CHIEF ADMIN. JUDGE MARKS: Well, we  
10          are seeking -- we have money in the  
11          current-year budget to pay for a percentage  
12          salary increase this year, and we're putting  
13          money in our proposed budget for the next  
14          year to pay for percentage salary increases  
15          for our represented employees --

16                       SENATOR SAVINO: Not to cut you off,  
17          but my understanding is the percentage you're  
18          offering is certainly not something they're  
19          willing to accept. Again, that's a labor  
20          negotiation that you're in the middle of.

21                        But if we go back to -- an earlier  
22          questioner was talking about recruiting and  
23          retaining people and the problems you're  
24          having recruiting people to work in the court

1 system. You might want to aim higher,  
2 Judge Marks. So perhaps a higher percentage  
3 increase would assist you in recruiting  
4 people, retaining them, and keeping the  
5 courts operational.

6 CHIEF ADMIN. JUDGE MARKS: Well, I  
7 appreciate that comment.

8 SENATOR SAVINO: (Laughing.) Thank  
9 you.

10 I'm done. I yield my 30 seconds.

11 CHAIRWOMAN KRUEGER: Thank you very  
12 much, Senator Savino.

13 Assemblywoman Weinstein.

14 CHAIRWOMAN WEINSTEIN: We've been  
15 joined by -- a little while ago by  
16 Assemblyman Aubry, and we go to  
17 Assemblywoman Mitaynes.

18 ASSEMBLYWOMAN MITAYNES: Hi. Thank  
19 you very much.

20 My question is more around Housing  
21 Court. And I'm actually from Brooklyn. But  
22 so just wanting to piggyback on the HP cases.  
23 We have various ones that we're aware of that  
24 are trying to be filed and they're not moving

1 forward. And our understanding is that there  
2 is a backlog because they don't have  
3 sufficient staff to process them. So I just  
4 wanted to throw that out there.

5 But also you talked about the upgrade  
6 and expanding the court's technology capacity  
7 to be able to facilitate virtual court  
8 appearances. So my question is what are you  
9 doing with respect to those people that might  
10 not have access to technology or own a  
11 computer at home? What does the judicial  
12 process look like for them? And please  
13 describe at what point in the judicial  
14 process this technological literacy is  
15 evaluated and who conducts such evaluations  
16 and how such evaluation changes and  
17 determines the process that they go through.

18 CHIEF ADMIN. JUDGE MARKS: Well, first  
19 let me say our goal is to return to as high a  
20 level of in-person proceedings as we can,  
21 because the courts are an in-person business.  
22 And that's our goal, to be able to conduct as  
23 many in-person proceedings as possible.

24 However, there will be a role for



1 virtual proceedings going forward. And you  
2 highlight an important issue about not  
3 everyone has the knowhow or the  
4 technology and the equipment to participate  
5 in virtual court proceedings. It's a real  
6 problem. You're absolutely right.

7           And we -- there are a number of ways  
8 to address it, including installing  
9 technology in the community so that people  
10 can go to a community organization or a house  
11 of worship, perhaps, and use the technology  
12 there to be able to participate in court  
13 proceedings. And that's an initiative that  
14 we are very interested in pursuing, and will  
15 pursue, because hopefully, you know, the  
16 pandemic will go away one of these days for  
17 good, or largely go away for good, and we can  
18 go back to more normal proceedings in  
19 courthouses, which would mean in-person  
20 proceedings.

21           But we can't predict for sure that  
22 that will happen, so we may have to rely on  
23 virtual proceedings for some time longer.  
24 And even if we go back to normal, there could

1 still be a value for people, in the example  
2 that I'm raising, who rather than have to  
3 travel all the way to the central courthouse,  
4 can participate by going to a nonprofit  
5 organization in their community which --

6 ASSEMBLYWOMAN WALKER: That sounds  
7 great. And I understand -- sorry -- that  
8 this is for the future. But what are you  
9 doing right now to address those issues?

10 CHIEF ADMIN. JUDGE MARKS: Well, in  
11 Family Court, which has a significant number  
12 unfortunately of unrepresented litigants,  
13 people who come to court without a lawyer,  
14 the telephone, believe it or not, it's not  
15 ideal, but the telephone has been found to be  
16 helpful and useful. And, you know, more  
17 people have phones than have Surface Pros or,  
18 you know, fancy computer equipment.

19 So it's low-tech, but the phone has  
20 served its purpose in a court like Family  
21 Court. So on an immediate basis, that's not  
22 ideal, it's not perfect, but it's sort of a  
23 patchwork approach that we can do  
24 immediately.



1 CHIEF ADMIN. JUDGE MARKS: Yes,  
2 absolutely. Because the crowded courtrooms,  
3 they're called "cattle calls" by some people,  
4 where 150 people are in a courtroom, you  
5 know, at 9:30 in the morning, are really a  
6 thing of the past.

7 And you know, there are routine court  
8 appearances for scheduling and, you know,  
9 where routine decisions have to be made, can  
10 absolutely be conducted virtually and will be  
11 in the future. It's more efficient for  
12 everyone, it saves money for lawyers for  
13 their clients. It can be more efficient for  
14 the judges. And, you know, absolutely  
15 there's a permanent place for technology in  
16 virtual court proceedings in the court system  
17 of the future.

18 SENATOR PALUMBO: Sure. Sure. And in  
19 that regard, I came in and I missed some of  
20 the conversation with Chairman Bailey. But  
21 on the 18-B panel, are you seeking additional  
22 funding to increase their rates?

23 CHIEF ADMIN. JUDGE MARKS: We don't  
24 have our own bill, but we strongly, strongly

1 support increasing the assigned counsel fees.

2 It's been --

3 SENATOR PALUMBO: I've had many

4 friends who --

5 CHIEF ADMIN. JUDGE MARKS: Yeah.

6 SENATOR PALUMBO: Yeah, I'm sorry.

7 I've just had many friends who have turned  
8 down cases who are, you know, the best  
9 lawyers in the room, they're there every day,  
10 but they just can't make a living. And  
11 unfortunately the indigent individuals are  
12 not getting, you know, excellent  
13 representation that they otherwise would have  
14 had. So --

15 (Overtalk.)

16 CHIEF ADMIN. JUDGE MARKS: I'm sorry.

17 Because there are fewer lawyers willing to  
18 serve on these rosters and panels, it's  
19 leading to -- we discussed this earlier --  
20 it's leading to further delays in the  
21 processing of cases.

22 SENATOR PALUMBO: Sure. Sure, I

23 agree.

24 On to the public protection side, and

1 really just on the criminal justice side of  
2 the conversation. And you indicated earlier  
3 that there was a conclusion that there were  
4 some -- that it was socioeconomic, as far as  
5 the discrimination that you indicated, or was  
6 it based on race or something else? Tell me  
7 a little more about that data, if you can.  
8 Fairly quickly, I'm running out of time,  
9 please.

10 CHIEF ADMIN. JUDGE MARKS: Yeah, it  
11 wasn't so much in data. It flows from the  
12 study and report of our special advisor on  
13 equal justice in the courts, Jeh Johnson, who  
14 concluded that the courts that tend to  
15 service poor people, people of color from  
16 economically disadvantaged communities, are  
17 more crowded, have fewer resources, and  
18 struggle more than the courts that service,  
19 you know, people of means or people who can  
20 afford to hire a lawyer.

21 And that was an observation made which  
22 we accept and embrace as the reality, and  
23 it's a problem that needs to be addressed.

24 SENATOR PALUMBO: Sure. And do you

1 have a demographic of the judiciary itself?  
2 Because I know there have been many positions  
3 taken by some members of the Legislature as  
4 well that the bench itself is inherently  
5 racist. But I'm just curious as to the  
6 demographics of the judiciary themselves. Do  
7 you have that?

8 CHIEF ADMIN. JUDGE MARKS: Absolutely.  
9 Yes.

10 SENATOR PALUMBO: Can you tell me a  
11 rough percentage as to what that would be?

12 CHIEF ADMIN. JUDGE MARKS: I can tell  
13 you that the percentage of judges of color is  
14 less than the percentage of people of color  
15 in the state at large. I don't have the  
16 exact numbers handy, but of course we can get  
17 you that.

18 SENATOR PALUMBO: That would be great.  
19 Thank you, Your Honor.

20 And regarding, you know, there's --  
21 just as discussed by Senator Savino as well,  
22 that there's some concern about the clarity,  
23 the results of the criminal justice reforms  
24 that have been implemented in recent years,

1 do you have any numbers on people who are  
2 released pursuant to that program who have  
3 actually been rearrested or reoffended?

4 CHIEF ADMIN. JUDGE MARKS: Yes.

5 SENATOR PALUMBO: I know there's  
6 something -- I believe the new county  
7 executive in Nassau County is asking his  
8 police to keep track of that. Do you have  
9 any numbers in that regard?

10 CHIEF ADMIN. JUDGE MARKS: Yeah, we  
11 have detailed information that -- data that  
12 the court system collects and that the State  
13 Division of Criminal Justice Services  
14 collects, and we have detailed data on that  
15 point.

16 SENATOR PALUMBO: Great. And if you  
17 wouldn't mind forwarding that to me as well,  
18 that would be terrific.

19 And lastly, with 8 seconds to go, do  
20 you have any comments with regard to allowing  
21 judges to have discretion of some kind?  
22 because we could just have a computer sit on  
23 the bench if we're not going to allow judges  
24 to actually exercise discretion, in my



1 opinion.

2 But do you have any opinion in that  
3 regard as to whether or not that's something  
4 we should be considering on the policy side?

5 CHIEF ADMIN. JUDGE MARKS: What I can  
6 tell you is judges as a group -- and I can't  
7 be certain that I speak for 100 percent of  
8 the judges -- but judges as a group who  
9 handle criminal cases would favor having more  
10 discretion to make these decisions.

11 SENATOR PALUMBO: Thank you again,  
12 Your Honor. Nice to see you.

13 CHIEF ADMIN. JUDGE MARKS: Thank you.

14 CHAIRWOMAN KRUEGER: Thank you.

15 Chair Weinstein.

16 CHAIRWOMAN WEINSTEIN: Yes, we go to  
17 Assemblyman Lawler. I believe he's back from  
18 his committee. Yes, there he is.

19 ASSEMBLYMAN LAWLER: Thank you,  
20 Madam Chair.

21 And Your Honor, good to see you. I  
22 apologize, I was on a committee meeting, so I  
23 may have missed some of your answers. So  
24 just bear with me if I ask something that

1           you've already answered.

2                     But yesterday Mayor Adams released a  
3           plan to try and combat gun violence in the  
4           City of New York, and part of that plan was  
5           allowing judges to consider a dangerousness  
6           standard. I think that has been one of the  
7           issues -- and my colleague just touched on  
8           it, with judicial discretion -- that has been  
9           one of the major concerns of those who have  
10          been opposed to some of the bail reform  
11          changes.

12                    New Jersey implemented bail reform  
13          around the same time that we did, but they  
14          allowed for a dangerousness standard and  
15          allowed judges to consider whether or not the  
16          public safety was at risk. New York State is  
17          the only state in the country that does not  
18          allow for a dangerousness standard under  
19          these previous laws.

20                    So I know you briefly elaborated on it  
21          just now. I think it really warrants a more  
22          thorough response, with all due respect. I  
23          think the mayor of the City of New York, the  
24          new mayor, has inherited quite a problem when

1           it comes to a rising level of crime, a rising  
2           level of gun violence in the City of New  
3           York. He is asking and imploring all of us  
4           to act with respect to giving judges judicial  
5           discretion. And so I'd really like to hear  
6           from you, you know, why New York State is the  
7           only state that does not allow it and whether  
8           or not you think it's warranted.

9                        CHIEF ADMIN. JUDGE MARKS: Well, I  
10           can't answer why that is, but I can -- the  
11           answer I can give you is that judges as a  
12           group favor having more discretion. You  
13           know, that's -- this is what they're trained  
14           to do, they're trained to make assessments,  
15           to evaluate facts and circumstances, to  
16           achieve a fair result.

17                      And we support them, you know, we  
18           train judges, we provide them with assistance  
19           and resources to be able to do their job as  
20           best they can. And that judges as a group,  
21           judges who handle criminal cases, would favor  
22           having more discretion.

23                      Now, having said that, are they able  
24           to carry out their duties and their functions

1 under the current bail reform legislation?

2 Yes, absolutely, they're able to perform  
3 their responsibilities.

4 ASSEMBLYMAN LAWLER: Your Honor, do  
5 you believe -- and I'm sorry to cut you off,  
6 I'm just running out of time. Do you believe  
7 that the evidence and prior criminal history  
8 should weigh in the decision with respect to  
9 bail?

10 CHIEF ADMIN. JUDGE MARKS: Do I  
11 believe that? I don't think my own  
12 individual opinion is what matters.

13 But I can report to you that as a  
14 group, it's fair to say that judges feel that  
15 way, yes.

16 ASSEMBLYMAN LAWLER: Okay. Thank you  
17 very much.

18 CHAIRWOMAN WEINSTEIN: Senate?

19 CHAIRWOMAN KRUEGER: Thank you.  
20 Senator Kevin Thomas.

21 SENATOR THOMAS: Thank you,  
22 Chair Krueger.

23 And good morning, Judge. Thank you  
24 for joining us once again.

1           I wanted to talk about Article 81  
2           guardianships. As you know, this is under  
3           the New York Mental Health Law, where the  
4           judges make a decision as to whether this  
5           individual has capacity. So OCA has not made  
6           any efforts to fully or consistently fund  
7           guardianship programs. OCA has relied for a  
8           long time on volunteer guardians, usually  
9           attorneys. But as you know, these cases are  
10          intensive and time-consuming.

11          We know there's a critical need for  
12          guardians here on Long Island and throughout  
13          the state. And OCA has administered a pilot  
14          program on Long Island that was funded by the  
15          Legislature since 2018, but that funding is  
16          always tied up in bureaucracy, going through  
17          other agencies before reaching OCA, who then  
18          distributes the funds to local organizations  
19          who provide guardians.

20          Why has OCA not requested funds  
21          through the budget in order to fund this  
22          critical program and streamline the money to  
23          get it out quicker?

24          CHIEF ADMIN. JUDGE MARKS: Well, let

1 me say I agree with you that this is a  
2 problem, that the population is aging, as  
3 everyone knows, and older people often are  
4 not able to manage their day-to-day personal  
5 affairs and/or their finances. And ideally  
6 there's a relative or a close friend who can  
7 step in to do that, but that's not always the  
8 case, so that courts have to appoint someone  
9 off a list to serve as guardian. And if  
10 there's --

11 SENATOR THOMAS: But, Judge, why  
12 hasn't OCA asked for funding through the  
13 budget for this?

14 Like I get it, we know there's a huge  
15 need. By why hasn't OCA asked for money to  
16 fund these programs?

17 CHIEF ADMIN. JUDGE MARKS: Well, is  
18 that a -- we could have a discussion about  
19 this, and we should, because this is the  
20 first time I think we've talked about it.  
21 We've talked about other issues, but I don't  
22 know that we've ever discussed this issue.

23 SENATOR THOMAS: Okay. Would you --  
24 would you support a statewide program through

1 the budget for guardianship?

2 CHIEF ADMIN. JUDGE MARKS: I think we  
3 would have to discuss who -- what is the  
4 right organization or entity to administer a  
5 program like that. Is it the county social  
6 service agency? Is it a state social service  
7 agency? Or is it the court system?

8 SENATOR THOMAS: Well, it's the courts  
9 that really determine the capacity issue  
10 here, so they should be the ones that are,  
11 you know, giving out the money. I mean, I  
12 know it's under New York Mental Health Law,  
13 but again, we can talk about this after the  
14 budget hearing, but I just wanted to get your  
15 thoughts on this and maybe we can work  
16 towards funding this program. Because  
17 there's a huge need, as you say.

18 CHIEF ADMIN. JUDGE MARKS: There's  
19 absolutely a real problem and a growing need,  
20 and I'm in complete agreement with you about  
21 that. We should talk further about how to  
22 address it.

23 SENATOR THOMAS: All right, will do.

24 Thank you, Judge.

1 CHIEF ADMIN. JUDGE MARKS: Thank you.

2 CHAIRWOMAN KRUEGER: Thank you.

3 Chairwoman Weinstein.

4 CHAIRWOMAN WEINSTEIN: We go to  
5 Assemblyman Carroll, but I just wanted to  
6 announce first we were joined by  
7 Assemblyman Burgos and Assemblywoman Wallace.

8 Now to Mr. Carroll.

9 Assemblyman Carroll, we can't hear  
10 you. You're not muted, but we still can't  
11 hear you. I'm not sure why.

12 Why don't we -- why don't we go to --  
13 we're going to go to the next -- and let's  
14 try and figure out what's going on. Let's go  
15 to Assemblywoman Hyndman. And maybe exit and  
16 come back in, Mr. Carroll, and then we'll get  
17 back to you.

18 Assemblywoman Alicia Hyndman.

19 ASSEMBLYWOMAN HYNDMAN: Thank you,  
20 Chairs Weinstein and Krueger.

21 Judge Marks, I have two questions.  
22 I'll ask them both because of the time. In  
23 Housing Court, are there resources and/or  
24 measures in place for litigants that don't



1 have and haven't had access to the technology  
2 required for virtual hearings? That's the  
3 first question.

4 And the second question. Data from  
5 the New York City Mayor's Office of  
6 Criminal Justice shows pretrial rearrests  
7 have remained consistent over time and  
8 haven't changed with bail reform. In January  
9 2019, prior to the implementation of bail  
10 reform, 95 percent of people had no new  
11 arrests. January 2021, two years later, the  
12 number increased to 96 percent, meaning  
13 slightly fewer people were rearrested  
14 following bail reform implementation.

15 Shouldn't we look at the city's data,  
16 being that everyone outside of New York City  
17 refers to New York City when it comes to this  
18 matter?

19 So if you could answer both questions,  
20 I'd appreciate it.

21 CHIEF ADMIN. JUDGE MARKS: Yeah,  
22 taking the last one first, if the city data  
23 is showing different results from the court  
24 system and DCJS data that I'm familiar with,

1 we should look at that. There must be an  
2 explanation for that.

3 But if there are discrepancies -- I  
4 mean, this is very important. I mean, bail  
5 reform seems like it's always debated, the  
6 debate never ends. It's an important public  
7 policy issue, and the data is critically  
8 important. If there are any discrepancies in  
9 the data, that should be resolved so that  
10 policymakers who have to make these decisions  
11 know that they have accurate and reliable  
12 data that they can rely upon.

13 In terms of technology available to  
14 Housing Court litigants, I did speak about  
15 that a moment ago. I think the number-one  
16 most important --

17 ASSEMBLYWOMAN HYNDMAN: I was at a  
18 hearing, sorry.

19 CHIEF ADMIN. JUDGE MARKS: No -- no  
20 problem. I'll repeat what I said. Happy to  
21 do that.

22 But the most important thing that we  
23 can do in Housing Court is to provide lawyers  
24 for people who can't afford one. And

1           fortunately, in New York City the city  
2           government is committed to doing that and has  
3           been committed to that for a while, so that  
4           everyone who can't afford a lawyer, every  
5           tenant who can't afford a lawyer in New York  
6           City will get one to represent him or her.

7                         And in terms of outside the city,  
8           there isn't that guarantee, although as I  
9           noted a while ago, the Governor has suggested  
10          that maybe funding -- the state should  
11          identify funding to offer that opportunity  
12          for people outside New York City who find  
13          themselves in Housing Court and can't afford  
14          a lawyer. Ultimately, that's the answer to  
15          the problem.

16                        But where that isn't the case, you  
17          know, there are real challenges for -- not  
18          everyone has the computer equipment that you  
19          would need to successfully participate  
20          virtually in a court proceeding. Or if they  
21          did, they might not know how to use it  
22          effectively.

23                        And one of the answers -- and it's not  
24          an immediate answer, because this will take

1 time and money. But one of the answers is to  
2 install technology in community organizations  
3 where people can go to a nonprofit community  
4 organization in their community which has the  
5 technology, and they can participate  
6 virtually from that remote location.

7 ASSEMBLYWOMAN HYNDMAN: Thank you.

8 CHAIRWOMAN WEINSTEIN: We go to the  
9 Senate.

10 CHAIRWOMAN KRUEGER: Thank you.

11 Senator Fred Akshar.

12 SENATOR AKSHAR: Madam Chairwoman,  
13 thank you so much.

14 Your Honor, good to be with you.

15 Thanks for joining us today.

16 As you can tell, not only today but  
17 for the past many months or last couple of  
18 years, we've been having this robust debate  
19 about public safety and the criminal justice  
20 system throughout the State of New York. I  
21 for one believe that we are failing New  
22 Yorkers and we are less safe today than we  
23 were just a short two years ago.

24 I have two questions, very briefly.

1 Does OCA have measures in place to address  
2 the perceived racism or biases that exist?  
3 So in the event that something like this  
4 presented itself, are there measures in place  
5 for OCA to deal with them directly?

6 CHIEF ADMIN. JUDGE MARKS: Yes. We  
7 have a robust investigative process when  
8 there are complaints of bias or  
9 discrimination happening in the court system.  
10 We have our own independent inspector  
11 general's office which will fully investigate  
12 and make findings and recommendations.

13 And if there is a finding of bias or  
14 discrimination, we have a zero tolerance  
15 policy now in the court system and will take  
16 swift and appropriate action to address it.

17 And to address implicit bias, we're  
18 embarking on a mandatory five-year implicit  
19 bias anti-bias program for all judges and all  
20 staff in the court system. It will be  
21 mandatory. It will be mandatory. It will  
22 not be just a one-and-done presentation, it  
23 will be a series of educational programs for  
24 everyone over the course of a five-year

1 period. And we're very excited about this  
2 and looking forward to this starting. And we  
3 feel that effective training on bias will  
4 prevent bias.

5 SENATOR AKSHAR: Your Honor, thank  
6 you. So not only have you had a strong  
7 program, you've taken the steps to ensure  
8 that you have an even stronger and more  
9 robust program moving forward. Is that a  
10 fair assessment?

11 CHIEF ADMIN. JUDGE MARKS: Yes, it is,  
12 absolutely.

13 SENATOR AKSHAR: Thank you,  
14 Your Honor.

15 Secondly, I say this with all due  
16 respect. When Assemblyman Lawler asked you a  
17 question, I think you had referred to like  
18 your opinion didn't matter or what you felt  
19 didn't matter specifically. I would say this  
20 very strongly, that your opinion does in fact  
21 matter.

22 So I'm just looking for a yes or a no,  
23 if you can. Do you believe that if your  
24 judges were able to make the determination

1 from the bench of the dangerousness of a  
2 defendant in front of them, would that  
3 ability keep New Yorkers more safe, yes or  
4 no?

5 CHIEF ADMIN. JUDGE MARKS: I think  
6 judges would be able to make a more informed  
7 and more effective decision about issues like  
8 bail if they had broader discretion to do so.

9 SENATOR AKSHAR: So if they were able  
10 to weigh the dangerousness of the defendant  
11 in front of them, they would be able to make  
12 a more informed decision with respect to  
13 keeping New Yorkers safer?

14 CHIEF ADMIN. JUDGE MARKS: They -- if  
15 they had -- I'm sorry, could you repeat that  
16 question?

17 SENATOR AKSHAR: Yeah. I just want to  
18 make sure I understood your answer.

19 If judges in fact could make that  
20 determination from the bench, the  
21 dangerousness of the defendant in front of  
22 them with respect of what to do with the  
23 defendant, they could make a more informed  
24 decision about whether or not to release them

1 back into the community or to set bail?

2 CHIEF ADMIN. JUDGE MARKS: I think  
3 they could be -- judges would feel that they  
4 would be able to make a more informed  
5 decision if they could take more information  
6 into account in making these decisions.

7 SENATOR AKSHAR: Do you believe that,  
8 as the chief administrative judge of the  
9 great state of New York?

10 CHIEF ADMIN. JUDGE MARKS: You know,  
11 I'm not sitting on criminal cases these days  
12 so, you know, I'm loath to express my own  
13 opinion. But I'm here to convey how judges  
14 feel as a group. And by the way, I'm not  
15 saying a hundred percent of judges feel that  
16 way, but I'm confident in saying that the  
17 great majority of judges who sit on criminal  
18 cases would agree with that.

19 SENATOR AKSHAR: Madam Chairwoman,  
20 thank you so much. Your Honor, thank you for  
21 answering my questions.

22 CHAIRWOMAN KRUEGER: Thank you,  
23 Senator.

24 Assemblywoman Weinstein.



1                   CHAIRWOMAN WEINSTEIN: Yes, we go back  
2 to Mr. Carroll. I think he's corrected  
3 his -- the issue he had. Three minutes.

4                   ASSEMBLYMAN CARROLL: Chair Weinstein,  
5 can you hear me?

6                   CHAIRWOMAN WEINSTEIN: Yes. Yes, we  
7 can hear you.

8                   ASSEMBLYMAN CARROLL: I'm not that  
9 much of a troglodyte.

10                  CHAIRWOMAN WEINSTEIN: Okay.

11                  ASSEMBLYMAN CARROLL: Judge Marks,  
12 thank you for being here. I have a comment  
13 and I have a question.

14                  I would like to reiterate what Senator  
15 Myrie said before about our Surrogate's  
16 Court, especially in Brooklyn, and the issues  
17 around the public administrator's office.  
18 For my colleagues who don't know, I have a  
19 piece of legislation that would actually put  
20 the public administrator's office inside the  
21 corporation counsel and have the mayor  
22 appoint our public administrators in New York  
23 City, which I think would be very important  
24 to depoliticizing that office and making sure

1 the New Yorkers most vulnerable, you know,  
2 those who have family members who die  
3 intestate, are treated fairly and equitably.

4 But my question for you, Judge Marks,  
5 is there are many members of the bar who have  
6 reached out to me, especially in our civil  
7 parts of the Supreme Court, who are at their  
8 wits' end. They have had civil matters  
9 delayed and delayed and delayed. You know,  
10 they can't get simple motion work done let  
11 alone actually get a trial date set.

12 What can the OCA do to make sure that  
13 we find a way to efficiently run our civil  
14 parts so that plaintiffs can actually have  
15 their cases heard? This is a massive  
16 windfall for the insurance industry and  
17 monied interests who have been able to delay  
18 cases and delay judgments, to the detriment  
19 of plaintiffs.

20 And I'm highly, highly concerned, and  
21 I'm concerned that OCA is not directing  
22 judges at all costs to figure out ways to get  
23 trials done, but to just get settlements  
24 done, because they know that there is so much

1 delay and backlog.

2 What can OCA do, what can the  
3 Legislature do to help you do your job?

4 CHIEF ADMIN. JUDGE MARKS: The best  
5 thing that we can do is to resume fuller  
6 trial capacity. And I don't know if you were  
7 on the meeting earlier, but we talked about  
8 that, that it's the realistic threat and  
9 capability of a trial that drives  
10 settlements. Not entirely. And believe me,  
11 we've resolved thousands and thousands of  
12 cases over the last two years during the  
13 pandemic, but we're not doing enough trials.  
14 We fully acknowledge that. There are social  
15 distancing requirements that make that  
16 particularly challenging.

17 We're making an effort on both the  
18 civil side and the criminal side to get  
19 Health Department officials to mitigate,  
20 but --

21 ASSEMBLYMAN CARROLL: Judge Marks,  
22 I --

23 CHIEF ADMIN. JUDGE MARKS: That's the  
24 number-one thing we can do.

1 ASSEMBLYMAN CARROLL: I have limited  
2 time.

3 You know, I hear from trial lawyers in  
4 New York City every single day that they just  
5 can't get simple appearances, that they have  
6 judges who are, for lack of a better phrase,  
7 missing in action. What is going on?

8 CHIEF ADMIN. JUDGE MARKS: Well,  
9 judges are not missing in action. Judges  
10 have been in the courthouse for months and  
11 months. They're conferencing cases. I'm  
12 happy to talk about this with you further,  
13 but --

14 ASSEMBLYMAN CARROLL: I would love to  
15 because I don't think that there -- you know,  
16 there are so many stories that I've heard,  
17 and I don't think they're all anecdotal,  
18 where folks who have trials cannot get  
19 appearances. And they feel as if they  
20 cannot -- they can't practice, and they can't  
21 represent their clients. And I really do  
22 believe that this is a massive, massive  
23 windfall for the insurance industry and  
24 monied interests generally against plaintiffs

1           who otherwise would have claims be  
2           adjudicated in their favor.

3                   CHAIRWOMAN WEINSTEIN: With that,  
4           we'll go to the Senate. Senator Krueger.

5                   CHAIRWOMAN KRUEGER: Thank you. Just  
6           double-checking on a hand that disappeared  
7           but was not supposed to disappear.

8                   Senator Jose Gustavo Rivera. I added  
9           a Jose. What am I doing? Senator Gustavo  
10          Rivera.

11                   SENATOR RIVERA: That is my full name,  
12          Madam Chair.

13                   CHAIRWOMAN KRUEGER: You know, I was  
14          looking at a text from you and it had the  
15          full name. So sorry.

16                   SENATOR RIVERA: No worries. Thank  
17          you, Madam Chair.

18                   Thank you, Your Honor. My question  
19          will be quick, and I actually just want to  
20          underline something that was said earlier.  
21          Many of the questions that I wanted to ask  
22          have been asked, but specifically something  
23          that Senator Sepúlveda brought up earlier at  
24          the end of his questioning, and I just wanted

1 to give you, just so that you know -- because  
2 I understand, obviously, you're responsible  
3 for the entire court system.

4 But in the Bronx there are Part H and  
5 Part A. Part H is for HP actions, and Part A  
6 is for NYCHA cases -- you know, nonpays and  
7 holdovers. But then Part B, C, D, E, F, G,  
8 I, J, K and L are all of them dedicated to  
9 nonpays and holdovers.

10 So the difference is extreme. So I  
11 would certainly ask you to please look into  
12 this, because it is obvious when you have --  
13 I mean, the fire that killed all these folks  
14 in the Bronx happened in my district in a  
15 building that had, you know, all sorts of  
16 issues with lack of heat, et cetera. And we  
17 deal with these issues on a daily basis in my  
18 district office. And I know that everybody  
19 else probably in the city, but certainly in  
20 the Bronx, deals with it.

21 So I just wanted to put that on the  
22 record. There is that enormous a  
23 distinction: One part for HP actions and  
24 eight, I think, or nine for everything else.

1 That's -- that just seems completely -- just  
2 crazy.

3 CHIEF ADMIN. JUDGE MARKS: Yeah, I  
4 promise you we will look at that to make sure  
5 there's not an imbalance in that. I mean, we  
6 have to be able to address code violations,  
7 it's critically, critically important. And,  
8 you know, the latest tragedy underscores  
9 that, obviously. And if, you know, the  
10 numbers justify additional HP parts, we can  
11 do that. But it's something -- it's the  
12 first I'm hearing about this. So this is  
13 helpful, and we'll absolutely look into it  
14 and --

15 SENATOR RIVERA: I will definitely  
16 follow up with you on it. But since you've  
17 said that this is the first time you heard  
18 it, I wanted to make sure to underline it so  
19 that it is right there. Underline it in your  
20 notes or what have you, and we will follow up  
21 with you afterwards.

22 Thank you, Your Honor. And thank you,  
23 Madam Chair.

24 CHIEF ADMIN. JUDGE MARKS: Thank you.

1 CHAIRWOMAN KRUEGER: Thank you.

2 Assemblywoman Weinstein.

3 CHAIRWOMAN WEINSTEIN: We go to

4 Assemblyman Burdick.

5 ASSEMBLYMAN BURDICK: Thank you. And

6 thank you, Your Honor.

7 I had two questions. I will ask both

8 of them, in the interests of time.

9 A question from a long-serving town

10 justice in one of the towns I represent,

11 whether the court system might go to

12 centralized arraignments, as he believes they

13 do in Nassau County. And if so, how would

14 this impact the future role of town and

15 village courts?

16 And the second question is I represent

17 a portion of Westchester, and prior to bail

18 reform nearly 24,000 people were incarcerated

19 prior to -- in pretrial between 2010 and 2014

20 because bail couldn't be met. Those who are

21 white made bail at twice the rate of those

22 who are Black.

23 And bail reform, as you know, was

24 intended to address this disparity as well as



1 to reduce the degree that people are jailed  
2 without a conviction.

3 And apart from bail reform, what  
4 additional basic guardrails and protections  
5 against jailing without a conviction exist?

6 CHIEF ADMIN. JUDGE MARKS: The first  
7 question, about centralized arraignment  
8 parts, we've expanded them. They're  
9 terrific. I mean, they're a great  
10 improvement over what preceded them in  
11 counties, particularly -- not just rural  
12 counties, but particularly rural counties  
13 throughout the state where, if someone gets  
14 arrested, they have to go find -- wake -- in  
15 the middle of the night, the police have to  
16 take the person and find like a judge and  
17 wake him or her up and conduct the  
18 arraignment. Not an ideal system.

19 So the centralized arraignment part  
20 for -- off-hour arraignments can take place  
21 in a central location where there will be a  
22 lawyer, staff there, and a prosecutor staff  
23 there and a judge, obviously, there. And  
24 it's far preferable to, you know, running

1           around all over the place trying to find a  
2           judge in the middle of the night, and often  
3           not succeeding.

4                        So we're supportive. We have them in  
5           many jurisdictions around the state, many  
6           counties. And this is of course outside  
7           New York City exclusively. And we're  
8           committed to setting up more of them.

9                        In terms of the economic inequality of  
10          cash bail, I mean, I agree with you  
11          completely about that, that whole notion of,  
12          you know, how much money you have can dictate  
13          whether you can attain your liberty is --  
14          it's un-American, frankly. I mean, it flies  
15          in the face of everything this country is  
16          about.

17                       So, you know, I'm just -- now I'm  
18          expressing my own opinion, which some of your  
19          colleagues asked me to do.

20                       But we still have cash bail in this  
21          state, and there are states that have  
22          eliminated cash bail. And, you know, that's  
23          something that should be considered,  
24          obviously.

1 ASSEMBLYMAN BURDICK: Thank you very  
2 much. I appreciate it.

3 CHIEF ADMIN. JUDGE MARKS: You're  
4 welcome.

5 CHAIRWOMAN WEINSTEIN: Thank you. Now  
6 to the Senate.

7 CHAIRWOMAN KRUEGER: Thank you. And I  
8 believe our last Senator, unless someone else  
9 pops up, is Senator Sue Serino.

10 SENATOR SERINO: Thank you,  
11 Chairwoman.

12 And hello, Your Honor. Thank you for  
13 taking our questions today.

14 CHIEF ADMIN. JUDGE MARKS: Sure.

15 SENATOR SERINO: I know some of my  
16 colleagues have already asked your thoughts  
17 on allowing judges to consider dangerousness  
18 when setting bail, and I really appreciated  
19 your answers. I've carried a bill since 2019  
20 that would give judges discretion to consider  
21 dangerousness, and I would be interested to  
22 hear your thoughts on that bill. But  
23 obviously you don't have that bill in front  
24 of you, so I'd like to follow up after the

1 hearing, if possible, because we really think  
2 that that change is critically important.

3 And I also share the concerns for the  
4 backlogs that some of my colleagues have  
5 spoken about as well.

6 But my question is, does the Housing  
7 Court have anything in place right now where  
8 people who are not eligible for ERAP but may  
9 have an application pending that will likely  
10 be denied, can be directed to other  
11 appropriate resources? And I apologize if  
12 somebody asked that question; I had to jump  
13 off for a Zoom before.

14 CHIEF ADMIN. JUDGE MARKS: Well, the  
15 current state of the law, and this includes a  
16 judicial decision from a judge in Manhattan  
17 rendered within the last couple of weeks, is  
18 that if -- even though the money is exhausted  
19 at the moment -- and there may be more money  
20 coming, and hopefully -- I think everyone  
21 would agree that it would be good if there  
22 were more money, good for tenants, good for  
23 landlords, good for everyone.

24 But the current state of the law is if

1           there's an application pending -- and people  
2           can file new applications now, even though  
3           there's no money at the moment. But if an  
4           application is filed, then the court  
5           proceeding is stayed. So that's the current  
6           state of the law as a result of a court  
7           decision from a few weeks ago.

8                     SENATOR SERINO: So -- I guess that  
9           answered my question. It's just a -- okay.  
10          All right, thank you, Your Honor. I  
11          appreciate it.

12                    CHIEF ADMIN. JUDGE MARKS: You're  
13          welcome. Thank you.

14                    CHAIRWOMAN KRUEGER: Thank you.

15                    So Chairwoman Weinstein, I think the  
16          Senate has completed its list. So why don't  
17          you just start rolling Assemblymember after  
18          Assemblymember.

19                    CHAIRWOMAN WEINSTEIN: We have two  
20          members, Assemblywoman Kelles and then it  
21          will be Assemblyman Walczyk, to close.

22                    ASSEMBLYMAN EPSTEIN: Helene, my  
23          name's been on the stack for a bit.

24                    CHAIRWOMAN WEINSTEIN: Wait, who's

1 this?

2 ASSEMBLYMAN EPSTEIN: Harvey.

3 ASSEMBLYWOMAN KELLES: Harvey's first.

4 CHAIRWOMAN WEINSTEIN: Oh, I'm sorry.

5 Yes, I cut you off. Yes, Assemblyman Epstein  
6 and then Kelles and Walczyk.

7 When I copied it, I left you out. It  
8 was unintentional, Harvey.

9 ASSEMBLYMAN RA: Chair, we also have  
10 Mr. Reilly, who joined us and has his hand  
11 raised.

12 CHAIRWOMAN WEINSTEIN: Okay. I don't  
13 see that on my screen, but that's not a  
14 problem.

15 ASSEMBLYMAN RA: Okay. Thank you.

16 CHAIRWOMAN WEINSTEIN: So we go to  
17 Assemblyman -- oh, the problem is for some  
18 reason Assemblyman Reilly is mixed in with  
19 the Senate. I don't know if that was a  
20 demotion or a promotion for him.

21 (Laughter.)

22 CHAIRWOMAN KRUEGER: I'm sorry, we're  
23 not starting that fight today. No, no, no.

24 CHAIRWOMAN WEINSTEIN: Assemblyman

1 Epstein.

2 ASSEMBLYMAN EPSTEIN: Thank you,  
3 Chair.

4 And thank you, Judge Marks, for being  
5 here.

6 I know we all don't have a lot of  
7 time. Just on the diversity of the bench,  
8 what percentage of judges are Black in OCA?

9 CHIEF ADMIN. JUDGE MARKS: I have  
10 those numbers. I could find them, it might  
11 take me a minute. Could I get them to you  
12 post-hearing?

13 ASSEMBLYMAN EPSTEIN: Yeah. I mean,  
14 great to know Asian, Black, Latino judges,  
15 court attorneys who are Black, Asian, Latino.  
16 I mean, because -- you know, obviously  
17 people's personal experiences impact how they  
18 view the bench. And you're saying the  
19 majority of judges are in favor of  
20 dangerousness, I'm just wanting to know who  
21 those judges are and how they represent our  
22 state. I'd love to have that data.

23 CHIEF ADMIN. JUDGE MARKS: We have the  
24 demographic data, and of course happy to

1 share it with you.

2 ASSEMBLYMAN EPSTEIN: I appreciate  
3 that.

4 And do you have the eviction data for  
5 2021, how many evictions occurred in 2021?

6 CHIEF ADMIN. JUDGE MARKS: We have  
7 that also, yes.

8 ASSEMBLYMAN EPSTEIN: Could I get --  
9 could you share that with my office? I'd  
10 appreciate that.

11 CHIEF ADMIN. JUDGE MARKS: Of course.

12 ASSEMBLYMAN EPSTEIN: And I just want  
13 to reiterate what we heard from my colleagues  
14 around the HP issue. I understand that you  
15 may say that the percentage of cases might be  
16 lower for HP actions, but as someone who's  
17 practiced in Housing Court for decades, what  
18 we've heard is not just the number but the  
19 slowdown of these trials where heat and hot  
20 water cases are taking months because the  
21 judge is -- even though there's only --  
22 there's one HP judge, and they do a half a  
23 day, you know, for weeks at a time because  
24 they have an HP calendar.



1           So I just would love for you not just  
2           to look at the number of cases but how those  
3           cases are impacting the people appearing  
4           before them.

5           CHIEF ADMIN. JUDGE MARKS: Yeah. No,  
6           I -- that's I think an excellent point.

7           ASSEMBLYMAN EPSTEIN: Great. And then  
8           I want to turn our attention to the backlog,  
9           because I know that you mentioned that a lot  
10          on the backlog. Because what we've heard is  
11          a lot of people who are being held at Rikers  
12          are staying there because of the backlog of  
13          their trials.

14          And I understand the issues of the  
15          social distancing. But, you know, the real  
16          world impact that's having on people who, you  
17          know, there are allegations that they've  
18          committed a crime and are just sitting in  
19          Rikers six months, a year -- we've heard from  
20          defender associations that they're there for  
21          long periods of time.

22          Like what is the real plan? Because  
23          18 months isn't a real plan to get these  
24          cases taken care of. We really need to hear

1           what the short-term plan is. Is it  
2           additional resources? What is the plan, is  
3           it additional space? Like what is the plan  
4           to get this backlog taken care of?

5                   CHIEF ADMIN. JUDGE MARKS: Every week  
6           we schedule criminal jury trials with a great  
7           preference to, you know, what are described  
8           as in-defendants, who are in detention, as  
9           opposed to being out at liberty.

10                   And we -- as was discussed two hours  
11           ago at the outset of this hearing, under  
12           social distancing protocols -- and the  
13           defender groups will certainly support what  
14           I'm saying -- it's very difficult to conduct  
15           criminal jury trials because of the --  
16           particularly the jury selection requires  
17           multiple courtrooms.

18                   And so it's a function of space, which  
19           is a function of the 6-foot social distancing  
20           rule. And I don't know if you --

21                   ASSEMBLYMAN EPSTEIN: Judge Marks, I'm  
22           almost out of time, but I know -- if there's  
23           more space, then that's something we can talk  
24           through. If it's a space issue, please come

1 to us and say it's space.

2 And I ran out of time, but I do want  
3 to talk about the court consolidation issues.  
4 I have some concerns I raised years ago when  
5 you first produced that, and I'd love to  
6 follow up with you about some of those  
7 concerns that I still have.

8 CHIEF ADMIN. JUDGE MARKS: Sure.  
9 Sure. Absolutely.

10 ASSEMBLYMAN EPSTEIN: But please come  
11 to us if it's a space issue.

12 CHIEF ADMIN. JUDGE MARKS: Okay.

13 CHAIRWOMAN WEINSTEIN: Thank you.

14 So now we go to Assemblywoman Kelles.

15 ASSEMBLYWOMAN KELLES: Thank you so  
16 much.

17 In the interests of time, I'm going to  
18 try and run through mine as well really  
19 quickly.

20 Just, first, one comment that was  
21 previously mentioned about funding and  
22 staffing for assigned counsel. I just wanted  
23 to add my two -- you know, additional support  
24 for that. We are also having a very

1           difficult time and I know the rates have not  
2           increased since 2004. I definitely think we  
3           are due.

4                     And wanted to also add my two cents to  
5           considering requesting or putting in funding  
6           also for any kind of centralized staffing.  
7           It's not just that they don't have the  
8           funds -- the correct rate at this point, I  
9           think -- but that whatever they do get, they  
10          have to use it if they want to get any  
11          staffing support. So that's something we  
12          don't talk about very often, but I do think  
13          that that's also an issue.

14                    And another thing I wanted to ask you  
15          about was related to mental health court or  
16          wellness court. It statistically has been  
17          shown to be hugely successful, and there have  
18          been a lot of people in my district who are  
19          asking questions of whether or not that could  
20          be expanded in every county throughout the  
21          state. I have one county that has it, it's  
22          hugely successful; another county that does  
23          not.

24                    And so I wanted to ask really quickly

1 if that has been something that you at all  
2 discussed and something that you would  
3 consider supporting and advocating for.

4 CHIEF ADMIN. JUDGE MARKS: Yeah, I  
5 think it's fair to say that's our ultimate  
6 goal, that the mental health courts are  
7 successful. And every county ideally should  
8 have one, and I think that's a reasonable  
9 goal to strive towards.

10 They are resource-intensive, however,  
11 and the -- usually they're initiated by grant  
12 money, grant money that the state gets from  
13 the federal government. The SAMHSA  
14 administration, which is part of HHS,  
15 distributes block grant money to states. And  
16 the State Office of Mental Health would want  
17 to be on board on that. So yes --

18 ASSEMBLYWOMAN KELLES: Thank you so  
19 much. I will follow up with you on that.  
20 I'm so sorry to cut you off. But I will  
21 definitely follow up, because if there is a  
22 way to do that together, then I certainly am  
23 interested.

24 But I did want to make one comment

1 quickly about bail reform, and a question.

2 One thing that I'm very concerned  
3 about is that we are not taking the data in  
4 context. We have seen an increase in gun  
5 violence and violent crime throughout the  
6 entire country, and in fact New York State is  
7 less than the average across the entire  
8 country. Which begs the question if we're  
9 the only ones that have had bail reform, then  
10 would we not expect that we would actually be  
11 higher?

12 So I would ask you, do you think that  
13 the COVID crisis has influenced the increase  
14 that we are seeing, rather than bail reform?  
15 That is my first question about it.

16 And my second question is a concern  
17 that I have, which is the fact that as a  
18 result of bail reform we have seen a  
19 reduction in people incarcerated pretrial,  
20 but we've actually seen as a result a  
21 significant increase, an exacerbation of the  
22 number of Black people who are incarcerated  
23 specifically after bail reform.

24 So I wanted to know if you could

1 comment on that, and specifically the  
2 questions on right now, given implicit bias  
3 and the lack of the fact that you've had that  
4 yet, of whether you feel comfortable with the  
5 movement forward of giving the discretion of  
6 assessing dangerousness, given the imbalance  
7 I believe --

8 CHAIRWOMAN WEINSTEIN: Assemblywoman,  
9 leave --

10 ASSEMBLYWOMAN KELLES: -- for people  
11 of color.

12 Yes, thank you very much. If you  
13 could just answer those briefly, that would  
14 be good.

15 CHAIRWOMAN WEINSTEIN: If you have a  
16 very brief response, Judge Marks.

17 CHIEF ADMIN. JUDGE MARKS: Sure. I  
18 think that the rise in shootings is not just  
19 a phenomenon here in New York, but it is  
20 particularly in cities across the country,  
21 some of which have bail reform, some of which  
22 don't, I assume. I don't have all the  
23 information on all the jurisdictions across  
24 the country.

1           But there's no doubt, I would think,  
2           that it's fair to say that the pandemic has  
3           had an impact on that. Exactly how, I'm not  
4           sure. I'm not a criminologist. But I think  
5           the evidence would point to the pandemic  
6           having an impact on the rise in shootings in  
7           jurisdictions around the country.

8           In terms of bias built into the  
9           pretrial detention in New York, I would hope  
10          that's not the case, but I haven't seen data  
11          on that one way or the other. And I don't  
12          know if there is data. There should be.

13          ASSEMBLYWOMAN KELLES: I'll share the  
14          data.

15          CHIEF ADMIN. JUDGE MARKS: Okay.

16          CHAIRWOMAN WEINSTEIN: Okay, thank  
17          you. We're going to move on to Assemblyman  
18          Walczyk.

19          ASSEMBLYMAN WALCZYK: Thanks,  
20          Madam Chair.

21          Your Honor, wonderful to hear from you  
22          today. Appreciate your answers to a number  
23          of the questions, and that's cut down on the  
24          number of questions that I have today.



1           So the Judiciary Budget that's  
2           presented by the Executive here requests --  
3           shows that the New York City Civil Court is  
4           disposing of less than half of the new case  
5           filings, yet the budget does not request a  
6           significant increase in personnel and  
7           requests only a minuscule amount of  
8           overtime -- I think I'm reading this right,  
9           only \$14,000?

10           So how would OCA address the terrible  
11           increase in cases that have not been  
12           disposed?

13           CHIEF ADMIN. JUDGE MARKS: Well, you  
14           can't be looking at the right number for  
15           overtime. The overtime number that we're  
16           seeking is closer to -- between 25 and \$30  
17           million, and closer to the \$30 million.

18           So we are relying on more overtime  
19           because our staffing numbers are down, so  
20           there's pressures to -- more reliance on our  
21           existing workforce and getting them to work  
22           additional hours for which they're entitled  
23           to overtime.

24           ASSEMBLYMAN WALCZYK: Yeah, so on

1 page -- and, Your Honor, it may be a typo  
2 that you want to take up with the Executive,  
3 because on page 74 I'm reading the personal  
4 service request also includes \$14,239 for  
5 overtime, which supports current level of  
6 operations. Which I was surprised by that  
7 small number to even be able to -- but, I  
8 mean, understandably, if there's almost no  
9 overtime allotted, that we would be less than  
10 50 percent of filings to dispositions.

11 CHIEF ADMIN. JUDGE MARKS: Yeah, I'm  
12 sorry, I'll have to take a look at that, and  
13 I will.

14 ASSEMBLYMAN WALCZYK: Okay. And then  
15 if you could comment, with my remaining time,  
16 town and village courts were virtually closed  
17 for a year pursuant to directives from OCA,  
18 creating a substantial backlog. And I know  
19 you've talked about this quite a bit already  
20 today. Is the funding for town and village  
21 courts increased to address the huge backlog  
22 of cases in a timely manner consistent with  
23 the Executive's initiative goals of fairly  
24 and promptly adjudicating cases and

1 eliminating delay and backlog in court  
2 operations?

3 CHIEF ADMIN. JUDGE MARKS: Well, we --  
4 this budget doesn't fund town and village  
5 courts. I mean, we have a unified court  
6 system in New York, you know, state-financed  
7 and state-managed. But when the Constitution  
8 was amended to provide for that, it did not  
9 include the town and village courts. They're  
10 funded and staffed by their local locality,  
11 their local town and village.

12 We do have a grant program, which has  
13 been in place for a number of years, that  
14 allows town and village courts to apply for  
15 enhancements like to purchase a magnetometer  
16 or to build a bench.

17 ASSEMBLYMAN WALCZYK: Yeah, Your  
18 Honor, how do you expect those local courts  
19 are going to be able to catch up on their  
20 backlogs?

21 CHIEF ADMIN. JUDGE MARKS: I think  
22 they -- and, by the way, they never closed.  
23 They operated virtually. You know, we always  
24 emphasize that, that during the worst days of

1 the pandemic, once we set them up with  
2 technology -- and we help the town and  
3 village courts with technology, even though  
4 we don't fund them -- you know, the courts  
5 conducted proceedings virtually.

6 But I think the way to do it is -- and  
7 virtual has great advantages, but it  
8 sometimes can't be as efficient as in-person.  
9 And I think the town and village courts, like  
10 a lot of the state-paid courts in New York,  
11 are going to just have to plow through --  
12 calendar these cases and plow through them  
13 and resolve them as best that they can.

14 Is that going to happen overnight?  
15 No. But, you know, improvement in the public  
16 health conditions will facilitate the  
17 resolution of many more cases once that  
18 happens.

19 ASSEMBLYMAN WALCZYK: Appreciate it,  
20 Your Honor. Thanks, Madam Chair.

21 CHIEF ADMIN. JUDGE MARKS: You're  
22 welcome.

23 CHAIRWOMAN WEINSTEIN: Thank you.

24 We go to Assemblyman Reilly.

1 ASSEMBLYMAN REILLY: Thank you, Madam  
2 Chair.

3 Thank you, Your Honor, for coming  
4 today and talking to us.

5 One question that I have up front is  
6 there's a lot of misinformation going around  
7 about the current case out of Nassau County  
8 with the mask mandate, saying that it was  
9 unconstitutional. There's talk going on now  
10 that there's a stay on it.

11 Can you clarify for us today, is there  
12 an actual stay on that decision right now,  
13 where everything will remain in place, or is  
14 there not?

15 CHIEF ADMIN. JUDGE MARKS: Yeah, I  
16 haven't read the decision. I saw a newspaper  
17 account about it. But don't hold me to this,  
18 because I could be incorrect, but I believe  
19 when the state files a notice of appeal under  
20 Civil Practice Law, that there's an automatic  
21 stay of the trial court decision.

22 So I don't know if that's happened  
23 yet, but what I read is that there will be an  
24 appeal, and if there's an appeal there will

1 be a notice of appeal filed. And you know,  
2 that will resurrect an automatic stay of the  
3 trial court's decision.

4 ASSEMBLYMAN REILLY: Thank you for  
5 that clarification, sir.

6 So one thing I want to raise under  
7 public protection is Raise the Age, and we  
8 talked about -- many people have talked about  
9 gun violence here. And especially the things  
10 in New York City, we see the uptick in crime.

11 One of the parts of Raise the Age -- I  
12 have a bill I introduced where it's about 16-  
13 and 17-year-olds in possession, arrested for  
14 possessing a loaded firearm. Currently they  
15 would go to Family Court unless they used it  
16 in the act of a crime. I'm hoping that the  
17 legislation will allow them to stay in Youth  
18 Part Criminal.

19 The reason why I say that is here are  
20 some numbers that we have from over the last  
21 two years: 2021, under 18, 940 -- combined  
22 2020 and 2021, 947 people under the age of 18  
23 were arrested for a firearm. In 2020, there  
24 were 411, and in 2021 there were 536. That's

1 an alarming number, and it's on the rise.

2 And I think one part of clarifying  
3 Raise the Age, where the DAs could say that  
4 they have extenuating circumstances, just by  
5 possessing a loaded firearm, under the Penal  
6 Law, to stay in Youth Part, would help  
7 address those concerns. Do you have any  
8 insight on that?

9 CHIEF ADMIN. JUDGE MARKS: I really  
10 don't. I know there's been talk about  
11 revisiting the Raise the Age statute, which I  
12 think over the four-plus years, however long  
13 it's been of its existence, I think has  
14 worked well.

15 That's not to say that it's perfect,  
16 but I really have no opinion and haven't  
17 evaluated the change that you're suggesting.

18 ASSEMBLYMAN REILLY: One of the  
19 concerns we have is that when you have  
20 someone like a 14- or a 15-year-old that has  
21 a firearm and it goes to Family Court, that  
22 case is sealed and can't be used.

23 While just a recent incident in the  
24 Bronx, that defendant actually had a case in

1 Family Court Act and pled, and it was a  
2 misdemeanor they pled it down to, but it  
3 can't be used, and now the 16-year-old  
4 incident. So it's as if that never happened.  
5 So they've used a gun twice, and  
6 unfortunately only one could be used. So I  
7 think this is a step that could help us in  
8 all directions.

9 Thank you.

10 CHIEF ADMIN. JUDGE MARKS: Well, let  
11 me just say quickly that I think one of the  
12 primary purposes of the Raise the Age statute  
13 was not to saddle people of that age bracket  
14 with criminal records. But is that always  
15 the right policy? It may --

16 ASSEMBLYMAN REILLY: I agree -- I  
17 agree with that --

18 CHIEF ADMIN. JUDGE MARKS: It may or  
19 may not be, but that was one of the  
20 underlying purposes of the legislation.

21 ASSEMBLYMAN REILLY: Well, when we  
22 have gang members that are using 16- and  
23 17-year-olds to skirt the law by having  
24 loaded firearms, knowing that they won't be



1 held accountable, that's where we jeopardize  
2 safety. And I think that's something that we  
3 have to consider, and that's a narrow point  
4 of change that could be made.

5 Thank you, though. I appreciate it,  
6 and I'm sorry for cutting you off.

7 CHIEF ADMIN. JUDGE MARKS: No problem.

8 CHAIRWOMAN WEINSTEIN: Thank you,  
9 Assemblyman.

10 And our final questioner is  
11 Assemblyman Palmesano.

12 CHAIRWOMAN KRUEGER: I'm sorry, I'm  
13 just going to jump in for one second.  
14 Apparently the stream for people on the  
15 outside watching and listening to us cut off  
16 for a few minutes. But it was fixed, and  
17 everybody should be back on. So if you get  
18 any individual complaints that your  
19 constituents suddenly weren't there, whatever  
20 the issue was, it was resolved.

21 Thank you.

22 CHAIRWOMAN WEINSTEIN: Thank you.

23 So now to Assemblyman Palmesano.

24 ASSEMBLYMAN PALMESANO: Yes, thank

1           you, Your Honor, for being here and your  
2           patience for this long day.

3                     My first question really is last year  
4           the Legislature approved funding -- or  
5           approved 14 new Supreme Court judgeships.  
6           Does the Judiciary Budget account for funding  
7           for the judges and their support staff? And  
8           also, along that same line, who pays for the  
9           physical courtroom space for these 14 new  
10          judges that they will need for court  
11          operations? Is this going to be a fiscal  
12          burden that's going to be placed on our  
13          localities and counties, or is this going to  
14          be in the Judiciary Budget?

15                    CHIEF ADMIN. JUDGE MARKS: First of  
16          all, the funding for the new judgeships is  
17          absolutely included in this budget request,  
18          so the money will be there for the judges and  
19          their staff.

20                    And court facilities, as you may  
21          know -- it's a state court system, and the  
22          judges and employees are all state employees.  
23          But the facilities are -- at least for the  
24          trial courts, the facilities are owned and

1 maintained by the localities, New York City  
2 in the City of New York, and individual  
3 counties outside New York City.

4           So we -- these judges were elected in  
5 November, the new judges, and they came on  
6 board in early January. And if there was any  
7 problem in securing space for them, I'm sure  
8 I would have heard about this, and I haven't  
9 heard any problems. So I think the existing  
10 facilities are able to absorb the new  
11 judgeships. Of course, they're spread out  
12 over a number of counties. If 14 new judges  
13 showed up in one county, that would be a  
14 problem.

15           But I haven't heard of any facilities  
16 concerns, and as a result of that I'm  
17 assuming that they've been absorbed  
18 successfully in the courthouses where they're  
19 assigned.

20           ASSEMBLYMAN PALMESANO: Great. Thank  
21 you, Your Honor. I have one more question.

22           Last year the Legislature unanimously  
23 passed legislation, A6044, that basically  
24 required that any retired judge of the Court

1 of Appeals shall be recertified by the OCA,  
2 instead of may, as long as they have the  
3 mental and physical capacity to perform  
4 such duties.

5 What is OCA's position on this  
6 legislation, and have you had conversations  
7 with the administration on whether they're  
8 supporting the bill or chaptering it or  
9 reading the legislation? Because obviously  
10 that's an important piece of legislation that  
11 had unanimous support from the Legislature.

12 CHIEF ADMIN. JUDGE MARKS: To be  
13 blunt, we think it's a terrible bill. It  
14 would lead to really unfortunate consequences  
15 if that became law. I could go into the  
16 reasons why with you, but we could talk about  
17 that offline. And we've made our views known  
18 to the Governor's office why we think it's a  
19 really bad bill.

20 ASSEMBLYMAN PALMESANO: Fair enough.  
21 Thank you, Your Honor, for your time and  
22 patience.

23 CHIEF ADMIN. JUDGE MARKS: You're  
24 welcome.

1                   CHAIRWOMAN WEINSTEIN: Thank you. We  
2                   have one more Assemblymember, Assemblyman  
3                   Abinanti for a question to conclude. He  
4                   seems to have raised his hand and now not, so  
5                   perhaps that was an error. We'll assume that  
6                   was an error.

7                   So I just want to take a moment, Judge  
8                   Marks, to thank you for being here with us  
9                   and spending as much time as you did. And I  
10                  just really want to say thank you. I don't  
11                  have any questions for you; our colleagues  
12                  have asked sufficient questions to cover any  
13                  of my concerns.

14                 CHIEF ADMIN. JUDGE MARKS: Thank you.

15                 CHAIRWOMAN WEINSTEIN: Senator  
16                 Krueger?

17                 CHAIRWOMAN KRUEGER: Yes, I also want  
18                 to thank you for your time with us today.

19                 I think it's clear, Judge Marks, that  
20                 we appreciate how much the court system has  
21                 been going through during this complex period  
22                 of COVID and keeping distance and keeping  
23                 people healthy and safe while ensuring our  
24                 judicial system goes forward. But I also

1 think it's we have lots of questions and  
2 concerns moving forward. And we look forward  
3 to working with you and the court system to  
4 make our New York court system even better in  
5 addressing the needs of our communities.

6 So I know we took up quite a bit of  
7 your time today. And for people following  
8 along, we have a very extensive list of  
9 testifiers, so stay comfortable in your  
10 chairs. We're going to be around for a  
11 while.

12 We'll allow Judge Marks to leave, and  
13 we will welcome Robert -- I never pronounce  
14 your name right, but I'm going to try it --  
15 Tembeckjian, who is the administrator and  
16 counsel for the New York State Commission on  
17 Judicial Conduct.

18 Hi, Robert, how are you?

19 ADMINISTRATOR TEMBECKJIAN: Fine,  
20 thank you, Senator. And how are you? And I  
21 appreciate the opportunity to see you and all  
22 of your colleagues.

23 I'm in an unaccustomed position this  
24 year because for the first time in a decade,

1 the Executive Budget and the Judicial Conduct  
2 Commission are in agreement on what our  
3 funding levels should be. And I believe that  
4 this is primarily due to two factors. One is  
5 that we have a Governor with a senior staff  
6 that appreciate the commission's  
7 constitutional independence, recognize that  
8 although our budget comes to the Legislature  
9 through the Executive, that we are not a  
10 gubernatorial agency and that these  
11 recommendations ought to be the result of  
12 conversation as opposed to dictation.

13 And secondly, because I think the  
14 effect of several years of assistance that  
15 the Legislature has provided to the  
16 commission, by supplementing what previous  
17 Executive Budgets have recommended for us,  
18 has made a statement and is having an impact.

19 So apart from this Governor having an  
20 appreciation for the unique constitutional  
21 role that the commission plays, I think that  
22 she and her senior staff appreciate that the  
23 Legislature has had that appreciation for  
24 quite some time.

1           As you know, the commission is the  
2           state agency that enforces the rules of  
3           ethics on the judiciary. There are 3500  
4           judges in the State Unified Court System over  
5           whom we have jurisdiction. Despite the  
6           disruptions over the last two years as a  
7           result of the pandemic, we have managed to  
8           meet our responsibilities with innovative  
9           technological improvements and advances, so  
10          that we processed last year over 1900  
11          complaints and over 3400 over the last two  
12          years. We engaged or conducted over 630  
13          preliminary reviews and inquiries, we have  
14          initiated over 240 full-fledged  
15          investigations, and have removed or  
16          effectuated the permanent resignation of  
17          24 judges, publicly reprimanded 17, and  
18          confidentially cautioned 53.

19                 So despite the challenges posed by the  
20          pandemic, we have been effectively meeting  
21          our responsibilities.

22                 The one thing that I would ask the  
23          Legislature to consider -- and it's not  
24          strictly a money-related bill, although it



1 affects the manner in which the commission  
2 makes its financial presentation to the  
3 Legislature. I have asked the Governor's  
4 office to consider, in one of the 30-day  
5 amendments, a single-sentence addition to our  
6 governing statute in the Judiciary Law which  
7 would emulate the way the Executive presents  
8 the Judicial Budget to the Legislature.  
9 We're asking for authorization to submit our  
10 budget to the Legislature through the  
11 Executive, but without amendment and with  
12 comment.

13 Because we don't report to the  
14 Governor, because we are not an executive  
15 agency, we would like to enshrine in law the  
16 relationship that we have with the current  
17 Governor and her staff, because history has  
18 taught us all too clearly and painfully that  
19 a different governor, a different budget  
20 director, different senior staff have a view  
21 of the commission that is less appreciative  
22 of our independence of the executive branch.

23 We are in the Judiciary Article of the  
24 Constitution. We perform an exclusively

1           judicial branch function, which is to  
2           discipline judges of the State Unified Court  
3           System. And while you and the various  
4           committees of both houses -- Assembly  
5           Judiciary, Senate Judiciary, Finance on both  
6           sides -- have long appreciated that the  
7           Executive should not control, via the  
8           funding, the discipline of judicial branch  
9           officers, a simple amendment in the law would  
10          codify that and resolve, you know, any  
11          dispute or issue that we might have with  
12          future governors as we certainly have had  
13          with past governors on this issue.

14                 So if it is in the 30-day amendment, I  
15          hope it would be adopted. If it's not, I've  
16          spoken to Senator Hoylman's staff just this  
17          week about standalone legislation for this  
18          proposition which I think would resolve the  
19          conflicts that have so often in the past been  
20          the subject of my testimonial appearances  
21          before you.

22                 So seeing the smile on my face instead  
23          of the hat in my hand this year, I'm happy to  
24          answer whatever questions you might have,

1 Senator Hoylman, Chairman Lavine on the  
2 Assembly side, and any of your other  
3 colleagues.

4 CHAIRWOMAN KRUEGER: Great. Thank you  
5 very much.

6 I also want to thank you for coming  
7 and testifying at the Senate's recent Ethics  
8 hearing on visiting JCOPE and that it could  
9 be built back better, so to speak, and you  
10 were very helpful and enlightening to us as  
11 well.

12 ADMINISTRATOR TEMBECKJIAN: Well,  
13 thank you, I appreciate that. And I never  
14 fail to note that the legislation you've  
15 proposed to fashion an alternative to JCOPE  
16 is in large part modeled on the Judicial  
17 Conduct Commission, which has demonstrated  
18 success as an ethics enforcement entity.

19 CHAIRWOMAN KRUEGER: Correct. Thank  
20 you.

21 I'm going to turn it over to the  
22 Judiciary chair for the Senate, Brad Hoylman.

23 SENATOR HOYLMAN: Thank you, Chair  
24 Krueger.

1           And good to see you. We're so glad  
2           that you're happy, because that's been an  
3           effort in both of our houses. And I just  
4           want to acknowledge Senator Krueger, our  
5           Finance chair in my house, for her leadership  
6           on this issue over the years to make certain  
7           that you are well-funded and that our judges  
8           are reviewed properly, as you do. And so we  
9           appreciate all of your work.

10           And I'll be reaching out to  
11           Chairman Lavine on the legislation that you  
12           discussed to see if we might pursue that  
13           option.

14           But I wanted to ask you a couple of  
15           questions. Specifically, we've heard  
16           conversations around bail reform today and  
17           the issue of how judges have implemented it.  
18           In the CJC annual report from last year, the  
19           report says that the commission doesn't take  
20           a position on the efficacy of the law or  
21           proposals to amend it -- this is under a  
22           section entitled "Judicial Responses to the  
23           New Bail Law" --

24           ADMINISTRATOR TEMBECKJIAN: Right.

1                   SENATOR HOYLMAN: -- but that the  
2                   commission "takes the opportunity to remind  
3                   judges that whatever their individual views  
4                   of the law may be, they are obliged under the  
5                   rules governing judicial conduct to respect  
6                   and comply with the law, to be faithful to  
7                   the law, and to maintain professional  
8                   competence in the law.

9                   "In a particular case, a judge who in  
10                  good faith interprets the law need not fear  
11                  disciplinary consequences for what may turn  
12                  out to be a legal error that is reversed on  
13                  appeal. However, a judge who purposefully  
14                  fails to abide by the law, e.g., to make a  
15                  political point or because s/he personally  
16                  disagrees with the law, invites discipline."

17                 I wanted to ask you, on that specific  
18                 point, inviting discipline, have any judges  
19                 been subject to discipline on this basis  
20                 since the implementation of bail reform?

21                 ADMINISTRATOR TEMBECKJIAN: We have  
22                 not publicly disciplined any judge yet for  
23                 violating or failing purposefully to avoid  
24                 the bail law.

1           You're absolutely right, in the  
2           section that you read, that judges are  
3           obliged to respect and comply with the law,  
4           to be professionally competent in the law, to  
5           be faithful in the law. There have been --  
6           and I heard your exchange with Judge Marks on  
7           this subject earlier today -- there have been  
8           some newspaper reports, not all of them  
9           accurate, about highlighting some situations  
10          in which it appeared as if a judge or two  
11          were purposefully avoiding the bail law.

12           To date, we have not found that to be  
13          the case. We get several complaints every  
14          few months related to the bail law issue. We  
15          examine them carefully. If we find that  
16          there is any judge who is purposefully not  
17          enforcing the law -- and that's true of the  
18          bail law, it's true of any statute -- that  
19          judge would be subject to discipline for it.

20           We have in the past, even before the  
21          bail law reforms, publicly disciplined,  
22          including removed from office, judges who  
23          were abusing bail and otherwise not abiding  
24          by statutory guidance. So we're not afraid

1 to take it on. We have disciplined judges in  
2 the past for violations of the bail statutes.  
3 And if we find that anyone is currently  
4 purposefully avoiding, as opposed to making a  
5 good-faith error that would be reviewable on  
6 appeal, we have reviewed those complaints and  
7 we would take action.

8 SENATOR HOYLMAN: So you say that you  
9 have in the past disciplined judges on the  
10 issue of bail laws, but not since the bail  
11 reform laws were passed.

12 ADMINISTRATOR TEMBECKJIAN: Correct.  
13 Publicly, correct. Absolutely right.

14 SENATOR HOYLMAN: And are there any  
15 open investigations or inquiries?

16 ADMINISTRATOR TEMBECKJIAN: We do.  
17 There are a couple of matters that we are  
18 currently reviewing. But obviously, as you  
19 know, because of our confidentiality statute,  
20 I can't say more about that.

21 SENATOR HOYLMAN: Yes. Speaking of  
22 which -- so I appreciate that response.

23 We've previously discussed ways to  
24 increase transparency in judicial conduct

1 proceedings, including making proceedings  
2 public once there is a formal charge. Could  
3 you discuss how that might work and why it  
4 would be important to foster public trust in  
5 the judiciary?

6 ADMINISTRATOR TEMBECKJIAN: New York  
7 is in the minority of states which keep  
8 confidential all judicial disciplinary  
9 proceedings until the very end and then make  
10 them public only if there is a public  
11 discipline imposed.

12 And I think that the significance or  
13 the importance of transparency is twofold:  
14 One, for the public to have confidence that  
15 the disciplinary system is working as it  
16 should. So in the same way that a grand jury  
17 investigation of an alleged crime would be  
18 confidential, once there is an indictment  
19 returned, even if the individual goes on to  
20 be acquitted at trial, the matter becomes  
21 public. That is enshrined in the U.S.  
22 Constitution and in our law since  
23 post-colonial constitutional government was  
24 founded.



1           Secondly, as the commission itself has  
2           said in previous annual reports, it's a way  
3           to keep the disciplinary body honest and for  
4           the public to appreciate or understand that  
5           the body is dealing with important, serious  
6           matters in a way that the public can see, the  
7           process can be seen, so that the public can  
8           have faith that the commission is not, for  
9           example, to use an old vernacular,  
10          deep-sixing the case unjustifiably.

11           And I think that would be true of any  
12          ethics enforcement entity. Investigations  
13          should always be confidential. There is too  
14          much at stake for any allegations without  
15          some sort of filtering process to become  
16          public. But once an official body has  
17          determined that cause exists to discipline a  
18          judge -- or any other public official -- it's  
19          my view that that should be public both to  
20          keep the enforcers honest and to undermine --  
21          and to underscore the public's faith that the  
22          process is working and that public officials  
23          will be held accountable for wrongdoing.

24                 SENATOR HOYLMAN: Thank you.

1           We've seen in recent years how judges  
2           can avoid discipline by resigning. Do you  
3           think we should amend the commission's  
4           jurisdiction to provide continuing oversight  
5           jurisdiction after resignation?

6           ADMINISTRATOR TEMBECKJIAN: I do. And  
7           the commission has written about this as  
8           well.

9           Currently, under law, Section 47 of  
10          the Judiciary Law limits the commission to  
11          120 days after a judge resigns and then only  
12          if the discipline is going to be removal from  
13          office, because under the Constitution a  
14          judge who's removed is ineligible ever to  
15          return to the bench.

16          But there is a lot of behavior that is  
17          less than removable -- censurable or  
18          admonishable -- that a judge should not be  
19          able to avoid the consequences of by leaving  
20          office before the inquiry is done. And I  
21          think a fair amendment of that statute would  
22          give the commission -- keep the 120 days, but  
23          give the commission 120 days to conclude its  
24          investigation. And it if determines that

1 formal charges are required, then let the  
2 process play itself out.

3 And if a judge did something in the  
4 last six months of office that should be  
5 censured, so be it. That is certainly true  
6 of other public officers. The law was  
7 amended some years ago so that other public  
8 officials can be disciplined after resigning;  
9 resignation doesn't give you a free pass from  
10 accountability. And the same should be true  
11 of the judicial branch.

12 SENATOR HOYLMAN: You know, we're  
13 hearing of unvaccinated judges, you heard  
14 that mentioned today. Last week there was  
15 news of a City Court judge who was not only  
16 unvaccinated but continuing to come into the  
17 office, and refused to wear a mask despite  
18 court rules requiring him to work from home.

19 Are there any complaints to the  
20 Commission on Judicial Conduct on this  
21 subject? And what are the potential  
22 consequences for a judge that, you know, puts  
23 their colleagues and staff and litigants at  
24 risk?

1           ADMINISTRATOR TEMBECKJIAN: Well,  
2 judges are obliged by the Ethics Code to obey  
3 not only the law but court rules. And the  
4 court system has promulgated rules on  
5 vaccination and on masking -- in fact, the  
6 state has obviously the masking requirement  
7 that is the subject of some litigation.

8           Failure to abide by rules subjects a  
9 judge to public discipline. So as Judge  
10 Marks was unable to discuss specific cases,  
11 suffice it to say that a serious as opposed  
12 to an inadvertent violation of an important  
13 public health rule of the court system, such  
14 as vaccination or masking, would subject a  
15 judge to review by the Commission on Judicial  
16 Conduct. And in fact the Office of Court  
17 Administration has publicly said that it  
18 would refer judges who don't abide by those  
19 rules to the commission.

20           Now, I can't get into the individual  
21 details, but this is something that in my  
22 experience suggests that Judge Marks and OCA  
23 are taking seriously, and I know the  
24 commission is taking seriously.

1                   SENATOR HOYLMAN: Thank you,  
2 Mr. Tembeckjian. Thank you, Madam Chair.

3                   CHAIRWOMAN KRUEGER: Thank you,  
4 Mr. Chair.

5                   Assemblywoman Weinstein.

6                   CHAIRWOMAN KRUEGER: We go to the  
7 chair of our Judiciary Committee,  
8 Charles Lavine.

9                   ASSEMBLYMAN LAVINE: Thanks, Chair  
10 Weinstein.

11                   So Mr. Tembeckjian, it's always good  
12 to see you. As someone who --

13                   ADMINISTRATOR TEMBECKJIAN: And you,  
14 you've had a busier year than I have with the  
15 ethics matters, haven't you?

16                   ASSEMBLYMAN LAVINE: Which may be  
17 good. Which may be good for you.

18                   But as former chair of the Legislative  
19 Ethics Commission and chair of the Assembly  
20 Ethics Committee and presently chair of the  
21 Judiciary Committee who had responsibility  
22 for the investigation of the former governor  
23 and the report, I want you to know something  
24 that I know you know, which is that I have

1 great respect for what the Judicial Conduct  
2 Commission does and what you do for the  
3 Judicial Conduct Commission and for all the  
4 people of the State of New York.

5 Number two -- but I only have three,  
6 but this is the second one. Number two, I  
7 share with you a sense of joy at the fact  
8 that the commission's budget is being  
9 substantially increased this year. And that  
10 is a good thing for everyone in New York.

11 But what I want to ask you is this.  
12 In the age of the pandemic, which is  
13 affecting each and every one of us, even the  
14 people who seem to think there is no  
15 pandemic -- but which is affecting each and  
16 every one of us, and we're now about two  
17 years into it, just about -- but have the  
18 number of cases that have come before the  
19 commission increased? And if so -- compared  
20 to the prior years. And if so, can you  
21 associate any of the conduct with stresses of  
22 the pandemic?

23 ADMINISTRATOR TEMBECKJIAN: The raw  
24 number of cases is more or less static. I

1 think in five of the last six years we have  
2 averaged over 1900 complaints a year. Last  
3 year was the -- two years ago, 2020, was the  
4 only year where we dipped under 1900, and  
5 that was -- we still had over 1500. And that  
6 was I think significantly attributable to the  
7 early effects of the pandemic and the fact  
8 that the court system was in, let's say,  
9 hiatus for several months.

10 But otherwise we're back up to norms  
11 this past year. We had over 1900 in 2021,  
12 and that's pretty much usual.

13 We're not seeing any different  
14 distribution in the subject matter of these  
15 complaints than usual. The range has more or  
16 less been steady. I can't really say that  
17 we've seen that the stresses of the pandemic  
18 have been responsible either for changes in  
19 judicial behavior or among those who are  
20 making complaints. And it's understandable,  
21 because there's a lot of stress involved even  
22 without the pandemic in -- for all the  
23 participants in judicial proceedings, from  
24 judges and court staff down to the litigants.

1 And in certain places, such as Family Court,  
2 where the stakes are more volatile, there is  
3 a natural built-in stress to the process.

4 But the pandemic per se, I can't  
5 say -- from what we've seen so far, I can't  
6 say that the pandemic has been responsible  
7 for any greater proportion of our complaints  
8 than the ordinary stresses of litigation.

9 ASSEMBLYMAN LAVINE: Thank you very  
10 much. I have no further questions.

11 CHAIRWOMAN WEINSTEIN: Thank you.

12 Senate, do you have --

13 CHAIRWOMAN KRUEGER: Thank you. I  
14 think we have Senator Palumbo.

15 SENATOR PALUMBO: Thank you,  
16 Madam Chair. I was up and down with my hand.  
17 I was contemplating. But it's always nice to  
18 talk to Robert here. Good to see you again.  
19 How are you?

20 ADMINISTRATOR TEMBECKJIAN: Likewise,  
21 thank you.

22 SENATOR PALUMBO: So my question  
23 was -- it's more of a hypothetical. So I was  
24 thinking, as you were speaking earlier about



1 disciplinary rules and your disciplinary  
2 concerns with some judges, I'm sure -- or how  
3 do you reconcile situations where a judge is  
4 particularly reluctant to go along with the  
5 positions of a district attorney? Obviously  
6 they have discretion. We see what's going on  
7 in Manhattan now with some proclamations as  
8 to how they're going to proceed.

9 I'm almost thinking in the other  
10 direction. When a DA is too heavy-handed  
11 according to a judge's liking, have you had  
12 any situations where there were ethics  
13 concerns? And I'm thinking -- that's what  
14 made me think of kind of an odd question, but  
15 either the judge was trying to do what they  
16 could outside of the parameters of, say,  
17 someone's a prior felony offender, and it's  
18 an indicted felony. They can only give them  
19 a felony. They cannot reduce it to a  
20 misdemeanor in that example. But judges were  
21 doing what they could to possibly get around  
22 the Criminal Procedure Law or the Penal Law.

23 ADMINISTRATOR TEMBECKJIAN: We have  
24 not seen instances where -- not typically,

1           anyway. There has been an odd case here or  
2           there over the years in which judges seem to  
3           be working hand in hand with law enforcement  
4           as opposed to being independent arbiters of  
5           the cases.

6                     One of the matters that I alluded to  
7           earlier, which was some years ago, involved a  
8           city court judge who was setting punitive  
9           bail, literally -- and shocking to hear --  
10          \$25,000 for bicycle equipment violations.  
11          Which is not even a violation of law. Riding  
12          your bike on the sidewalk without a warning  
13          device, meaning a bell, is not punishable as  
14          a crime.

15                    But there were several defendants  
16          brought into court on such charges. They  
17          were all indigent. And the judge set \$25,000  
18          bail. They were remanded. And a week later,  
19          a week later after being in custody, they  
20          were given the option of pleading guilty and  
21          being sentenced to time served. And by the  
22          way, a week in jail is not an authorized  
23          penalty for riding your bike without a bell.

24                    That judge was removed from office.

1           There is that rare case where it does happen.

2           More often than not, what we see are  
3           judges who -- through social media or other  
4           public forums, allying themselves with law  
5           enforcement by liking tweets that promote  
6           police causes or the prosecution of certain  
7           cases, failing to appreciate that remaining  
8           neutral is an obligation, and appearing to  
9           remain neutral is an obligation regardless of  
10          the medium.

11          So if you can't say it personally, you  
12          shouldn't say it on social media. The  
13          disciplinary result is going to be the same.  
14          And we have had disciplines, including  
15          censure and some resignations of judges who  
16          have publicly aligned themselves with one  
17          side of the criminal justice system as  
18          opposed to honoring their obligation to  
19          remain neutral.

20          That's usually where we see the  
21          crossing of the line.

22          SENATOR PALUMBO: Thank you. And I'd  
23          expect you could also see in the other  
24          direction as well --

1 (Inaudible overtalk.)

2 ADMINISTRATOR TEMBECKJIAN: On  
3 occasion we do. Yes, we do. We absolutely  
4 do.

5 SENATOR PALUMBO: Great. Well, thank  
6 you again.

7 CHAIRWOMAN WEINSTEIN: Thank you.

8 Assemblywoman Cook and Assemblywoman  
9 Byrnes have joined the meeting -- the  
10 hearing, and we go to Assemblywoman Walker.

11 ASSEMBLYWOMAN WALKER: Thank you,  
12 Robert, for your insightful testimony.

13 So Judge Marks indicated that there  
14 was a finding that there was bias and  
15 discrimination that was found throughout the  
16 court systems of New York. Is there any  
17 indication as to a timeline for the number of  
18 bias and/or discrimination complaints that  
19 you've received? And how has your office  
20 worked with the Office of Court  
21 Administration to address those biases?

22 ADMINISTRATOR TEMBECKJIAN: Typically,  
23 if the OCA inspector general finds evidence  
24 in some court system inquiry of bias by a

1 judge, they refer that to the commission. We  
2 also get complaints of bias from third  
3 parties. And we also, on occasion, come  
4 across it on our own in the course of  
5 investigating other misconduct.

6 We have an annual report that  
7 indicates in chart form at the back of the  
8 book a breakdown of the subject matter of  
9 complaints, so that we can actually trace the  
10 number of bias complaints, the number of  
11 demeanor complaints and so forth that come in  
12 in any given year, and report on the action  
13 that's taken.

14 It's been relatively constant in the  
15 last few years. But we have, in the last  
16 several years, either removed or negotiated  
17 the resignation of judges who have publicly  
18 made biased statements against the LGBTQ  
19 community, against the Black community,  
20 against women. We've had several public  
21 decisions where judges were either removed or  
22 forced to resign. For example, we had one  
23 case involving a judge in deep upstate  
24 New York, near the Canadian border --

1 ASSEMBLYWOMAN WALKER: Can you speak a  
2 little bit more about the judge -- the  
3 Surrogate's Court judge in Brooklyn? Because  
4 I think that's also a huge concern.

5 Because once a judge is censured or  
6 removed, what happens to that person's court  
7 case? Is that person allowed to just sort  
8 sit in limbo for the remainder of their term?  
9 Like what -- what happens in those  
10 situations?

11 ADMINISTRATOR TEMBECKJIAN: Well, I  
12 don't want to speak specifically about the  
13 Brooklyn surrogate.

14 But in general, whether it's  
15 Surrogate's Court, criminal court or anywhere  
16 else, if a judge's caseload has been removed  
17 because there is serious pending allegations  
18 of misconduct, typically what the chief  
19 administrative judge will do, either directly  
20 or through one of his deputies, is to order  
21 an acting judge to take the place of the one  
22 whose caseload has been removed. So that  
23 those cases will not languish, there will be  
24 some other judge who comes in with authority

1 to do this.

2 In the same way that in a perfectly  
3 innocent situation it might be the case --  
4 if, for example, a judge takes ill or if a  
5 judge must step aside from a case because a  
6 family member is involved, the Office of  
7 Court Administration has the authority -- the  
8 chief administrative judge has the authority  
9 to make a corrective assignment. So that  
10 those cases should now be addressed.

11 If the situation were or the complaint  
12 were that the judge was not doing the job,  
13 and so the cases were taken away from that  
14 judge, they would be given to someone else  
15 who can take the job. And there have been  
16 public reports in Brooklyn of that having  
17 happened.

18 ASSEMBLYWOMAN WALKER: Well, I was  
19 asking what happens to the judge. Does she  
20 just -- well, do they just sit and languish  
21 on the state payroll? Like what happens with  
22 that particular person?

23 ADMINISTRATOR TEMBECKJIAN: Two things  
24 would occur. One is the commission would

1 investigate. Because clearly the failure to  
2 perform the duties of the office is spelled  
3 out in the Constitution as a basis for a  
4 judge to be disciplined. And secondly -- but  
5 this is less often the case, because the  
6 Constitution narrowly limits the authority to  
7 suspend a judge.

8 The Judicial Conduct Commission has no  
9 authority to suspend a judge. Only the Court  
10 of Appeals can suspend a judge, but only in  
11 very, very limited circumstances. So if a  
12 caseload is taken away from a judge for  
13 failure to do the job, the commission would  
14 investigate and potentially discipline,  
15 including the option of removing the judge  
16 from office.

17 But until then, there's no means in  
18 New York to stop the salary of that judge or  
19 to remove that judge from office. We have to  
20 go through the disciplinary process. And as  
21 Senator Hoylman's question pointed out, that  
22 process by law is confidential until there is  
23 a result.

24 CHAIRWOMAN WEINSTEIN: Thank you.



1                   We've been joined by Assemblywoman  
2 Joyner.

3                   I'm going to send it back to the  
4 Senate. I believe there are no further  
5 questions on our side.

6                   CHAIRWOMAN KRUEGER: Thank you very  
7 much, Chair Weinstein.

8                   I just have one final question for  
9 you, Robert. I'm always shocked when I learn  
10 that there are judges in New York State who  
11 never went to law school. Do you think we  
12 need to change this law?

13                   ADMINISTRATOR TEMBECKJIAN: To be  
14 clear, the town and village courts -- which  
15 are not courts of record under the  
16 Constitution -- may be populated by  
17 individuals who are not law trained or are  
18 not admitted to the bar. Of the  
19 approximately 2100 or so town and village  
20 court justices in New York, about 1400 are  
21 not attorneys. And over the years, I think a  
22 statistical analysis of the commission's  
23 public disciplines would reveal that a  
24 significant majority of our public

1 disciplines involve judges who are not  
2 attorneys.

3 The commission has itself purposefully  
4 never taken a position on this subject  
5 because we don't want to be perceived -- or  
6 we don't want our disciplines to be perceived  
7 as having been motivated by a bias or a  
8 predisposition that we shouldn't have  
9 non-lawyer judges in New York.

10 I have a personal view on that subject  
11 which I would be happy to share with you  
12 privately. But institutionally, we've never  
13 taken that position publicly for want of  
14 undermining confidence in the disciplines  
15 that we do impose.

16 And by the way, as our public record I  
17 think would plainly illustrate, there is  
18 almost no behavior for which we have  
19 disciplined a non-lawyer judge for which we  
20 haven't also disciplined lawyer judges.  
21 Lawyer-trained judges as well as  
22 non-lawyer-trained judges can engage in  
23 misconduct. And when they do, we discipline  
24 them without regard to whether or not they

1 hold a law degree.

2 CHAIRWOMAN KRUEGER: Thank you.

3 I mean, I'm not a lawyer. I don't  
4 even think I should get involved in endorsing  
5 judges because I didn't go to law school and  
6 don't have an ability to judge whether  
7 someone's qualified to be a judge or not. It  
8 is always amazing to me that we allow people  
9 who never even had to study the law to be the  
10 judges in our courtrooms. So I know where I  
11 stand on this. So I appreciate your -- if  
12 not showing what your opinion is, your  
13 research result is from your work on the  
14 commission that clearly, statistically, we  
15 end up with far greater problems brought to  
16 your attention by people who sit on -- sit as  
17 judges who were not trained in the law.

18 So thank you very much. And thank you  
19 for your testimony here today and your  
20 continuing good work on behalf of the people  
21 of New York. Because if we can't have faith  
22 in our courts, I don't know where else we can  
23 go. So we need to have faith in our courts,  
24 that and we need to police them correctly.

1           So thank you for your testimony and  
2           your hard work, and we're going to excuse  
3           you.

4           And we're going to invite I think  
5           perhaps as of today our newest officially  
6           confirmed nominee to a commissionership,  
7           Jackie Bray, as the new head of the New York  
8           State Division of Homeland Security and  
9           Emergency Services.

10          Hi, Jackie.

11          DHSES COMMISSIONER BRAY: Hi, good  
12          afternoon.

13          CHAIRWOMAN KRUEGER: So I've been in  
14          this hearing; I don't even know if we got to  
15          the confirmation yet or not.

16          DHSES COMMISSIONER BRAY: Not yet.  
17          Not yet. I'm acting commissioner as of this  
18          hour still.

19          CHAIRWOMAN KRUEGER: Okay. Well, the  
20          rumor is that will be completed as an  
21          assignment later in the day.

22          Welcome to the budget hearing, your  
23          first budget hearing. And please -- you have  
24          10 minutes to give us your testimony.

1 DHSES COMMISSIONER BRAY: Thank you.

2 Well, I want to thank Chair Krueger  
3 and Chair Weinstein and the distinguished  
4 members of the joint committee. My name is  
5 Jackie Bray. I am the acting commissioner of  
6 the Division of Homeland Security and  
7 Emergency Services. It's my honor to share  
8 with you the accomplishments of our agency  
9 and provide an overview of the Executive  
10 Budget as it relates to our mission.

11 Division staff continue to work  
12 tirelessly on COVID-19 response and recovery  
13 efforts while performing their daily  
14 emergency management duties, including  
15 responding to extreme weather, natural  
16 disasters, and providing training to first  
17 responders.

18 The Executive Budget provides  
19 necessary resources for the division to carry  
20 out our mission of enhancing public safety  
21 and to continue pandemic response. The total  
22 agency appropriation in the Executive Budget  
23 is \$4.9 billion, which includes \$32.5 million  
24 in new appropriations. The Executive Budget

1 puts forth additional funding to build a new  
2 Emergency Operations Center, expand the  
3 division's cybersecurity capabilities, and  
4 further improve our State Preparedness  
5 Training Center.

6 The Executive Budget continues last  
7 year's appropriation authority of  
8 \$4.15 billion, which will allow DHSES to  
9 administer federal funding in New York State.  
10 This funding supports COVID-19 response and  
11 recovery efforts, including testing and  
12 vaccination operations as well as other costs  
13 associated with reopening public services  
14 during the pandemic.

15 The division works directly with FEMA  
16 and State, local and nonprofit applicants to  
17 maximize federal funding to recover from  
18 natural disasters and other emergencies,  
19 including COVID-19. This past year there  
20 were two federal Major Disaster Declarations  
21 in New York: Tropical Storm Fred in August,  
22 and Hurricane Ida in September. This  
23 appropriation will also help deliver funding  
24 to New York to rebuild and recover from the

1 impacts of these two storms.

2           Following the devastation of Hurricane  
3 Ida, division staff worked with our federal  
4 and local partners to quickly assess damages,  
5 which ultimately led to the approval of  
6 FEMA's Public Assistance Program for  
7 13 counties. This partnership also resulted  
8 in FEMA authorizing Individual Assistance  
9 programs in New York State for the first time  
10 since Superstorm Sandy. Through the  
11 Individual Assistance Program, over  
12 \$195 million was directly provided to more  
13 than 88,600 New Yorkers to help them recover  
14 and rebuild.

15           The division also worked to secure  
16 federal public assistance for nine counties  
17 impacted by Tropical Storm Fred. While our  
18 request for Individual Assistance was denied,  
19 we continue to fight for Steuben County and  
20 have obtained a Small Business Administration  
21 Disaster Declaration that will provide  
22 low-interest loans to homeowners and  
23 businesses in Steuben.

24           Throughout the pandemic, the division

1 has managed and coordinated efforts to  
2 address the many challenges presented by the  
3 ongoing public health crisis, including  
4 testing and vaccination operations, PPE  
5 storage and distribution, and responding to  
6 local requests for assistance. These are all  
7 coordinated through the State Emergency  
8 Operations Center, which has been  
9 continuously operational since March of 2020.

10 Designed and built during the  
11 Cold War, this underground fallout shelter is  
12 outdated. It has real space and technology  
13 limitations. Governor Hochul's budget puts  
14 forth \$25 million in capital funding for the  
15 development of a modernized Emergency  
16 Operations Center, which will absolutely  
17 enhance the state's preparedness and response  
18 capabilities.

19 Governor Hochul's proposed budget also  
20 seeks to expand the Division's Cyber Incident  
21 Response Team. Since 2018, the CIRT has  
22 assisted local governments, school districts,  
23 and non-Executive agencies through  
24 assessments as well as direct incident



1 response support. In 2021, the CIRT  
2 responded to all requests for assistance,  
3 helping more than 50 local entities. Governor  
4 Hochul's commitment to cybersecurity in the  
5 budget will allow the CIRT to expand  
6 preventative assessments, response  
7 capabilities, and training.

8 The Executive Budget also allocates  
9 \$3 million for additional classroom space,  
10 training space, a new auditorium and  
11 technological upgrades at the SPTC in  
12 Oriskany. Because of the Legislature's  
13 approval and support of prior capital funding  
14 over the last decade, the SPTC has added our  
15 CityScope and our Swift-Water Training  
16 Facilities, some of the most state-of-the-art  
17 facilities across the country. This next  
18 round of upgrades will continue to keep the  
19 SPTC as a national leader in emergency  
20 response training for our state, local and  
21 national partners.

22 It's impossible to address all the  
23 fantastic work of the division during this  
24 testimony, but I appreciate the opportunity

1 to appear before the Senate and the Assembly  
2 today. I look forward to our continued  
3 partnership with the Legislature, and I'll  
4 gladly take any questions you have at this  
5 time.

6 CHAIRWOMAN KRUEGER: Thank you very  
7 much.

8 I'm just looking to see who's raised  
9 their hand, and I don't see any -- oh, good,  
10 a Senator raised their hand. Thank you, Pat  
11 Ritchie, because I wanted to be able to call  
12 on a Senator first.

13 Senator Patricia Ritchie.

14 SENATOR RITCHIE: Thank you,  
15 Chairwoman.

16 I just have a question about something  
17 that happened at the New York State Academy  
18 of Fire Science. We unfortunately had a  
19 young firefighter who was killed there, and  
20 your predecessor had assured us that your  
21 agency would be commissioning an independent  
22 investigation into the incident.

23 I'm just wondering, are you planning  
24 to do that? Do you have financial resources

1 to do that? Or do you have an update, by any  
2 chance, on this issue?

3 DHSES COMMISSIONER BRAY: Absolutely.  
4 Thank you, Senator.

5 In March of 2021 there was a tragedy  
6 that occurred at the State Fire Academy, and  
7 there was a death of a firefighter recruit  
8 during our recruit training program. There  
9 are currently three independent  
10 investigations, one of which has concluded,  
11 the PESH investigation. There are two  
12 additional independent investigations  
13 ongoing, one by the State Police and one by  
14 the CDC NIOSH.

15 I was briefed on this incident, on  
16 this event on my first day on the job. I  
17 directed my team to continue to fully  
18 cooperate with all of the independent  
19 investigations. And as soon as we have the  
20 results of those independent investigations,  
21 I'll be taking appropriate action.

22 SENATOR RITCHIE: Okay, I very much  
23 appreciate this. You know, it's been very  
24 difficult for the family and as time goes on,

1           it's, you know, made it even more difficult  
2           to move on. So I appreciate that, and I'm  
3           glad that you were briefed and you're going  
4           to move ahead, and I'm sure the family will  
5           be glad to hear that also. Thank you.

6                     DHSES COMMISSIONER BRAY: Thank you.

7                     And I should say my sympathies are  
8           absolutely with the Morse family and the  
9           community. And, you know, I -- it's an  
10          unimaginable loss, and my thoughts are with  
11          them.

12                    SENATOR RITCHIE: Thank you very much.

13                    CHAIRWOMAN KRUEGER: Thank you.

14                    And because Assemblywoman Weinstein  
15          had to step away for a few minutes, I'm going  
16          to call on Ranker Ed Ra for a question, or  
17          questions.

18                    ASSEMBLYMAN RA: Great, thank you.

19                    Just really one particular question.  
20          You know, as I'm sure you're aware, you know,  
21          with some of the recent incidents we've seen,  
22          there's a recent federal Department of  
23          Homeland Security and Federal Bureau of  
24          Investigation announcement that faith-based

1 communities have been and will likely be  
2 targets of violence. And I know there's hate  
3 crime grant funding within the DCJS budget,  
4 but I was wondering if within the Department  
5 of Homeland Security if there are any  
6 particular programs or funding in place to  
7 try to prevent these types of incidents and  
8 protect, you know, houses of worship and  
9 other faith-based facilities that could be  
10 targeted.

11 DHSES COMMISSIONER BRAY: Mm-hmm. So  
12 you're absolutely right, the state hate  
13 crimes program moved to DCJS last year, and  
14 it remains in DCJS. That was in an effort to  
15 expand the flexibility that our local  
16 partners needed from that program.

17 At DHSES we continue to administer the  
18 federal grants for the federal hate crimes  
19 program. And in addition, I think we all  
20 need to be clear-eyed about the fact that in  
21 New York State, as is true across the  
22 country, domestic violent extremism,  
23 motivated by antisemitism and white supremacy  
24 primarily, is on the rise and represents one

1 of the great terrorism threats that we face  
2 today.

3 And so this agency administers about  
4 \$250 million worth of Homeland Security  
5 grants, and I think that more and more of  
6 that money over the past couple of years, and  
7 certainly moving forward, will go to make  
8 sure that our local law enforcement is  
9 prepared for these domestic violent  
10 extremists and for the new evolving threat.

11 ASSEMBLYMAN RA: Okay, well, thank you  
12 for that. I know certainly, you know, I've  
13 had local facilities, particularly within the  
14 Jewish faith, reach out looking -- over the  
15 past, you know, really decade, looking for  
16 support for grants and things of that nature.

17 So, you know, definitely a continuing  
18 concern for all of us with these events  
19 unfortunately continuing to happen. So  
20 thank you.

21 DHSES COMMISSIONER BRAY: Thank you.

22 CHAIRWOMAN KRUEGER: Thank you.

23 Senator Tom O'Mara.

24 SENATOR O'MARA: Thank you, Chairwoman

1 Krueger.

2 And Commissioner Bray, thanks for  
3 being with us again.

4 My question is a brief one. And we  
5 have spoken directly on the Tropical Storm  
6 Fred disaster that hit Steuben County back in  
7 August, and the denial of individual  
8 assistance aid by FEMA.

9 I see in the budget, in the Aid to  
10 Localities, there's a \$4 million  
11 appropriation, I believe is the amount. Is  
12 that something that could be utilized by the  
13 state should the Legislature and the Governor  
14 approve providing some individual assistance  
15 aid from the state, since the feds are not  
16 doing that?

17 We have certainly a track record of  
18 past disasters where that type of assistance  
19 has been provided directly by the states, and  
20 I'm just wondering, from your perspective,  
21 where those funds could be found if approved  
22 for that, and where they should be in the  
23 budget, if they're not in there right now,  
24 for something like that.

1                   DHSES COMMISSIONER BRAY: So let me  
2                   say I share your frustration and  
3                   disappointment that the feds didn't approve  
4                   the individual assistance for Steuben and for  
5                   Tropical Storm Fred. I thought they should  
6                   have done that, and I'm very sorry that they  
7                   didn't and frustrated that they didn't.

8                   DHSES does not have an appropriation  
9                   at this time that could support state funding  
10                  to replace that federal funding. It's our  
11                  job at DHSES to maximize the federal dollars  
12                  we can bring in, and I am glad that we got  
13                  public assistance after Tropical Storm Fred,  
14                  and I'm also glad that we got the Small  
15                  Business Administration's low-interest loan  
16                  program for homeowners and small business  
17                  owners. But we don't have an appropriation  
18                  for the type of individual assistance you're  
19                  talking about.

20                  SENATOR O'MARA: Would that not be  
21                  able to come out of that \$4 million  
22                  appropriation that's in the Aid to Localities  
23                  if the Governor chose to utilize it that way,  
24                  or a portion of that?



1           DHSES COMMISSIONER BRAY: I don't  
2 believe it would. That appropriation  
3 specifically is a federal pass-through  
4 appropriation and not designed for state  
5 funding. But I'm happy to continue that  
6 conversation with you.

7           SENATOR O'MARA: Thank you. That's  
8 all I have.

9           DHSES COMMISSIONER BRAY: Thank you.

10          CHAIRWOMAN KRUEGER: Chair Weinstein.

11          CHAIRWOMAN WEINSTEIN: Yes, we go to  
12 Assemblyman Burdick.

13          ASSEMBLYMAN BURDICK: Thank you very  
14 much.

15                 And thank you for your testimony, and  
16 congratulations for your appointment. And I  
17 appreciate your testimony about what your  
18 agency is doing to try to help recover from  
19 natural disasters. And I represent a portion  
20 of Westchester County, which got hit pretty  
21 hard by Hurricane Ida. And the federal  
22 infrastructure bill appropriates a huge  
23 amount of money to FEMA, and I'm wondering  
24 the extent to which some of those monies --



1 state maximize the amount of money that we  
2 have coming out of these infrastructure  
3 bills. This is a little orthogonal to your  
4 question, but there is a pot of about  
5 \$429 million that's going to the National  
6 Water Centers, specifically to increase what  
7 they call hyperspectral -- think of that as  
8 very high resolution -- urban and suburban  
9 area flood mapping for inland rain events,  
10 that should increase our preparedness.

11 So there's I think a number of pots of  
12 money, and we do have our eyes on all of  
13 them.

14 ASSEMBLYMAN BURDICK: And I'm sorry to  
15 cut you off here; I have very little time.

16 Do you expect more money to be  
17 becoming available, and so further as we  
18 proceed in the year into next year, more  
19 funding opportunities to be made available by  
20 your agency? And do you see any of that  
21 being made available to towns and villages,  
22 not just counties?

23 DHSES COMMISSIONER BRAY: Yes. We are  
24 waiting for FEMA to release those

1 opportunities, but we certainly expect them.

2 ASSEMBLYMAN BURDICK: Any idea about  
3 how much, the magnitude?

4 DHSES COMMISSIONER BRAY: I don't have  
5 the magnitude yet for New York State, but I'm  
6 happy to follow up with you as we learn.

7 ASSEMBLYMAN BURDICK: If you could,  
8 that would be wonderful.

9 DHSES COMMISSIONER BRAY: Absolutely.

10 ASSEMBLYMAN BURDICK: I'm working with  
11 a number of my Westchester colleagues on the  
12 issue that I posed to you, so -- thank you  
13 very much for your good work. Appreciate it.

14 DHSES COMMISSIONER BRAY: Thank you.

15 CHAIRWOMAN KRUEGER: Thank you.

16 I don't believe there are any more  
17 Senators, Assemblywoman.

18 CHAIRWOMAN WEINSTEIN: So let us go to  
19 Assemblywoman Rajkumar.

20 ASSEMBLYWOMAN RAJKUMAR: Thank you.

21 And congratulations, Commissioner  
22 Bray, on your appointment.

23 DHSES COMMISSIONER BRAY: Thank you.

24 ASSEMBLYWOMAN RAJKUMAR: In June the

1 New York City Law Department was the victim  
2 of a cyberattack. I'm a senior advisor to  
3 Mayor Eric Adams' transition team, and  
4 interestingly, he stated that while  
5 discussing the transition with Bill de  
6 Blasio, the outgoing mayor told him, "COVID  
7 is a problem, but the real problem we're  
8 facing is cybersecurity."

9           There are approximately, as you know,  
10 2,800 non-executive agencies, local  
11 governments and public authorities, with  
12 which the Department of Homeland Security's  
13 Cyber Incident Response Team is tasked to  
14 provide cybersecurity services. However, a  
15 report from the State Comptroller's office  
16 found that CIRT was reaching only a small  
17 percentage of these entities, had only  
18 offered five sessions on phishing emails,  
19 only conducted 11 risk assessments for  
20 entities from August 2019 through 2020. And  
21 moreover, most of the team's work is by  
22 request instead of proactively evaluating  
23 systems and educating the government  
24 entities.

1           So my question for you is, do you  
2 believe that CIRT has the capability to  
3 support the cybersecurity of 2,800 government  
4 entities? And if not, how can we help and  
5 what additional resources would you need?

6           DHSES COMMISSIONER BRAY: Thank you  
7 for the question.

8           So it's clear that we need far greater  
9 investment in cybersecurity across the board.  
10 That's why I'm so happy that Governor Hochul  
11 has increased our cybersecurity in this  
12 Executive Budget by \$44 million. That  
13 includes additional money for DHSES,  
14 4.5 million additional directly to DHSES  
15 specifically to increase our proactive  
16 security assessments for our non-executive  
17 agencies, our localities, our counties, and  
18 to make sure that we can continue to respond  
19 to any calls we get, the CIRT response to a  
20 hundred percent of the requests for help we  
21 get, and to increase those training programs  
22 that you mentioned, the training sessions  
23 that you mentioned.

24           But critically, it also for the first

1 time appropriates money for shared services  
2 for localities. So that DHSES, working in  
3 partnership with ITS, will be able to offer  
4 localities the type of end-point detection  
5 and incursion detection and protection that  
6 they want, if they choose to opt in.

7 So I agree with you there's more work  
8 to be done, but this budget is a big,  
9 important first step.

10 ASSEMBLYWOMAN RAJKUMAR: Great. Thank  
11 you so much for your good work.

12 DHSES COMMISSIONER BRAY: Thank you.

13 CHAIRWOMAN WEINSTEIN: So we go to  
14 Assemblyman Walczyk, I believe is our final  
15 questioner.

16 ASSEMBLYMAN WALCZYK: Thank you,  
17 Chairwoman.

18 And congratulations on your  
19 appointment, Commissioner.

20 DHSES COMMISSIONER BRAY: Thank you.

21 ASSEMBLYMAN WALCZYK: Sort of  
22 following up on what Senator Ritchie brought  
23 to your attention, I appreciate your  
24 cooperation with any investigation that has

1 to do with Peyton Morse's death, which was  
2 tragic.

3 Were you able to read the PESH report?

4 DHSES COMMISSIONER BRAY: Yes.

5 ASSEMBLYMAN WALCZYK: Any reaction,  
6 sort of as a commissioner who obviously  
7 doesn't want to see this happen to any  
8 recruit under your care ever again? Any  
9 reaction to that report?

10 DHSES COMMISSIONER BRAY: Yeah. So  
11 let me say you're absolutely right. I think  
12 that this is a tragedy and we always want to  
13 take every step we can to increase safety and  
14 to protect anyone that's training at either  
15 of our major training facilities.

16 You know, the PESH report found no  
17 violation of current health and safety  
18 standards, but they did make a handful of  
19 recommendations about how to improve -- how  
20 to help our recruits report any injuries or  
21 illness they might be experiencing and how to  
22 make sure that our Fire Academy meets the  
23 standards that we set for ourselves. And  
24 we're taking those recommendations and



1 working them in as we move forward.

2 So, you know, reading the PESH report  
3 for me was about making sure that I was  
4 taking this incident as seriously as it  
5 deserves to be taken, and that I understood  
6 from an independent perspective what happened  
7 that day.

8 ASSEMBLYMAN WALCZYK: I appreciate  
9 that. And I brought this up with your  
10 predecessor. Have you had the opportunity or  
11 have you taken the opportunity to call the  
12 family?

13 DHSES COMMISSIONER BRAY: The family  
14 reached out to me with -- through a letter.  
15 I have responded to that letter. I  
16 understand the family has retained counsel,  
17 and I want to respect the process that the  
18 family is engaged in. But if they wanted to  
19 talk to me, I would be absolutely happy to  
20 talk to them.

21 ASSEMBLYMAN WALCZYK: I think it might  
22 go a long way.

23 Shifting gears -- and I appreciate the  
24 continued dialogue on that topic -- on

1           January 13th I sent you a letter about  
2           fraudulent testing kits and masks that have  
3           been in circulation in some cases.  When  
4           should I expect a response on that?

5                     DHSES COMMISSIONER BRAY:  Well, sir,  
6           your letter in mid-January was about masks  
7           that were sent out -- we've sent well over  
8           30 million masks out.  In the last month  
9           alone, we've sent over 6 million.  Less than  
10          5 percent of them, when they arrived in the  
11          counties, were found to be counterfeit.  
12          These were masks that were bought in the  
13          spring of 2020 and were reviewed at that time  
14          by the Department of Health.  We have an  
15          ongoing process to bring legal action against  
16          any of the vendors that have provided the  
17          state over the past two years with any  
18          counterfeit goods, and these masks certainly  
19          triggered that.

20                    I will say I believe the ones that you  
21          were holding up in the photo were 3M masks.  
22          That's an incredibly high-quality brand of  
23          mask.  So I wouldn't worry about the masks  
24          that you got.  But I think the reference is

1 to some masks that were sent -- less than  
2 5 percent in the last month. We've gotten  
3 those masks back and have replaced them for  
4 the counties that got them.

5 ASSEMBLYMAN WALCZYK: I see that I'm  
6 out of time.

7 CHAIRWOMAN WEINSTEIN: Thank you.

8 We now have Assemblyman Palmesano to  
9 ask a question.

10 ASSEMBLYMAN PALMESANO: Yes,  
11 Commissioner, thanks for your time. And I  
12 apologize, this is probably repeating a  
13 little bit of what Senator O'Mara asked  
14 earlier -- I wasn't there when he asked --  
15 relative to the FEMA reimbursements to  
16 localities of \$4 billion. And it's my  
17 understanding it's the same level as last  
18 year's. It goes to -- you know, for  
19 disasters that happened, and it's to  
20 reimburse localities.

21 So is this funding available? I mean,  
22 I know maybe it's -- we had terrible flooding  
23 in Steuben County that received a FEMA  
24 disaster declaration, which would be

1           75 percent from the federal government, and  
2           then it's a 12.5 percent state share,  
3           12.5 percent local share.

4                     Isn't this funding available at the  
5           discretion of the administration, working  
6           with your office and the Legislature, to be  
7           able to use this funding, this \$4 billion  
8           that's there to provide to pick up the local  
9           share for those local municipalities? As  
10          there is precedent for, it's been back as far  
11          as Sandy, Lee, Irene, Yates County in 2014,  
12          Lake Ontario flooding.

13                    Isn't this something, if worked out  
14          with the Governor's office and DHSES -- which  
15          you guys have been very helpful, your office  
16          and staff, which we appreciate it. Isn't  
17          there something that can be done to their --  
18          when it talks about reimbursements for  
19          locals, whether it's a pass-through or not,  
20          that can be allocated to provide that  
21          assistance to pick up that local share for  
22          these communities that were affected by  
23          particularly Tropical Storm Fred on  
24          August 18th? I know Ida in New York City was

1 another one.

2 I mean, isn't that -- this funding  
3 available for that purpose that could be  
4 used? Or is there a way to make it work  
5 under those circumstances?

6 DHSES COMMISSIONER BRAY: So the  
7 \$4.15 billion appropriation specific for FEMA  
8 is really only for federal pass-through  
9 dollars. And for Steuben and Fred  
10 specifically, obviously we've got the public  
11 assistance money coming and the Small  
12 Business Administration loans.

13 As I've said to Senator O'Mara and I  
14 will say to you, I want to come out and see  
15 the damage. Let's arrange to do that  
16 quickly. And I understand that there's real  
17 pain there and that people lost property, and  
18 we should continue the conversation. But  
19 that 4.15 billion, that's unfortunately just  
20 for the federal dollars to come to the state.

21 ASSEMBLYMAN PALMESANO: That would be  
22 like putting the -- if that's the -- that  
23 total storm was like \$36 million, that would  
24 be like to cover that 75 percent of local

1 share, the \$27 million, which would be the  
2 federal share, possibly.

3 DHSES COMMISSIONER BRAY: It would  
4 cover that and then the COVID dollars that we  
5 expect to be flowing this coming year.

6 ASSEMBLYMAN PALMESANO: But we would  
7 welcome you to come out to see what happened  
8 there, and it was disastrous.

9 DHSES COMMISSIONER BRAY: Yeah.

10 ASSEMBLYMAN PALMESANO: Jasper-  
11 Troupsburg School was decimated. You see  
12 videos of the flood coming, breaching the  
13 doors. I mean, homeowners and businesses  
14 were decimated.

15 And we've been pushing, and we want to  
16 see the state provide individual assistance  
17 because the federal government failed and did  
18 not provide that individual assistance. And  
19 there's precedent for the state providing  
20 direct grant assistance to individuals and  
21 businesses over the past storms Lee, Irene,  
22 Sandy, Lake Ontario, Yates County flooding.

23 So we want to push on that front too,  
24 because these individuals -- they announced

1 SBA grants. They don't need grants, they  
2 need loans {sic}. And this is an area that  
3 needs that help.

4 So you coming out there would really  
5 send I think a positive message and hopefully  
6 we can make the case to the administration  
7 that they need to provide that direct  
8 assistance, both on picking up the local  
9 share for -- and not just for Steuben County,  
10 other counties -- pick up that local share  
11 for those communities that were decimated and  
12 devastated by this flooding. And also to  
13 provide direct grant assistance to  
14 individuals and businesses who were also  
15 impacted.

16 So we would welcome to have you come  
17 up there to see the devastation of the  
18 schools, see the devastation of those  
19 communities. It's been five months, and they  
20 haven't really received anything yet, and  
21 they -- they need help.

22 Thank you.

23 CHAIRWOMAN WEINSTEIN: Thank you.

24 Thank you. So I do not believe -- at this

1 moment we do not have any further speakers.

2 Thank you, Commissioner Bray, for  
3 being here, and congratulations also on your  
4 appointment.

5 So the Senate?

6 CHAIRWOMAN KRUEGER: Yes, Commissioner  
7 Bray, thank you for being with us today.

8 Of course the Senate Finance Committee  
9 had an opportunity to interview you  
10 extensively yesterday, so I think we didn't  
11 have enough time to come up with more  
12 questions today. And so thank you and good  
13 luck to you. Thank you.

14 DHSES COMMISSIONER BRAY: Thank you.

15 CHAIRWOMAN KRUEGER: All right, the  
16 next testifier will be Rossana Rosado,  
17 New York State DCJS, the new commissioner --  
18 although many of us know her as our previous  
19 Secretary of State.

20 Commissioner, are you here with us?

21 DCJS COMMISSIONER ROSADO: I am. Can  
22 you see me?

23 CHAIRWOMAN KRUEGER: Thank you, yes,  
24 we can now. Welcome. You have up to



1 10 minutes to offer your testimony. We'll be  
2 listening.

3 DCJS COMMISSIONER ROSADO: Thank you.

4 Good afternoon, Chairs Krueger and  
5 Weinstein, legislative fiscal committee  
6 members, and other distinguished members of  
7 the Legislature. I am Rossana Rosado, acting  
8 commissioner of the Division of Criminal  
9 Justice Services. Thank you for the  
10 opportunity to be with you today to discuss  
11 Governor Kathy Hochul's fiscal year '22-'23  
12 budget for DCJS.

13 Before I begin, I would like to take a  
14 moment to share my heartfelt condolences with  
15 the families of the fallen and wounded  
16 officers from this past weekend's tragedy,  
17 and the extended family of the New York City  
18 Police Department. As the Governor  
19 expressed, we are here to fully support our  
20 city partners in any way.

21 While I know many of you from my  
22 previous position as Secretary of State, I  
23 wanted to share a little about myself before  
24 outlining how the Executive Budget expands

1 the critical work of DCJS.

2 I joined the agency eight weeks ago,  
3 after serving as Secretary of State since  
4 2016. I chaired the state's Council on  
5 Community Re-Entry and Reintegration since  
6 2014.

7 I came to state service after a  
8 30-year career in media, including as CEO of  
9 El Diario La Prensa, the nation's oldest and  
10 largest Spanish-language newspaper. As a  
11 journalist, I got to hear and share stories  
12 about society's most vulnerable. Those  
13 experiences shaped my life and inspired me to  
14 earn a master's degree in criminal justice  
15 from John Jay College. I also taught at  
16 John Jay College and in four of New York  
17 State's prisons.

18 Now, this leadership role at DCJS and  
19 the Governor's proposed budget provide a  
20 tremendous opportunity to positively impact  
21 the state's criminal justice system.

22 Later this year, DCJS will mark its  
23 50th anniversary. We have continued to  
24 evolve with the criminal justice system and

1           gained invaluable experience working with  
2           each and every stakeholder. We also have the  
3           knowledge to see where the system has been,  
4           where it is now in a moment of change, and  
5           the vision to help guide it forward. That is  
6           the very mission of DCJS: to enhance public  
7           safety by providing resources and services  
8           that inform decision-making and improve the  
9           quality of the criminal justice system.

10                   The work of talented professionals at  
11           DCJS, often in partnership with state and  
12           local colleagues, has advanced New York  
13           toward a more fair, equitable, and efficient  
14           justice system. New York is the safest large  
15           state in the country and maintains the lowest  
16           rate of incarceration. However, our work is  
17           unfinished. Our statewide progress has not  
18           been shared across all of our neighborhoods.  
19           We know that communities of color are  
20           disproportionately affected by violence.

21                   Just as New York's recovery from the  
22           COVID-19 pandemic has been challenging, so  
23           too have the persistent issues of gun  
24           violence and violent crime. While overall

1 reported crime remains near its statewide  
2 historic low, we have seen a surge of gun  
3 violence within our state and across the  
4 country, in the wake of the pandemic and  
5 social unrest in 2020. Preliminary data from  
6 2021 reveal a continued decrease in overall  
7 crime but a slight increase in violent crime,  
8 indicating that we have not returned to a  
9 pre-pandemic state.

10 While last year's data are still being  
11 finalized, we estimate there will be more  
12 than 800 homicides statewide for the second  
13 consecutive year. This has not happened  
14 since 2008. This trend mirrors the nation,  
15 where homicides increased by 29 percent in  
16 2020 -- the largest one-year increase on  
17 record. Alarming, more than three out of  
18 every four of those homicides involved a  
19 firearm.

20 In response to the continued epidemic  
21 of gun violence in 2021, Governor Hochul  
22 extended a disaster emergency, which  
23 leveraged interagency resources and expedited  
24 funding. This allowed DCJS to administer

1           \$8.3 million to support 129 new positions  
2           within hospitals and community-based  
3           organizations that participate in the SNUG  
4           Street Outreach Program and the New York City  
5           violence interruption network.

6                     The Governor's proposed budget  
7           provides DCJS with an additional  
8           \$100 million. This significant investment  
9           will allow us to provide law enforcement and  
10          communities with resources, programs and  
11          strategies to better address the persistent  
12          problem of crime. This budget also continues  
13          our agency's evidence-based and innovative  
14          practices that have been nationally  
15          recognized, placing New York at the forefront  
16          of public safety in the nation.

17                    To support our law enforcement  
18          partners, DCJS will invest \$18.2 million in  
19          our Gun-Involved Violence Elimination  
20          initiative, known as GIVE, and \$15 million in  
21          our Crime Analysis Center network. These  
22          investments reflect a combined increase of  
23          \$10.7 million and will provide local law  
24          enforcement agencies with resources to solve

1 gun crimes, build community trust and  
2 relationships, and expand an evidence-based  
3 community supervision model.

4 To support our communities, DCJS will  
5 provide \$24.9 million to support street  
6 outreach and violence interruption throughout  
7 New York. This commitment sustains emergency  
8 funding from 2021 and provides an additional  
9 \$6.1 million to add gun violence prevention  
10 specialists within hospitals, expand the SNUG  
11 program to three new cities, provide  
12 wraparound social and employment services,  
13 and recruit and retain outreach workers.

14 The division will also provide  
15 \$20 million for collaborative programs in the  
16 areas hardest hit by gun violence. This  
17 funding will foster new partnerships between  
18 government and community organizations, with  
19 the goal of repairing and rebuilding  
20 neighborhoods by meeting the complex needs of  
21 individuals and families living in those  
22 communities.

23 To support the successful reentry of  
24 justice-involved people, the Governor's

1 proposed budget includes the Clean Slate Act,  
2 which would seal certain criminal history  
3 records after the completion of a sentence,  
4 including any incarceration or supervision  
5 and a defined period of time -- seven years  
6 for a felony, three years for a misdemeanor.

7 The Governor also announced a new  
8 Jails to Jobs initiative, which includes a  
9 plan for DCJS to train Department of  
10 Corrections and Community Supervision parole  
11 officers on a comprehensive employment  
12 curriculum to better support each person's  
13 return home and transition to the workforce.

14 Recognizing that recent pretrial  
15 reforms were implemented without dedicated  
16 resources from the state, this Executive  
17 Budget also provides \$10 million to support  
18 pretrial services outside of New York City.  
19 This funding, paired with the existing  
20 resources, will expand the continuum of these  
21 services, including screening and  
22 assessments, supervision, case management,  
23 and information-sharing with the court  
24 system.

1           Finally, the proposed budget includes  
2 another round of the Securing Communities  
3 Against Hate Crimes grant program within  
4 DCJS, providing up to \$25 million to  
5 safeguard New York's not-for-profit  
6 organizations at risk of hate crimes or  
7 attack.

8           At DCJS, public safety is paramount.  
9 We look forward to building upon our  
10 evidence-based work, strengthening  
11 police-community relationships, and enhancing  
12 the capabilities of our local partners to  
13 reduce crime and save lives.

14           Thank you for your support and time  
15 today. I look forward to answering any  
16 questions you may have.

17           CHAIRWOMAN KRUEGER: Thank you very  
18 much.

19           I don't see a Senate hand yet, so I'm  
20 going to actually start with a couple of my  
21 own questions as chair. So thank you very  
22 much, Commissioner.

23           So you talked about your role as sort  
24 of an agency that tries to pull together the



1 siloes of different criminal justice  
2 agencies. And certainly from New York City,  
3 currently much of the conversation is about  
4 people with mental illness behaving  
5 dangerously in public and ending up being  
6 thrown into Rikers -- perhaps before they do  
7 something heinous, or after, but clearly the  
8 services we intended to provide the people  
9 who suffer from mental illness and act out in  
10 ways that are dangerous to themselves and  
11 others, you know, are inadequate at best.

12 Does your agency have any role or can  
13 it have any role in expansion and improvement  
14 of these programs -- I believe that are  
15 called AOT?

16 DCJS COMMISSIONER ROSADO: Senator, I  
17 don't believe that DCJS has a direct role in  
18 that. I think that is an issue for OMH. I'd  
19 be happy to look into that for you.

20 CHAIRWOMAN KRUEGER: So you don't see  
21 a role for yourself in trying to help figure  
22 out why we simply don't have the right  
23 services or aren't getting them, you know,  
24 through the court system. Because my

1           understanding is that AOT is something that  
2           you might be assigned into when you are  
3           arrested or when you are ready for parole.

4                     DCJS COMMISSIONER ROSADO: I see  
5           ourselves in a role to help everyone in the  
6           criminal justice system figure these things  
7           out. We don't have a direct role right now  
8           when it comes to issues of mental health.  
9           And I'd have to do a deeper dive on that  
10          specific issue in Rikers and the city and in  
11          mental health.

12                    CHAIRWOMAN KRUEGER: Okay, thank you.  
13          I hope you will because I think this issue  
14          is -- it crosses mental health lines, it  
15          crosses criminal justice lines. It's clearly  
16          a major concern for public protection, you  
17          know, I think throughout the state but  
18          certainly in my city at this point in time.

19                    You also talked about, you know, the  
20          research component of the Office of Criminal  
21          Justice. So at one point in time the state  
22          passed a law that required the tracking of  
23          guns and even a database on bullets that was  
24          never actually implemented. Are you familiar

1 with that law, and do you see a role for your  
2 agency at this time in that?

3 DCJS COMMISSIONER ROSADO: I am  
4 familiar with that you're referring to. I  
5 think that is mostly State Police.

6 CHAIRWOMAN KRUEGER: You think it is  
7 State Police. But you do research and  
8 tracking of criminal justice data, is that  
9 correct?

10 DCJS COMMISSIONER ROSADO: That's  
11 correct.

12 CHAIRWOMAN KRUEGER: And do you do any  
13 tracking of gun crimes or guns?

14 DCJS COMMISSIONER ROSADO: Yes. Yes,  
15 we do.

16 CHAIRWOMAN KRUEGER: And what is that  
17 that you do?

18 DCJS COMMISSIONER ROSADO: Well, we do  
19 collect the data and we post that data. We  
20 do that in -- you know, in collaboration with  
21 the individual police agencies. And we use  
22 that data to help both folks on the local  
23 level and at the state level, you know, work  
24 on solutions. And we post it, you know, for

1 the public, we try to track that.

2 CHAIRWOMAN KRUEGER: Okay. So perhaps  
3 my primary question is then for State Police  
4 a little later in the hearing today. All  
5 right, thank you.

6 Assemblywoman Weinstein.

7 CHAIRWOMAN WEINSTEIN: We go to our  
8 chair of Codes, Assemblyman Dinowitz.

9 ASSEMBLYMAN DINOWITZ: Okay, thank you  
10 very much.

11 Good afternoon.

12 DCJS COMMISSIONER ROSADO: Good  
13 afternoon.

14 ASSEMBLYMAN DINOWITZ: One of the  
15 issues which remained unresolved in the last  
16 session dealt with Clean Slate. We had a --  
17 I guess a two-way agreement between the  
18 Assembly and the Senate. Assemblymember Cruz  
19 sponsors the bill in the Assembly.

20 There is a Clean Slate proposal in the  
21 Executive Budget, as you alluded to. But  
22 while both proposals contain the three- and  
23 seven-year waiting periods, under the  
24 legislative proposal those waiting periods

1 would begin to run when a person is released  
2 from custody, but on the Executive proposal  
3 it will begin to run upon the expiration of  
4 the maximum sentence imposed by the court,  
5 regardless of when the person is released  
6 from custody.

7 Those two dates could be very  
8 different dates. There could be years in  
9 between. And I was wondering if you could  
10 comment on that and why that aspect of the  
11 two proposals is so radically different.

12 DCJS COMMISSIONER ROSADO: Well, I can  
13 tell you that we are ready, you know, to  
14 implement Clean Slate as it is passed by the  
15 Legislature. We're ready to implement --  
16 implement whichever one of those -- we are  
17 ready to implement.

18 I think one of our -- not so much a  
19 concern, but we'd like to do it as quickly as  
20 possible, and we believe we're prepared. We  
21 believe in this -- in this. We estimate  
22 there are about 2 million records that we can  
23 seal immediately upon passing that  
24 legislation.

1 ASSEMBLYMAN DINOWITZ: Okay. So let  
2 me just make sure I understand this. If the  
3 Assembly and the Senate pass the bills as is,  
4 let's say, next week, it's your opinion that  
5 that would likely be signed into law then, as  
6 opposed to waiting for the -- with the  
7 proposal in the Executive Budget?

8 DCJS COMMISSIONER ROSADO: I think it  
9 has to be in the Executive Budget in order to  
10 be passed.

11 Upon -- you know, as soon as we have  
12 the green light to implement, we're ready to  
13 seal, and we estimate it will be 2 million  
14 right at the start.

15 ASSEMBLYMAN DINOWITZ: Okay. Well, I  
16 mean --

17 DCJS COMMISSIONER ROSADO: We have the  
18 ability to do that rather quickly.

19 ASSEMBLYMAN DINOWITZ: Right. I mean  
20 certainly there may be costs attached, but I  
21 think some of us believe as a general rule  
22 that major policy decisions such as this  
23 would be best done not in the budget.

24 But in either case, I'm glad to hear

1           that there's room for discussion in terms of  
2           the specifics of the proposal as we just  
3           discussed.

4                     DCJS COMMISSIONER ROSADO:  Yes, I'm  
5           saware that those conversations are happening  
6           right now.

7                     ASSEMBLYMAN DINOWITZ:  So the  
8           legislative proposal also contained an  
9           exception that would allow access to sealed  
10          records of convictions for entities required  
11          under state and/or federal law to request  
12          criminal history background information such  
13          as public schools, childcare facilities,  
14          adult care facilities and nursing homes.

15                    But in the Executive Budget proposal,  
16          that piece is not included.  Do you have any  
17          explanation for that?

18                    DCJS COMMISSIONER ROSADO:  I  
19          understand that we are working on that right  
20          now with the Legislature in sorting that out.

21                    ASSEMBLYMAN DINOWITZ:  Okay.  There's  
22          another -- there's another significant  
23          difference between the two proposals.  The  
24          legislation -- the legislative proposal, that

1 is, provides for private right of action for  
2 people who are aggrieved by violations of the  
3 sealing statutes, and it makes it a  
4 discriminatory act under the Executive Law  
5 for employers to inquire or base employment  
6 decisions upon sealed convictions.

7 Now, the proposal in the Executive  
8 Budget doesn't get into that at all.  
9 Comments?

10 DCJS COMMISSIONER ROSADO: I don't  
11 really have a comment on that directly.

12 As I said, we remain poised to  
13 implement what is passed, you know, both in  
14 the budget and through the Legislature. We  
15 have the ability to seal those records, and  
16 we take that responsibility very seriously.  
17 I think it's a positive move.

18 ASSEMBLYMAN DINOWITZ: I know this is  
19 not common for legislators to do, but I'm not  
20 going to use up all my time. So thank you  
21 very much.

22 DCJS COMMISSIONER ROSADO: Thank you.

23 CHAIRWOMAN KRUEGER: Well done,  
24 Mr. Chair.



1                   CHAIRWOMAN WEINSTEIN: Okay, back to  
2 the Senate.

3                   CHAIRWOMAN KRUEGER: Thank you.

4                   Chair of Codes, Jamaal Bailey.

5                   SENATOR BAILEY: Thank you, Madam  
6 Chair.

7                   And thank you, Chair Dinowitz, for  
8 ceding me your additional five minutes in  
9 time. I truly appreciate it.

10                   (Laughter.)

11                   SENATOR BAILEY: Commissioner, good to  
12 see you. Thank you for the work that you've  
13 done throughout your career.

14                   Briefly on Clean Slate, which in the  
15 Senate is carried by Senator Zellnor Myrie.  
16 You mentioned the number of people that would  
17 be affected -- did you say roughly 2 million  
18 people would be affected?

19                   DCJS COMMISSIONER ROSADO: Correct.

20                   SENATOR BAILEY: And the amount of  
21 time that it would take to seal these  
22 records, it would take approximately how  
23 long?

24                   DCJS COMMISSIONER ROSADO: About a

1 year and a half.

2 SENATOR BAILEY: About a year and a  
3 half. And the additional resources required  
4 to do so? Just want to make sure we're  
5 continuing to take up the req.

6 DCJS COMMISSIONER ROSADO: We're  
7 working with OCA and the Legislature to, you  
8 know, come up with the cost.

9 SENATOR BAILEY: Okay. I would just  
10 like to figure that out, because again, you  
11 know, I go on record as a proponent of the  
12 legislation. I think that being able to  
13 provide individuals with economic justice and  
14 the ability to sustain themselves  
15 economically is the best prevention method in  
16 terms of justice involvement.

17 And I think you sort of alluded to it  
18 in your opening remarks, but I don't want to  
19 put words into your mouth.

20 DCJS COMMISSIONER ROSADO: Oh, I agree  
21 that it's a positive thing to say, and I  
22 think it's our responsibility to do it in the  
23 most efficient way possible so that someone  
24 is -- you know, we're affecting people's

1           livelihood. And if they can have a clean  
2           slate, we should deliver that.

3                     SENATOR BAILEY: Certainly.

4                     I want to talk about gun violence,  
5           because I think some of my colleagues will  
6           touch on the -- the sponsors will touch on  
7           the Clean Slate bill in a little bit.

8                     Gun violence -- you mentioned in your  
9           opening remarks that this was a problem  
10          that's not just happening in New York State,  
11          it's happening across the country. And you  
12          mentioned that you have a background in  
13          criminal justice. Is there any data that  
14          shows us what this spike is being caused by  
15          nationwide?

16                    DCJS COMMISSIONER ROSADO: Senator, as  
17          you know, communities across the country,  
18          including those in New York State,  
19          experienced increases in gun violence over  
20          the past two years -- 2020, 2021. The  
21          researchers, academics, pundits and everyone  
22          will debate the causes.

23                    There is a complex confluence of  
24          factors that occurred in 2020 and throughout

1 the pandemic that shouldn't be discounted.  
2 It may not be the cause, but it cannot be  
3 discounted. Right? Unemployment, we had  
4 closure of schools and other essential  
5 programs, we had isolation from family and  
6 friends and support systems, we had  
7 disruptions within the criminal justice  
8 system itself. And obviously we had social  
9 unrest and anti-police sentiment in  
10 communities.

11 As I mentioned in my testimony, the  
12 Governor's proposed budget for DCJS includes  
13 an additional \$100 million, and most of that  
14 funding is dedicated to reduce gun violence  
15 by scaling our existing programs that have  
16 been -- you know, they're tried and true, and  
17 establishing new ones to address the complex  
18 causes of violent crime and meet the needs of  
19 the victims.

20 In 2019, New York State reported  
21 304 firearm-related homicides, the  
22 second-lowest number during the most recent  
23 10-year period. Only 2017 had fewer, at 296.  
24 I don't know if you want to hear all these

1 numbers, but -- in addition, shooting  
2 incidents involving injury and the number of  
3 shooting victims reported by police  
4 departments in communities with these  
5 programs declined annually from 2016 to 2019,  
6 when both reached 10-year lows.

7 New York uses programs like GIVE and  
8 SNUG, applying evidence-based strategies and  
9 proven practices. And the state has been  
10 recognized nationally as a leader for its  
11 comprehensive statewide investment to reduce  
12 gun violence.

13 In GIVE, we work with the folks in the  
14 law enforcement community, you know, we bring  
15 them all to the table and we work on not just  
16 solving crimes, solving them quickly, but  
17 also, you know, identifying all the crimes  
18 that involve guns.

19 And in SNUG we work with street  
20 outreach teams and folks in the community at  
21 the very grassroots level in trying to  
22 prevent the use of guns.

23 SENATOR BAILEY: So in sum and  
24 substance, based upon what you created as --

1 would it be fair to say that there is no one  
2 particular causation factor that we could  
3 attribute to the rising gun violence? Would  
4 that be a fair statement?

5 DCJS COMMISSIONER ROSADO: That's a  
6 fair statement. None of the experts here in  
7 the city or across the country have been able  
8 to point to -- you know, to prove that it's  
9 one thing.

10 SENATOR BAILEY: Certainly. So let me  
11 first -- and I was hasty to begin my  
12 question, but let me also echo your  
13 sentiments in giving my condolences to the  
14 families of the officers who were taken from  
15 us far too soon with this scourge of gun  
16 violence.

17 But I wanted to ask you about the SNUG  
18 programs. I'm a long-time proponent of them.  
19 The expansion, you mentioned expanding to  
20 three new cities. When we're expanding these  
21 programs, are we looking -- is this money  
22 that's in the budget going to be able to  
23 expand the catchment area of existing  
24 programs? Because in one of the recent -- in

1           one of the unfortunate incidents in my  
2           borough, in the City of New York, there is a  
3           Credible Messenger group that stops just a  
4           couple of blocks away from where that took  
5           place.

6                     Are we going to be able to get funding  
7           to expand it? And quite frankly, are we  
8           going to be able to get that money out the  
9           door, as it were, yesterday in order to be  
10          able to effectuate that sort of change?

11                    DCJS COMMISSIONER ROSADO: Yes. The  
12          answer is yes. The short answer is yes. We  
13          work with the data. You know, we follow the  
14          data based on the communities where we  
15          already are, and we use the data to determine  
16          the new communities where we're going. But  
17          the answer is yes.

18                    And -- I'm sorry, I forgot the last  
19          part of your question. But we are able to  
20          get the money out of the door because these  
21          are programs that already exist. And so, you  
22          know, we know how to do it. I mean,  
23          obviously we have, you know, procurement  
24          processes and things to follow. But we

1 consider this -- I mean, under the leadership  
2 of Governor Hochul, this is an emergency.

3 SENATOR BAILEY: And I certainly  
4 appreciate that. The exigent circumstances  
5 that we're in, I would hope that we could  
6 figure out a much more streamlined way to get  
7 this money out the door, because as you well  
8 know, with these Cure Violence programs, it  
9 is not merely just about sending these  
10 Credible Messengers into the street, it is  
11 often removing these individuals from the  
12 neighborhoods, taking them somewhere to do  
13 something as simple as taking them bowling or  
14 getting something to eat, away from the areas  
15 in which these traumatic incidences are  
16 taking place.

17 So our Credible Messengers need to be  
18 able to get this funding, and they need it  
19 sooner rather than later because the cost  
20 fluctuates. I just want to make sure that  
21 we're trying to get it out the door as soon  
22 as possible because we are in the midst of an  
23 incredibly important crisis.

24 I would ask another question in



1 relation to the capital funding. There are  
2 some buses that -- Erica Ford and LIFE Camp,  
3 they have these buses that go around. Would  
4 this funding be able to utilize some of these  
5 mobile trauma centers in order to -- would  
6 this be able to be purchased or procure some  
7 of those centers as well?

8 DCJS COMMISSIONER ROSADO: Yes.  
9 Again, the short answer is yes. We have a  
10 \$50 million budget for that, for capital.

11 And so we're working with the folks we  
12 already work with, with Erica Ford and other  
13 folks on the ground, and so we are -- and  
14 they have tons of ideas on how to put this  
15 money to work, and we intend to do that.

16 SENATOR BAILEY: Certainly. And  
17 again, Erica Ford is just one of the many  
18 great folks doing this incredible work.

19 I would ask, I guess the last couple  
20 of minutes of my questions would be related  
21 to the bail reform conversation that began  
22 with Judge Marks in terms of the data. He  
23 mentioned that DCJS would be able to further  
24 illuminate us on some of the data as related

1 to bail eligible or not eligible. What  
2 information would you have to be able to  
3 further illuminate that point?

4 DCJS COMMISSIONER ROSADO: Okay.  
5 Well, you know bail takes more than a few  
6 minutes, Senator.

7 But I'll start with one of the main  
8 arguments for reforming cash bail was to make  
9 pretrial release decisions more equitable and  
10 remove the perverse connection between  
11 financial means and freedom. Whether or not  
12 a person was detained or released from  
13 pretrial was associated with, you know, an  
14 increased likelihood of conviction and  
15 sentences to incarceration. We went through  
16 all this several years ago, right?

17 Given that important fact, an  
18 evaluation of bail would have to include  
19 pretrial release decisions and court  
20 appearances, both of which are available, and  
21 court case outcomes, which are not yet  
22 available. And so our position is that we  
23 need to have -- you know, wait till that  
24 information is available to make what I think

1 someone referred to earlier, in very  
2 scientific language, as an apples-to-apples  
3 comparison. Right?

4 A review of pretrial data shows that  
5 48 percent of New York City arraignments in  
6 2020 for violent felony offenses was still  
7 pending as of September 2021, and 42 percent  
8 was still pending outside of New York City.

9 To evaluate the impact of bail reforms  
10 on appearances rates and racial equity in  
11 release decisions and final case outcomes,  
12 many more of these cases would need to be  
13 disposed. We continue to work with the  
14 researchers to best understand the dynamics  
15 of pretrial reform implementation and its  
16 impact on the criminal justice system and  
17 New Yorkers.

18 And you will recall, or you may recall  
19 that in this year's budget, the Governor  
20 added money -- 20 million? -- 10 million for  
21 the pretrial services outside of New York  
22 City to address those concerns.

23 SENATOR BAILEY: Certainly. And I  
24 guess that leads me to my final question, at

1           least for now. Like that \$10 million for  
2           discovery reform, right -- I guess that's  
3           primarily going to be utilized for it -- how  
4           is it going to be utilized? Do you have a  
5           breakdown for it, or is it going to be based  
6           upon what the county's specific need would  
7           be?

8                     DCJS COMMISSIONER ROSADO: Yeah, it  
9           will be based on what the specific needs of  
10          the counties are, but that has not been  
11          worked out yet.

12                    SENATOR BAILEY: Okay. Perfect  
13          timing. Thank you, Commissioner, for your  
14          indulgence.

15                    DCJS COMMISSIONER ROSADO: Thank you.

16                    SENATOR BAILEY: Thank you, Madam  
17          Chair.

18                    CHAIRWOMAN KRUEGER: Thank you.  
19          Assemblymember Weinstein.

20                    CHAIRWOMAN WEINSTEIN: We go to  
21          Assemblyman Ra, Ways and Means ranker, for  
22          five minutes.

23                    ASSEMBLYMAN RA: Thank you, Chair.

24                    Good afternoon, Commissioner. Good to

1 see you again in your new role.

2 Just continuing on the conversation  
3 you were just having with Senator Bailey with  
4 regard to bail reform and some of the data.  
5 And I think that's I guess an important point  
6 as we go forward and have more -- right, as  
7 this is beginning to affect more and more, we  
8 have more data. But certainly if you don't  
9 have a full conclusion of a case, you know,  
10 so that makes -- you can't fully evaluate  
11 that individual matter.

12 I was just wondering if you could just  
13 clarify -- you know, there was this whole  
14 issue -- obviously you have to work in  
15 conjunction with OCA regarding this data.  
16 There was, you know, the data that had been  
17 put up and then taken down and then re-put  
18 up. Exactly what happened there? And, you  
19 know, for the public, why we should be  
20 confident that, going forward, the data will  
21 be properly compiled.

22 DCJS COMMISSIONER ROSADO: Sure. You  
23 should be confident because when we see that  
24 there's something wrong, you know, we deal

1 with it immediately.

2 There was nothing wrong with the data  
3 per se. It's just that the data that was  
4 posted included some post -- post-trial  
5 information that should not have been  
6 included. Because in order to measure the  
7 effectiveness of the bail reform as it was  
8 passed, you need the apples-to-apples  
9 comparison, which is the pretrial to  
10 pretrial.

11 Our researchers at DCJS noticed that  
12 and decided to repost, you know, with the  
13 right information.

14 ASSEMBLYMAN RA: Okay. And so  
15 according to the data that you do have, in  
16 terms of kind of an apple-to-apple comparison  
17 do you have numbers on, you know, what you've  
18 seen in terms of rearrests and then what, you  
19 know, they were for, whether they were  
20 violent felonies or weapons charges?

21 DCJS COMMISSIONER ROSADO: Sure. But  
22 I'll start by repeating, you know, what I  
23 said earlier, that we don't feel that  
24 there -- we don't have enough numbers to

1           have, you know, the -- to reach -- to have a  
2           complete picture, I should say.

3                     The public perception of bail reform  
4           is that it has increased violent crime and  
5           made us less safe. But in fact the  
6           preliminary data is far from a complete  
7           picture.

8                     As required by law, DCJS collaborated  
9           with OCA to publish the data on pretrial  
10          release and detention, and that data is  
11          available on our website as well as OCA's  
12          website. However, the data does not include  
13          roughly half of the arraignments outside of  
14          New York City that are current town and  
15          village courts, nor does it include  
16          Superior Court arraignments.

17                    So OCA will begin to collect that  
18          information over the coming year. And again,  
19          when the data comes to us, it comes to us  
20          through OCA.

21                    Furthermore, given the ongoing impact  
22          of the pandemic, there has been a fundamental  
23          disruption to the criminal justice system,  
24          and I think the judge spoke about that

1 earlier. The time from arrest to arraignment  
2 has increased, and so has the time from  
3 arraignment to disposition. We also see that  
4 more than a third of all cases from the most  
5 recent data are still pending. All of that  
6 makes comparing the current system to the  
7 pre-COVID one an exercise in comparing apples  
8 to oranges.

9 We are working with the best minds in  
10 the state to continue to review the  
11 information we and OCA have to -- you know,  
12 what we have access to.

13 So I just want to run through the  
14 numbers that we do have in terms of the  
15 number of arrests. From June 2019 to June  
16 2021, the number of arrests dropped  
17 36 percent in New York City, and 28 percent  
18 in the rest of the state. And I'm happy to  
19 take any of you on a deep dive of these  
20 numbers, you know, in the coming days if  
21 you're interested.

22 Arraignments. From June 2019 to June  
23 2021, the number of arraignments fell  
24 38 percent in New York City and 29 percent in



1 the rest of the state. Notably, the types of  
2 arraignments shifted. Proportionally, there  
3 were fewer misdemeanors and more violent  
4 felony charges.

5 In terms of releases, from January  
6 2020 to June 2021, 87 percent of people were  
7 released at arraignment in New York City, and  
8 81 percent in the rest of the state.

9 In terms of the pretrial jail  
10 population, from September 2019 to December  
11 2021, the average number of people detained  
12 in New York City's jails dropped 25 percent,  
13 25 percent being like 1,726 -- in New York  
14 City -- and 24 percent, which is about a  
15 total of 3,000, in the rest of the state.

16 And then rearrests after release. For  
17 a limited analysis of 2020 arraignments where  
18 defendants were released, first, most  
19 individuals released after arraignment,  
20 72 percent in 2020, were not rearrested while  
21 their case was pending. Secondly, of those  
22 who were released and rearrested, most were  
23 rearrested for nonviolent felonies and  
24 misdemeanors. Third, rearrests for firearm

1 charges occurred the least often -- only  
2 1 percent of all of those who were released.

3 Does that give you a picture? I mean,  
4 I have --

5 ASSEMBLYMAN RA: All right, so you  
6 said just in terms of misdemeanors, what was  
7 that percentage of those rearrested?

8 DCJS COMMISSIONER ROSADO: So of those  
9 who were released and rearrested, most were  
10 rearrested for nonviolent felonies. That's  
11 12 percent. And misdemeanors was 10 percent.

12 So to translate that, the 12 percent  
13 is 12,542 of 108,552, to be precise. And the  
14 misdemeanors, 10 percent, which is 10,561 of  
15 108,552.

16 ASSEMBLYMAN RA: Great. Thank you  
17 very much.

18 CHAIRWOMAN WEINSTEIN: The Senate?

19 CHAIRWOMAN KRUEGER: Thank you.

20 Senator Diane Savino.

21 SENATOR SAVINO: Thank you, Senator  
22 Krueger.

23 Good afternoon, Commissioner.

24 I'm not sure if people saw the news

1           that the police commissioner just announced  
2           the second police officer passed away just a  
3           few minutes ago. So we might want to take a  
4           moment of silence for him. It's a bad week  
5           for all of us.

6                     But I want to thank you for providing  
7           your testimony. And I want to just focus --  
8           because I only have three minutes, I just  
9           want to focus on a couple of things. I know  
10          many people will continue on the discussion  
11          of the statistics on bail reform. I just  
12          want to direct you to the issue of the SNUG  
13          program, which I'm glad we're continuing.  
14          The SNUG program was born in the New York  
15          State Senate, in fact in the Senate  
16          Democratic Conference. It was an idea that  
17          was the brainchild of the current mayor of  
18          the City of New York, Eric Adams, when he was  
19          a member of the Senate.

20                    But as we move forward and put money  
21          out there, not all of the SNUG programs work  
22          as well, and so I would hope that we actually  
23          invest in the ones that are working, the ones  
24          that have an anti-violence collaborative

1 approach, that they bring in the local  
2 precinct, local social services, healthcare  
3 providers. I have one in Coney Island, it is  
4 amazing, and you can see the effects of it.  
5 It has driven down gun violence tremendously  
6 and also worked on other issues.

7 They have a saying that in social  
8 work -- it's very simple: Hurt people hurt  
9 people. And so you need a collaborative  
10 approach. So hopefully we'll put money where  
11 it works.

12 On the issue of pretrial detention, I  
13 just have a simple question. Why -- it's  
14 \$10 million, it's not a lot of money. But  
15 why is it only going to areas outside of  
16 New York City, which as we know, New York  
17 City is more than 50 percent of the  
18 population, and a significant number of the  
19 cases are in the five boroughs.

20 So if there's a reason that that makes  
21 sense, it's just not evident to me. I'm  
22 hoping you can explain it to me. Why aren't  
23 we helping with discovery and pretrial  
24 services in the five boroughs of the City of

1 New York?

2 DCJS COMMISSIONER ROSADO: It's -- we  
3 already fund in New York City, I think it's  
4 about \$30 million. And so, you know,  
5 New York City is already covered in that  
6 sense.

7 SENATOR SAVINO: Okay. See, that was  
8 simple. Thank you.

9 (Laughter.)

10 DCJS COMMISSIONER ROSADO: And I just  
11 want to say, you know, you mentioned the  
12 second officer. Really, you know, it's --

13 SENATOR SAVINO: It's heartbreaking.

14 DCJS COMMISSIONER ROSADO: It's really  
15 heartbreaking because, you know, these kids  
16 are the same age as, you know, my children --  
17 my daughter's 27, my son is 30, so -- and  
18 they're the same age as the students I taught  
19 at John Jay College, you know, at least a  
20 dozen of whom are in the -- you know, have  
21 gone through the academy and are in the  
22 police force.

23 So I think it's appropriate that we  
24 take time -- that we take time to mourn them,

1           you know, to honor them, and then to work  
2           together, you know, to find solutions.

3                     SENATOR SAVINO: Absolutely. Thank  
4           you.

5                     CHAIRWOMAN KRUEGER: Thank you very  
6           much.

7                     Assemblywoman.

8                     CHAIRWOMAN WEINSTEIN: We go to  
9           Assemblyman Weprin, three minutes.

10                    ASSEMBLYMAN WEPRIN: Thank you, Madam  
11           Chair.

12                    Thank you, Commissioner Rosado. I'm  
13           very excited about your new appointment --

14                    DCJS COMMISSIONER ROSADO: Thank you.

15                    ASSEMBLYMAN WEPRIN: -- and working  
16           with you. This is now my seventh year, going  
17           into my seventh year as chair of the  
18           Corrections Committee, and we've spent a lot  
19           of time together at various facilities with  
20           educational programs, seminars and what have  
21           you.

22                    So I've had a bill for educational  
23           release in correctional facilities for a  
24           number of years, and one of the oppositions

1 to it was not having TAP available to  
2 incarcerated individuals. The Governor, of  
3 course, has proposed in her budget that that  
4 change. And that goes back to an old Pataki  
5 law.

6 So I'm looking forward to working with  
7 you on some of these educational programs. I  
8 don't know how much you know about the  
9 proposal on the educational release and  
10 furlough for those eligible, but if you could  
11 maybe talk a little bit about it. And I look  
12 forward to working with you on that  
13 expansion.

14 DCJS COMMISSIONER ROSADO: Thank you,  
15 Assemblyman. And yes, you and I have visited  
16 many of those facilities together and seen  
17 evidence of the value of the educational  
18 programs. We've seen them graduate, and  
19 we've actually seen them come home as well.

20 The work release program, which I had  
21 been involved with when we were on the  
22 reentry council in talking about it, you  
23 know, and kind of including it, you know, on  
24 a list of things every year, is really

1 something you should talk to Commissioner  
2 Annucci about, something he's passionate  
3 about, and he would have the details.

4 We do not have a direct role. DCJS  
5 does not have a direct role. Except, you  
6 know, I would love the opportunity,  
7 regardless of what agency I'm in, I'd always  
8 love an opportunity to go and visit and to  
9 help in any way possible people coming home  
10 from prison, you know, find employment and  
11 get those opportunities.

12 ASSEMBLYMAN WEPRIN: Well, I look  
13 forward to visiting other facilities with  
14 you, hopefully when COVID dies down a little  
15 bit. We thought it was over, but obviously  
16 now, you know, it's come back a little bit.  
17 But hopefully the worst is behind us.

18 DCJS COMMISSIONER ROSADO: Agreed.  
19 Thank you so much.

20 CHAIRWOMAN KRUEGER: Thank you.

21 Our next testifier is -- excuse me,  
22 our next questioner is Senator Sepúlveda,  
23 three minutes.

24 DCJS COMMISSIONER ROSADO: Hi,



1 Senator.

2 SENATOR SEPÚLVEDA: Thank you. {In  
3 Spanish.}

4 DCJS COMMISSIONER ROSADO: Gracias.

5 SENATOR SEPÚLVEDA: So I just read an  
6 article -- I can't remember what paper it was  
7 in, I'm having senior moments. But they  
8 indicated that if you look at Texas and  
9 New York, Texas is the easiest state to get a  
10 gun. New York is one of the most difficult.  
11 However, if you look gun violence involved in  
12 Texas, something like 75 to 80 percent of the  
13 guns were purchased in Texas. And something  
14 like less than 10 percent of the gun violence  
15 in New York were guns that were purchased or  
16 manufactured in New York.

17 Now, why do I mention this? There is  
18 a case before the Supreme Court, the New York  
19 Rifle and Pistol Association vs. Bruen, which  
20 I believe if the Supreme Court rules the way  
21 I believe they're going to rule, it's going  
22 to be a disaster for New York State. I  
23 believe you're going to see more guns sold.

24 Unfortunately, where you have an

1 explosion of guns as you had during the  
2 pandemic -- we had an article by The Atlantic  
3 that said that they believe that one of the  
4 causes and one of the main causes of gun  
5 violence in the country, it's the explosion  
6 of gun -- purchasings of guns in the country.  
7 And I know there's a segment in our society  
8 that just refuses to have that discussion,  
9 that the main reason why we have so much gun  
10 violence now is because there are more guns  
11 in circulation, especially here in New York.

12 With what I believe is the impending  
13 decision that's coming, what is the State of  
14 New York going to do to fight back against  
15 what I believe is going to a massive amount  
16 of more sales of guns into our communities  
17 and our communities of color where we don't  
18 produce guns, we don't make them, we don't  
19 sell them, we buy them many times illegally.  
20 But what preparation do you have to combat  
21 this potential crisis?

22 DCJS COMMISSIONER ROSADO: Well,  
23 Senator, I can tell you that we use our crime  
24 analysis centers that are funded through DCJS

1 to keep track of guns and to stop them from  
2 coming into the state.

3 I understand the Governor is having a  
4 major gun discussion tomorrow, right here in  
5 the area, and bringing everyone to the point  
6 that that effort is being led by State  
7 Police. But we are all in this space -- you  
8 know, those of us in the criminal justice  
9 space are all greatly concerned and newly  
10 motivated to get these guns off the street.

11 SENATOR SEPÚLVEDA: Well, I'd like to  
12 see hopefully what kind of a plan of action  
13 your agency has, the New York State Police  
14 has, because if we're not ready on Day 1, I  
15 believe we're going to see even more gun  
16 violence, we're going to have more tragedies  
17 like, you know, the deaths we had of our  
18 police officers.

19 I'm not going to talk about bail  
20 reform because many of my colleagues have  
21 asked you the questions. I just hope that  
22 the Governor doesn't fall prey to the massive  
23 amount of fearmongering and misinformation  
24 that's out there in the media and other

1 sources, because it's just not accurate.

2 Thank you.

3 DCJS COMMISSIONER ROSADO: Thank you.

4 CHAIRWOMAN KRUEGER: Thank you.

5 I've been asked to pinch-hit for  
6 Chair Weinstein while someone fixes her Zoom,  
7 so Assemblymember Mike Reilly, you're up.

8 ASSEMBLYMAN REILLY: Thank you,  
9 Madam Chair.

10 Thank you, Commissioner, for joining  
11 us today.

12 You know, I'm a little shaken up. I  
13 mean, losing the -- Officer Mora now, as a  
14 retired member of the NYPD, you know, you  
15 never lose that brotherhood and sisterhood.  
16 So thank you, Senator Savino, for asking  
17 everybody to take a moment of silence. We  
18 all will.

19 So I have a couple of questions, just  
20 on Raise the Age. The firearms portion of  
21 Raise the Age at 16 and 17 years old, where  
22 just the mere possession goes to Family  
23 Court, it's not eligible to go to Youth Part  
24 Criminal Court -- do you have the numbers on

1           how many arrests there were for 16 and 17  
2           year olds, or under 18 with loaded firearms?

3                     DCJS COMMISSIONER ROSADO:  Senator  
4           {sic}, I'm going to have to get back to you  
5           on -- is he a Senator or Assembly?

6                     ASSEMBLYMAN REILLY:  That's all right,  
7           I'm not -- you can -- just don't call me  
8           late.

9                     (Laughter.)

10                    DCJS COMMISSIONER ROSADO:  I'm going  
11           to have to get back to you on that.  I do not  
12           have that data -- I'm sure the agency has it,  
13           but I don't have it in front of me broken  
14           out.  And I can turn that around for you  
15           pretty quickly.

16                    ASSEMBLYMAN REILLY:  So just -- I have  
17           some data from New York City, and I'm  
18           thinking that, you know, there's a carveout  
19           there that we can help in Raise the Age where  
20           we can have loaded firearms as one of the  
21           extraordinary circumstances that could remain  
22           in Youth Part.

23                    Over the last two years, 2020 and  
24           2021, 947 people under 18 were arrested for a

1 firearm. In 2020 there were 411, and in 2021  
2 there were 536. Now, we see the uptick --  
3 yes, I know there's a whole bunch of issues  
4 that could be responsible for it. But I  
5 think one of the key issues that we have to  
6 look at is the street violence with gangs.  
7 They know that those under 18 are not going  
8 to be held criminally responsible,  
9 potentially, for holding a firearm for those  
10 older gang members.

11 And I think this is a loophole in  
12 there that's actually endangering us, you  
13 know, endangering public safety. And of  
14 course we want to make sure that we have the  
15 resources in there -- not necessarily to --  
16 you know, it is to hold them accountable, but  
17 we also want to stop them from repeating it.  
18 And unfortunately we saw in the Bronx that  
19 the officer who was shot was shot by a  
20 defendant who was convicted in  
21 Family Court -- or I should say, right, it  
22 was not convicted, because it's not convicted  
23 in Family Court, but they took a plea deal  
24 for the firearm but now committed another

1 firearm case and now the officer was shot.

2 So I think these are the things that  
3 we could use to stop recidivism. And I'm  
4 hoping that we can get changes. What's your  
5 thoughts on that?

6 DCJS COMMISSIONER ROSADO: Well,  
7 Senator {sic}, we're looking at these issues  
8 now. And as I mentioned, the Governor is  
9 holding a big conversation about guns  
10 tomorrow. I'm aware that the Mayor proposed  
11 some things yesterday. I've been preparing  
12 for this, and I haven't seen his plan.

13 I would just say, on Raise the Age,  
14 that -- that Raise the Age, you know,  
15 dramatically changed how New York State's  
16 justice system processes cases involving kids  
17 who are 16 and 17. The goal of Raise the  
18 Age, to keep those kids out of adult  
19 prisons -- and we're doing that. Raise the  
20 Age is doing what it set out to do.

21 But as with, you know, Raise the Age  
22 and bail and all of these other initiatives,  
23 they came about and they were passed by the  
24 Legislature to solve problems of the past. I

1 don't think anybody believes that they're  
2 perfect solutions, but we remain open, you  
3 know, to all the conversations. We're in  
4 touch with, as I said earlier, through the  
5 CACs we're in touch with folks on the ground  
6 trying to solve crimes. We're in touch,  
7 through SNUG, with folks at the community --  
8 and you're right, you know, we're in touch  
9 with the folks who are working with the gangs  
10 to prevent these things from happening.

11 So I think we all have to be --  
12 collectively we all have to be open to, you  
13 know, new conversations.

14 ASSEMBLYMAN REILLY: Thank you.

15 CHAIRWOMAN KRUEGER: Thank you.

16 Next is Senator Gounardes.

17 SENATOR GOUNARDES: Thank you,  
18 Senator Krueger.

19 Hello, Commissioner. Really  
20 appreciate your dialogue on a lot of these  
21 issues today.

22 I want to focus a little bit on hate  
23 crimes. There was a recent report that said,  
24 based on NYPD data, that there was a



1           361 percent increase in hate crimes  
2           specifically against Asian-Americans in  
3           New York City over the last year. And so I'd  
4           love to hear you talk a little bit more about  
5           what more we can be doing in relation to  
6           helping to stop these hate crimes from being  
7           committed.

8                     I know the Governor proposed the  
9           \$25 million I think in capital costs for  
10          enhanced security for Securing Communities  
11          Against Hate Crimes, but that's for capital.

12                    What more should we be doing to  
13          address this outrageous spike in hate crimes  
14          targeting some of our neighbors?

15                    DCJS COMMISSIONER ROSADO: Thank you,  
16          Senator. As you know, you know, we believe  
17          that hate doesn't have a place in New York  
18          State.

19                    And we -- at DCJS we collect and  
20          report the data on hate crimes incidents, and  
21          we give that data back, you know, to all of  
22          you, to the communities and to the law  
23          enforcement agencies. Police agencies are  
24          required to report hate crime incidents to

1 DCJS. The investigating police officers are  
2 responsible for determining if an offense is  
3 a hate crime and identifying the specific  
4 bias or motivation.

5 And then using that information, DCJS  
6 publishes an annual report providing an  
7 overview of hate crime incidents and arrests  
8 throughout New York. To ensure the  
9 completeness of the information, DCJS staff  
10 follow up with all reporting agencies to  
11 ensure that the data is submitted each month.  
12 And to ensure the accuracy of the  
13 information, staff review the incident report  
14 as it is received and then contact the  
15 submitting agency to correct any details.

16 From the most recent data, through the  
17 first months of 2021, hate crimes are up  
18 52 percent compared to the same period in  
19 2020. The most notable increase was an  
20 anti-Asian bias --

21 SENATOR GOUNARDES: Commissioner, I  
22 just want to cut you off a second. We know  
23 the data. We know what the numbers are  
24 showing. I don't need to hear the process.

1 I'd love to hear your thoughts.

2 What else should we be doing from a  
3 funding perspective, from a law perspective?  
4 Clearly we know there's a problem. And so  
5 based on your experience and your expertise,  
6 where do you think we can be improving and  
7 moving the ball down the field to keeping  
8 these neighbors safe, who literally fear  
9 walking down the street based on their -- you  
10 know, their ethnic, their cultural, their  
11 physical attributes?

12 Do you have any thoughts, any  
13 suggestions, anything you can be doing more  
14 of, looking at more? I'd really appreciate  
15 your insights there.

16 DCJS COMMISSIONER ROSADO: Yeah, sure.

17 I think that, you know, we have the  
18 \$25 million in the Securing Communities  
19 Against Hate Crimes grant program, and I  
20 think we should do what we do with our other  
21 programs, which is listen to folks on the  
22 ground and try to help them with the  
23 resources that they need.

24 And in the case of the Securing

1 Communities Against Hate Crimes grants, we  
2 had over 352 applications. And we got more  
3 money in the new budget for more of those.  
4 Those are -- and those are the organizations  
5 that are not only just being targeted, but  
6 also work with folks, you know, in those  
7 communities. And so we should listen to them  
8 and help them access the resources they need.

9 SENATOR GOUNARDES: I'd love to carry  
10 on this conversation with you offline, as my  
11 time has expired. Thank you.

12 DCJS COMMISSIONER ROSADO: Any time.

13 CHAIRWOMAN KRUEGER: Thank you.

14 I believe the next Assemblymember up  
15 is Assemblymember Harvey Epstein.

16 ASSEMBLYMAN EPSTEIN: Thank you,  
17 Chair Krueger.

18 And thank you, Commissioner, for being  
19 with us today. I really appreciate your  
20 time.

21 I'm wondering -- this is a different  
22 conversation point about trainings for police  
23 officers in using firearms and tasers. You  
24 know, we had an incident recently where, you

1 know, someone was tased and unfortunately  
2 they were set on fire. I'm wondering if you  
3 think there should be a centralized process  
4 for training people how to use firearms and  
5 tasers before they have access to them.

6 DCJS COMMISSIONER ROSADO: Well, we do  
7 have a centralized process, Senator {sic}.  
8 We have, as you may know, the Office of  
9 Public Safety at DCJS. We have an incredible  
10 staff of folks who work every day to help law  
11 enforcement, you know, both implementing kind  
12 of the Professional Policing Act, but also  
13 trainings -- a long list for trainings for  
14 existing what we call in-service officers,  
15 people who, you know, came through the  
16 academy a long time ago. And so that  
17 includes firearms.

18 And I want to --

19 ASSEMBLYMAN EPSTEIN: Commissioner,  
20 you know, I don't have a tremendous amount of  
21 time, so I don't mean to cut you off, but --

22 DCJS COMMISSIONER ROSADO: Oh, no,  
23 please.

24 ASSEMBLYMAN EPSTEIN: But my

1 understanding is for every officer statewide  
2 there isn't one centralized training program  
3 so that every officer across the state -- but  
4 maybe we can continue this conversation  
5 offline and talk more about it.

6 DCJS COMMISSIONER ROSADO: I'm happy  
7 to talk to you offline. We have basic  
8 courses at BCOP --

9 ASSEMBLYMAN EPSTEIN: And it's  
10 mandatory for everyone?

11 DCJS COMMISSIONER ROSADO: Yes.  
12 Except for State Police.

13 ASSEMBLYMAN EPSTEIN: And so I just  
14 wanted to follow up with you around some of  
15 the information you said around rearrests.

16 I'm wondering what the numbers are for  
17 people who are rearrested who when they  
18 initially were arrested, bail was set and  
19 then they were released. Were they -- what  
20 data do you have about those people being  
21 rearrested who had bail the first time and  
22 then maybe were rearrested for violent or  
23 nonviolent offenses or not rearrested?

24 DCJS COMMISSIONER ROSADO: Let me see

1           what I have, if I have the numbers.

2           Rearrests -- did you say after paid bail?

3                   ASSEMBLYMAN EPSTEIN:  Yeah, after bail  
4           was set and they paid bail.

5                   DCJS COMMISSIONER ROSADO:  Got it.  So  
6           here are the numbers I have for rearrests  
7           after paid bail.  This is, again, from a  
8           limited analysis of 2020 arraignments where  
9           defendants posted bail.

10                   Thirty percent -- which would be 906  
11           out of 2986 -- of individuals who posted bail  
12           in New York City were rearrested.  And  
13           32 percent in the rest of the state, the  
14           32 percent being 619 out of 1963.

15                   The individuals who posted bail were  
16           rearrested at a greater rate than those  
17           released on their own recognizance.

18                   ASSEMBLYMAN EPSTEIN:  And do you know,  
19           were they rearrested for violent or  
20           nonviolent offenses?

21                   DCJS COMMISSIONER ROSADO:  That I  
22           would have to get back to you.  We'd have to  
23           do a deeper dive into those cases.

24                   ASSEMBLYMAN EPSTEIN:  I'd greatly

1 appreciate that. Because, you know, the  
2 conversation around bail, we need facts.

3 DCJS COMMISSIONER ROSADO: Absolutely,  
4 yes.

5 ASSEMBLYMAN EPSTEIN: You know,  
6 obviously -- I represent one of the seven  
7 neighborhoods across the state where we see  
8 75 percent of incarcerated folks coming  
9 from --

10 DCJS COMMISSIONER ROSADO: Let me tell  
11 you that I am extremely motivated that we  
12 have conversations around accurate data.

13 ASSEMBLYMAN EPSTEIN: Thank you  
14 Commissioner. Thank you, Chair Krueger.

15 CHAIRWOMAN KRUEGER: Thank you very  
16 much.

17 CHAIRWOMAN WEINSTEIN: Senator, do you  
18 have any other Senators?

19 CHAIRWOMAN KRUEGER: Hello. I've been  
20 just going down the Assembly list,  
21 Assemblywoman.

22 CHAIRWOMAN WEINSTEIN: Okay. So I'm  
23 back. They certainly fixed my computer; now  
24 I can see everybody.



1                   So we're going to go to -- I see  
2                   Assemblywoman Walker is here. She was next  
3                   on the list, so we'll go to her.

4                   CHAIRWOMAN KRUEGER: Great.

5                   ASSEMBLYWOMAN WALKER: Awesome. Thank  
6                   you much.

7                   And thank you so much for your  
8                   testimony as well.

9                   So one of the things that we have  
10                  noticed here is that there's some  
11                  contradictory data between the Mayor's Office  
12                  of Criminal Justice and then the report that  
13                  your office has placed out. And so one of  
14                  the things that we saw was that the data from  
15                  the Mayor's office includes information  
16                  post -- pre, sorry, pre-bail reform, and then  
17                  they looked at it juxtaposed -- with respect  
18                  to the rearrests, they looked at it  
19                  juxtaposed to post-bail reform.

20                  Does your data show, you know, any  
21                  analysis of that pre-bail reform information?  
22                  Because, you know, for whatever reason,  
23                  people think bail is a phenomenon that just  
24                  began in 2019, as opposed to recognizing that

1 people have been paying bail and being  
2 released since, you know, the beginning of  
3 time. For the State of New York, at least.

4 DCJS COMMISSIONER ROSADO: Yes,  
5 Senator {sic}, I do not have the city's data.  
6 I know that they collect that and that they  
7 report it in that way, but we don't have  
8 access to that data.

9 ASSEMBLYWOMAN WALKER: So one of the  
10 things that I wanted to just also ask is  
11 whether or not the Division of Criminal  
12 Justice Services, with respect to desk  
13 appearance tickets -- there's also been this  
14 conversation about these sort of repeat  
15 arrests with respect to desk appearance  
16 tickets.

17 Now, if a person is arrested for,  
18 let's say, a petty -- stole a bottle of  
19 aspirin and they go to the precinct for a  
20 desk appearance ticket, it's DCJS that has to  
21 approve that desk appearance ticket. Part of  
22 the question is whether or not there's  
23 another rearrest before that person actually  
24 appears in court.

1           Is it possible, through your agency,  
2           that you can have a shortened time period for  
3           when that person actually appears in court so  
4           that there isn't as much of a time period for  
5           another rearrest during that wait?

6           DCJS COMMISSIONER ROSADO: I  
7           understand the question that you're asking,  
8           and I'd like to look into it for my own  
9           curiosity. But that information is not  
10          reported to DCJS.

11          ASSEMBLYWOMAN WALKER: No, the -- so  
12          it's DCJS who actually approves the desk  
13          appearance ticket -- no?

14          DCJS COMMISSIONER ROSADO: No, it's  
15          not.

16          ASSEMBLYWOMAN WALKER: Okay. So do  
17          you know which agency that provides that  
18          approval?

19          DCJS COMMISSIONER ROSADO: No. There  
20          may be an entity in the city. I mean, I'd  
21          have to look into that. I'm sure someone in  
22          this agency will be able to answer that  
23          question.

24          ASSEMBLYWOMAN WALKER: Okay. All

1 right. So that --

2 DCJS COMMISSIONER ROSADO: It's not --  
3 it's not DCJS.

4 ASSEMBLYWOMAN WALKER: Okay. And then  
5 the information that was provided with  
6 respect to the rearrest -- no, so one of the  
7 things, too, does your organization also deal  
8 with like maybe the algorithm or the system  
9 in terms of how a person gets determined to  
10 get release on their own recognizance because  
11 there was some --

12 DCJS COMMISSIONER ROSADO: (Shaking  
13 head.)

14 ASSEMBLYWOMAN WALKER: No, you don't  
15 deal with --

16 DCJS COMMISSIONER ROSADO: (Shaking  
17 head.)

18 ASSEMBLYWOMAN WALKER: So none of  
19 those pretrial services gets included in, you  
20 know, sort of looking at -- because it's the  
21 pretrial services that determines whether or  
22 not someone gets -- when they are released on  
23 their own recognizance, how that scorecard  
24 gets, you know, utilized, the community

1 check-ins and all of the other things with  
2 respect to bail reform.

3 DCJS COMMISSIONER ROSADO: We collect  
4 the data, but we don't provide the services.  
5 We don't -- you know, that would be somewhere  
6 between OCA and -- you know, and the city.

7 ASSEMBLYWOMAN WALKER: Okay. Thank  
8 you.

9 CHAIRWOMAN WEINSTEIN: Thank you.

10 We go to Assemblywoman Wallace now.

11 ASSEMBLYWOMAN WALLACE: Good  
12 afternoon, Commissioner. Thank you so much.

13 A few times today you were asked about  
14 if we implemented this initiative or that  
15 initiative, how quickly would DCJS be able to  
16 get that up and running. And I believe you  
17 mentioned a few times that once it was passed  
18 by this Legislature, DCJS has the ability to  
19 get the programs up and running pretty  
20 quickly.

21 I want to talk about a program that we  
22 passed in last year's budget. In last year's  
23 budget you may recall we allocated  
24 \$10 million for the purchase of police body

1 cameras by local municipalities to help  
2 offset the costs associated with acquiring  
3 them, because we recognized that there was a  
4 need to increase transparency in policing,  
5 and we thought that that would be a good  
6 practice.

7 But to date, to my knowledge, none of  
8 that money has been allocated, and I don't  
9 even think that there's a plan for allocating  
10 or granting that money. There has been -- I  
11 know the police agencies that I work with  
12 have been looking -- asking questions about  
13 how can we apply for it, and I haven't really  
14 received any answers yet.

15 So I'm wondering -- I just wanted to  
16 flag that for you, and I wanted to see if you  
17 had any sense of how quickly it is that you  
18 can get that up and running. And if you  
19 don't have an answer to that, I guess I'd ask  
20 that you look into that and reach out and let  
21 us know.

22 DCJS COMMISSIONER ROSADO: Yes, I am  
23 aware, because you sent me a letter.

24 And as I mentioned earlier, I've been

1 here for eight weeks. And within the eight  
2 weeks, I got your letter, we have a response,  
3 I believe there is an RFI, we do have a plan.

4 And I don't know what the delay was.  
5 As I said, I got here on November 30th and I  
6 am extremely motivated to move solutions out  
7 the door. So I will -- I believe we have a  
8 response to you or we sent a response to you,  
9 Assemblymember. I will look -- you know, I  
10 will look into it and definitely get back to  
11 you directly.

12 ASSEMBLYWOMAN WALLACE: Okay. And  
13 when do you anticipate once the RFI goes out,  
14 how quickly do you think you might be able to  
15 get those funds out the door?

16 DCJS COMMISSIONER ROSADO: For me,  
17 it's as soon as possible.

18 ASSEMBLYWOMAN WALLACE: Okay. Thank  
19 you.

20 CHAIRWOMAN WEINSTEIN: We go to  
21 Assemblyman Lawler.

22 ASSEMBLYMAN LAWLER: Thank you,  
23 Madam Chair.

24 And thank you, Commissioner, for

1 joining us.

2 I know you're two months in, and so I  
3 understand, you know, you're not going to  
4 have everything at your disposal. But I want  
5 to follow up on something that my colleague  
6 Mr. Reilly focused on a short while ago with  
7 respect to Raise the Age.

8 According to DCJS, in 2020 only  
9 3 percent of 16- and 17-year-old AOs were  
10 arrested for a felony -- that were arrested  
11 for a felony received a felony conviction.  
12 So that was only 119 out of 3,727 AOs  
13 received a felony conviction. And of that,  
14 only 44 were sentenced to one year or more of  
15 imprisonment. And that is -- notwithstanding  
16 the fact that 48 of those folks were arrested  
17 for homicide, 52 for attempted homicide, 55  
18 for sex offenses, 460 for firearms and  
19 dangerous weapon offenses.

20 So when we talk about the rise in gun  
21 violence in New York City and we're looking  
22 at some of these stats from DCJS, isn't it  
23 concerning to you in some way that we aren't  
24 going after violent offenders, even if



1           they're 16 and 17 years old? As my colleague  
2           pointed out, many of those folks are being  
3           used by gangs in furtherance of crime,  
4           because they're not going to be treated the  
5           same as adults.

6                     And so some of these violent offenses  
7           and gun violence really needs to be  
8           reexamined. And in light of the Governor's  
9           comments the other day, the Mayor's comments  
10          the other day, many of my colleagues'  
11          comments today, don't we need to kind of  
12          reevaluate that a little based on those  
13          statistics?

14                    DCJS COMMISSIONER ROSADO: I think  
15          it's the job of -- I mean, I think it's  
16          appropriate to reevaluate, you know, all  
17          initiatives. I reiterate that the goal of  
18          Raise the Age and our responsibility was to  
19          implement what was passed and agreed upon.  
20          The goal of Raise the Age was to keep 16 and  
21          17 year olds out of adult prisons. We've  
22          done that.

23                    ASSEMBLYMAN LAWLER: Right. But --  
24          but -- but -- and I understand that was the

1 goal. And in most cases I think that's a  
2 fair goal. But when you're talking about  
3 violent offenders -- I mean, 48 people were  
4 arrested for homicide, 52 for attempted  
5 homicide, 55 for sex offenses, 460 for  
6 firearm or dangerous weapons -- and only 44  
7 were sentenced to a year or more in prison,  
8 and only 119 were actually convicted of a  
9 felony offense.

10 So I get we want to keep them out of  
11 an adult prison, but not at the expense of  
12 public safety. And certainly if they're  
13 committing violent felonies, that needs to be  
14 the priority, not keeping them out of an  
15 adult prison just for the sake of reaching  
16 some laudatory goal.

17 DCJS COMMISSIONER ROSADO: I think as  
18 I mentioned earlier, you know, the Governor  
19 -- I mean, this is an appropriate moment to  
20 talk about gun violence. Which, you know, I  
21 would only, you know, continue to point out  
22 that it's not a New York problem, it's a  
23 national problem. And we need help, you  
24 know, from the federal government in that

1           regard too, across the board, with all crimes  
2           that involve guns.

3                     Our job at DCJS is to track them and  
4           to give the data back to law enforcement and  
5           to work with all of you and people in elected  
6           office to, you know, find the right  
7           solutions.

8                     ASSEMBLYMAN LAWLER:  And I know my  
9           time has expired, but I --

10                    CHAIRWOMAN WEINSTEIN:  Thank you.

11                    We go to Assemblyman Tannousis.  Thank  
12           you.

13                    ASSEMBLYMAN TANNOUSIS:  Thank you so  
14           much.

15                    Thank you, Commissioner, for  
16           testifying before us today.

17                    I know that you went through some  
18           statistics in regards to defendants that were  
19           released because of bail reform and how many  
20           of those individuals reoffended.  I just -- I  
21           know that you divided it with misdemeanors,  
22           violent felonies and nonviolent felonies.

23                    What I'm interested in is a total  
24           picture of how many of those individuals were

1           arrested again, whether it be a misdemeanor,  
2           felony or violent felony. Do you have those  
3           total statistics for us?

4                     DCJS COMMISSIONER ROSADO: I don't  
5           have them in front of me, but we have them  
6           available. They're posted on our website.  
7           And I'm happy to do a deep dive with our  
8           research people -- anytime, you know, you're  
9           available, we can give you precise data based  
10          on, you know, what we've posted so far.

11                    ASSEMBLYMAN TANNOUSIS: Okay. But I  
12          just want to be clear about something.  
13          Because before you testified, Judge Marks  
14          testified, and he threw out a number, and I  
15          want to ask you if this is accurate. He said  
16          22 percent of individuals that were released  
17          because of bail reform recommitted another  
18          crime. Is that accurate? Is that specific  
19          to felonies or nonviolent felonies or  
20          misdemeanors, or was he mistaken as to that  
21          number?

22                    DCJS COMMISSIONER ROSADO: I can't say  
23          if he was mistaken because I'm not looking at  
24          the data that he's looking at. I can look

1 at -- I am certain that we're both looking at  
2 the same data that we posted on both of our  
3 websites and I'm happy to go through that.

4 And I don't remember -- I was watching  
5 his testimony; I don't remember the  
6 20 percent number. But I'm happy to take a  
7 look at that for you.

8 ASSEMBLYMAN TANNOUSIS: Okay. Thank  
9 you very much.

10 And I also just want to ask you one  
11 more question in regards to Mayor Adams, his  
12 press conference yesterday where he stated  
13 that there are changes that need to be made  
14 in regards to the Legislature's bail reform  
15 laws that were passed a few years back.

16 What is your position as to those  
17 laws, being that you do have the statistics?  
18 Do you think that there needs to be a change  
19 in regards to these laws for the safety of  
20 New Yorkers, or is there another solution  
21 that you see going forward?

22 DCJS COMMISSIONER ROSADO: I think  
23 that, you know, the role of DCJS is to  
24 implement the laws as they are passed, and

1 we've done that. And I think that the  
2 conversations are taking place -- I did not  
3 get to watch, you know, the Mayor's. I think  
4 that based on this weekend's events, you  
5 know, we're all feeling incredibly sad and  
6 motivated, you know, to address all of these  
7 policies. And I think that those  
8 conversations should happen.

9 ASSEMBLYMAN TANNOUSIS: Okay. Thank  
10 you very much.

11 CHAIRWOMAN WEINSTEIN: Assemblyman  
12 Brown.

13 ASSEMBLYMAN BROWN: Thank you,  
14 Madam Chair.

15 Commissioner, thank you for being  
16 here. I wanted to ask you -- I'm the ranker  
17 of the Assembly Committee on Alcoholism and  
18 Substance Abuse. And with bail reform, a  
19 very powerful tool was taken away to treat  
20 individuals with substance abuse problems by  
21 having an opportunity to go in front of a  
22 judge and take involuntary treatment in lieu  
23 of incarceration.

24 So my question to you is, how can we

1 get back that tool, get people into treatment  
2 more easily, you know, get them in front of a  
3 drug court judge to allow them the  
4 opportunity to choose treatment in lieu of  
5 incarceration? Thank you.

6 DCJS COMMISSIONER ROSADO: Thank you.  
7 Thank you for the question. I think that  
8 question is a good one, and it's appropriate  
9 for both OASAS and OCA, who really -- that's  
10 their bailiwick, and we're not -- we don't  
11 have a direct role in that.

12 ASSEMBLYMAN BROWN: That was my  
13 question, Madam Chair.

14 DCJS COMMISSIONER ROSADO: Thank you.

15 ASSEMBLYMAN BROWN: Thank you.

16 CHAIRWOMAN WEINSTEIN: Thank you.

17 So our last -- oh, we have Assemblyman  
18 Burdick and then Assemblyman Palmesano.

19 But Assemblyman Burdick, the floor is  
20 yours.

21 ASSEMBLYMAN BURDICK: Thank you.

22 And congratulations, Commissioner, on  
23 your recent appointment.

24 I represent Bedford, which has two

1 correctional facilities, as you may know.  
2 And there are several community-based  
3 organizations which have done really and are  
4 continuing to do a stellar job in providing  
5 correction programs for those who are  
6 incarcerated there. And I notice that in --  
7 your website sets out the core services of  
8 your agency, which includes funding and  
9 oversight of probation and community  
10 correction programs.

11 So I have two questions related to  
12 that. One is, where -- what funding is in  
13 the Executive Budget for such programs, and  
14 how might it be accessed? Is it done through  
15 grants? And if you don't have the answer to  
16 that, I'm fine with hearing back from you on  
17 that.

18 And the other is, can you explain how  
19 your agency coordinates and collaborates with  
20 DOCCS in terms of the oversight of probation  
21 and community correction programs?

22 DCJS COMMISSIONER ROSADO: Sure. On  
23 the first question, we work through existing  
24 communities -- you know, through the existing



1 community organizations --

2 CHAIRWOMAN KRUEGER: Sorry. Could  
3 everyone else please mute your lines so we  
4 can hear the commissioner? Thank you.

5 DCJS COMMISSIONER ROSADO: Sorry about  
6 that.

7 And I've been to both of the  
8 facilities in your district. I'm also a  
9 Westchester resident. So we work through the  
10 organizations that exist, and we work through  
11 our office -- OPCA, I'm learning all the  
12 acronyms, works directly with the  
13 organizations, with probation officers in the  
14 communities, and we, you know, provide  
15 funding for tons of organizations doing this  
16 work at the very local level.

17 And your second question, you know, we  
18 work closely with DOCCS. As you know, at  
19 DCJS we oversee probation directly, and DOCCS  
20 oversees what we used to know as parole, but  
21 is community supervision now. And those are  
22 people who are mostly released from the state  
23 prisons and have still time to serve, you  
24 know, under supervision.

1           But we collaborate -- as I mentioned  
2           in my testimony, in the new budget we have  
3           some money, we're going to use our trainers  
4           to help do some training of parole officers  
5           in the Jobs to Jail program, you know, in  
6           workforce development and to help the  
7           folks -- you know, to help them with their  
8           clients who are on parole. And, you know, we  
9           have a lot of mutual, you know, support  
10          between DOCCS and DCJS. They don't report to  
11          us and we don't report to them, but we  
12          collaborate on a lot --

13                 ASSEMBLYMAN BURDICK: I'm sorry to  
14                 interrupt, but could you get back to me with  
15                 how we can get information to some of these  
16                 local groups on accessing some of the funding  
17                 that you mentioned, you know, for the  
18                 programs?

19                 DCJS COMMISSIONER ROSADO: Absolutely.  
20                 Absolutely.

21                 ASSEMBLYMAN BURDICK: That would be  
22                 wonderful.

23                 DCJS COMMISSIONER ROSADO: I'm  
24                 interested to know if you have organizations

1           that haven't received our funding or who, you  
2           know, may qualify. You know, some  
3           organizations are tiny and we work with them,  
4           you know, to partner with others so that we  
5           can move the money to them more efficiently  
6           and help them --

7                     ASSEMBLYMAN BURDICK: That would be  
8           great if I could get some information on  
9           that.

10                    DCJS COMMISSIONER ROSADO: Absolutely.

11                    ASSEMBLYMAN BURDICK: Thank you so  
12           much, Commissioner. Appreciate it.

13                    DCJS COMMISSIONER ROSADO: Thank you.

14                    CHAIRWOMAN WEINSTEIN: Thank you.

15                    And our last questioner is Assemblyman  
16           Palmesano.

17                    ASSEMBLYMAN PALMESANO: Thank you,  
18           Commissioner.

19                    I know there's been a lot of talk  
20           about the rising gun violence that's going on  
21           in our cities across the state. You know, we  
22           talk about New York City a lot, obviously.  
23           Isn't it time -- we all know that Mayor de  
24           Blasio got rid of the Anti-Crime Unit, whose

1 job and focus was to track down and find  
2 illegal guns that are used in the commission  
3 of a crime. Wouldn't you agree it's time for  
4 us to reinstate the Anti-Crime Unit in  
5 New York City to maybe help on this  
6 situation? And if there's a -- we could make  
7 a direct correlation in the closing down of  
8 that Anti-Crime Unit with the increase in gun  
9 violence that you're seeing in New York  
10 City -- and isn't there a direct correlation  
11 there?

12 And shouldn't they re-set that up  
13 again so we can have the Anti-Crime Unit on  
14 the streets trying to find the gun  
15 trafficking and the illegal guns? Which they  
16 were tasked to do before the mayor closed it  
17 down.

18 DCJS COMMISSIONER ROSADO: Thank you,  
19 Assemblyman.

20 I -- you know, as I said earlier, I  
21 believe, you know, that we're all in this  
22 moment in time based on the incidents of the  
23 last few weeks. We have a new mayor. I  
24 understand -- I think he spoke about that

1           yesterday too, and I haven't had time to  
2           really focus on it. But I believe that we're  
3           all looking for solutions and that it's time  
4           to -- you know, to reevaluate all the things  
5           that happened. Sometimes things that worked  
6           in the past can work again.

7                         And we stand ready, again, when all  
8           those conversations are done and those of you  
9           who are elected into these positions, as well  
10          as the Governor and the Mayor, and everyone  
11          agrees on what to do, we stand ready to  
12          implement at every level any innovative ideas  
13          that will work to (a) reduce gun violence and  
14          keep our communities safe.

15                         ASSEMBLYMAN PALMESANO: One of my  
16          colleagues, Mr. Lawler, was talking about  
17          the -- and Mr. Reilly were talking about the  
18          Raise the Age, and Mr. Lawler brought up some  
19          of the statistics. Along with those  
20          statistics, do we have -- do you have --  
21          where are the rearrest statistics for those  
22          individuals who qualify under Raise the Age?  
23          Where are those numbers as far as rearrests  
24          and reoffense, so we can see them for

1 transparency purposes?

2 And wouldn't you agree that there are  
3 a multitude of crimes that are being  
4 committed that we don't even know about? And  
5 doesn't this really kind of -- not  
6 having these numbers or not being transparent  
7 with the numbers really kind of question the  
8 accuracy of the statistics that are really  
9 being provided by DCJS and OCA?

10 DCJS COMMISSIONER ROSADO: As I --  
11 I'll make you the same offer as everyone on  
12 this call. I'm happy to take you through a  
13 deep dive. I'm sure the numbers exist. I  
14 don't have them on my screen. We can help  
15 you find them. You know, we can help to find  
16 them and, again, help you make the --

17 ASSEMBLYMAN PALMESANO: Appreciate  
18 that.

19 DCJS COMMISSIONER ROSADO: -- with the  
20 most accurate information and make the  
21 comparisons.

22 I understand --

23 ASSEMBLYMAN PALMESANO: Wouldn't you  
24 agree that it's important for the public to

1 know those numbers as well? I mean, not just  
2 the --

3 DCJS COMMISSIONER ROSADO: Yes, we  
4 post -- all of the numbers that I would take  
5 you through, you know, with the research  
6 folks are already posted. You know, we post  
7 all of our numbers online.

8 But those -- you know, that doesn't  
9 mean they're easy to analyze. One of my  
10 visions for the agency is that we also spend  
11 some time, you know, on the narratives, you  
12 know, on helping folks understand what those  
13 numbers mean. You know, bring that back to  
14 the communities as well.

15 But I thank you for the question.

16 ASSEMBLYMAN PALMESANO: Thank you,  
17 Commissioner.

18 CHAIRWOMAN WEINSTEIN: Now we go to  
19 Assemblywoman Kelles, who I believe is our  
20 last questioner for this witness.

21 ASSEMBLYWOMAN KELLES: Hi, and  
22 congratulations, I want to add my  
23 congratulations as well.

24 DCJS COMMISSIONER ROSADO: Thank you.

1 ASSEMBLYWOMAN KELLES: Absolutely.

2 I see that you're starting a program  
3 to reduce rural juvenile delinquency. That's  
4 one of the programs that there's I think an  
5 RFP out. I'm curious, the criteria -- when  
6 you put your programs together, are you  
7 looking at things like programs that are  
8 providing community services, housing  
9 stability, mental health supports, substance  
10 use issues, some of these issues that we have  
11 seen that are highly critical correlated with  
12 criminality, to help reduce some of those?

13 Or is this specifically addressing,  
14 you know, helping getting people who are  
15 committing crimes off the street? I'm trying  
16 to get a sense of what you're looking for in  
17 the program.

18 DCJS COMMISSIONER ROSADO: Yes -- no,  
19 I don't know about the actual one you  
20 mentioned, but I can tell you that, for  
21 example, before I got here -- as I said, I've  
22 been here eight weeks and kind of focused on  
23 confirmation and this, which -- I haven't  
24 been confirmed yet, though. But I've been



1 focused on preparing for the -- you know, on  
2 the budget.

3 But I can tell you, for example, I  
4 want to say two years ago in the SNUG  
5 program, you know, we had a very important  
6 collaboration between the folks doing SNUG  
7 and the Office of Victim Services, OVS, where  
8 OVS provided funding from some of the federal  
9 funding to provide social workers in those  
10 SNUG sites.

11 Because, you know, we know from the  
12 people on the ground that some of these  
13 issues can be solved, you know, with case  
14 management, with alternatives to  
15 incarceration, with redirecting of resources  
16 where someone may -- you know, I don't know,  
17 may need a notebook or some tool that they  
18 need, you know, for -- especially in the work  
19 we do with youth.

20 So, you know, in all of our work, both  
21 with law enforcement and with community  
22 folks, we try to have a holistic approach,  
23 which is --

24 ASSEMBLYWOMAN KELLES: Great.

1                   DCJS COMMISSIONER ROSADO: -- why the  
2 money that we got in the budget this year  
3 allows us a little more flexibility to  
4 address those things that are not, you know,  
5 in the budget line. You know, whether you  
6 have to try to help someone get a pair of  
7 shoes or a shirt for an interview. I mean,  
8 we have to --

9                   ASSEMBLYWOMAN KELLES: I'm going to  
10 throw in -- thank you so -- I'm going to  
11 definitely be one of those people and get in  
12 line to meet with you, because I would love  
13 to hear more in depth about these.

14                   I'm going to just throw a  
15 few things --

16                   DCJS COMMISSIONER ROSADO:  
17 (Inaudible.)

18                   ASSEMBLYWOMAN KELLES: Thank you.  
19 Thank you. So I'm going to throw a few  
20 things out there about the training with law  
21 enforcement on implicit bias. If you could  
22 describe some of that, community policing  
23 efforts.

24                   And the third one, I'm particularly

1 interested in your focus on or support of or  
2 help in expanding Law Enforcement Assisted  
3 Diversion programs, LEAD programs.

4 DCJS COMMISSIONER ROSADO: So I can  
5 tell you I'm -- first of all, thank you for  
6 providing an opportunity to talk about the  
7 professional policing. You know, we had an  
8 executive order, 203, which allowed us to  
9 work with, you know, the local law  
10 enforcement.

11 I think as I mentioned earlier, one of  
12 my goals is to tell the positive stories. I  
13 mean, we've focused on all the things we've  
14 talked about today, but this agency has a lot  
15 of, you know, great things to demonstrate  
16 how we've worked with law enforcement and how  
17 we have provided tools.

18 You mentioned implicit bias. We  
19 have -- you know, DCJS was consulted on the  
20 guidance that the administration provided to  
21 the police agencies as a result of EO203,  
22 which is where, you know, the police  
23 departments submitted plans last year. And,  
24 you know, I was on the outside of the agency

1 and I said, I wonder whatever happened to  
2 those plans. And, you know, we were busy  
3 dealing with COVID, and so everybody just  
4 assumes nothing happened.

5 And I came to this agency and I was --  
6 it was heartwarming to know that a lot of  
7 things were being done, in fact, as a result  
8 of that. And we've talked to folks outside  
9 of the agency who are also looking at the  
10 plans and really saying to police  
11 departments, We want to help you accomplish  
12 these plans. As you remember, that process  
13 involved bringing stakeholders and  
14 communities to the table, and we want to help  
15 them go back to those communities and say,  
16 Here are the solutions, how can we help?

17 Some of that is resources, and some of  
18 them are learning modules. We've already  
19 been involved, our Office of Public Safety  
20 has already been involved over the last year  
21 in training law enforcement, specifically  
22 officers and folks both in the academy and  
23 what we call in-service, training on implicit  
24 bias, on deescalation, on, you know, kind of

1 all of these -- you know, the buzzwords of  
2 the things that we actually provide training  
3 on how to do these things in the spirit of --  
4 in the spirit of professional policing.

5 And we've had a lot of success --

6 CHAIRWOMAN WEINSTEIN: Commissioner,

7 I --

8 DCJS COMMISSIONER ROSADO: Yes?

9 CHAIRWOMAN WEINSTEIN: I hate to cut  
10 you off --

11 DCJS COMMISSIONER ROSADO: Oh, is that  
12 the clock? I'm sorry.

13 CHAIRWOMAN WEINSTEIN: -- because it's  
14 exciting information you're sharing with us.  
15 And perhaps, you know, we can have some  
16 follow-up conversations offline on it.

17 DCJS COMMISSIONER ROSADO: I'm happy  
18 to do that.

19 CHAIRWOMAN WEINSTEIN: Right now I've  
20 been -- and also I've known you for a while.  
21 Congratulations in this new role --

22 DCJS COMMISSIONER ROSADO: Thank you.

23 CHAIRWOMAN WEINSTEIN: -- and look  
24 forward to continuing to work with you.

1           I would like to turn it back over to  
2           the -- our chair Senator Krueger for the next  
3           witness.

4           CHAIRWOMAN KRUEGER: Thank you. Thank  
5           you very much.

6           And yes, thank you, Commissioner  
7           Rosado, and welcome to your new assignments  
8           in Albany. We all look forward to continuing  
9           to work with you. Clearly there are many  
10          members who have I think some really  
11          excellent ideas as well as proposals, so  
12          thank you very much for your time today.

13          DCJS COMMISSIONER ROSADO: Thank you.

14          CHAIRWOMAN KRUEGER: And we're going  
15          to move now to -- for people who are  
16          following, we have a very long agenda for the  
17          remainder of the day. We're really only on  
18          No. 5, Anthony Annucci, the New York State  
19          Department of Corrections and Community  
20          Supervision. And Anthony has been the acting  
21          commissioner for a very long time, but  
22          apparently he likes that job and doesn't want  
23          to become the commissioner.

24          Are you with us, Commissioner?

1                   ACTING COMMISSIONER ANNUCCI: Good  
2 morning, Senator. Yes, I am with you.

3                   And I'm also pleased to announce that  
4 my name was submitted in nomination by  
5 Governor Kathy Hochul. So I'm very pleased  
6 about that and look forward to the  
7 confirmation process.

8                   CHAIRWOMAN KRUEGER: Wonderful. And  
9 you had the illusion you'd be testifying in  
10 the morning, but for the record it is  
11 actually a quarter to 3:00 in the afternoon.

12                   (Laughter.)

13                   ACTING COMMISSIONER ANNUCCI: I  
14 apologize.

15                   CHAIRWOMAN KRUEGER: It's not your  
16 fault.

17                   ACTING COMMISSIONER ANNUCCI: Good  
18 afternoon --

19                   CHAIRWOMAN KRUEGER: It's our fault;  
20 we have so many questions for everyone.

21                   So please, you have 10 minutes to  
22 submit your testimony to us.

23                   ACTING COMMISSIONER ANNUCCI: Sure.  
24 Thank you.

1                   Good afternoon, Chairwoman Krueger,  
2                   Chairwoman Weinstein, and other distinguished  
3                   chairs and members of the Legislature. I am  
4                   Anthony J. Annucci, acting commissioner for  
5                   the Department of Corrections and Community  
6                   Supervision. It is my honor to discuss some  
7                   of the highlights of Governor Hochul's  
8                   Executive Budget plan and the various  
9                   initiatives that will benefit public safety.

10                  Over the past year, while COVID-19 has  
11                  plagued our nation and state, the department  
12                  was not spared from its effects.

13                  Accordingly, at the start of the pandemic I  
14                  convened a multidisciplinary COVID-19 Task  
15                  Force to guide our comprehensive response.

16                  Throughout the pandemic, there have  
17                  been many heroes along the way. Our  
18                  essential workers, including corrections and  
19                  community supervision staff, came to work  
20                  every day and consistently carried out their  
21                  professional duties in a superb manner,  
22                  oftentimes going above and beyond their  
23                  traditional responsibilities. I am very  
24                  proud of the dedication and sacrifice staff



1           have displayed throughout the duration of the  
2           pandemic, and I thank them for their tireless  
3           efforts and resoluteness, despite the obvious  
4           risks.

5                         Similarly, incarcerated individuals  
6           have shown resiliency in the face of the many  
7           changes in policies to keep them safe. They  
8           too contributed to the response effort in a  
9           variety of ways, such as manufacturing  
10          millions of masks, gowns, and hand sanitizer,  
11          that significantly helped to support and  
12          protect fellow New Yorkers.

13                        The dramatic reduction in the  
14          incarcerated population has assisted our  
15          ability to manage the system safely during  
16          this pandemic. Through the efforts of the  
17          Legislature in enacting various laws, and the  
18          good work of DOCCS staff, New York leads the  
19          nation with the lowest imprisonment rate of  
20          any large state. Remarkably, the  
21          incarcerated population, now under 30,500,  
22          has decreased by more than 40,000 since 1999,  
23          marking the lowest total since 1983, and  
24          representing a 58 percent decline from its

1 all-time high of 72,773. More significantly,  
2 the total population reduction since  
3 January 1, 2020, exceeds 13,700.

4 Even with these drastic reductions in  
5 incarceration, New York proudly remains one  
6 of the safest large states in the country.

7 With this significant reduction in  
8 population, the state has safely eliminated  
9 excess capacity through the closing of  
10 correctional facilities and the removal of  
11 all double bunks in our medium-security  
12 facilities. This year's closure process is  
13 underway with the transfer of staff to vacant  
14 positions at other facilities or offices,  
15 while the incarcerated population is  
16 transitioned into vacant beds elsewhere.  
17 There are no additional closures contemplated  
18 in the upcoming fiscal year.

19 Despite the pandemic, the department  
20 has worked hard on last year's new laws that  
21 included implementing voter registration for  
22 those being released from prison; moving  
23 individuals to facilities in close proximity  
24 to their children; preparing to enact the

1 HALT and Less is More laws; and continuing to  
2 expand our Medication Assisted Treatment  
3 program. I look forward to seeing these bold  
4 new initiatives come to fruition, and I  
5 believe that they will lead to better  
6 outcomes for both the incarcerated and  
7 releasee populations.

8 The Governor has set a vision for this  
9 state in the coming fiscal year, and the  
10 department is excited to pursue many new  
11 initiatives that will be more humane and  
12 better prepare individuals for reentry to  
13 their communities. In addition to  
14 gender-affirming treatment for incarcerated  
15 individuals, the Governor's Jails to Jobs  
16 initiative prioritizes education by the  
17 restoration of Tuition Assistance Program  
18 funding for incarcerated students and an  
19 expansion of eligibility for educational  
20 release.

21 I have been a strong supporter of  
22 education throughout my tenure as acting  
23 commissioner, and I look forward to  
24 implementing the Governor's vision to elevate

1 education behind the walls to a whole new  
2 level altogether.

3 Additionally, the other initiatives  
4 include starting new programs that will align  
5 with today's workforce and conducting a  
6 comprehensive review of existing vocational  
7 programs to meet today's challenging job  
8 market. We will work with the Division of  
9 Criminal Justice Services to train reentry  
10 managers and parole officers around the state  
11 on career planning and job placement and  
12 retention.

13 We will also leverage one of our  
14 residential treatment facilities as a pilot  
15 for use as transitional housing for  
16 undomiciled parolees returning to New York  
17 City.

18 Furthermore, we will offer stipends to  
19 the head of households that provide  
20 opportunities for those individuals to  
21 transition to stable housing, and we will  
22 eliminate the parole supervision fee.

23 Lastly, the Governor has proposed a  
24 constitutional amendment to allow for

1 public-private partnerships that would enable  
2 hybrid work-release programs within our  
3 facilities.

4 In conclusion, while we will continue  
5 to tackle the many challenges posed by  
6 COVID-19, under the Governor's vision, we  
7 will continue to move this department forward  
8 in support of a more just criminal justice  
9 system that delivers necessary programs and  
10 services while simultaneously advancing  
11 safety within our facilities and in the  
12 community.

13 I look forward to furthering the  
14 Governor's agenda with the assistance of our  
15 professional, well-trained and dedicated  
16 workforce that performs its responsibilities  
17 in an exemplary manner, often under dangerous  
18 and difficult circumstances.

19 Thank you, and I will be happy to  
20 answer any questions.

21 CHAIRWOMAN KRUEGER: Thank you very  
22 much.

23 And our first questioner is the chair,  
24 Julia Salazar.

1                   SENATOR SALAZAR: Thank you,  
2 Chair Krueger.

3                   Thank you so much, Commissioner, for  
4 taking the time to testify today.

5                   I wanted to begin by asking you about  
6 the Governor's proposal to allow gender  
7 affirming treatment for incarcerated  
8 individuals. Does DOCCS currently take an  
9 incarcerated individual's gender identity  
10 into consideration when determining where  
11 they will be housed?

12                   ACTING COMMISSIONER ANNUCCI: The  
13 answer, Senator, is yes, we do. We've had a  
14 process in place for a number of years. We  
15 have a central office committee composed of  
16 deputy commissioners for program services and  
17 facility operations and class and movement,  
18 assistant commissioner for prayer and mental  
19 health, counsel, and I believe program  
20 services as well.

21                   And every case is considered on an  
22 individual basis. And we have moved  
23 individuals -- I will just call them trans,  
24 for purposes of this exchange. But we take

1           them into consideration, they have been  
2           moved.

3                     A quick anecdotal story: When I was  
4           in Rikers island doing a tour and I toured  
5           their unit, one individual recognized me.  
6           She was from a state facility, and she came  
7           up to me and said, "Commissioner, I want to  
8           thank you. I had been in a male facility,  
9           you allowed me to be moved to a female  
10          facility, Taconic. I'm much happier there."  
11          And I said, "Always happy. We want you to  
12          succeed and be safe."

13                    So with that, we're prepared to  
14          implement this new law, which will formalize  
15          many of the existing processes and do many  
16          other things; in particular, bring the locals  
17          online so that we can better coordinate, in  
18          advance, the information that we need before  
19          transfer happens.

20                    SENATOR SALAZAR: Thank you.

21                    I'm curious about what effect the  
22          Governor's proposal would have on DOCCS  
23          online search -- you know, search of  
24          incarcerated individuals. Will it display

1 the gender identity that the person prefers  
2 or their sex assigned at birth? Do you know  
3 yet what the impact would be there?

4 ACTING COMMISSIONER ANNUCCI: Well, I  
5 can tell you that currently -- the sex that  
6 appears currently matches the gender  
7 classification of the facility.

8 But we are in the process of updating  
9 the system to remove the sex field from  
10 display from the lookup.

11 SENATOR SALAZAR: And I wanted to ask  
12 also about the proposal to expand educational  
13 release and furlough.

14 According to DOCCS' 2020 Temporary  
15 Release Report, it looks like only six  
16 individuals applied for educational release,  
17 and none were approved. And according to  
18 previous temporary release reports, since  
19 2014 a total of only about 23 individuals  
20 applied for educational release, and none  
21 were approved.

22 So I wanted to clarify, based on what  
23 the reports show, does zero participation  
24 mean that zero applicants were approved? Is



1           that correct, or were potentially some  
2           approved and didn't participate for some  
3           other reason?

4                     ACTING COMMISSIONER ANNUCCI: More the  
5           latter, Senator. We have a number of  
6           temporary release programs, and people can  
7           simultaneously be approved for work release  
8           and educational leave, and they might choose  
9           to participate in work release.

10                    We have a number of other different  
11           types of temporary release programs, and a  
12           number of individuals may not have been  
13           eligible by virtue of their crime.

14                    The Governor's initiative changes this  
15           dramatically, because it takes a whole cohort  
16           that can't apply now, by allowing them to be  
17           eligible. And these are people that have  
18           been in the system a long time. Many of them  
19           are doing very well in college programs, and  
20           this will raise it to a whole new level by  
21           letting our incarcerated students learn side  
22           by side with students on the outside  
23           campuses. Sometimes we brought the outside  
24           students in; it has opened their eyes.

1           This will open the respective  
2 individuals' eyes to each other as they side  
3 by side learn at the same time in classrooms.

4           SENATOR SALAZAR: Great. And assuming  
5 that this policy is adopted in this year's  
6 budget -- or, rather, it's in this year's  
7 adopted budget -- and for the record, I hope  
8 it will be -- how will incarcerated  
9 individuals be informed of the policy change  
10 of the expanded eligibility, both actually  
11 for educational release but also for  
12 furlough?

13           ACTING COMMISSIONER ANNUCCI: Well, we  
14 will assuredly make sure that we put out the  
15 formal notices to the population. It may be  
16 a memo from me to the entire population; it's  
17 easy enough for me to write something  
18 detailed to explain how it would work.

19           It's very exciting. We already have  
20 so many in the college programs. We have,  
21 for example, people at Otisville that might  
22 be interested in continuing to apply and  
23 participate in John Jay or wherever they  
24 would be accepted.

1           And the other benefit, it allows them  
2           to participate in furlough at the same time.  
3           So you would go temporarily to like  
4           Queensboro, and then you would have a  
5           furlough approved and you'd be allowed to go  
6           there. And after a year and a half of  
7           combined total, you would meet the limited  
8           credit time allowance to allow you to  
9           actually be released six months early.

10           So we will get the notice out. There  
11           will be changes in the regulation. There  
12           will be -- everyone that will need to know  
13           will know how to do it and be eligible to  
14           apply and be approved.

15           SENATOR SALAZAR: I want to pivot to a  
16           different subject entirely, and that's the  
17           Inspector General's report that was recently  
18           released that revealed that DOCCS had  
19           administered previously faulty drug tests,  
20           which led to false positives and of course in  
21           some cases -- in many cases -- led to  
22           punishments for incarcerated people that  
23           jeopardized their release dates or resulted  
24           in punitive segregation.

1           What action has DOCCS taken to respond  
2           to this and remedy the situation where there  
3           was harm caused by the false positives?

4           ACTING COMMISSIONER ANNUCCI:  Yes,  
5           Senator, thank you very much for that  
6           question.  It is one of the most regrettable  
7           things that happened in the past couple of  
8           years.

9           I always say:  If anything, a  
10          corrections system has to be fair.  We have  
11          to hold ourselves accountable if we're ever  
12          to teach individuals entrusted to our custody  
13          to respect the law.  We committed a terrible  
14          mistake here.

15          I can tell you that we no longer have  
16          that vendor and we've dramatically changed  
17          our policies going forward.  We (a) have a  
18          new vendor for the preliminary test, and now  
19          we have an outside laboratory that must  
20          confirm any test that indicates a positive  
21          result -- and only then will we take action.

22          Moreover, we have changed our  
23          disciplinary system so that a positive drug  
24          test is only a Tier 2, it's not a Tier 3.

1           You can only get SHU or segregated  
2           confinement with a Tier 3 offense. So we're  
3           moving in a whole new direction altogether on  
4           that.

5                        What I also did, once we realized the  
6           terrible mishap that had happened, I convened  
7           a major task force of every single discipline  
8           in our system, and we met on a regular basis.  
9           So we had class and movement, we had guidance  
10          and counseling, we had grievance, we had  
11          temporary release. We had every program  
12          imaginable -- we had discipline, facility  
13          operations -- and we would review and counsel  
14          everything about unwinding every individual  
15          that had been affected, which included  
16          everybody that legitimately was positive. It  
17          wasn't everybody that was a false positive,  
18          but in the interests of correcting this harm,  
19          we simply took everybody that had a positive  
20          test during that period and we took every  
21          possible action to restore good time, to  
22          expunge their records, to restore them to  
23          temporary release, closer to home transfers,  
24          whatever was involved. It was a massive

1 effort.

2 And I can also tell you that we do  
3 have a lawsuit pending against the original  
4 vendor, and I believe PLS and perhaps another  
5 law firm also has a separate lawsuit on  
6 behalf of the harmed incarcerated  
7 individuals.

8 SENATOR SALAZAR: Thank you. It's  
9 encouraging to hear that.

10 I wanted to ask you a bit about the  
11 incarceration of older adults. When does an  
12 incarcerated older person generally begin to  
13 be defined as an older individual or as  
14 aging? At what age would they be designated  
15 that way by DOCCS?

16 ACTING COMMISSIONER ANNUCCI: Senator,  
17 it's more or less an informal designation.  
18 It is not something that is defined as an  
19 official classification.

20 So for example, for our senior  
21 program, which is a program we're very proud  
22 of, the age is 55 and older. For Adirondack  
23 it's 65 and older.

24 I think generally speaking, because

1 we've compared ourselves to the regular  
2 population, whereas you might look at  
3 somebody 65 and older as a senior, it's fair  
4 to use 55 as the cutoff, for a variety of  
5 different reasons. Many individuals come to  
6 us with having not had the best healthcare in  
7 their lives. They may have had addiction  
8 issues, they may have had smoking issues,  
9 they may have high blood pressure. And then  
10 of course add to that the stress of being  
11 confined and being separated from family;  
12 that could exacerbate any health problems.

13 So generally speaking, 55 and older is  
14 kind of looked at by us as a senior category,  
15 but it's an unofficial classification.

16 SENATOR SALAZAR: Thank you,  
17 Commissioner. I have many more questions,  
18 but I realize that I'm out of time, so I'll  
19 give it back to you, Chair.

20 CHAIRWOMAN KRUEGER: Thank you very  
21 much.

22 Assemblymember Weinstein.

23 CHAIRWOMAN WEINSTEIN: Yes, we're  
24 going to go to our ranker on Corrections,

1 Assemblyman Giglio.

2 ASSEMBLYMAN GIGLIO: Thank you. Thank  
3 you. Can you hear me?

4 ACTING COMMISSIONER ANNUCCI: Yes.

5 ASSEMBLYMAN GIGLIO: Good afternoon,  
6 Commissioner. It's good to see you.

7 ACTING COMMISSIONER ANNUCCI: Good to  
8 see you.

9 ASSEMBLYMAN GIGLIO: And I've got some  
10 questions. My first question is, you've  
11 mentioned population. And you mentioned that  
12 population keeps dropping. And you use 1999  
13 as your base point. Of course it's going to  
14 seem excessive at that point when you go back  
15 that many years. I'd be more curious to -- a  
16 closer part. How about like 2015 to 2021, to  
17 give us actual numbers, and see how much the  
18 drop -- you know, how dramatic that was.

19 ACTING COMMISSIONER ANNUCCI: I can  
20 give you all those numbers. I can even go  
21 back 50 years to give you the entire numbers.

22 I can tell you that prior to twenty --  
23 prior to COVID, which was 2020, that in 2019  
24 we had the single biggest drop in the history



1 of Corrections. And so we -- our decline  
2 matched the declining crime rate and came  
3 well past all the Rockefeller drug laws.

4 I have a chart here, I can give you  
5 the population totals from 2021 going back to  
6 1970. I think 2018 we were at 47,459; 2017,  
7 50,271; 2016, 51,466; 2015, 52,344.

8 ASSEMBLYMAN GIGLIO: Okay. Well,  
9 thank you. Thank you.

10 I'd like now to get to what nobody's  
11 talked about yet, is the men and women that  
12 work in Corrections. How much overtime costs  
13 are included in this budget, and how many of  
14 these people are forced to work overtime?

15 ACTING COMMISSIONER ANNUCCI: I don't  
16 have the current overtime numbers for you,  
17 Assemblyman. I certainly can get them for  
18 you. It's something we try to avoid.

19 It was a real challenge managing  
20 through COVID, it really was. There were  
21 huge numbers of people at any one time who  
22 had to be quarantined at home or tested  
23 positive, et cetera.

24 I can tell you that right now we're

1 making big inroads into redistributing the  
2 staff where they're needed, because the staff  
3 are moving from the closed facilities to the  
4 facilities where there are huge numbers of  
5 vacancies. So we're making some significant  
6 progress there. There's another whole  
7 movement of staff scheduled in a couple of  
8 weeks, in February. That will further help.

9 ASSEMBLYMAN GIGLIO: Thank you. Can  
10 you give me a ratio of how many inmates to  
11 one correction officer, say on the midnight  
12 shift?

13 ACTING COMMISSIONER ANNUCCI: One to  
14 three, I believe, is the current number.

15 ASSEMBLYMAN GIGLIO: Okay, thank you.

16 Now, the other thing I'd like to know  
17 about is what kind of training are you  
18 providing for the men and women that work  
19 within Corrections to help them deal with the  
20 COVID problem and every other problem that  
21 they're facing right now?

22 ACTING COMMISSIONER ANNUCCI: Well, we  
23 have a whole slew of different resources from  
24 our health services staff that are

1           continually providing updated information.  
2           We make the vaccine available, we provide  
3           protective equipment, masks, et cetera.

4                     Training in general is something we  
5           always pursue. I have a task force that I've  
6           just formed where I've invited and I'm  
7           getting participation by union  
8           representatives so that we can work together  
9           to address prison violence. We train on  
10          implicit violence {sic}, deescalation  
11          training. And I also make it a big priority  
12          to provide them with all the latest equipment  
13          as a safety -- not just the regular pepper  
14          spray, but new pepper spray that -- MK that  
15          should help in certain situations like when  
16          there's a melee in the yard and it's a group  
17          of individuals fighting.

18                    ASSEMBLYMAN GIGLIO: Okay. So what  
19          kind of mental health services again are you  
20          providing for these folks that are under such  
21          pressure to perform on a daily basis?

22                    ACTING COMMISSIONER ANNUCCI: I have a  
23          huge priority centered around wellness, and  
24          my associate commissioner for mental health

1 is chairing it.

2 We deal with corrections systems  
3 across the country so that we can learn what  
4 they are doing, and we have new apps that  
5 we're putting on phones to make available for  
6 them. We have telephone contacts that they  
7 can make if someone's feeling stressed and  
8 potentially wanting to harm themselves. Many  
9 other things --

10 ASSEMBLYMAN GIGLIO: They know all  
11 this is opportunity for them and all's they  
12 have to do is ask?

13 ACTING COMMISSIONER ANNUCCI: We're  
14 making it available. We have systems staff  
15 to make it available for them, and many other  
16 things.

17 We have an employee assistance  
18 program, and they have all kinds of contacts  
19 that they make available to our staff. So we  
20 try very hard --

21 ASSEMBLYMAN GIGLIO: I have one more  
22 question -- I don't mean to cut you off, sir,  
23 but one more question. What are you guys  
24 doing about recruitment to get people to come

1 and take these jobs now under the conditions  
2 that they're being offered?

3 ACTING COMMISSIONER ANNUCCI: We  
4 aggressively advertise at different fairs.  
5 We put notices out to different individuals  
6 so that we can get the word out.

7 I want people to understand that we  
8 are a very progressive system. We prioritize  
9 wellness, we prioritize our people. And I  
10 think our last announcement was about 5,000  
11 that it went out to. So I think the word is  
12 getting out. And people are interested,  
13 especially who know -- who know people that  
14 have families, and they know it's a good  
15 place to work.

16 ASSEMBLYMAN GIGLIO: Thank you, sir.

17 CHAIRWOMAN WEINSTEIN: We go to the  
18 Senate.

19 CHAIRWOMAN KRUEGER: Thank you very  
20 much.

21 Our next questioner is Senator Pat  
22 Ritchie.

23 SENATOR RITCHIE: Thank you,  
24 Chairwoman.

1           Commissioner, I have a couple of  
2           questions starting with the issue of violence  
3           in our facilities that I'm really concerned  
4           about. You sent out a memo in November, I  
5           believe it was, that described some of the  
6           violent actions as savagery. And that is  
7           definitely concerning.

8           So part two of that question is  
9           instead of closing correctional facilities  
10          like Ogdensburg Correctional Facility --  
11          where the staff feels safe, where those  
12          individuals who are incarcerated there wrote  
13          letters to myself and the Governor begging  
14          for the facility to be kept open because they  
15          felt safe there -- instead, the facilities  
16          continue to be closed, including OCF, in a  
17          time when we have 60 to one -- 60 individuals  
18          incarcerated to one officer at midnight, on  
19          the midnight shift during COVID, when you  
20          would think that it would be the best time to  
21          space out not only staff but those  
22          individuals who are incarcerated.

23          So I would like to know what caused  
24          you to send out that memo, but also what

1           caused you to close Ogdensburg Correctional  
2           Facility, given the positives there,  
3           including \$10 million that was just spent on  
4           upgrading the facility that I believe is  
5           supposed to be completed this month, and the  
6           fact that we have an incidence of rise in  
7           violence. And would not it make more sense  
8           to keep those incarcerated separated more and  
9           keeping these other facilities open, at least  
10          during COVID?

11                    ACTING COMMISSIONER ANNUCCI: A lot to  
12          address there, Senator. Let me try to do as  
13          thorough a job as I can.

14                    First of all, never an easy decision  
15          to close any correctional facility. The  
16          staff at Ogdensburg have always done a great  
17          job. It's very difficult to tell them that  
18          we need to close. They did nothing wrong.

19                    There's no density problem whatsoever.  
20          We have thousands and thousands and thousands  
21          of vacancies throughout the system. I'm not  
22          sure where you got the 60-to-1 ratio. We've  
23          taken down all the double bunks in the  
24          system, which means the maximum number at any

1           one time at any medium-security prototype  
2           dorm is 50.

3                     I can tell you that what prompted me  
4           to send out that memo was that there were  
5           some serious assaults -- it's not raw  
6           number -- serious assault where somebody was  
7           seriously beaten and the individual was in a  
8           rage at the time. There's about three or  
9           four of them at a time.

10                    And I put that memo out there because  
11           I wanted the individuals to realize that  
12           there are going to be serious consequences.  
13           We have liaisons with outside prosecutors  
14           throughout the entire state. And if you  
15           seriously assault an officer or any staff, if  
16           you commit a Class B violent felony offense,  
17           that is punishable by a consecutive 25-year  
18           determinate sentence. And I wanted everybody  
19           to understand that.

20                    We continue to work together with the  
21           union. We created the Prison Violence Task  
22           Force, and we will work together, we'll get  
23           their recommendations, we'll look at a number  
24           of different things to make sure that we run



1 the safest possible system.

2 One thing I'm very thankful of, since  
3 being acting commissioner I've never had to  
4 add another name either to the Correction  
5 Officer Memorial or the Parole Officer  
6 Memorial. And that is something that is very  
7 important to me, and I want to keep going in  
8 that direction.

9 SENATOR RITCHIE: Well, my time is up,  
10 but I would just like to say I find it  
11 totally in opposition to what I believe  
12 should be happening in COVID. I am certainly  
13 not saying COVID is not serious. I  
14 wholeheartedly think we all should be doing  
15 everything we can.

16 But I don't -- I don't understand why  
17 we would be closing facilities in the middle  
18 of a pandemic and sending people away from  
19 their families at this moment.

20 Thank you, Commissioner.

21 ACTING COMMISSIONER ANNUCCI: Sure.

22 CHAIRWOMAN WEINSTEIN: Thank you.

23 Just want to remind everyone,  
24 including chairs, to please make sure -- if

1           you want to speak, please raise your hand  
2           virtually. We can't just look over at you.

3                     I want to next go to Assemblyman  
4           Weprin, the chair of our Corrections  
5           Committee. Ten minutes, Mr. Weprin, please.

6                     ASSEMBLYMAN WEPRIN: Thank you,  
7           Madam Chair.

8                     Thank you, Commissioner Annucci. This  
9           is now my sixth year, starting my sixth year  
10          as chair of the committee, and I've enjoyed  
11          working with you for these many years. And I  
12          know you've been involved a lot longer, but I  
13          look forward to your tenure under Governor  
14          Hochul once you're confirmed.

15                    I wanted -- as you know, we've been on  
16          a number of panels together on educational  
17          release. I've had legislation for years  
18          about educational release, which -- and the  
19          answer, the pushback has always been that we  
20          didn't have TAP for incarcerated individuals.  
21          Obviously the Governor has proposed changing  
22          that, and I'm hoping with TAP there will be a  
23          way to pay for it.

24                    Can you just get into, for me, how

1           this new initiative on educational release as  
2           well as furlough will be operated? And how  
3           are you going to see that you have the  
4           maximum amount of people that are eligible?  
5           Because I know you're very committed to  
6           education in facilities.

7                     ACTING COMMISSIONER ANNUCCI: Thank  
8           you, Assemblyman. And you're right, it's a  
9           pleasure working with you. I look forward to  
10          continuing to collaborate, and especially on  
11          something like education. We've both been at  
12          events where education and higher education,  
13          college has been prioritized.

14                    So let me say that first of all we  
15          already have a fairly developed network of  
16          college programs. And I can also tell you  
17          that I just came from a conference where I  
18          heard a briefing on the potential rules and  
19          regulations for the restoration of Pell  
20          funding, which will be coming in about a  
21          year, I believe. And so the eligibility for  
22          TAP will coincide nicely.

23                    And I believe that that will help  
24          further build the option of the different

1 colleges that are out there and can build  
2 upon what they're able to offer.

3 I can tell you that if there is one  
4 single thing that really addresses  
5 recidivism, it is the word "education." More  
6 than anything else, education is  
7 transformative. I think that's the key thing  
8 for everybody to understand. And you not  
9 only see that from the studies that are  
10 performed, you see that from the individuals  
11 who have been through the system and  
12 completely changed their lives around.

13 And I can tell you that we will work  
14 with the current students that are there, we  
15 will look at who becomes eligible for  
16 educational release, meaning that if they're  
17 in a college program and they come within two  
18 years of their earliest release date, and  
19 they have one year already of college under  
20 their belt, they can then transfer into the  
21 general confinement facility, but probably a  
22 facility like Queensboro in New York City,  
23 and start there and then enroll in classes  
24 and then get approved for a furlough on the

1 weekends and come back to the facility, you  
2 know, when they have to.

3 So they gradually get -- almost like a  
4 work release inmate -- to the point where  
5 they fully get LCTA credit. And then when  
6 they release their -- reach their LCTA  
7 release date, they get released.

8 So they'll be studying in the same  
9 classrooms, on the same campuses with other  
10 individuals, and I think it's a great  
11 learning experience for everybody.

12 ASSEMBLYMAN WEPRIN: Can you tell me,  
13 as a follow-up, how many and approximately  
14 what percentage of incarcerated individuals  
15 in DOCCS custody are enrolled in college-  
16 degree-granting programs? And how many  
17 facilities are offering a degree-granting  
18 program?

19 ACTING COMMISSIONER ANNUCCI: So right  
20 now I think it's -- we have a college program  
21 in 30 different facilities. And I think we  
22 currently have about 23 different higher  
23 education institutions that are delivering at  
24 30 different correctional facilities.

1           I have to get you the exact number. I  
2 think obviously with COVID we had our  
3 challenges. But we have been able to deliver  
4 programming through the tablet program,  
5 through the Ashland College that delivers it  
6 through the tablets, and we have the ability  
7 for others to use that technology as well.

8           So I'll get the exact number of  
9 current participants, but I think I -- it's  
10 about 2056 right now is the current number of  
11 college participants. I'd have to do an  
12 analysis of how many of them are within two  
13 years of their earliest release date, and  
14 that's the ones. And if they have one year  
15 of college under their belt, they'd be able  
16 to go into educational release.

17           ASSEMBLYMAN WEPRIN: Okay, I just want  
18 to talk a little bit about deaths in prison.  
19 As you know, we passed legislation to prevent  
20 the redaction where you can't even determine  
21 what the deaths were.

22           And of course the Rikers Island  
23 situation with the highlighting of how many  
24 people have died in the last year in prison,

1           you know, has gotten obviously a lot of  
2           airing in the public.

3                       It was the Columbia university report  
4           that found that an incarcerated person in  
5           New York State prisons dies every three days.  
6           How many total incarcerated people have died  
7           in DOCCS custody in 2021?

8                       ACTING COMMISSIONER ANNUCCI: I think  
9           I have that number here. And I may have  
10          misplaced it. One second. Give me a few  
11          moments.

12                      There were 136 deaths reported in  
13          2021. Which is an increase of 14 from the  
14          year before, 122. And 97 were considered  
15          natural causes; that's about 71 percent.

16                      (Pause.)

17                      ASSEMBLYMAN WEPRIN: Hello?

18                      ACTING COMMISSIONER ANNUCCI: I can  
19          hear you.

20                      ASSEMBLYMAN WEPRIN: Okay, I lost you  
21          for a second. Technology problems.

22                      CHAIRWOMAN KRUEGER: Okay. Are you  
23          still with us?

24                      ASSEMBLYMAN WEPRIN: I'm still with

1           you.

2                   CHAIRWOMAN KRUEGER:  Are there any  
3           more --

4                   ASSEMBLYMAN WEPRIN:  Yeah, along the  
5           same line as deaths in prison, I know there  
6           are a number of states that actually publish  
7           online various deaths in prison.  Is that  
8           something that DOCCS would be able to  
9           consider?

10                   And also I know there's been a lot of  
11           information about, you know, deaths related  
12           to COVID, but I think it's important that we  
13           know what the cause of a lot of these deaths  
14           are in facilities.  Commissioner, would you  
15           be able to comment on that?

16                   ACTING COMMISSIONER ANNUCCI:  Yeah,  
17           certainly we'll consider that, Assemblyman.

18                   One of the things is sometimes we  
19           don't always know the cause of death for a  
20           little bit of time.  As you know, every  
21           single death is required, under the County  
22           Law Section 674, to have an autopsy  
23           performed.  If it's an outside hospital or if  
24           it's inside a facility, wherever it occurs,



1 an autopsy must be performed, even if  
2 seemingly it might be natural causes, like  
3 somebody has cancer or what have you.

4 Now, that may take a little bit of  
5 time before we get the final results. So  
6 we're always a little bit behind where we  
7 are. COVID deaths are posted.

8 But we'll consider whether or not at  
9 any one time we would post that. Certainly I  
10 think -- I can see giving the accurate  
11 information. But the final determination as  
12 to whether or not something is a  
13 natural-cause death or a drug overdose death  
14 is something that may have to wait until nine  
15 months or whatever until we get an autopsy  
16 report.

17 ASSEMBLYMAN WEPRIN: Okay, thank you,  
18 Commissioner.

19 One last question on the area of the  
20 public/private partnership and increasing  
21 work release programs with the private sector  
22 once it's allowed. I know there was an issue  
23 with paying labor.

24 I mean, what's contemplated as far as

1           how much incarcerated individuals will be  
2           paid by the private sector? Have you  
3           determined that? And has there been  
4           discussions about, you know, what wages would  
5           be paid to those incarcerated individuals  
6           doing, in many cases, skilled labor?

7                    ACTING COMMISSIONER ANNUCCI: They  
8           would be paid the exact same salary that  
9           John Q. Private Citizen would get doing that  
10          same job in the private sector. If somebody  
11          is, on the outside, making X dollars an hour  
12          working in a food establishment, and that  
13          same food establishment is working them  
14          behind the walls, they would get the same  
15          exact rate of pay. There's going to be no  
16          difference whatsoever.

17                   Just like now in work release. You  
18          participate in work release, you get the same  
19          salary, the labor laws are applicable, you  
20          pay taxes on your salary, et cetera. Just  
21          like that, it would work behind the walls.

22                   ASSEMBLYMAN WEPRIN: I know you've  
23          been doing a lot of work on vocational  
24          programs, so I look forward to a

1 public/private partnership with expanded  
2 opportunity for incarcerated individuals. So  
3 I look forward to that.

4 ACTING COMMISSIONER ANNUCCI: Thank  
5 you, Assemblyman.

6 CHAIRWOMAN KRUEGER: Thank you.

7 ASSEMBLYMAN WEPRIN: Thank you,  
8 Madam Chair. I don't know if my time's up,  
9 but it probably is.

10 CHAIRWOMAN WEINSTEIN: Sure, you gave  
11 us back 13 seconds.

12 CHAIRWOMAN KRUEGER: Thirteen seconds.

13 CHAIRWOMAN WEINSTEIN: Senator?

14 CHAIRWOMAN KRUEGER: Thank you so  
15 much.

16 Senator Pete Harckham.

17 SENATOR HARCKHAM: Thank you,  
18 Madam Chair.

19 Commissioner, good afternoon. Thank  
20 you for your testimony. Good to see you.

21 ACTING COMMISSIONER ANNUCCI: Good to  
22 see you, Senator.

23 SENATOR HARCKHAM: And congratulations  
24 on your appointment. That's good news.

1                   ACTING COMMISSIONER ANNUCCI: Thank  
2                   you.

3                   SENATOR HARCKHAM: Let's talk a bit  
4                   about medication-assisted treatment. As we  
5                   know, the largest per-capita group of deaths  
6                   from overdose are from recently released  
7                   folks from incarceration.

8                   So in the beginning of your testimony  
9                   you alluded to expanding medication-assisted  
10                  treatment. So if you could tell us in detail  
11                  what you're doing, but also how we're going  
12                  to have a continuum of care so when people  
13                  leave from behind the walls to get out into  
14                  society, that medication-assisted treatment  
15                  prescription is going with them in some sort  
16                  of continuity of care.

17                  ACTING COMMISSIONER ANNUCCI: So let  
18                  me first address people leaving.

19                  We've made it a big priority to make  
20                  sure that individuals get registered on  
21                  Medicaid before they leave. We've hired a  
22                  number of clerks that their job is to go  
23                  around and register individuals so that they  
24                  have the Medicaid card when they leave.

1           We have all forms of MAT right now in  
2           a number of different facilities. I may be  
3           able to give you the breakdown, but we are  
4           expanding it. We have methadone, we have  
5           buprenorphine and -- naltrexone? I'm sorry,  
6           it's eluded my mind for a moment.

7           But we're expanding the program now,  
8           and we were planning to put out an RFP in  
9           February so that we have one provider that  
10          will be able to respond to all of our  
11          facilities. Our target is to be able to have  
12          MAT present in 40 facilities I think by  
13          sometime later this year -- I'll get you the  
14          exact month. But we are moving forward  
15          aggressively with that. We strongly believe  
16          in it. It will have to continue with the  
17          appropriate connections to the providers in  
18          the community when we get out. It's part of  
19          discharge planning. It is lifesaving.

20          We also do training for the population  
21          so that they can take with them kits when  
22          they leave to be able to resuscitate someone  
23          who might be on an overdose that they  
24          encounter in the community.

1           So it is an initiative we're  
2           proceeding on multiple fronts. It is  
3           lifesaving. There's no question people dying  
4           of drug overdoses in the communities is on  
5           the rise. We need to do everything possible  
6           to safeguard that.

7           SENATOR HARCKHAM: Thank you. That  
8           all sounds very promising.

9           Do you know what the increased number  
10          of individuals from those who are receiving  
11          medication today to when you expand the  
12          program to the other facilities?

13          ACTING COMMISSIONER ANNUCCI: I do. I  
14          have a projection, it was based upon  
15          screening that we've done in the population.  
16          And I have a number, I just don't have it at  
17          my fingertips --

18          SENATOR HARCKHAM: If you want to get  
19          it to me offline, that would be great.

20          ACTING COMMISSIONER ANNUCCI: Sure,  
21          absolutely, Senator.

22          SENATOR HARCKHAM: All right. Thank  
23          you for your testimony.

24          CHAIRWOMAN KRUEGER: Thank you,

1 Senator.

2 Assemblywoman Weinstein.

3 CHAIRWOMAN WEINSTEIN: Yes. Next we  
4 have Assemblyman Lawler.

5 ASSEMBLYMAN LAWLER: Thank you. And  
6 thank you, Commissioner, for being with us.

7 Over the past six months or so I've  
8 visited Sing Sing, Rikers, and my county  
9 jail, and one of my biggest takeaways from  
10 visiting these facilities was really the need  
11 to support our corrections officers, as well  
12 as the need for some level of punitive  
13 segregation.

14 And I note that in November you sent a  
15 memo to the incarcerated population where you  
16 described some of the violent actions as,  
17 quote, unquote, savagery. And I want to know  
18 what exactly prompted this memo, and why did  
19 you specifically use that terminology?

20 And you talk about holding individuals  
21 accountable to the fullest extent of the law  
22 in that memo. What does that mean, in your  
23 mind?

24 ACTING COMMISSIONER ANNUCCI: So as I

1           said earlier, there were several different  
2           attacks that rise to the level of something I  
3           hadn't seen in a while -- cutting an officer  
4           seriously on the face, breaking orbital  
5           bones, knocking a female officer down and  
6           trying to stomp on her with boots. Those are  
7           the examples that I was talking about.  
8           They're very serious.

9                         And the message I wanted to send was  
10           that for those small number of individuals  
11           that think it's okay to do that, there are  
12           going to be serious repercussions. We have a  
13           saying in corrections: 95 percent of the  
14           problems that are caused by incarcerated  
15           individuals are caused by 5 percent of the  
16           individuals. It's a small number that  
17           disproportionately cause the most harm.

18                        And in order for them to understand  
19           what might happen, I put that memo out that  
20           described in detail these are the convictions  
21           that will happen if you commit these acts.  
22           We have liaisons with every single prosecutor  
23           office in the state. We pay -- by operation  
24           of law, we pay for all the costs related to



1           incarceration. So if this is going to happen  
2           and we have these liaisons, we are going to  
3           pursue a consecutive sentence of imprisonment  
4           for these types of acts.

5                     Again, it's a small number, but they  
6           need to have their --

7                     ASSEMBLYMAN LAWLER: I appreciate -- I  
8           appreciate that explanation, and I support  
9           you in that. And absolutely do what you need  
10          to do to keep your corrections officers safe.

11                    With the time I have left, I just want  
12          to make a statement to you with respect to  
13          community supervision and the Parole Board.  
14          I think the Parole Board is an absolute  
15          disgrace. I think what they have done in  
16          just this past calendar year -- in my  
17          district, they've released a domestic  
18          terrorist and cop killer who was responsible  
19          for the deaths of two law enforcement  
20          officers in the 1981 Brinks robbery, and they  
21          released a child rapist and murderer who  
22          killed a 16-year-old girl on her way home  
23          from school -- from work at the library.

24                    It's an absolute disgrace what has

1           happened, and I hope you'll support my  
2           efforts to reform the Parole Board and stop  
3           the release of unrepentant cop killers and  
4           child rapists and murderers.

5                   CHAIRWOMAN WEINSTEIN: Thank you, we  
6           go to the Senate.

7                   ACTING COMMISSIONER ANNUCCI:  
8           Assemblyman, I just need to respond that I  
9           have the utmost respect for the chairwoman  
10          and the Board of Parole. They work very,  
11          very hard. It's basically a thankless job.  
12          No matter what they decide, someone is going  
13          to be upset with the decision. And it's  
14          never an easy decision. I respect your  
15          opinion, and you may be critical of them for  
16          that, but they work very hard and in an often  
17          thankless job.

18                   CHAIRWOMAN KRUEGER: Thank you.

19                   Senator Bailey.

20                   SENATOR BAILEY: Thank you,  
21          Madam Chair.

22                   Thank you, Commissioner, for  
23          appearing.

24                   Senator Harckham asked a lot of the

1 questions related to the MAT in prison  
2 facilities that I was going to ask, and I was  
3 going to ask -- I was going to thank you for  
4 what DOCCS has been doing in order to make  
5 sure we implement this lifesaving treatment,  
6 which is quite frankly -- and I see my good  
7 friend Senator Akshar on the Zoom. We've  
8 spoken about this, and this is clearly a  
9 bipartisan issue and this is something that  
10 we can all agree on. So I thank you for  
11 understanding that, that this expansion is  
12 critical.

13 I just wanted to ask I guess one brief  
14 question, yes. And I see I do only get three  
15 minutes, I do not get the 10 minutes on this  
16 one. I just wanted to ask a brief question  
17 about the TAP for incarcerated individuals.

18 If its place is in the budget and it  
19 goes through the process, at what rate would  
20 it be able to expand within DOCCS facilities?  
21 And how would you see that expansion in  
22 facilities?

23 ACTING COMMISSIONER ANNUCCI: I didn't  
24 hear the first part of the question, Senator.

1 The expansion of MAT, did you say?

2 SENATOR BAILEY: No, no, I was  
3 thanking you for MAT because I was talking  
4 about the expansion of TAP.

5 ACTING COMMISSIONER ANNUCCI: I'm  
6 sorry, I apologize for that.

7 I can't really predict exactly how  
8 this is going to play out at this time. I  
9 know that we're involved with State Ed. I  
10 know that we previously used to have a number  
11 of individuals who received the benefit of  
12 TAP funding and Pell funding. Certainly  
13 we'll work with the colleges.

14 I think, you know, it's just like in  
15 years gone by when they dealt with the  
16 applicants and they decided who was eligible.  
17 There might be a statutory structure to what  
18 might be involved. If we need to enter into  
19 MOUs with colleges or other types of legal  
20 arrangements, we will.

21 Presently when we deal with the  
22 colleges, we don't require them to enter into  
23 anything formal. But whatever the  
24 Legislature would want us to do to ensure the

1 integrity and the fairness and the  
2 distribution of funding for incarcerated  
3 students, we will certainly support and make  
4 it happen.

5 Again, I repeat, education is  
6 transformative. It's the single most  
7 important thing to deliver for incarcerated  
8 individuals to lower recidivism.

9 SENATOR BAILEY: Without a doubt. And  
10 I would say that I had a chance to tour Green  
11 Haven and I saw the BPI individuals and I got  
12 to witness the magic, for lack of a better  
13 term, in that classroom, and it was quite  
14 incredible.

15 And I would just hope that -- I know  
16 my actual formal time is ending shortly. I  
17 just wanted to make sure I underlined the  
18 point that in having these conversations with  
19 our SUNY and CUNY institutions that we should  
20 make sure that us as legislators and you as  
21 DOCCS, we're having substantive conversations  
22 about the expansion and making sure that we  
23 can take on as many individuals as possible.  
24 Because as I tell my kids, as I will tell any

1 kid, we should never be discouraging anybody  
2 from being able to pursue an education.

3 So I just want to say thank you for  
4 your time, Commissioner, and thank you,  
5 Madam Chair.

6 ACTING COMMISSIONER ANNUCCI: Thank  
7 you, Senator.

8 CHAIRWOMAN WEINSTEIN: We go to  
9 Assemblyman Walczyk.

10 ASSEMBLYMAN WALCZYK: Thank you,  
11 Chairwoman.

12 Commissioner, the inmate on staff  
13 violence is increasing at a faster rate than  
14 inmate on inmate violence, at least according  
15 to the numbers that we've got from your  
16 department. Drugs are like a sieve in our  
17 facilities, and you've ignored some of the  
18 recommendations that this body has sent to  
19 you. Retention is bad, morale is terrible.  
20 You're continually closing facilities and  
21 moving families all over New York State. The  
22 Academy is short and not graduating as many  
23 as it used to, so your advertising at fairs  
24 probably isn't going to cut it when it comes

1 to some of those shortfalls.

2 As far as incentives go, are you  
3 looking at raises for corrections officers,  
4 doing any staff increases? Or how about  
5 tuition reimbursement or loan forgiveness for  
6 corrections officers?

7 ACTING COMMISSIONER ANNUCCI: I don't  
8 believe we have any of those in the pipeline.  
9 But we're always looking at a number of  
10 different things to improve morale or  
11 wellness.

12 I think that their participation on  
13 this task force is very, very important. We  
14 didn't just want superintendents or central  
15 office types, we want the rank and file to be  
16 represented. We want to hear from them  
17 directly what they think.

18 And I think you're seeing, in society  
19 in general -- it's not just the violence in  
20 the streets, you're seeing it on airlines,  
21 you're seeing it with traffic accidents,  
22 you're seeing generally Americans being  
23 intolerant with one another, and it's playing  
24 out in a lot of different forms, including

1           our correctional facilities.

2                   ASSEMBLYMAN WALCZYK: Well,  
3           commissioner, respectfully, this isn't crime  
4           on the streets, this is crime in your  
5           facilities. This is inmate-on-staff violence  
6           increasing at a faster rate than  
7           inmate-on-inmate violence. How do you square  
8           that? What's responsible for that?

9                   ACTING COMMISSIONER ANNUCCI: I don't  
10          have an easy answer. I intend to get  
11          feedback.

12                   But back to your question on raises, I  
13          can tell you that the collective bargaining  
14          agreement does call for increases, and that's  
15          in our budget presently. And I think there  
16          is a provision for tuition reimbursement as  
17          well.

18                   ASSEMBLYMAN WALCZYK: How does your  
19          staff that works in these facilities every  
20          single day, doing a dangerous job, that is  
21          getting assaulted with more frequency, feel  
22          about free college for the individuals under  
23          their care?

24                   ACTING COMMISSIONER ANNUCCI: I can't



1 speak for them. They'd have to speak for  
2 themselves. But ultimately if they're  
3 taxpayers and it results in less people  
4 coming back to prison and more people  
5 becoming law-abiding citizens and more people  
6 paying taxes, I think they would be happy as  
7 taxpayers.

8 ASSEMBLYMAN WALCZYK: Will the inmates  
9 receiving free college be screened for drugs?

10 ACTING COMMISSIONER ANNUCCI: They  
11 won't be separated out. We have general  
12 random testing of the population, all with  
13 probable cause. That will be continued.

14 And if somebody misbehaves while  
15 they're in a college program, as is the case  
16 now, they could forfeit their place in the  
17 program.

18 ASSEMBLYMAN WALCZYK: I'm glad you  
19 brought that up. What misconduct would  
20 disqualify them from free college?

21 ACTING COMMISSIONER ANNUCCI: Well,  
22 any misconduct of a serious nature. It  
23 doesn't have to be just one particular type.  
24 It could be an assault, it could be

1           destruction of property, it could be  
2           paraphernalia. Anything of any serious  
3           nature could result in your being removed  
4           from a college program -- or any program, for  
5           that matter.

6                     ASSEMBLYMAN WALCZYK: I'm out of time.

7                     CHAIRWOMAN KRUEGER: Thank you.

8                     Senator Sue Serino.

9                     SENATOR SERINO: Thank you,  
10           Chairwoman.

11                    And thank you, Commissioner. I have a  
12           couple of questions. And I just want to say  
13           I also share Senator Ritchie's comments that  
14           she had mentioned earlier.

15                    You know, as you know, I represent the  
16           district where Downstate Correctional  
17           Facility is located, and Downstate employs  
18           more than 600 residents who have made their  
19           homes in and around Dutchess County. I have  
20           to say I'm deeply disappointed with how we  
21           received news of the proposed closure. And  
22           in your letter in November, you noted that  
23           you were mindful of the impact the closure  
24           would have on the community. However, to

1 date, I'm not aware that any stakeholders,  
2 whether local lawmakers, union  
3 representatives, the facility employees or  
4 others, were consulted before the closure was  
5 announced.

6 You claim you also did a detailed  
7 review, but where are the details and why  
8 weren't critical stakeholders consulted or a  
9 public meeting held?

10 ACTING COMMISSIONER ANNUCCI: Senator,  
11 respectfully, if we were to consult in  
12 advance of announcing a closure with any  
13 interested stakeholder anywhere in the state,  
14 we would still have 72 correctional  
15 facilities and a population of 30,000, which  
16 the taxpayers would not tolerate.

17 I am so sensitive to the impact on  
18 communities. We look at a whole number of  
19 factors, we look at programs that are  
20 offered, we look at infrastructure, we look  
21 at capital improvements that are needed, we  
22 look at neighboring facilities that are close  
23 by -- there's a whole host of factors that we  
24 look at in determining to close.

1           Once closure is announced, the  
2           number-one priority I have is to try as hard  
3           as we can to arrange a soft landing for all  
4           affected staff. I want them to have the  
5           opportunity to continue to be employed in our  
6           system in as close-as-possible other location  
7           or at least with the state.

8           We've met with the staff. I send my  
9           HR directors down there, they explain what  
10          their rights are, they meet with the union  
11          individuals, they go through this, and then  
12          we try and arrange the transfer so that they  
13          can continue in our employ. Which --

14          SENATOR SERINO: With all due respect,  
15          Commissioner, because you were just talking  
16          about employees having continued employment,  
17          so can you tell us, did they have to uproot  
18          their families and move elsewhere? Do you  
19          know where the employees are being  
20          reassigned?

21          ACTING COMMISSIONER ANNUCCI: Oh, yes.  
22          When they're being reassigned, they're given  
23          the option -- we can tell you where they've  
24          gone, to each facility and how much of a

1 distance it is.

2 I don't have that at my fingertips,  
3 but I can give you that information for those  
4 that are --

5 SENATOR SERINO: I'd like to follow up  
6 with you with that also. And there's another  
7 concern.

8 The Glenham Fire District is located  
9 like directly adjacent to Downstate and has  
10 been providing fire emergency response there  
11 for over 20 years through a contract with the  
12 state. And this contract actually provides  
13 fire protection coverage, which includes  
14 mutual aid protection in the event that a  
15 firefighter is injured or equipment is  
16 damaged during a mutual-aid response.

17 Given that the need for fire and  
18 emergency response will remain for the  
19 facility after its closure, will continue  
20 once the facility is closed, so are -- is  
21 there going to be aid for the fire companies  
22 for the facilities?

23 ACTING COMMISSIONER ANNUCCI: I'll  
24 have to look into that, Senator. I'm not

1           aware that we've ever done that in the past.  
2           But if there is a legitimate need and there's  
3           a way to do it, we'll find a way to do it.

4                       We have a whole process that we follow  
5           when we're closing a correctional facility,  
6           in the maintenance that we have to do and  
7           ensuring that it still is a viable asset for  
8           potential reuse. There's a lot of different  
9           things that we will look at.

10                      I'll certainly take that under  
11           advisement and see if there's anything that  
12           can be done.

13                      SENATOR SERINO: I hope that that --  
14           the contract will just continue and not have  
15           a lapse.

16                      And I just want to say, again, how  
17           disappointed I was in the way this has  
18           unfolded, especially when the Governor  
19           promised to be someone who governs by  
20           listening. These employees never even got a  
21           chance to make their voice heard -- in a  
22           surprise holiday announcement, and with just  
23           a couple of months' notice. It's just not  
24           right. These men and women put their lives

1 on the line every day to do a very dangerous  
2 job, and the way they were treated here isn't  
3 right.

4 And I really urge my colleagues to do  
5 all that they can to prohibit these 90-day  
6 closures and enact a better process going  
7 forward.

8 Thank you, Commissioner.

9 ACTING COMMISSIONER ANNUCCI: I  
10 respect your position, Senator.

11 CHAIRWOMAN KRUEGER: Thank you.

12 Assemblymember Weinstein.

13 CHAIRWOMAN WEINSTEIN: We go to  
14 Assemblywoman Mitaynes.

15 ASSEMBLYWOMAN MITAYNES: Thank you.

16 Good afternoon. Are you aware that  
17 the state owes a legal duty to incarcerated  
18 people to prevent their death, including by  
19 suicide? And how many people died by suicide  
20 in DOCCS custody last year? And can you  
21 describe what conditions in DOCCS facilities  
22 are causing incarcerated New Yorkers in DOCCS  
23 custody to take their own lives?

24 ACTING COMMISSIONER ANNUCCI: So thank

1           you for that question. And preventing  
2           suicide is a challenge to every single  
3           correction commissioner in the country. And  
4           I belong to an association, we meet  
5           periodically. There's 50 of us in the  
6           country, and it is something that is very  
7           challenging and very difficult.

8                        I have many different initiatives that  
9           are related to suicide prevention. I have  
10          two hours of annual training mandated for  
11          every single employee. I have every single  
12          employee that works in one of our mental  
13          health treatment units, they receive an  
14          annual amount of training I think of either  
15          six or eight hours.

16                       We have all kinds of new initiatives  
17          to remind families of individuals that if  
18          they become aware of any indicia that someone  
19          may be thinking of taking their own life,  
20          they should let the officials know in the  
21          facilities. There's a prompt that is  
22          activated when a phone call is made to the  
23          family. They hear that. There's a prompt  
24          that is made when someone sends a secure



1 message. We have posters.

2 We have downloaded a video on the  
3 tablet that was made by an incarcerated  
4 individual at Attica Correctional Facility as  
5 part of a TEDx talk where he talked about his  
6 own journey and why he was at one point  
7 thinking of taking his own life and why he  
8 sees value in his own life.

9 This past Christmas we played, for the  
10 entire population -- donated 100 copies of  
11 the movie "It's a Wonderful Life" and a  
12 message to the population by two of the  
13 surviving actors. The message of that movie  
14 is everybody's life matters, everybody's life  
15 touches another life.

16 So we are trying so many different  
17 things to make the population understand,  
18 regardless of what they've done in the past,  
19 it's never too late to do good. Your life  
20 still matters. You still have value. We  
21 need to look after each other.

22 ASSEMBLYWOMAN MITAYNES: Thank you.

23 And really quickly, in 2016 the Second  
24 Circuit Court of Appeals found DOCCS

1 grievance procedures were so opaque and  
2 confusing that they were, practically  
3 speaking, incapable of use and so confusing  
4 that no ordinary prisoner can discern or  
5 navigate them, and recommended that DOCCS  
6 revise its grievance procedures to make them  
7 more usable.

8           Can you explain what DOCCS has done  
9 since then to improve its grievance  
10 procedures and whether the filing of  
11 grievances has been added as a function to  
12 the electronic tablets distributed to  
13 incarcerated people?

14           ACTING COMMISSIONER ANNUCCI: Yes. We  
15 have added the grievance process to our  
16 tablets. I'm not -- well, it's in the  
17 process of being worked on but it's not yet  
18 been done. But it is certainly an area that  
19 definitely needs improvement, and it is  
20 something that we'll give our attention to  
21 going forward.

22           The prior question you asked was the  
23 total number of suicides in 2020-'21. I  
24 think it was 16.

1 ASSEMBLYWOMAN MITAYNES: Thank you.

2 SENATOR HOYLMAN: Thank you. I --  
3 this is Senator Hoylman. I think Chair  
4 Krueger --

5 CHAIRWOMAN WEINSTEIN: Yes, I was  
6 going to call on you, Senator Hoylman.

7 SENATOR HOYLMAN: Oh, thank you.  
8 Thank you.

9 CHAIRWOMAN WEINSTEIN: You're next.

10 SENATOR HOYLMAN: Thank you,  
11 Madam Chair.

12 Thank you. Good to see you, Acting  
13 Commissioner. First I just wanted to  
14 compliment you for your defense of the use of  
15 TAP for incarcerated individuals. And I want  
16 to thank you and the Governor for your  
17 support of that and particularly the Bard  
18 Prison Initiative, which we've seen such  
19 success come from.

20 I wanted to ask you about various  
21 studies from newspapers like the New York  
22 Times and Albany Times Union, NYU Law School,  
23 the Vera Institute for Justice, that have  
24 shown that the Parole Board grants release to

1 white individuals far more frequently than  
2 Black and Latinx people, even when you  
3 control for factors such as crime and  
4 disciplinary record.

5 Do you have any comments about that  
6 disparity? And what can we do to address it  
7 in terms of the Parole Board's release rates?

8 ACTING COMMISSIONER ANNUCCI: Well,  
9 first of all, Senator, let me say that the  
10 Parole Board is the most diverse Parole Board  
11 that -- throughout my experience with  
12 Corrections, and I've been here 37 years.

13 I can give you the breakdown -- I'll  
14 separately send it to you -- are women of  
15 color, men of color and Hispanic and all the  
16 different categories. So it's the most  
17 diverse it has ever been.

18 Second of all, these studies I  
19 question significantly, because there's no  
20 way anyone on the outside can actually have  
21 all the information in order to do an  
22 apples-to-apples, oranges-to-oranges  
23 comparison. You have to even actually do a  
24 further dive. You have to look at, you know,

1 Empire apples to Empire apples, McIntosh  
2 apples to McIntosh apples, because there's so  
3 many different factors in an individual's  
4 background, starting with his criminal  
5 history or her criminal history.

6 We have a second felony offender law  
7 that we keep applying, and it could be the  
8 sixth, seventh or eighth time someone --

9 SENATOR HOYLMAN: With my remaining --  
10 thank you. With my remaining few seconds, is  
11 that something you would commit to examining  
12 from within, since you do have the data to  
13 make these comparisons?

14 ACTING COMMISSIONER ANNUCCI: Well,  
15 Senator, that's probably a huge study,  
16 number one.

17 Number two, the Board of Parole is  
18 independent. And when we merged, the  
19 Legislature wisely separated them out, and my  
20 responsibility is to give them all the  
21 support -- we have a wonderful partnership.  
22 I give them access to all the records they  
23 need. But their decision-making is  
24 independent. And any type of study of the

1 nature you're proposing I think would be  
2 extremely labor-intensive.

3 I am completely confident that with  
4 their diversity, they are making the  
5 decisions on the merits, they are completely  
6 color-blind.

7 SENATOR HOYLMAN: With all due  
8 respect, I don't think you can question  
9 outside analyses and then say this is beyond  
10 our ability to double-check the numbers,  
11 given the importance of the issue at hand,  
12 racial disparities in the, you know, release  
13 of incarcerated individuals.

14 I'd urge you to think about that, sir.  
15 Thank you.

16 ACTING COMMISSIONER ANNUCCI: Thank  
17 you, Senator.

18 CHAIRWOMAN WEINSTEIN: Thank you.

19 We're going to go to Assemblyman  
20 Burgos.

21 ASSEMBLYMAN BURGOS: Thank you,  
22 Madam Chair.

23 Thank you, Commissioner, for being  
24 here today.

1           I think the State Comptroller released  
2 reports that one in four incarcerated folks  
3 are older New Yorkers. He even went as far  
4 as making the suggestion that policymakers  
5 should be decreasing the prison population,  
6 especially for older New Yorkers, because  
7 they pose much less risk to our society.

8           I wanted to ask you, are you in  
9 agreement with the State Comptroller on this?

10           ACTING COMMISSIONER ANNUCCI: Well, I  
11 don't like to comment on potential  
12 legislative matters, and I know it's the  
13 subject of a lot of legislative bills out  
14 there that want to look at the issue.

15           Generally speaking, people tend to age  
16 out of the criminogenic behaviors as they get  
17 older. But you also have to look at how they  
18 came to prison. Are we talking about  
19 somebody that's been in prison a long time,  
20 or are we talking about somebody that at  
21 age 50 was a child molester? And that's a  
22 whole different paradigm altogether.

23           I can tell you that sometimes when we  
24 release somebody to a nursing home -- it took

1 us a long time to find a nursing home for a  
2 sex offender, then he managed to abuse one of  
3 the patients there and it really blew up in  
4 our face. So it's a complicated issue.

5 There's no question the older  
6 population requires a lot more attention.  
7 I'm trying to deliver to them meaningful  
8 programs. We have a senior dorm at one  
9 facility for 50 and older where we've  
10 selected programs that are just right for  
11 them for wellness, for engagement and a  
12 number of other things. If somebody requires  
13 skilled nursing care, they're placed in  
14 regional medical units. But --

15 ASSEMBLYMAN BURGOS: And I have a --  
16 I'm sorry, just because I have a question  
17 that I think you were kind of diving into, so  
18 I wanted to take it in that direction.

19 In the same report the Comptroller  
20 reported that older adults, it costs nearly a  
21 quarter million dollars more to incarcerate  
22 them. So I think you were kind of alluding  
23 to that. Can you explain why it does cost so  
24 much more to incarcerate an older adult?



1           ACTING COMMISSIONER ANNUCCI: Well, in  
2           general they have a lot more health problems  
3           at that age. Once you get to be a senior  
4           citizen in a correctional facility, your  
5           conditions, whether it's diabetes or you  
6           require, you know, heart treatments or you  
7           may be HIV-positive, you may have  
8           hepatitis C -- the treatment for that is  
9           rather expensive -- whatever your medical  
10          problems are, like all of us, as we get older  
11          they seem to come to the forefront.

12                 And if you have a background where  
13           you've neglected your health a little bit or  
14           you've also taken drugs or you've smoked or  
15           you've abused alcohol and you haven't  
16           exercised and you've eaten poorly, those  
17           problems will manifest themselves in  
18           compromised health conditions as you get  
19           older.

20                 ASSEMBLYMAN BURGOS: Okay, thank you.

21                 One last question. I've had  
22           difficulty getting a pretty clear and concise  
23           answer on this. I guess it can vary  
24           sometimes. But I'm really focused on the

1 reentry, right, when individuals are released  
2 from these prisons. And I wanted to know  
3 what is the DOCCS policy for individuals that  
4 are set to be released? How exactly are we  
5 releasing individuals? What are we giving  
6 them on the day of release, and how are we  
7 setting them on a path, you know, to a  
8 fruitful life?

9 ACTING COMMISSIONER ANNUCCI: It's  
10 going to require a little bit of a detailed  
11 answer. There's a lot that we do with  
12 reentry. In fact, that was a big reason why  
13 we merged, so that we can have a smooth  
14 hand-off to community supervision when the  
15 people are being released from our  
16 correctional facilities.

17 We have transitional accounting plans  
18 and Phase 3 is when we really focus on the  
19 individual who's leaving prisons. One of the  
20 Governor's priorities is to make sure that we  
21 facilitate the process of giving them  
22 identification so that when they leave, they  
23 have the birth certificate in hand, they have  
24 their Social Security card -- I'm trying to

1 advance the date when we can apply for that  
2 from four months to six months. We're  
3 working with DMV to expand a pilot. We're  
4 making them connections in the community. We  
5 have reentry managers that we hand off to.

6 We're going to focus significantly on  
7 job retention, so we train our parole  
8 officers to get them actively engaged in  
9 employment, because ultimately it has to be a  
10 smooth transition. We want them to succeed  
11 when they reenter society.

12 ASSEMBLYMAN BURGOS: I appreciate your  
13 time, Commissioner. Thank you.

14 CHAIRWOMAN WEINSTEIN: Thank you.

15 To the Senate.

16 CHAIRWOMAN KRUEGER: Thank you.

17 Our next questioner is Senator Savino.

18 Senator Savino, are you there? I see  
19 you, but you're not listening to us. Hi, can  
20 you unmute? Senator Savino. Apparently not.

21 Senator Savino, can you hear me?

22 SENATOR SAVINO: Yeah, but I wrote in  
23 the chat to let Senator Akshar go first  
24 because I'm doing something. I'll come back.

1 CHAIRWOMAN KRUEGER: Oh, I didn't see  
2 that, I'm sorry.

3 Okay, we're going to go to Senator  
4 Akshar first, thank you.

5 SENATOR AKSHAR: Madam Chairwoman,  
6 thank you. Senator Savino, thank you as  
7 well.

8 Commissioner, good to be with you.

9 I want to just turn your attention to  
10 HALT, obviously a piece of legislation that  
11 had been dated -- excuse me, debated for  
12 nearly a decade. We know now that there's no  
13 longer debate, it is now law. I've been here  
14 for seven years, and you have consistently  
15 stated that you cannot, nor will you, opine  
16 publicly on pending pieces of legislation.

17 I'm curious to know, now that this  
18 piece of legislation has been enacted, do you  
19 believe that the HALT Act will make the  
20 prison system safer or more dangerous for  
21 both the incarcerated and those that are  
22 charged with their care and custody?

23 ACTING COMMISSIONER ANNUCCI: Sure.  
24 First let me say when I don't comment on

1 pending legislation, I'm not trying to be  
2 obstructionist. I always try to take --  
3 whatever the Legislature inquires about, I  
4 try to be responsive to your questions. But  
5 there's a forum to discuss pending  
6 legislation, and it's not a public forum.  
7 There may be issues, so we communicate our  
8 questions to the Governor's counsel's office  
9 and let them --

10 SENATOR AKSHAR: Let me just publicly  
11 say I meant no disrespect by that.

12 ACTING COMMISSIONER ANNUCCI: Sure.  
13 Sure.

14 So HALT is now the law. And I will be  
15 honest, when it was first passed I had some  
16 concerns. But I can tell you that we have  
17 marshaled tremendous resources in order for  
18 us to implement this law as the Legislature  
19 intended.

20 I created an executive steering  
21 committee, and then I created four  
22 subcommittees, and they have worked extremely  
23 hard to structure an elaborate program to go  
24 forward to implement it, from infrastructure

1 to changing our disciplinary guidelines to  
2 developing programming for the individuals  
3 when they come out of their SHUs and their  
4 RRUs and also for movement of incarcerated  
5 individuals from the SHUs to the RRUs.

6 So it was a very labor-intensive  
7 process. I am very comfortable where we are  
8 that we'll hit the ground running. I believe  
9 that we will change behavior for the better,  
10 especially when I heard the program  
11 presentation. We're not just providing them  
12 out-of-cell time. Other systems will provide  
13 out-of-cell time, let them play cards. We  
14 are really trying to focus on the behavior  
15 that got them into segregated confinement to  
16 begin with. And I'm confident that we'll be  
17 able to make some changes that ultimately  
18 they'll reintegrate into general confinement  
19 and not return. Or -- oh --

20 SENATOR AKSHAR: So do you -- I'm  
21 sorry, Commissioner. Do you feel comfortable  
22 with its full implementation in the timeline  
23 that's been prescribed?

24 ACTING COMMISSIONER ANNUCCI: It is an

1 aggressive timeline. But at this point, I  
2 am. We worked very, very hard coordinating  
3 with a lot of different forces within our  
4 agency, coordinating with OGS to do all the  
5 infrastructure changes, doing the training  
6 for the hearing officers, the memos that went  
7 out to the field. I feel very confident --  
8 it certainly didn't hurt that the population  
9 also continued to decline as well. So that  
10 has kind of been the wind at our back  
11 somewhat.

12 But we're confident that we can  
13 deliver this. I have a breakdown of every  
14 facility where the RRUs are taking place,  
15 when they'll be ready, and I'm confident  
16 we'll hit the ground running.

17 SENATOR AKSHAR: Commissioner, with  
18 respect, with this looming threat of  
19 savagery, as you author in your letter -- I  
20 mean, how can you be so confident that, you  
21 know, its full implementation will in fact  
22 occur, with all of the violence that we've  
23 seen? Do you feel like you're being -- a  
24 tool is being taken away from you?

1           ACTING COMMISSIONER ANNUCCI: No.  
2           Because at the end of the day, our ability to  
3           separate is still intact. The theme going  
4           forward is separation, not isolation.

5           So we'll continue to separate the  
6           troublemakers, and we even put a memo out to  
7           the population, who may have been under the  
8           impression that they can do some act, go into  
9           SHU for 15 days, and they'd be back into  
10          general population. If that's what they're  
11          thinking, they're sadly mistaken, and that's  
12          not going to be the case.

13          They'll get out-of-cell structured  
14          programming and treatment, but my number-one  
15          priority is when we do this, we're going to  
16          keep everybody safe. Other incarcerated  
17          individuals, staff, volunteers, whomever,  
18          everybody will remain safe. That's my  
19          number-one priority.

20          SENATOR AKSHAR: Commissioner, why  
21          hasn't the department reimplemented the  
22          Secure Vendor Program?

23          ACTING COMMISSIONER ANNUCCI: It is  
24          something I still intend to pursue and to



1 follow. I'm looking for feedback from my  
2 task force on violence; that might give me  
3 some recommendations on that.

4 We learned the last time; we've talked  
5 to the advocates. We think it's valuable.  
6 We think it will save lives if it ultimately  
7 keeps dangerous drugs like fentanyl out of  
8 the system and ultimately be safer for  
9 everybody.

10 It's a question of timing. I need to  
11 be able to do this at a time when there is a  
12 lot more steadiness to the system. We have  
13 implemented so many programs in the last  
14 year. We are still in a state of change with  
15 closing facilities and new programs that are  
16 coming online. So it's a question of when  
17 the timing is appropriate, and I fully intend  
18 to pursue that at the appropriate time.

19 SENATOR AKSHAR: I would just  
20 respectfully --

21 CHAIRWOMAN KRUEGER: Thank you. I'm  
22 sorry, I have to cut you off, Senator Akshar.

23 SENATOR AKSHAR: Thank you,  
24 chairwoman. Thank you.

1                   CHAIRWOMAN KRUEGER: You can follow up  
2 with the commissioner later.

3                   Assemblywoman Weinstein.

4                   CHAIRWOMAN WEINSTEIN: Yes, we go to  
5 Assemblyman Palmesano.

6                   ASSEMBLYMAN PALMESANO: Yes,  
7 Commissioner, over the last two cycles we've  
8 seen 10 prison closures, Willard and  
9 Southport included, which I commented which  
10 is a bad idea, given the programs they  
11 provided, given the fact that none of these  
12 facilities are getting any dollars for their  
13 communities for repurposing, and given the  
14 fact that the short-term 90-day prison  
15 closures were disrespectful and an insult to  
16 the correctional facilities.

17                   What's used over and over again is a  
18 decrease in prison population. But even as  
19 the prison population has decreased, the  
20 alarming results of assaults continue to  
21 rise. I've said over and over again I  
22 believe these closures, coupled with bad  
23 policy, taking away and not providing tools  
24 and resources for our correction officers and

1 staff, is creating a dangerous powder-keg  
2 environment.

3 We talked about restricting special  
4 housing units and now HALT. There's no  
5 discipline for these actions. Your letter  
6 talked about savagery, but a letter's fine,  
7 but that's not -- what are you going to do  
8 about it? HALT I'll say is a disaster, it's  
9 going to be a disaster and going to lead to  
10 more violence inside our facilities.

11 Even your own numbers show you  
12 inmate-on-staff assaults are up 55 percent  
13 over the past six years, to an all-time high  
14 of 1176 this past year. Yet at the same  
15 time, Commissioner, drugs and contraband  
16 continues to be a great problem in our  
17 facilities -- 3500 last year and 4,000 each  
18 year of the past four years.

19 But yet as we mentioned, we're still  
20 here without a Secure Vendor Program. You  
21 said the time needs to be right. The time  
22 was right several years ago when it was  
23 canceled. When we talk about drug dogs in  
24 our correctional facilities, you always say

1           it's a budget issue. You know, TSA-type  
2           screening devices to keep the -- we know the  
3           drugs get in through the mail and through  
4           visitation. Adequate staffing for our staff  
5           so they can be safe and not have mandated  
6           overtime.

7                     You know, all the savings that are  
8           supposed to be realized through closures, why  
9           isn't any of it being reinvested back into  
10          the communities to provide tools and  
11          resources to keep them safe? We talk about  
12          iPads and TAP and free college tuition, but  
13          nothing seems to be going into the  
14          facilities.

15                    Commissioner, you're a career guy.  
16          You know what's going on in these facilities  
17          isn't working, and you know it's not safe.  
18          You need to be speaking out. So why not the  
19          Secure Vendor Program now? It was due  
20          before. What are we doing about the  
21          assaults? Are there any charges being  
22          charged for individuals on the assaults since  
23          your memo went out? What about drug dogs at  
24          each facility? What about technology

1 screening devices like TSA-type that screen  
2 individuals when they come in?

3 Aren't all these things going to be  
4 helpful and make things better? If so, why  
5 not advocate to the Governor and say we need  
6 to do these things? Better staffing and, you  
7 know, speaking out on all of this, I think.

8 So Secure Vendor, drug dogs,  
9 technology screening devices, staffing  
10 resources. What's going on with the assaults  
11 as far as charges? Where do we stand?  
12 because this is not safe and it's not fair to  
13 these corrections officers who work a  
14 dangerous job, Commissioner.

15 ACTING COMMISSIONER ANNUCCI: So first  
16 of all, Assemblyman, we have invested  
17 significantly in K-9 teams. We are  
18 significantly expanding them. I think the  
19 number is going to be, when all is said and  
20 done, about 28.

21 So we have our own school, we've  
22 been -- we've had our people certified by  
23 DCJS, and we keep the dogs fresh. And  
24 they've been doing a tremendous job

1 uncovering contraband and leading to the  
2 arrests of many individuals. There are  
3 serious consequences for bringing in  
4 contraband.

5 With respect to closures, I can tell  
6 you that the Governor has created or will be  
7 creating a new commission that's going to  
8 have private as well as public officials, ESD  
9 leading the charge so that we can find a use  
10 for these facilities consistent with the job  
11 needs of New York State and what all the  
12 different possibilities are. So we're paying  
13 a lot of attention to that.

14 The task force, I look forward to its  
15 first meeting and hearing feedback, whatever  
16 the recommendations are. We're continuing to  
17 look at technology, all the different devices  
18 that are out there. We're continuing to  
19 experiment -- from Cellsense to cameras to  
20 you name it, we've invested millions into our  
21 facilities. The body cameras and the fixed  
22 cameras alone, they show what's happened. So  
23 if someone is assaulting somebody and we have  
24 it on film, then the district attorney can

1 easily bring a prosecution based on that  
2 evidence.

3 So there's a lot that we're doing.

4 ASSEMBLYMAN PALMESANO: Has there been  
5 any increase in the --

6 CHAIRWOMAN WEINSTEIN: Thank you.

7 (Inaudible overtalk.)

8 CHAIRWOMAN WEINSTEIN: We're going to  
9 go to the Senate, but I just want to remind  
10 members to -- and Senators -- to leave enough  
11 time for the answers in the time.

12 So Senate?

13 CHAIRWOMAN KRUEGER: Thank you very  
14 much, Assemblymember.

15 Now Senator Diane Savino.

16 SENATOR SAVINO: Thank you, Senator  
17 Krueger.

18 Good to see you again, Commissioner.

19 ACTING COMMISSIONER ANNUCCI: Good to  
20 see you, Senator.

21 SENATOR SAVINO: We've been doing this  
22 dance so many years. At least I'm not  
23 yelling at you about overtime this time.

24 A lot of the questions I had have been

1 addressed by other members, so I'm not going  
2 to belabor the point. I do want to go to the  
3 issue of the \$45 million that's going to be  
4 utilized to support the implementation of  
5 HALT -- which I supported. But I'm curious  
6 as to -- I heard you describe to I think  
7 Senator Akshar and others how a lot of time  
8 and effort has gone into how you're going to  
9 implement it and the training, et cetera.  
10 That has always a concern of mine, how do we  
11 train the staff.

12 So I just -- I'm curious, were they --  
13 did they participate in the development of  
14 the training that's going to be used when  
15 HALT goes into effect? That's the first  
16 question. Because as you pointed out, inmate  
17 assaults against other inmates and against  
18 COs is -- in very limited areas are very  
19 high, and they are very violent, and so  
20 there's a real concern there that they're  
21 prepared to deal with this. So that's one  
22 question.

23 And then the second thing is we're all  
24 focused on some of the challenges we're



1           seeing in the city with respect to the  
2           mentally ill, some of whom have been released  
3           from prisons to their own communities with no  
4           support services. One of the criticisms of  
5           Kendra's Law, among many, is that there's a  
6           loophole in it that does not require DOCCS to  
7           notify local mental health providers when a  
8           prisoner or inmate who has been receiving  
9           mental health services while they were  
10          incarcerated -- to notify local mental health  
11          providers in their home community that  
12          they're being released so they can, if  
13          necessary, be connected with a local mental  
14          health provider or be evaluated to determine  
15          whether they have a propensity for violence.

16                 Is there a possibility that, absent a  
17          change in the statute, do you think this is  
18          something that DOCCS can do? Because people  
19          are being released, sent without -- with no  
20          resources -- I see in your budget the  
21          Governor is putting aside \$2.5 million to  
22          support transitional housing for people who  
23          are released with no resources. But this  
24          seems to be, you know, a glaring loophole

1           that perhaps absent a change in the statute,  
2           it could just be a change in policy to  
3           connect people at their home base with the  
4           necessary services that they need.

5                     ACTING COMMISSIONER ANNUCCI:  Okay,  
6           Senator, so addressing that question first,  
7           there is a statute that does require us to  
8           provide notice to law enforcement whenever  
9           anybody's getting released, every single --

10                    SENATOR SAVINO:  Law enforcement, but  
11           not mental health services.  That's  
12           different.

13                    ACTING COMMISSIONER ANNUCCI:  Right,  
14           you're right.  Not mental health.

15                    But there is a unit that we work with  
16           directly with OMH for anybody that is  
17           diagnosed as seriously mentally ill.  We work  
18           together four months prior to their potential  
19           release to line up potential resources in the  
20           community for them so that there is a smooth  
21           hand-off.  Which includes, by the way, us  
22           doing a direct transport to ensure that the  
23           individual arrives at the destination.  We  
24           don't want to just release them and send them

1 on their way to public transportation.

2 Sometimes that's to a residential  
3 program, sometimes it's directly to community  
4 supervision, so that there's a hand-off.

5 A lot of times with some of these  
6 individuals after they're out there, if they  
7 abscond, if they stop taking their  
8 medication, there's a problem. So it's not  
9 one that's amenable to an easy solution.

10 I know that they are protected under  
11 HIPAA. There's limited information we can  
12 give right now, under current law, about  
13 somebody's mental health status. I don't  
14 know if, you know, that would help public  
15 safety if they were giving that information  
16 to law enforcement.

17 I think, you know, we have to continue  
18 to make sure we coordinate our services.  
19 We're working with OMH. We make sure that  
20 they get their Medicaid card, they have that  
21 available so that they can continue -- we  
22 give them a 30-day supply of their  
23 psychotropic medications, if they're on that,  
24 when they leave, and they have to continue to

1 take it when they're in the community.

2 So there's a lot of different forces  
3 at play when these terrible events happen.  
4 They just shock everybody's conscience.

5 Back to your training question,  
6 there's a lot of training that's going to go  
7 out there, especially for hearing officers.  
8 Most of this is going to come from our  
9 central office. I'm going to record a  
10 message in, you know, a few days as part of  
11 that training. It is an all-encompassing  
12 effort. A lot has to be done. And certainly  
13 we want to listen. It's an ongoing process,  
14 listening to the feedback from the rank and  
15 file as we roll this out.

16 CHAIRWOMAN KRUEGER: Thank you.

17 SENATOR SAVINO: My time is up.

18 CHAIRWOMAN KRUEGER: Sorry, we do have  
19 to cut you off, Senator Savino.

20 Assemblywoman Weinstein.

21 CHAIRWOMAN WEINSTEIN: Yes, we're  
22 going to go to Assemblyman Epstein now.

23 ASSEMBLYMAN EPSTEIN: Thank you,  
24 Chair.

1                   And thank you, Commissioner, for being  
2 with us today.

3                   So I note that the average death of  
4 folks behind the wall based on natural causes  
5 is between 56 and 59 years old. I'm  
6 wondering how you define natural causes for  
7 such an -- and how do you -- I mean, it's  
8 such a low death average compared to what we  
9 see out in the general public.

10                   ACTING COMMISSIONER ANNUCCI: Well,  
11 natural causes is something that's basically  
12 a health services determination. It is not,  
13 you know, an operations determination.

14                   And every single individual has to  
15 have an autopsy performed, and that will tell  
16 us what the cause of death is. When death  
17 happens, that generates what's called an  
18 unusual incident report, where we have to put  
19 down what seems to be a cause of death, which  
20 can change once we get the ultimate autopsy  
21 report.

22                   It also might be listed initially as  
23 "unknown," because we simply -- if we find  
24 somebody who's dead, unfortunately deceased

1 in their cell, we have no idea if it's  
2 natural causes, we have no idea if it's a  
3 drug overdose or anything else. We also will  
4 have BCI come in and do an investigation.

5 But you're right about the average age  
6 of death for natural causes. It's the same  
7 as basically in the general public. If the  
8 health services, if the medical examiner  
9 tells us natural causes and he writes it up  
10 for arterial sclerosis or brain tumor or  
11 cancer or whatever the cause of death may be,  
12 that's what we go by.

13 ASSEMBLYMAN EPSTEIN: I would just  
14 hope that we could explore that a little  
15 more, because it just seems, you know, much  
16 lower than the general public and I believe  
17 there's something we should be doing about  
18 that.

19 I want to focus on, you know, access  
20 to phone calls. I know inmates, folks behind  
21 the walls are -- you know, really need to  
22 stay connected to their family and their  
23 community. And this is an issue that keeps  
24 coming up when we hear from advocates. And

1 I'm wondering, you know, like expanding  
2 opportunities for free phone calls -- you  
3 know, I know there were free phone calls  
4 that's been available during the pandemic --  
5 and looking at extending that. And what's  
6 your view on giving them access to more free  
7 phone calls to stay connected to their  
8 community?

9 ACTING COMMISSIONER ANNUCCI: Well,  
10 let me say I support generally, you know, the  
11 practical means to connect incarcerated  
12 individuals with their families. That's why  
13 I continue to have a family reunion program  
14 so that they can have an intimate visit and  
15 be a family again, and I put a lot of time  
16 and effort into upgrading them so they look  
17 like family environments.

18 Staying connected to family is  
19 critical. We have among the lowest phone  
20 rates right now because by statute we are not  
21 allowed to take any commissions. Other  
22 jurisdictions, around the state and local,  
23 they use commissions from phone calls and  
24 they'll apply it to subsidize their

1 operations. We do not do any of that at all.

2 ASSEMBLYMAN EPSTEIN: So,  
3 Commissioner, I'm almost out of time. I'd  
4 love to, you know, talk to you more about  
5 that.

6 And I just have one last question,  
7 because I do think free phone calls is  
8 important. I'm wondering if there's any  
9 formerly incarcerated people on the Parole  
10 Board right now. And what's your thought  
11 about having a formerly incarcerated person  
12 on the board?

13 ACTING COMMISSIONER ANNUCCI: I don't  
14 believe anyone who's formerly incarcerated is  
15 on the board.

16 I won't speak for the board, but I'll  
17 tell you that we hire a lot of formerly  
18 incarcerated, they're volunteers in our  
19 system. I think they're the most credible  
20 people to deliver messages about what their  
21 experience has been and get other people to  
22 turn their lives around. So I strongly  
23 support hiring formerly incarcerated  
24 individuals.



1 ASSEMBLYMAN EPSTEIN: Thank you,  
2 Chair. Thank you, Commissioner.

3 CHAIRWOMAN WEINSTEIN: Senate?

4 CHAIRWOMAN KRUEGER: Thank you very  
5 much.

6 We're actually up to me. Thank you,  
7 Commissioner.

8 So following up I believe on Senator  
9 Savino's last point, a real concern to me --  
10 even though I am very pleased that the  
11 agencies have been merged with the intent of  
12 far more focus on what happens when people  
13 are released from prison and go back to  
14 community and the importance of rethinking  
15 all of that -- I am still not clear even who  
16 is eligible, say, for these housing services.  
17 I am very worried that when we release  
18 elderly prisoners and/or mentally ill  
19 prisoners to New York City, we are releasing  
20 them to the streets right in front of the  
21 Bellevue Men's Shelter, and then no one ever  
22 knows what happened other than I'm pretty  
23 sure it's a less humane model than whatever  
24 was happening in our prisons.

1           And so I feel that it is imperative  
2           that there be a mechanism to ensure not just  
3           notification of criminal justice people -- I  
4           mean, with all due respect to NYPD, they're  
5           not going to go out there and get mental care  
6           health services or housing or senior services  
7           for returning prisoners -- that we need a  
8           very specific construct of how people are  
9           going to be coming back to the city and being  
10          placed in a residential site that actually  
11          can deal with their needs.

12                 So I'm particularly, again, concerned  
13          about seniors and about people with mental  
14          health issues. And I'm curious, do we have  
15          any pilots that we know anything about that  
16          are working or not, or are we -- are we  
17          changing the policy that -- I think the last  
18          time I checked, you were releasing about  
19          2,000 people from buses to the entrance of  
20          the men's shelters in my city and my  
21          district.

22                 ACTING COMMISSIONER ANNUCCI: Okay,  
23          Senator, let me take it one step at a time.

24                 First of all, the Governor's new

1 initiative is a bold new initiative with a  
2 residential treatment facility where  
3 voluntarily, they'll be able to stay for  
4 90 days. It will be without many of the  
5 restrictions that we usually have with a  
6 correctional facility. They'll be able to  
7 have cellphones, they'll come and go.

8 And then that -- the purpose of that  
9 is so that they're otherwise homeless, they  
10 can have the right to stay at Edgecombe for  
11 up to 90 days. And to help them gain houses,  
12 we're going to pay a stipend to the head of  
13 the household that agrees to take them for  
14 12 weeks, \$100. So -- and if that works like  
15 we think it might work to help people get a  
16 toehold, we think we'll start to move the  
17 needle with respect to homelessness.

18 I think the average stay, for those  
19 arriving at Bellevue now, is I think 37 days.  
20 So they end starting there, many of them, but  
21 then they are -- they do end up finding  
22 housing after that.

23 So you're right, this is a big  
24 challenge. I mean, we are not in the

1 business of finding, you know, housing for  
2 people that are otherwise homeless. We do  
3 provide notifications, under the law, like  
4 we're required, to all social service  
5 districts when someone who appears to require  
6 homeless housing is going to be released to  
7 that jurisdiction.

8 So we do that throughout the state.  
9 It is a challenge, and I think this is one  
10 initiative that will help.

11 There's many programs out there that  
12 are coming online. Right now, if you call --  
13 Fulton Correctional Facility was given to the  
14 Osborne Association. That is almost ready,  
15 from my understanding, to start accepting  
16 people from DOCCS who might otherwise be  
17 homeless. There are all kinds of  
18 not-for-profits, especially that deal with  
19 releasing elderly individuals that may have  
20 lost their connections to families.

21 I know one initiative that's out there  
22 in the Ossining area where Hudson Link, the  
23 executive director has purchased housing,  
24 he's rehabbed them, and he's allowing them to

1 be used for otherwise people that have no  
2 place to go when they're released from  
3 Sing Sing.

4 So there's a well of goodwill out  
5 there with a lot of not-for-profits and  
6 people that want to help returning citizens  
7 get homes, get adjusted. And I can help that  
8 in one way by maintaining the family  
9 connections while they're still with us.  
10 There's a lot that can be done there, a lot  
11 that is being done to reestablish family  
12 connections while they're with us. So it's a  
13 multifaceted approach to a very complex  
14 problem.

15 CHAIRWOMAN KRUEGER: And you described  
16 a stipend for this new program beyond the  
17 90 days. So that's \$100 a week that you're  
18 offering?

19 ACTING COMMISSIONER ANNUCCI: Yes. To  
20 the head of the -- if they find -- if they  
21 can find someone that can say, look, my  
22 brother-in-law will take me in and he'll let  
23 me live with him, finances are tight, but  
24 he'll let me in if you agree to pay him \$100

1 a week for the 12 weeks.

2 So we hope that that's enough to give  
3 them a toehold, get them on their feet, get a  
4 job and then either stay there or find  
5 permanent housing after that.

6 CHAIRWOMAN KRUEGER: And do you have  
7 any data that shows that elderly people and  
8 mentally ill people coming out of prisons  
9 have any success with getting employment?

10 ACTING COMMISSIONER ANNUCCI: I know  
11 that a lot of the not-for-profits do work  
12 with them and they're able at some point to  
13 get employment, but it's a big adjustment for  
14 somebody that's been incarcerated for many,  
15 many years. It's a complex problem.

16 I don't have any statistics on who  
17 gets employed, who doesn't. I mean, the  
18 number-one concern is immediate housing,  
19 where they're going to live as soon as  
20 they're released from the correctional  
21 facility. And employment is right on its  
22 heels as well. Coupled with sobriety  
23 thereafter.

24 CHAIRWOMAN KRUEGER: Okay. And you're

1 not going to be using halfway houses as the  
2 model? Which I don't think have been very  
3 successful.

4 ACTING COMMISSIONER ANNUCCI: There  
5 are people that can avail themselves of  
6 halfway houses. There's a lot of resources  
7 out there.

8 But this is going to be different.  
9 This is going to be not unlike a halfway  
10 house, but it's going to have structure.  
11 There's going -- you're going to have to  
12 agree to abide by certain conditions. And  
13 the punishment is if you don't, then you  
14 can't participate anymore. You're going to  
15 have to, you know, go elsewhere. Most people  
16 probably don't want to go to a homeless  
17 shelter if they can avoid it.

18 CHAIRWOMAN KRUEGER: That is  
19 absolutely true.

20 And again, my particular focus here is  
21 the discussion around the most vulnerable  
22 people leaving prisons, which I do believe  
23 are the elderly and the mentally ill, and  
24 they are the least likely to have had an

1 ongoing relationship with family, you know,  
2 either because they've been in the prison  
3 system so long or because they, with mental  
4 illness, had burned bridges with their family  
5 even before they went to prison.

6 So I'm particularly interested in  
7 seeing what we can do that are models that  
8 actually work for these populations. Because  
9 I know everyone in the world is calling for  
10 us to, you know, pass legislation that says  
11 just release these people. And my  
12 perspective is I certainly don't want anyone  
13 to spend a day more in prison than they need  
14 to. But I also feel very strongly that  
15 releasing them to the streets of New York  
16 City with no supports and no future is  
17 actually a worse storyline than in many of  
18 the situations they find themselves.

19 So I appreciate your response. I  
20 congratulate you on becoming the actual  
21 commissioner. I feel like my whole life  
22 you've been the acting commissioner. I'm not  
23 sure -- that's not really true, but I feel  
24 like that.



1                   And I'm going to not use my last two  
2 minutes and pass it back to Chair Weinstein.

3                   ACTING COMMISSIONER ANNUCCI: Thank  
4 you, Senator.

5                   CHAIRWOMAN WEINSTEIN: Thank you.  
6 We'll go to Assemblyman Burdick.

7                   ASSEMBLYMAN BURDICK: Thank you.

8                   And Senator Krueger, you touched upon  
9 the very topic that I wanted to discuss as  
10 well, and thank you for those questions.

11                   And Commissioner Annucci, thank you  
12 for your responses on it.

13                   And I wish to first commend you for  
14 embracing Clean Slate and other recent  
15 reforms to ensure that they're implemented  
16 well. And we do hope that the Governor will  
17 be supporting further reforms such as Fair  
18 and Timely and Elderly Parole.

19                   And I noticed your reply to the  
20 question about what constitutes elderly, and  
21 I think you mentioned that there is no  
22 definition, but generally thought of as 55 or  
23 more. I share the Senator's views that we  
24 need to be sure that there is sufficient

1 supports in the community for those who are  
2 released.

3 And along those lines, and further to  
4 the question about those that are released to  
5 homeless shelters, I recall in the budget  
6 hearings last year there was a question --  
7 not mine, but whether you happened to know,  
8 you know, what percentage or what number of  
9 those that are released go to homeless  
10 shelters. And I'm not looking for an answer  
11 now, but if we could try to get that, that  
12 would be helpful.

13 But my question actually goes to what  
14 work DOCCS does in coordination with the  
15 Division of Housing and Community Renewal,  
16 which as I'm sure you're aware, the Governor  
17 has provided a great deal of funds for  
18 addressing homelessness.

19 ACTING COMMISSIONER ANNUCCI: Off the  
20 top of my head, Assemblyman, I'm going to  
21 have to check on that.

22 I do know that our reentry managers  
23 are working very diligently with individuals  
24 when they get released to find them housing.

1 And I'm sure that they have connections with  
2 every entity that's out there that could  
3 offer housing.

4 I know that we've worked with MOCJ,  
5 which is the Mayor's Office of Criminal  
6 Justice. They're making funding available  
7 for us that will help with the placement of  
8 those with serious mental illness as well as  
9 other individuals that are homeless. There  
10 is a lot more resources that are available in  
11 the city versus in the rural areas of the  
12 state, so we are taking advantage of that.

13 There are, you know, a lot of  
14 not-for-profits that --

15 ASSEMBLYMAN BURDICK: Thank you. And  
16 I don't mean to interrupt, but I think that  
17 it would be very helpful if there's more of a  
18 connection directly with HCR on this. And  
19 those community organizations are terrific  
20 that you mentioned, and working with the  
21 Mayor's programs I think are terrific too.

22 But I think this needs to be an  
23 interagency approach. And it would be  
24 terrific if something could be developed

1           there. This is something that became  
2           apparent to me since I serve on both the  
3           Housing Committee and Correction Committee,  
4           and I would love to pursue that further with  
5           you.

6                     And my time is out, but if we could  
7           try to set something up where I can discuss  
8           it further with you, I would greatly  
9           appreciate it.

10                    ACTING COMMISSIONER ANNUCCI: Happy to  
11           do it, Assemblyman.

12                    ASSEMBLYMAN BURDICK: Thank you so  
13           much.

14                    CHAIRWOMAN WEINSTEIN: Senate?

15                    CHAIRWOMAN KRUEGER: Thank you very  
16           much.

17                    And now we have Senator O'Mara.

18                    SENATOR O'MARA: Thank you.

19                    Good evening, Commissioner. It's a  
20           long day. You're No. 5 on a list of 30-some.  
21           So thanks for your time; thanks for being  
22           with us.

23                    I had a couple of questions on the  
24           prison closures that came about this year.

1 In prior years there has been local economic  
2 development money attached to the prisons  
3 that have been closed. Can you outline for  
4 me what's being put in place for these  
5 localities for the prisons that are slated to  
6 be closed this year?

7 ACTING COMMISSIONER ANNUCCI: The  
8 prior appropriation has been reappropriated  
9 for this year, so that money will be  
10 available going forward. That's my  
11 understanding.

12 SENATOR O'MARA: And how much is that?

13 ACTING COMMISSIONER ANNUCCI: I don't  
14 know off the top of my head, but I'll get  
15 that for you, Senator.

16 SENATOR O'MARA: Okay. And in regards  
17 to the prior prison closures over the last  
18 decade or so, how many of those facilities  
19 have been reused, repurposed for something  
20 else? And how much of that local economic  
21 development money for those facilities was  
22 used, and how much remains for those?

23 ACTING COMMISSIONER ANNUCCI: I know  
24 that of the closures we've done -- including

1           these, will total 27 -- that six have been  
2           either purchased or repurposed for public use  
3           or local use or private use. One was turned  
4           over for a not-for-profit in New York City,  
5           Fulton, to the Osborne Association. The  
6           Buffalo work release facility was converted  
7           for use by us. And a number of others are  
8           still potentially there for reuse.

9                     Again, I will refocus on what the  
10           Governor's initiative -- the proposal going  
11           forward to create this commission to have a  
12           lot of different perspectives, private  
13           individuals who can bring to the table their  
14           perspective of how to reuse a closed  
15           correctional facility going forward, taking  
16           into account the needs, what's best for the  
17           community, what the job needs are for the  
18           state.

19                    SENATOR O'MARA: In regards to the  
20           economic development money available, is that  
21           money -- is there a certain amount for each  
22           facility, or is there a lump sum to be used  
23           across the state?

24                    And do those dollars have to be used

1 on a site-specific economic development  
2 project -- in other words, the actual  
3 repurposing of the facility -- or can they go  
4 to another economic development project in  
5 the community?

6 ACTING COMMISSIONER ANNUCCI: I  
7 believe the entity to answer those specific  
8 questions, Senator, is ESD. They would  
9 control the money and the flow, and they can  
10 answer your questions as to what is a  
11 permissible use and would not be a  
12 permissible use.

13 SENATOR O'MARA: Okay. I will follow  
14 up with them. Thank you for that.

15 And if you could, you know, get me the  
16 current dollars that are -- were appropriated  
17 last year and will be reappropriated this  
18 year for these current closures underway.

19 Another follow-up question in regards  
20 to the free college for inmates. You know,  
21 we've in recent years enacted the Excelsior  
22 Scholarship Program for SUNY students with  
23 some pretty rigorous requirements of  
24 full-time attendance, certain GPA levels, or

1           you risk losing that free tuition and  
2           actually have to pay that back.

3                     Are there any of those types of  
4           requirements being proposed with this free  
5           college tuition for inmates at this point?

6                     ACTING COMMISSIONER ANNUCCI:   Senator,  
7           I think those details will have to be worked  
8           out.

9                     But the other thing I'll tell you is  
10          this.  The students that participate in  
11          college behind the walls, they work very  
12          hard.  I just -- this is anecdotal, I just  
13          got the notice from all the recent graduates  
14          I think at Washington Correctional Facility.  
15          And out of 21 graduates, something like 20  
16          made the Dean's List, and one made the  
17          President's List or something along those  
18          lines.

19                    They work very hard.  They don't take  
20          it for granted.  They're not there to pass  
21          the time away.  They really want to get a  
22          degree because they know what it means.  And  
23          the multiplier effect is very often members  
24          of their family then follow suit and also are



1           incentivized to get their college degree as  
2           well.

3                       So those kinds of details are still  
4           what consequences there would be for not  
5           attending class or not following through. I  
6           think those things can be worked out. And,  
7           you know, they make sense.

8                       SENATOR O'MARA: Thank you,  
9           Commissioner. Thanks for being here.

10                      CHAIRWOMAN KRUEGER: Thank you.  
11           Assembly.

12                      CHAIRWOMAN WEINSTEIN: Yes, we go to  
13           Assemblyman Carroll.

14                      ASSEMBLYMAN CARROLL: Thank you,  
15           Chair Weinstein. And thank you,  
16           Commissioner Annucci, for your testimony.

17                      During this current administration,  
18           only one incarcerated person -- who was  
19           actually physically incarcerated -- has been  
20           granted clemency. Of the thousands of people  
21           who currently have requested clemency, do you  
22           think that only one is worthy of clemency?

23                      ACTING COMMISSIONER ANNUCCI: I'm not  
24           sure if your numbers are accurate.

1 I do know that clemency wisely, by the  
2 Constitution of our state, is reserved to the  
3 Governor for her to decide, or him to decide.

4 I know that since the start of the  
5 pandemic, the population has decreased by  
6 13,000-some-odd, many of them by the  
7 Governor's direction to implement now the  
8 spirit of Less is More. I can give you those  
9 numbers; it's either 600 or 700 that have  
10 been released from our correctional  
11 facilities.

12 I know that we do have a --

13 ASSEMBLYMAN CARROLL: But clemency  
14 specifically, sir, I do believe that this  
15 current Governor has only granted clemency to  
16 one person who was actually physically  
17 incarcerated. I think she has granted it to  
18 10 people, but they otherwise were not in  
19 custody when she granted that.

20 But the reason I ask you is not to say  
21 if it was one or 10, but you have spoken  
22 passionately previously about individuals who  
23 are committing suicide behind bars and what  
24 you've done to stop suicide rates in our

1           jails. And my question really is as our jail  
2           population ages -- now one-quarter of our  
3           jail population is considered elderly --  
4           don't we think that we are going to see more  
5           suicides, we are going to see more extreme  
6           outcomes if we do not figure out a way to  
7           make sure that more people who are aging in  
8           prison are released?

9                    ACTING COMMISSIONER ANNUCCI: I can  
10           tell you that my big focus is to give every  
11           individual in my system a reason to hope.  
12           And hope is something that can come in many  
13           ways.

14                   Now, this Governor had to take the  
15           reins of state government at a quick time,  
16           she had to wrestle with the State of the  
17           State, the budget, appointments, a number of  
18           things. At some point she will probably have  
19           more time to devote to clemency. I'm not  
20           going to speak to her --

21                   ASSEMBLYMAN CARROLL: Commissioner --  
22           Commissioner, I believe you believe in hope,  
23           and I'm sure you believe in grace. But if  
24           somebody is facing down an indeterminate

1 sentence or a sentence that is so long it  
2 might as well be indeterminate, why should  
3 they have hope? Why wouldn't they start to  
4 believe that they have no hope and that the  
5 policy of the State of New York is for them  
6 to die behind bars, and thus why not make it  
7 quicker and kill themselves?

8 Aren't we going to see more people  
9 kill themselves if we keep having  
10 indeterminate sentences where there is no  
11 hope?

12 ACTING COMMISSIONER ANNUCCI: Senator  
13 {sic}, I can only say that people that have  
14 long sentences, when I meet and speak with  
15 them, a lot of them have turned their lives  
16 around, a lot of them believe in giving  
17 something back to society, and they find  
18 purpose where they are.

19 Whether or not they will someday have  
20 the ability to get out and that's what  
21 they're hoping for, that is a personal,  
22 individual decision for them.

23 ASSEMBLYMAN CARROLL: Thank you,  
24 Commissioner.

1                   CHAIRWOMAN KRUEGER: Thank you.

2                   I think our final Senator is Senator  
3 Salazar, who's the chair, and she gets a  
4 three-minute follow-up question or questions,  
5 plural.

6                   SENATOR SALAZAR: Thank you, Chair.

7                   I just want to quickly note, because  
8 Assemblyman Walczyk asked about it, all DOCCS  
9 staff actually are eligible for tuition  
10 reimbursement, but it's administered through  
11 GOER rather than through DOCCS.

12                   I wanted to ask you, Commissioner,  
13 about the work release program. My  
14 understanding is that currently individuals  
15 at maximum-security facilities are  
16 categorically excluded from eligibility for  
17 work release. Is that correct?

18                   ACTING COMMISSIONER ANNUCCI: Well,  
19 you have to be eligible under the rules and  
20 regulations. There's nothing that says you  
21 can't apply for work release if you are  
22 confined in a maximum-security prison.

23                   There are very detailed regulations.  
24 You have to be within two years of your

1 earliest release date. So if you're still in  
2 a max, you're probably not within two years  
3 of your earliest release, or you're there  
4 because of some complicated reason like your  
5 mental health or medical reasons.

6 The statutes are extremely complex  
7 that deal with work release, and there are  
8 crimes of restriction that are involved. And  
9 at some point maybe before I die or -- I'll  
10 try and straighten out those statutes and  
11 make them a little more understandable.

12 But for example, if you're convicted  
13 of any homicide offense, you're ineligible  
14 for work release. And maybe that needs to be  
15 reexamined. Sex offenders, for good reason,  
16 are barred as well, and other types.

17 But work release is a very important  
18 program. It is a way of transitioning back  
19 into society where you're given some degree  
20 of liberty. You, to participate, are  
21 transferred to a facility designated as a  
22 work release facility, and then you gradually  
23 furlough and get an approved residence and  
24 reintegrate with your family and earn real

1 money like John Q. Public does as well, and  
2 pay taxes.

3 SENATOR SALAZAR: Thank you. Yeah, I  
4 agree with you, it's a very good program, and  
5 would also like to see eligibility expanded  
6 to include people even if they have been  
7 convicted of certain crimes that currently  
8 render them ineligible.

9 Wanted to ask quickly about the  
10 Executive proposal to waive fees for  
11 non-driver IDs for formerly incarcerated  
12 people. Under the current law, when do  
13 incarcerated individuals apply for a  
14 non-driver ID? Can they begin the process  
15 while they're incarcerated, for example, or  
16 is it only after?

17 ACTING COMMISSIONER ANNUCCI: We  
18 intend to allow that to happen under the  
19 pilot that we're going to work on with DMV.

20 Right now what we do have is a program  
21 that's operated out of a community  
22 supervision in New York that is funded by  
23 outside money where they can get their  
24 non-driver ID when they report there. So --

1 and that's for parolees in the entire five  
2 boroughs. And they have the physical  
3 machinery there at the office, so we make it  
4 easier for them to apply.

5 Now, what we're going to do -- and we  
6 have to work out the details, and we're  
7 currently in intensive discussions with DMV,  
8 an excellent partner on this -- we're going  
9 to pilot it at least at a couple of sites.  
10 There's a lot of logistics that have to be  
11 worked out, and what equipment is needed and  
12 technology, et cetera. But the idea is to  
13 give them, for this pilot, non-driver ID when  
14 they leave the correctional facility.

15 So if that works the way we think it  
16 can -- and there's a lot of details that  
17 we'll work out, but we're working together,  
18 it's an excellent partnership --- it will  
19 give us a leg up on that.

20 SENATOR SALAZAR: Thank you.  
21 Appreciate it.

22 CHAIRWOMAN KRUEGER: Thank you.

23 I am now playing Chair Weinstein for a  
24 little while. The next Assemblymember is



1 Linda Rosenthal.

2 There you are. There you are, yes.

3 ASSEMBLYWOMAN ROSENTHAL: Yes. Thank  
4 you, Senator.

5 Hello, Mr. Commissioner. I have a  
6 couple of questions for you. DOCCS has  
7 suspended programs and limited visits because  
8 of COVID-19. Is the COVID release policy  
9 still in place?

10 ACTING COMMISSIONER ANNUCCI: The  
11 COVID release policy?

12 ASSEMBLYWOMAN ROSENTHAL: Yeah.

13 ACTING COMMISSIONER ANNUCCI: We have  
14 not had to do that recently. So -- but we  
15 are implementing the Less is More, we're  
16 still continuing to do that and release  
17 people that are under -- the spirit of  
18 Less is More. Totally, I think it's about  
19 573 that have been released.

20 Right now we are on program pause. We  
21 reevaluate that every two weeks because of  
22 the recent spike. But I'm hopeful of  
23 reinstating that in the not-too-distant  
24 future.

1           But visits are not suspended, by the  
2 way. We're still allowing visits. A visitor  
3 comes, they get the test, if it's negative,  
4 then they can visit with their loved one.

5           ASSEMBLYWOMAN ROSENTHAL: So the move  
6 from delta to omicron, how has that affected  
7 this policy?

8           ACTING COMMISSIONER ANNUCCI: Because  
9 of the spike in numbers, we basically just  
10 look at who's positive. And it causes us  
11 to -- when we're seeing the spike, and it  
12 happened pretty significantly. We think  
13 we're on the downswing now.

14           But we've decided, in the best  
15 interests of everybody, just put a program  
16 pause on so that that is on hold -- and it's  
17 been on since December of whatever date, not  
18 too terribly long. And we're watching the  
19 numbers, and I'm hopeful of reinstating that  
20 in a couple of weeks.

21           But still delivering program related  
22 things with our outside colleges, through the  
23 tablets and other means of getting them the  
24 materials they need. And then hopefully

1 bringing the volunteers back as well.

2 ASSEMBLYWOMAN ROSENTHAL: So what  
3 determinants -- do you have like a list of  
4 determinants that will guide you in terms of  
5 when you --

6 ACTING COMMISSIONER ANNUCCI: We look  
7 at the raw number of positives at every  
8 correctional facility, we look at the number  
9 of staff that are out, we look at who's  
10 positive, pending tests, who's quarantined,  
11 who is in an outside hospital. There's no  
12 magic number, but it's just when we sit  
13 down we'll meet with our deputy commissioner  
14 and chief medical officer, who works hand in  
15 glove with DOH. And when there's a consensus  
16 that we may need to do this now to stay ahead  
17 of it before it overwhelms things, we act it.

18 We want to avoid what happened in  
19 2020, and we're pushing as many things as we  
20 can. We just now crossed 53 percent for the  
21 number of population that have been  
22 vaccinated. It's a lot of cajoling and  
23 incentivizing that we're trying to do. I  
24 wish I could get that number up higher, but

1 we'll continue to show them educational  
2 materials and anything else that can get them  
3 to change their mind and accept the vaccine.

4 CHAIRWOMAN KRUEGER: Thank you.

5 ASSEMBLYWOMAN ROSENTHAL: Is it that  
6 many people who don't want a vaccine, or for  
7 what reasons?

8 ACTING COMMISSIONER ANNUCCI: People  
9 make their own decisions. Just like people  
10 in the outside world, they'll decide that  
11 they want the vaccine or don't want the  
12 vaccine.

13 We've made the vaccine available going  
14 way back, and we keep making it available.  
15 And the best we can do is just keep giving  
16 them the educational materials, but you can't  
17 compel someone to accept the vaccination if  
18 they don't want one.

19 CHAIRWOMAN KRUEGER: Thank you.

20 ASSEMBLYWOMAN ROSENTHAL: Okay, thank  
21 you.

22 CHAIRWOMAN KRUEGER: I have to cut you  
23 off, Assemblywoman. Thank you.

24 ASSEMBLYWOMAN ROSENTHAL: Thank you.

1 CHAIRWOMAN KRUEGER: Thank you.

2 Next is Assemblymember Ra, who's the  
3 ranker and gets five minutes.

4 ASSEMBLYMAN RA: Thank you, Chair.

5 Commissioner, thanks for being with us  
6 again.

7 So just a couple of questions relative  
8 to the staff there. And, you know, a lot of  
9 people have brought up the situation. And  
10 I'm sure you're familiar that last fall  
11 Governor Hochul made an agreement for  
12 two-and-a-half-times overtime for nurses and  
13 other healthcare professionals, which I  
14 believe includes healthcare workers that work  
15 in DOCCS facilities.

16 Do you think that perhaps the  
17 corrections officers should get a similar  
18 overtime rate?

19 ACTING COMMISSIONER ANNUCCI: I could  
20 tell you, Assemblyman, that that's an issue  
21 that we're looking at. I've received an  
22 official letter from the president of the  
23 union.

24 Our initial approach was to be very

1 surgical and try to deal with those positions  
2 that really were -- we were losing to other  
3 agencies. So it was an immediate response to  
4 put us on par with other agencies and not  
5 have our nurses -- and we already have very  
6 high vacancy rates with our nurses and  
7 similar healthcare titles leaving. So this  
8 was an immediate surgical step.

9 From Day 1, both myself as well as the  
10 Governor has recognized that our staff, all  
11 of our staff who have come to work in our  
12 correctional facilities during COVID are  
13 heroes and heroines, and they deserve our  
14 appreciation. And she has come to our medals  
15 event, and she personally conveyed the  
16 appreciation to the entire audience, which  
17 was a cross-section of superintendents and  
18 representatives of the union and medal  
19 recipients as well.

20 So I'll tell you that it's something  
21 we're studying right now. There's a big  
22 fiscal to it, a huge fiscal to that. I'm not  
23 sure if we can balance that. But I  
24 understand why the request was made, and

1 we'll give it careful consideration.

2 ASSEMBLYMAN RA: Sure. And I -- you  
3 know, well, fiscal things are what we're here  
4 to talk about today, so just wanted to get  
5 your thoughts on that.

6 A few different -- you know, of my  
7 colleagues have talked about violence.  
8 Obviously there's been a huge uptick. You  
9 did talk about, you know, the relationship  
10 with the DAs. Do you have any data you can  
11 share in terms of how many cases the last  
12 couple of years have been referred to DAs for  
13 criminal charges for inmate-on-inmate or  
14 inmate-on-staff violence?

15 ACTING COMMISSIONER ANNUCCI: I don't  
16 have that number at my fingertips, but it's  
17 something I believe we do track and I'll see  
18 if I can get that for you.

19 ASSEMBLYMAN RA: Thank you, yeah. And  
20 likewise, if you could, you know, any that  
21 have resulted in convictions with, you know,  
22 additional concurrent or consecutive  
23 sentences.

24 ACTING COMMISSIONER ANNUCCI: Sure.

1 ASSEMBLYMAN RA: Great. And then, you  
2 know, really along the same lines, I know you  
3 mentioned -- you know, I and the rest of the  
4 Legislature I think are well aware of this,  
5 that there are tons and tons of programs that  
6 you have been -- initiatives that you've been  
7 asked to implement after the last few years.  
8 And my colleagues from the Senate have talked  
9 a little bit about HALT.

10 And, you know, when we look at the  
11 fact that over the last few years the inmate  
12 population, you know, is half yet, you know,  
13 I saw a chart, and it's almost like the  
14 violence is going up, you know, in the  
15 opposite direction of the number of inmates,  
16 which is very alarming.

17 So, I mean, do you think that  
18 implementing something like HALT while the  
19 situation seems to be the way it is in the  
20 facilities is a problem? Is it something  
21 that perhaps needs to be looked at to slow  
22 the implementation of that?

23 ACTING COMMISSIONER ANNUCCI: Well,  
24 first let me say one of the potential drivers



1 of what we're seeing is how the percentage of  
2 the population, the numbers that are  
3 convicted of violent felony offenses, it's  
4 about 76 percent. So the reduction in the  
5 population has been disproportionately  
6 nonviolent. It wasn't that long ago it was  
7 at 66 percent; now it's 76 percent. So that  
8 may be one of the drivers of it. I don't  
9 know. I hope that the task force will give  
10 us better ideas.

11 I will repeat what I said earlier: We  
12 are still going to be able to separate, which  
13 is the number-one thing you need to do when  
14 you have violence. Whether it's an  
15 incarcerated individual against another one,  
16 or against staff, they need to be removed  
17 physically from where they are, they can't  
18 remain in general confinement.

19 The conditions of SHU, traditional  
20 SHU, are going to change. RRUs are going to  
21 change. But they will still be managed  
22 safely. We're going to deliver out-of-cell  
23 programming and treatment safely so that  
24 everybody can still feel safe. If anybody

1 thinks they can commit serious crimes or, you  
2 know, be involved in gangs and they'll still  
3 be able to run their game in the yard or  
4 whatever -- not going to happen.

5 ASSEMBLYMAN RA: Thank you,  
6 Commissioner.

7 CHAIRWOMAN WEINSTEIN: Thank you.

8 We go to Assemblywoman Kelles now.

9 ASSEMBLYWOMAN KELLES: Wonderful,  
10 thank you so much.

11 Hello, Commissioner.

12 ACTING COMMISSIONER ANNUCCI: Hello.

13 ASSEMBLYWOMAN KELLES: Good afternoon,  
14 not morning.

15 Just a couple of comments, a few  
16 questions. One of the things that has been  
17 brought up before is programming,  
18 specifically for rehabilitation.

19 I just want to mention -- I know I've  
20 spoken to your staff about this, others have  
21 as well. But I would love to see the Roots  
22 of Success program initiated and expanded  
23 within the prison system, the program that is  
24 a 10-module program to teach about

1 sustainability and work development in  
2 housing, electrification, water resources.  
3 It's an amazing program in 34 states,  
4 20 years of experience, two countries. It  
5 has shown to reduce costs of waste and water  
6 usage and energy usage, reduction in  
7 recidivism rates, reduction in violence to  
8 corrections officers -- you name it, this  
9 program has been really {unintelligible}.

10 I'd love to see that put in place in  
11 our system. I know Ohio has been doing this  
12 for 10, 20 years and they have seen huge  
13 turnarounds in their system.

14 Another thing I wanted to mention from  
15 my conversations -- I think I asked you a  
16 similar question last year and in talks with  
17 some of the prisons that I've visited -- the  
18 people who are released from prison, between  
19 40 and 50 percent of them go directly into  
20 shelters. So I think relying specifically on  
21 the goodwill of nonprofits is not going to be  
22 enough to absorb that level. I think putting  
23 in state funding and supports specifically  
24 into transition housing is going to be

1           necessary. So just wanted to add that.

2                       And you had mentioned -- a quote-ish  
3           from you: Whatever you've done in the past,  
4           there's still a chance to turn your life  
5           around, and your life matters. I believe in  
6           this. I agree with you deeply. And wanted  
7           to just add, then, if the way that people can  
8           build a sense of meaning and self-value in an  
9           incarceration system is to actively  
10          participate in college courses that build a  
11          sense of self-worth and provide valuable life  
12          skills that could be used in the community  
13          once they're released as well as reduce their  
14          likelihood of recidivism, would it not be  
15          logical, then, to maximize access to these  
16          merit-time programs?

17                      And a previous questioner specifically  
18          asked what disqualifies someone from  
19          participating in college courses and other  
20          programs, alluding to a mindset of punishment  
21          in a system that's supposed to be about  
22          corrections.

23                      Do you not believe that giving a  
24          person hope and a sense of self-worth through

1           these types of programs could actually be  
2           seen as a way to reduce crime in a prison and  
3           protect corrections officers?

4                    ACTING COMMISSIONER ANNUCCI:  So very  
5           good points.  First of all, we'll always look  
6           at any new programs.  The one you just  
7           described -- I meet with my corrections  
8           commissioners from across the country  
9           regularly.  We stay in touch with each other.  
10          When I go there I look at their programs,  
11          whatever's being showcased.  There's a lot of  
12          good stuff out there.  So we'll certainly be  
13          happy to look at that.

14                   The shelter issue number is a  
15          challenge.  I think I mentioned that a lot do  
16          go to shelter, but at least they don't stay  
17          too terribly long.  The average stay in the  
18          New York City shelter system for those being  
19          released to it is about 37 days.  I'd like it  
20          to be zero days, but it's 37 days.

21                   Back to who is eligible to participate  
22          in college, we don't put up any barriers for  
23          anybody to participate in college.  We  
24          welcome them.  I continually showcase the

1 success stories. When I was out in Phoenix  
2 recently there was a presentation by an  
3 individual, he gave me his book. I'm going  
4 to distribute it in my library. He was a  
5 significant drug dealer. His book is From  
6 Prison Cells to Ph.D. He got his Ph.D.,  
7 he's an endocrinologist at John Hopkins. I'm  
8 going to put his book in our library so he  
9 can further incentivize other individuals.

10 And his point is we should be as open  
11 as we can to everybody to participate in  
12 college. It's not just get them a vocational  
13 job -- which is very important, but people  
14 can go beyond college. They can get master's  
15 degrees, they can get Ph.D.s. And if it was  
16 possible for him, it could be possible for  
17 just about anybody.

18 CHAIRWOMAN WEINSTEIN: Thank you.  
19 Thank you, Commissioner.

20 We're now going to go to our final  
21 questioner, Assemblyman Weprin, chair of  
22 Corrections, for a second round of three  
23 minutes.

24 ASSEMBLYMAN WEPRIN: Thank you,

1 Madam Chair.

2 Commissioner, thank you for the long  
3 day of participation.

4 The racial diversity study that  
5 Senator Hoylman referred to was a little  
6 disturbing, based on the statistics that they  
7 cited. I think the answer is the  
8 diversification of the Parole Board, which  
9 has happened since I'm chair. We've filled a  
10 number of spots, and they've been a much more  
11 diverse board, as you pointed out earlier  
12 today.

13 I believe there are still even three  
14 or four vacancies. I think we passed  
15 legislation to allow up to 19 members, and I  
16 think it's either 15 or 16. I think your  
17 website says 15; I've heard 16. So there are  
18 either three or four vacancies on the Parole.  
19 Can you recommend to the Governor that they  
20 be filled as soon as possible? And I would  
21 hope that, you know, video interviews not be  
22 a substitute for in-person post-COVID.  
23 because I know they've been emphasizing video  
24 visits because of COVID, but I would like to

1 see more in-person, especially if we can get  
2 more parole commissioners up to speed, up to  
3 19, and then they can travel all over the  
4 state. And I think that is certainly the  
5 best way to give people a fair chance at, you  
6 know, being released and being welcomed back  
7 into society.

8 ACTING COMMISSIONER ANNUCCI: So,  
9 Assemblyman, the Governor has already done  
10 that. She's announced in her State of the  
11 State and it's in the budget that she wants  
12 to have all 19 positions filled. There's  
13 also a provision in there that they can't do  
14 any outside employment so that they can  
15 devote their full time and attention to the  
16 job at hand, which is making informed  
17 decisions following parole release  
18 interviews, setting conditions, et cetera,  
19 and doing all related work.

20 So that's her intention. I fully  
21 support that. I think it makes sense. And  
22 I'm sure they'll come up with continuing  
23 diversity to represent all New Yorkers on the  
24 Parole Board.



1 I'll convey your sentiments on the  
2 second point to the chairwoman, and it will  
3 be her decision what to do with that.

4 ASSEMBLYMAN WEPRIN: Okay, thank you.

5 Again, I will also emphasize to the  
6 Governor the importance of filling these,  
7 because as you know, since I've been chair  
8 since 2017, we had about six or seven  
9 vacancies, and I urge filling them and have  
10 made recommendations of various diverse  
11 members.

12 So, you know, I do think that the  
13 newer members are much more diverse than the  
14 older members, and certainly more reflective  
15 of the population of New York State. So, you  
16 know, I strongly would emphasize that as  
17 well.

18 ACTING COMMISSIONER ANNUCCI: Very  
19 good, Assemblyman. Thank you.

20 CHAIRWOMAN WEINSTEIN: Thank you,  
21 Commissioner. I'm going to turn -- thank you  
22 for being here with us this year as well as  
23 so many other years.

24 I'm going to turn this back to

1 Senator Krueger.

2 CHAIRWOMAN KRUEGER: Thank you very  
3 much. And indeed, Commissioner, thank you  
4 for spending much of your afternoon with us.  
5 We will now allow you to go back to the rest  
6 of your day.

7 And we will be calling up, from the  
8 New York State division of State Police,  
9 Kevin Bruen, the acting superintendent.

10 Are you with us, Superintendent?

11 SUPERINTENDENT BRUEN: I am.

12 And I'm no longer acting, which is  
13 good.

14 CHAIRWOMAN KRUEGER: Okay. Well,  
15 welcome, Superintendent.

16 SUPERINTENDENT BRUEN: Thank you.

17 CHAIRWOMAN KRUEGER: And you know the  
18 drill around here.

19 SUPERINTENDENT BRUEN: I do.

20 CHAIRWOMAN KRUEGER: We have your  
21 testimony, but try to summarize your key  
22 points in 10 minutes or under, and then we  
23 will start to ask you questions, those of us  
24 who are still standing ourselves. Thank you.

1           SUPERINTENDENT BRUEN: I will. Thank  
2           you, Chairs Krueger and Weinstein and  
3           distinguished members of the joint committee,  
4           for the opportunity to discuss Governor  
5           Hochul's Executive Budget for the Division of  
6           State Police.

7           I'm Kevin Bruen, superintendent of the  
8           New York State Police.

9           I want to thank the Legislature for  
10          its continued support of the New York State  
11          Police. Because of your support, Troopers  
12          continue to uphold this agency's reputation  
13          as one of the finest law enforcement agencies  
14          in the country.

15          For more than 100 years, the New York  
16          State Police has consistently provided a high  
17          level of professional public service. We  
18          learn and adapt to the needs of a constantly  
19          changing society, and we strive for  
20          continuous improvement in every aspect of our  
21          work. Our mission priorities remain the  
22          same: Highway safety, professional police  
23          services, investigative support, detecting  
24          and preventing terrorism, preparing for and

1           responding to emergencies and disasters.

2                       As you are aware, the majority of the  
3           appropriations for the State Police  
4           operations are in support of personnel  
5           service obligations. Most non-personnel  
6           service appropriations are non-discretionary  
7           expenditures for things like vehicles,  
8           equipment, facilities, and communications.  
9           These expenditures are essential for  
10          providing the tools necessary for the men and  
11          women of the State Police to fulfill their  
12          law enforcement missions.

13                      Getting the State Police back to an  
14          adequate staffing level is a top priority.  
15          To that end, we currently have an Academy  
16          class, and we are expecting a second, and  
17          potentially a third later this year.

18                      In addition, we are currently offering  
19          our Trooper Entrance Exam, and we continue to  
20          seek the highest-quality candidates. We want  
21          to hire and retain the most diverse group of  
22          individuals that reflect our communities and  
23          the communities we serve. To that end, we  
24          have made our exam more accessible by moving

1 to a computer-based platform, making the exam  
2 available at testing centers across the  
3 state, upwards of 50, 250 nationwide, and  
4 across the military installations around the  
5 world.

6 We have also enhanced our recruiting  
7 efforts and implemented a marketing plan to  
8 expand our reach into minority communities.  
9 I know that many of you reached out to your  
10 constituents on our behalf to help build  
11 awareness of the exam, and we appreciate any  
12 continued assistance you can provide.

13 Another top priority is addressing gun  
14 violence. The Governor has included in the  
15 proposed budget expenditures that would help  
16 expand our efforts to reduce the threat of  
17 gun violence across the state.

18 One such proposal is funding expanded  
19 Community Stabilization Units, where we  
20 partner with local law enforcement to  
21 proactively address gun violence with an  
22 intelligence-based approach that identifies  
23 and concentrates on the greatest threats of  
24 gun violence. We have had success since this

1 initiative was started last year, and these  
2 additional resources will allow us to assist  
3 more communities.

4 We also seek to improve our crime  
5 tracing abilities so that we can identify and  
6 break up illegal firearms trafficking  
7 operations. We are already working closely  
8 with our federal, state and local partners,  
9 including the NYPD and the ATF, and have had  
10 success in taking illegally possessed guns  
11 off the streets.

12 Governor Hochul's proposal to fund a  
13 team of analysts at the New York State  
14 Intelligence Center will provide much-needed  
15 additional support that would help the State  
16 Police and our partners identify, disrupt,  
17 and shut down such gun trafficking  
18 operations. Our focus on gun trafficking is  
19 already paying off -- our gun seizures, as an  
20 agency, are up over 200 percent from last  
21 year.

22 Another pressing concern relates to  
23 the analysis of smartphones and other digital  
24 devices by our Computer Forensic Laboratory.

1           There has been an exponential increase in the  
2           lab's caseload and the complexity of the  
3           devices being used to commit crimes has  
4           highlighted the need for additional  
5           resources. The Governor's proposed budget  
6           includes funding for new equipment and  
7           software to expand our Computer Crime Unit to  
8           combat the proliferation of crimes being  
9           committed using highly technological means.

10                     In addition, highway safety remains  
11           one of our core missions. I would like to  
12           update you on our ongoing efforts to ensure  
13           highway safety following the legalization of  
14           adult-use cannabis. One part of our safety  
15           strategy includes training all Troopers in  
16           something known as ARIDE, Advanced Roadside  
17           Impaired Driving Enforcement.

18                     This is a federally developed program  
19           that allows Troopers with additional training  
20           to help identify drug- and alcohol-impaired  
21           drivers, and it fills the gap between the  
22           standard field sobriety tests and something  
23           known as the highly specialized Drug  
24           Recognition Expert training.

1           So far, nearly 80 percent of our  
2 Troopers on the road have received ARIDE  
3 training, and all new Academy recruits are  
4 instructed and trained in ARIDE.

5           Our highest priority continues to be  
6 public safety and the safety of our members.  
7 With your support, the Executive Budget  
8 continues to provide Troopers with the  
9 necessary equipment, training, and other  
10 valuable resources to ensure their safety as  
11 they carry out their duties in serving and  
12 protecting the public.

13           Again, I am honored and privileged to  
14 represent the nearly 6,000 dedicated men and  
15 women of the State Police who serve and  
16 protect the people of this great state. They  
17 do so selflessly, with tremendous pride, and  
18 at sometimes great personal risk.

19           Thank you very much for your support  
20 for the State Police and for the opportunity  
21 to address you all. I welcome any questions  
22 you may have.

23           CHAIRWOMAN KRUEGER: Thank you very  
24 much, Superintendent Bruen.



1           I believe our first questioner will be  
2           the chair of our Codes Committee, Senator  
3           Jamaal Bailey.

4           SENATOR BAILEY: Thank you, Madam  
5           Chair.

6           And Superintendent, good to see you  
7           again. We briefly -- we were able to  
8           converse last year during your confirmation  
9           when you went from "acting" to  
10          "superintendent." So I just wanted to  
11          congratulate you and thank you for your  
12          testimony today.

13          SUPERINTENDENT BRUEN: Thanks,  
14          Senator. Good to see you.

15          SENATOR BAILEY: Yes, sir.

16          CHAIRWOMAN KRUEGER: Jamaal, one  
17          second. Whoever's on clock, please end the  
18          superintendent's 10 minutes. Oh, there you  
19          do. Perfect. Thank you, Jamaal.

20          SENATOR BAILEY: No problem.

21          So you mentioned the -- obviously the  
22          issue of gun violence is something that has  
23          permeated a lot of the conversation today in  
24          the Public Protection hearing, regardless of

1           who's been testifying. And you mentioned  
2           there was an effort by the Governor in the  
3           Executive Budget, speaking about, you know,  
4           local law enforcement and the State Police.  
5           What does that look like in practice?

6                     Like, for example, how does the State  
7           Police -- like how does a certain troop,  
8           Troop A or Troop B or whatever the troop  
9           number is, how would that troop partner with  
10          local law enforcement in order to be able to  
11          assist with gun violence prevention?

12                    SUPERINTENDENT BRUEN: It looks  
13          different depending on the community and on  
14          the problem. When they reach out to us, we  
15          assign the right number of supervisors and  
16          investigative support. They gather  
17          intelligence, they come up with a plan. And  
18          it could be, for example, problems on  
19          weekends in particular areas, so we may  
20          deploy both uniformed Troopers or  
21          investigators, and we may do follow-up,  
22          depending on arrests or intelligence  
23          developed around gang violence.

24                    A lot of this -- unfortunately, a lot

1 of this gun violence is associated with gang  
2 activity, which may mean things like local  
3 disputes and if you have enough intelligence  
4 you might be able to get ahead of that and  
5 disrupt that violent event.

6 So it will look different at different  
7 places.

8 SENATOR BAILEY: Okay. Because again,  
9 there's been conversation about the Troopers  
10 and their presence in the City of New York  
11 in -- I also represent Westchester County as  
12 well, and so I'm just always curious as to  
13 how the interagency I guess synergy, for lack  
14 of a better term, would work.

15 SUPERINTENDENT BRUEN: Great question.  
16 And quite frankly, the way it works when it's  
17 the City of New York or other communities, I  
18 may speak initially with the police  
19 commissioner of the City of New York, we'll  
20 talk about things to develop new plans or  
21 things that -- ways that we're not already  
22 cooperating.

23 But we're already cooperating with  
24 NYPD on guns. Their intel units and their

1 people are right up -- the Troopers who  
2 develop some of these cases may not in fact  
3 be in New York. They may be somewhere else  
4 and -- but the destination of these illegal  
5 guns, let's say is Westchester or is New York  
6 City, and in that case we'll reach out and  
7 develop a strategy with them on any  
8 particular case.

9 SENATOR BAILEY: Thank you.

10 So my understanding is that there's  
11 roughly \$6.1 million allocated towards  
12 recruitment efforts. You mentioned in terms  
13 of recruitment that there were efforts afoot  
14 to attempt to reach out to communities of  
15 color and to engage communities of color in  
16 relation to the tests. I know it's a  
17 conversation that you and I have had before  
18 about the diversity within the ranks of that.

19 How does that money get spent in  
20 actuality? And also I'd like to ask a  
21 follow-up question in terms of diversity  
22 within the leadership structure of the State  
23 Police.

24 SUPERINTENDENT BRUEN: Right. Let me

1 answer the first one.

2 I don't think I have that much money  
3 dedicated to recruiting. I would love if I  
4 could go into the couch and pull out \$6  
5 million for that. We have used asset  
6 forfeiture money and are approaching a  
7 million dollars in terms of it, but I don't  
8 think we're approaching 6 million.

9 I would say, more importantly, is what  
10 we've done is -- I've told you that we've  
11 changed that test. And that was a great  
12 idea, internally driven. When I looked at  
13 our diversity numbers, I said: "You've got a  
14 great idea here, we need to now exploit it."  
15 And so I created a dedicated recruiting unit  
16 that is a full-time recruitment and  
17 development unit that has developed  
18 recruiting teams and these community outreach  
19 programs, and also revamped our advertising,  
20 which -- where we spend significant money  
21 there, and internet-based advertising, and  
22 our own kind of social media presence.

23 The other thing we've done is we've  
24 reached out to community partners across the

1 state -- Rochester, Buffalo, Syracuse, the  
2 Hudson Valley, Poughkeepsie, we've got  
3 meetings in New York City -- where we'll meet  
4 a range of community leaders -- youth group  
5 leaders, church folks, elected officials --  
6 and we'll have sort of a meeting with  
7 influencers, community influencers, pitch  
8 that idea, and then use those contacts and  
9 connections to then get in and do active  
10 recruiting.

11 So -- and I have something to tell you  
12 which is -- I don't want to lose the good  
13 news for all the details -- we have a testing  
14 period right now, people have signed up to  
15 take the test, people have actually taken the  
16 test. And our numbers, in terms of the  
17 minority sign-ups, are double, triple what  
18 they were the last cycle. So we're over  
19 20 percent African-American signed up, four  
20 times Asian-Americans, increase in Hispanics.

21 It's early days yet, but this effort,  
22 this targeted effort -- and I sometimes like  
23 to say it's a targeted effort to someone who  
24 doesn't necessarily see themselves as a

1 Trooper. But you do the social media, and  
2 then you do the one-on-one kind of recruiting  
3 saying to this person, hey, we see qualities  
4 in you that would make you an excellent  
5 State Trooper, and here's why.

6 So the effort has paid off so far.

7 SENATOR BAILEY: That certainly does  
8 bode well for the efforts of improving  
9 overall diversity within the ranks of the  
10 department.

11 The second question I guess dovetails  
12 off of that in relation to leadership  
13 positions within the State Police. You know,  
14 and we would hope that the leadership would  
15 also be reflective of the great diversity of  
16 the state. How is that effort going? How is  
17 that taking place in practice? How are we  
18 diversifying the ranks of leadership within  
19 the organization of the State Police?

20 SUPERINTENDENT BRUEN: So the second  
21 mission of that group I created that's headed  
22 up by a commissioned officer -- a captain,  
23 which is a significant rank inside the State  
24 Police -- the second part of that mission

1 is -- the first is get people in the door  
2 right now. The second part of it is I want  
3 you to look at the whole process,  
4 holistically. Are there barriers, are there  
5 barriers to promotion coming on the job or  
6 promotions through the ranks?

7 The good news is that there doesn't  
8 appear -- at first blush, there does not  
9 appear to be barriers, that the number of  
10 commissioned officers, which is our highest  
11 group of supervisors, reflects the number of  
12 the overall ranks. So just sticking with  
13 African-Americans, I have 4 percent  
14 African-American Troopers, I have 4 percent  
15 African-American commissioned officers.

16 But we still have to look at those,  
17 are there -- and beyond barriers, is there  
18 support we could provide? You know, hey,  
19 there's -- to develop leaders, to retain  
20 leaders longer into their career to reach the  
21 higher level commissioned officer and  
22 supervisor ranks.

23 I still go back to my initial problem,  
24 which is I do not have a diverse enough



1 workforce. We need to put maximum effort  
2 into that. I do believe, although it's  
3 longer term, that once we get those numbers  
4 up, the promotion and supervisory thing will  
5 work out, we'll benefit from that. But  
6 again, the direction is look at every piece  
7 of it, defend every piece of what we're  
8 doing, and expand our efforts for minority  
9 and women in terms of the higher-ranking  
10 officers.

11 SENATOR BAILEY: Superintendent, so I  
12 guess my last couple of minutes will be  
13 utilized in terms of speaking about the body  
14 cameras, the recent body cameras, I guess.  
15 In sum and substance, how many body cameras  
16 have you purchased and how many will be  
17 purchased this year, and how is the program  
18 going thus far in its implementation?

19 SUPERINTENDENT BRUEN: We have rolled  
20 out the body cameras to the vast majority of  
21 the Troopers. The number of body cameras  
22 will be roughly 3,000. The last troop that's  
23 being rolled out is A Troop. That's the  
24 Buffalo area. I expect that that rollout

1 will be completed by the end of next month,  
2 and that will be -- and Troopers will have  
3 that fully done.

4 The experience has been very good.  
5 The Troopers have accepted it and in fact  
6 embraced it. It's been very useful so far,  
7 and I think it's a great program.

8 You know, I've got a concern, which is  
9 we've got to make sure that we're able to  
10 reproduce and get the video out the door, so  
11 that's an effort. It takes a fair amount of  
12 time to redact the video and make -- get it  
13 ready to be disclosed in a public -- under  
14 our FOIL system. But I really wish people  
15 could watch the videos I've watched, just  
16 randomly. You'd see Troopers helping people  
17 and being professional and great all the  
18 time.

19 SENATOR BAILEY: Without a doubt.

20 And I would imagine -- so I guess the  
21 final -- I guess the final question is let's  
22 say that there is a violation. What happens  
23 if an officer is found not have turned on the  
24 body camera? What are the rules and

1 regulations of the State Police if it's not  
2 being recorded during their time of duty?

3 SUPERINTENDENT BRUEN: Well, it's a  
4 requirement. You are supposed to use it.  
5 You are supposed to utilize it, engage it  
6 when appropriate and required.

7 If you don't, you're going to be  
8 subject to discipline. If you've done it  
9 accidentally, if there's a minor inattention  
10 to detail, you'll get one set of punishments;  
11 if you're really doing it on a routine basis,  
12 your job is in jeopardy. You know, there's a  
13 wide range of ways that you could create  
14 this. So far we have not run into that  
15 problem.

16 SENATOR BAILEY: Okay. Thank you,  
17 Superintendent. Madam Chair, I may have a  
18 second round. But for now, thank you so  
19 much.

20 SUPERINTENDENT BRUEN: Thank you, sir.

21 CHAIRWOMAN WEINSTEIN: Thank you.

22 We go to chair of the Assembly Codes  
23 Committee, Assemblyman Dinowitz, 10 minutes.

24 ASSEMBLYMAN DINOWITZ: Thank you.

1           Superintendent, good afternoon. It's  
2 still afternoon, right, it's not evening yet?  
3 Oh, it is evening. Sorry about that.

4           SUPERINTENDENT BRUEN: We're getting  
5 closer.

6           ASSEMBLYMAN DINOWITZ: We are.

7           Well, listen, we've made progress.  
8 You are the sixth of 26 witnesses, and we  
9 have managed to do that in just a little --  
10 about six and a half hours. So pretty good.

11           So several years ago when we passed  
12 the SAFE Act, New York extended -- wrongly,  
13 in my opinion -- I should say ended wrongly  
14 its own attempt at creating a database to  
15 collect and submit all ballistics evidence of  
16 weapons sold in New York.

17           And as I'm sure you know, the Assembly  
18 Codes Committee, which I chair, held a  
19 hearing that examined in part this database.  
20 Now, your agency, for whatever reason, chose  
21 not to appear at that hearing, which was  
22 unfortunate because I thought it could have  
23 been very helpful to try to get to the bottom  
24 of why it's taken so long to get this done.

1           So my question is, when will the state  
2           create its ammunition database to track sales  
3           to residents who may be assembling deadly  
4           stores of ammunition, as mandated by the SAFE  
5           Act? Because too much time has passed  
6           already.

7           SUPERINTENDENT BRUEN: The -- if I  
8           understand the -- I think you're talking  
9           about the ammunition check as opposed to the  
10          CoBIS database that was shut down years ago,  
11          which was the storage of expended shell  
12          casings. So I think we're talking about the  
13          SAFE Act, which is the ammunition check.

14          There are significant problems and  
15          challenges with creating that system. The  
16          most significant and the biggest problem we  
17          face is that federal law prohibits the use of  
18          the NICS system to check the eligibility or  
19          suitability of someone purchasing ammunition.  
20          So the only database that we could check is  
21          New York's criminal records system.

22          The next problem is the problem of  
23          infrastructure. We do not have an existing  
24          infrastructure or a technology infrastructure

1 to create the check of the suitability for  
2 sale. However, I've spoken to Director  
3 Riddick, and he and I both have agreed that  
4 he and I need to start meeting on this again  
5 and re-look at it from our team's point of  
6 view, to see if there are things that we can  
7 advance the ball here on. Because I agree  
8 with you, it's gone too long and we need to  
9 move this further down the road.

10 ASSEMBLYMAN DINOWITZ: Okay. I mean,  
11 nine years. I think the state built the  
12 Tappan Zee Bridge, or the Cuomo Bridge, in  
13 just a few years, so I'm pretty sure we have  
14 the capability of getting this done if we  
15 really wanted to.

16 So about three years ago the  
17 Legislature enacted a law that allows law  
18 enforcement to remove firearms from people  
19 charged with domestic violence offenses and  
20 the courts to revoke or suspend their  
21 firearms licenses. And this info is then  
22 reported to the State Police and DCJS,  
23 presumably for inclusion in the statewide  
24 license and record database established in

1 the SAFE Act.

2           However, as far as I know -- and tell  
3 me if I'm wrong -- this -- it's my  
4 understanding this license and record  
5 database, like the ammunition sales database,  
6 is not operational, and it's been -- it's  
7 been quite some time.

8           So I just want to first find out, is  
9 that correct, what I just said?

10           SUPERINTENDENT BRUEN: I don't think  
11 so. I mean, the -- there -- a couple of  
12 years ago there was something called the ERPO  
13 law that was passed, and that's one thing.  
14 The -- if you have your license revoked by a  
15 county -- or suspended -- based on domestic  
16 violence, that county licensing officer would  
17 communicate to the State Police that that's  
18 occurred, and we'd make a record of it.

19           The license database years ago was  
20 very crowded, had multiple platforms -- in  
21 other words, when -- a license that was just  
22 issued in the '30s was on paper and, you  
23 know, it was done in very different ways  
24 around the state. That's been cleaned up

1 through the recertification process. I think  
2 we're now into the second round of pistol  
3 permit recertification.

4 So a lot of that has been cleaned up,  
5 and we have a pistol permit database and we  
6 also have a -- it obviously mirrors the  
7 county records, licensing. The State Police  
8 does not issue pistol permits. And we have a  
9 registry of assault weapons, which we're in  
10 the second round of recertification of that  
11 as well.

12 ASSEMBLYMAN DINOWITZ: Okay.  
13 Regarding the first one that I talked about,  
14 the ammunition, what is your sense in terms  
15 of being able to adhere to the -- what we  
16 decided to do so many years ago? Like how  
17 soon?

18 SUPERINTENDENT BRUEN: I don't have an  
19 estimate on it right now. I'm telling you  
20 that my -- my read and understanding of this  
21 is the challenges are very significant. The  
22 biggest challenge is that we could only --  
23 due to the federal law, only check records  
24 generated in New York. So if you come in



1 from Iowa, there's no check. So we have that  
2 initial problem that's built in.

3 The next problem is similar to -- you  
4 know, is a technological one, which is in the  
5 middle of Hamilton County when there's not a  
6 lot of connectivity, how do you check that  
7 system against the database -- and these  
8 databases are in place and owned by DCJS and  
9 OMH -- against that?

10 What I'm telling you is that we're  
11 going to -- the director of ITS and myself  
12 are going to sit down and grab people and  
13 really examine what it is we're doing, what  
14 can we do, and what recommendations we can  
15 make based on this. I get the frustration.

16 ASSEMBLYMAN DINOWITZ: Okay. Well,  
17 obviously I would encourage that to happen  
18 expeditiously. Thank you very much.

19 SUPERINTENDENT BRUEN: Thank you, sir.

20 CHAIRWOMAN WEINSTEIN: To the Senate.

21 CHAIRWOMAN KRUEGER: Thank you.

22 Senator Pete Harckham.

23 SENATOR HARCKHAM: Thank you, Madam

24 Chair.

1           Superintendent, thank you for your  
2           testimony thus far. Good evening. And  
3           please accept my thanks to all the women and  
4           men of the State Police for everything you do  
5           to keep us safe.

6           In my brief time I want to discuss the  
7           opioid crisis and overdose. As we know, very  
8           often it's law enforcement who are the first  
9           to arrive on the scene of an overdose. And  
10          we have a spectrum of responses to that. We  
11          have some local police that treat an overdose  
12          scene like a crime scene, and other  
13          departments treat it like a behavioral health  
14          crisis and actually will bring peers and  
15          social workers to connect those people, if  
16          they survive the overdose, with services and  
17          treatment.

18          Where does the New York State Police  
19          fall in that spectrum?

20          SUPERINTENDENT BRUEN: Well, I would  
21          say we do both. For one thing, we understand  
22          that an individual who's overdosed has a  
23          certain set of problems. And I don't think  
24          there's anybody in the State Police --

1 members of the State Police family are not  
2 excluded from being aware of people who have  
3 had real tragedies with the opioid crisis.

4 But we also are a police agency and we  
5 want to know where they got -- who provided  
6 this to them, who's profiting off of this.  
7 And so we have a -- I won't get into the  
8 details, but a robust effort put on by the  
9 Bureau of Criminal Investigation to  
10 backward-track how that person got the  
11 opioid, how was it dealt, and who was the  
12 person profiting from this outrage.

13 SENATOR HARCKHAM: What are you doing  
14 at the scene to hook that individual up with  
15 services, whether it be a peer, a warm  
16 handoff to treatment? What is the State  
17 Police's role, what do you view your role as  
18 in that interaction?

19 SUPERINTENDENT BRUEN: We have crime  
20 victim specialists and other people that we  
21 make that referral to, but we would also --  
22 it would vary from county to county and place  
23 to place depending on the services available.

24 It's sometimes hard in that very

1 particular situation, as much as I would like  
2 to control and have the response be the same  
3 in every community, depending on available  
4 services we would do it differently in  
5 different places.

6 SENATOR HARCKHAM: Are all of your  
7 Troopers trained in the use of naloxone, and  
8 are they required to carry it with them at  
9 all times?

10 SUPERINTENDENT BRUEN: The answer is  
11 they are all trained and they all have it in  
12 the vehicles, troop cars.

13 SENATOR HARCKHAM: All right,  
14 terrific, thank you. I would like to offline  
15 discuss with you, when we have some time,  
16 some of the innovative programs that are  
17 being done in some of the counties across the  
18 state.

19 SUPERINTENDENT BRUEN: Outstanding.  
20 Thank you, sir.

21 SENATOR HARCKHAM: Thank you.

22 CHAIRWOMAN KRUEGER: Thank you very  
23 much, Pete.

24 Next, Assembly?

1                   CHAIRWOMAN WEINSTEIN: We go to  
2                   Assemblyman Lawler.

3                   ASSEMBLYMAN LAWLER: Thank you,  
4                   Madam Chair.

5                   Thank you, Superintendent, for joining  
6                   us. I know it's been a long day of waiting  
7                   around.

8                   So on the issue of bail reform, the  
9                   mayor of the City of New York put out  
10                  yesterday, as part of his plan to combat gun  
11                  violence, the need for judicial discretion  
12                  and the ability of judges to look at the  
13                  dangerousness of the individual, look at the  
14                  evidence, look at their prior history.

15                  Do you support what the mayor has said  
16                  on this as a means of reforming the bail law  
17                  that was passed?

18                  SUPERINTENDENT BRUEN: You know, we  
19                  make it a point of sticking to our lane, and  
20                  decisions about bail reform or changes or  
21                  tweaks to the bail, you know, I would leave  
22                  to all of you and the courts.

23                  You know, we follow and implement the  
24                  rules as they are. You know, I understand

1 the general concept that it was difficult to  
2 see someone stay in jail when there was --  
3 you know, for failure to be able to post a  
4 small amount of bail for a minor offense, and  
5 I understand the other end of the spectrum,  
6 which is what status do we give to a person  
7 when police officers have made an arrest in  
8 what's an armed felony offense and the  
9 person's armed with a gun? I understand  
10 that.

11 But, you know, we pretty much stick to  
12 what my job is, and that whatever you  
13 implement, we live with.

14 ASSEMBLYMAN LAWLER: Okay. And  
15 further along those lines, the mayor also  
16 indicated that he would be bringing back the  
17 anti-crime unit, which has focused primarily,  
18 in the past, getting illegal guns off the  
19 streets. Obviously the Governor has made it  
20 a priority of hers to address the scourge of  
21 illegal guns coming into the state. She has  
22 also talked about the State Police going down  
23 to New York City and working cooperatively  
24 with the NYPD on this effort.

1           Do you support or do you think it  
2           necessary for the anti-crime unit to be  
3           brought back? And would you support using  
4           the State Police to help in that effort?

5           SUPERINTENDENT BRUEN: I wouldn't  
6           presume to tell the NYPD what units to stand  
7           up or not stand up. We don't have a similar  
8           unit. We have a different approach, and  
9           that's the Community Stabilization Unit.

10          I have been in conversations with the  
11          police commissioner, the new police  
12          commissioner, and we have discussed a range  
13          of options. We want to do something on gun  
14          violence. We're already doing it together.

15          We -- as I told Senator Bailey,  
16          we'll -- we, the State Police, can develop  
17          intelligence that guns are coming -- heading  
18          to a particular area in New York City, open  
19          that case up, gather information, do  
20          surveillance and other things. And we work  
21          directly with the New York City Police  
22          Department, and those cases have led to  
23          arrests within the last few days. We're  
24          doing that constantly.

1           The Troopers are already there. They  
2           may not be wearing the Stetson and the full  
3           uniform, these may be investigators who are  
4           developing intelligence and listening to  
5           phone calls and doing surveillance and that  
6           sort of thing. So we're doing it, we're  
7           expanding it. The Governor has made it a  
8           priority and, in essence, told me, you know,  
9           get going. And the new police commissioner  
10          and I have had very productive conversations  
11          and are really looking forward to continuing  
12          to work together and even work together more  
13          collaboratively and in sort of a more free  
14          police agency-to-police agency way.

15                   ASSEMBLYMAN LAWLER: I appreciate  
16           that.

17           And the last thing, you know, I think  
18           there certainly can be bipartisan support for  
19           increased training for law enforcement, and  
20           especially with some of the reforms that have  
21           been put in place in recent years, ensuring  
22           that our police officers have the resources  
23           they need to implement many of these laws.

24           And so I've introduced a bill that



1           would create a \$250 million fund for training  
2           for law enforcement as well as other first  
3           responders. And so I would just encourage  
4           you to talk with the Governor, certainly, and  
5           certainly I will talk with my colleagues.  
6           But I think creating a designated fund to  
7           support training for law enforcement -- and  
8           truly ensuring they have the resources they  
9           need -- is critical. And so I would  
10          certainly encourage you to support that  
11          effort.

12                    SUPERINTENDENT BRUEN: We certainly  
13          would.

14                    But, Assemblyman, we spend a great  
15          deal of time and effort training New York  
16          State Troopers. It takes a very long time to  
17          become a State Trooper, more than six  
18          months -- it's almost a year to become a  
19          fully functioning State Trooper, and they get  
20          thousands of hours of training and then  
21          continued training. So -- and that's due to  
22          your support.

23                    ASSEMBLYMAN LAWLER: My cousin is one,  
24          and they do a great job. So thank you very

1 much for your service.

2 SUPERINTENDENT BRUEN: Thank you, sir.

3 CHAIRWOMAN WEINSTEIN: Thank you.

4 Senate?

5 CHAIRWOMAN KRUEGER: Thank you.

6 Next is Senator Andrew Gounardes.

7 SENATOR GOUNARDES: Thank you,

8 Senator Krueger.

9 Good -- I guess it's almost evening  
10 now, Superintendent.

11 I want to talk a little bit about the  
12 executive order that former Governor Cuomo  
13 issued in 2019 that basically gave your  
14 department operational control of the  
15 New York State Park Police. And my first  
16 question to you is in the last two years, I  
17 would like to get your assessment as to how  
18 you think that transfer of operational  
19 control has been thus far.

20 SUPERINTENDENT BRUEN: Yeah, the State  
21 Police has had operational control of the  
22 Park Police for about two years.

23 The relationship between the State  
24 Police and the Park Police, in my judgment,

1 has been excellent for years. The  
2 cooperation between the Troopers and the Park  
3 Policemen and Park Policewomen has been  
4 fantastic. They were tremendous partners  
5 during COVID. They have, like us, not had  
6 new recruits for some time, so they've got  
7 falling numbers. And my Troopers have had to  
8 fill the gaps and provide some services  
9 there.

10 You know, I've met with the Park  
11 Police union upwards of half a dozen times,  
12 particularly early on. So we're making it  
13 work.

14 We're going to provide the support to  
15 the Office of Parks and Historic Preservation  
16 going forward in terms of looking at areas  
17 that the Park Police -- where they need to  
18 be, what's the right size of them, where they  
19 should be physically present all the time,  
20 what parks can operate as response parks.  
21 The parks downstate --

22 SENATOR GOUNARDES: I'm sorry,  
23 superintendent, I want to piggyback -- I  
24 appreciate that answer. I only have a little

1 bit more than a minute left.

2 SUPERINTENDENT BRUEN: Sorry.

3 SENATOR GOUNARDES: I do appreciate  
4 your answer.

5 I know over the last two years the  
6 Park Police has lost about a hundred members  
7 and I think they're under 200 officers right  
8 now for the entire State of New York, which  
9 is shocking in many ways.

10 They've had no -- like you said, no  
11 new academies, but they've also not been  
12 eligible for any transfers or promotions  
13 every since this effective merger or  
14 operational control was made. And so while  
15 it's great, I'm glad to see that the  
16 Governor's proposing a new class specifically  
17 for the Park Police to graduate in a few  
18 years, I really wonder whether or not it  
19 makes sense to continue to have the  
20 Park Police operate under the State Police  
21 control and whether or not you would agree or  
22 you would support rescinding that executive  
23 order from December of 2019 to allow the  
24 Park Police to operate the way that they used

1 to, with fuller resources, under the Office  
2 of Parks and Historic Preservation.

3 SUPERINTENDENT BRUEN: So I'm also  
4 at -- I've lost nearly 600 Troopers during  
5 that same period due to retirements and what  
6 have you. We're at staffing lows.

7 The good news for the State Police and  
8 the Governor is if the Governor asks us to do  
9 something, we'll do it. So we'll either  
10 administer and work with our brothers and  
11 sisters in the Park Police and serve and  
12 protect the patrons of the parks just like we  
13 do the citizens of the state, or not.

14 But in any case, whether we're  
15 operating -- using operational control or  
16 we're not, I have to say that the working  
17 people, Troopers and Park Police officers,  
18 work fantastically well together and the  
19 relationship is great.

20 SENATOR GOUNARDES: I appreciate that.  
21 Thank you.

22 CHAIRWOMAN KRUEGER: Thank you.

23 Chair Weinstein.

24 You're on mute.

1           CHAIRWOMAN WEINSTEIN: I want to just  
2 actually go to myself to -- since my question  
3 was a follow-up to Senator Gounardes'  
4 question about the Park Police.

5           Are the Troopers going to be  
6 responsible for conducting the next Park  
7 Police Academy?

8           SUPERINTENDENT BRUEN: The Park Police  
9 has run their own academy. And to the extent  
10 they needed discrete help from us, we would  
11 certainly provide it. We've done that in the  
12 past and would continue to do it.

13           They have capabilities in training  
14 that we've taken advantage of from time to  
15 time. So the Park Police have the capability  
16 of running their own academy.

17           CHAIRWOMAN WEINSTEIN: And as you said  
18 to Senator Gounardes, so for the time being  
19 you're continuing with the operational  
20 control of the Park Police? There's not an  
21 end date set for that?

22           SUPERINTENDENT BRUEN: I've not been  
23 told of one.

24           CHAIRWOMAN WEINSTEIN: Okay, great.

1           SUPERINTENDENT BRUEN: So we're trying  
2 to -- yeah, trying to right-size it, trying  
3 to make sure that they're in the right places  
4 and where they're not able to do things,  
5 we're going to follow up and support.

6           CHAIRWOMAN WEINSTEIN: Great, thank  
7 you, Superintendent.

8           I'm going to send it back to the  
9 Senate.

10          CHAIRWOMAN KRUEGER: Okay, thank you,  
11 Assemblywoman.

12          Our next Senator is Senator Savino.

13          SUPERINTENDENT BRUEN: I think Senator  
14 Savino has left the hearing.

15          CHAIRWOMAN KRUEGER: Oh. Well, thank  
16 you. I guess -- you're right, I'm looking  
17 for her box and I don't see her.

18          All right, so then I'm going to jump  
19 in with my questions, Superintendent.

20          Let's start with under the Cuomo  
21 administration he had a policy of taking I  
22 believe up to 250 State Troopers and moving  
23 them into New York City at a time. And I'm  
24 in New York City, so I'm certainly not

1 unhappy to see State Troopers, but I never  
2 saw any real demand for them from NYPD or  
3 other city government agencies, while I've  
4 heard from many of my colleagues from upstate  
5 that they desperately are looking to find  
6 more State Troopers.

7 So I'm curious whether there might be  
8 a change of policy with the new Governor.

9 SUPERINTENDENT BRUEN: The Governor  
10 has instructed me to make sure that what  
11 we're doing in New York City is not  
12 duplicative of the NYPD. And we're not doing  
13 that.

14 And that's part of the discussions  
15 I've had with the police commissioner, that  
16 we're going to do things that support them,  
17 add value to public safety, and are different  
18 than what they would normally do. And we've  
19 had plenty of great conversations with the  
20 NYPD, and you will be seeing some things that  
21 I think really add to the public safety  
22 picture of the city.

23 But there's no doubt, we are not a  
24 replacement to the NYPD, nor would we dream



1 to be. We're the State Police, and we have  
2 capabilities and talents that are different  
3 and can mesh well with the NYPD.

4 And the relationship and existence of  
5 the State Police in New York City has been  
6 there for a long time. I know there was much  
7 made of it recently, and there were more  
8 uniformed Troopers then, but there have been  
9 State Police in the city for over 50 years.

10 CHAIRWOMAN KRUEGER: And I don't have  
11 a conflict with there being a good  
12 relationship between the State Police and  
13 NYPD, obviously. But 250 is a significant  
14 head count. And given that I hear from  
15 colleagues in other parts of the state how  
16 worried they are that they don't have an  
17 adequate supply of State Troopers, I just  
18 wondered whether it was a discussion worthy  
19 of changing the formula or the number of  
20 people on New York City duty --

21 SUPERINTENDENT BRUEN: There's no  
22 doubt -- there's no doubt that we're looking  
23 to make sure that we have the right size for  
24 the mission that we have in there. There's

1 no doubt. And that we can support the  
2 mission in New York City -- I said this  
3 before. That gun task force or gun operation  
4 that we're doing, and gun interdiction, the  
5 Troopers may in fact -- may not be anywhere  
6 near New York City. But the guns they're  
7 investigating, the destination is New York  
8 City.

9 So that's a lot of -- a fair piece of  
10 what we're doing as well. But we --

11 CHAIRWOMAN KRUEGER: That's a  
12 perfect -- yes, go ahead, sorry.

13 SUPERINTENDENT BRUEN: Yes, there are  
14 things we've done in the city in a uniformed  
15 basis, but I can't tell you -- I can't stress  
16 enough the Governor has said not to duplicate  
17 efforts.

18 CHAIRWOMAN KRUEGER: Great.

19 So on a very similar topic, what role  
20 is your department taking in investigating  
21 and following up on a growing trend in human  
22 trafficking that appears to be going up and  
23 down the Thruway from different parts of the  
24 state, movement of people brought into the

1 country at Kennedy and then human trafficked  
2 through Long Island, through upstate  
3 New York. I am told by my colleague in  
4 Syracuse, Pam Hunter, that Syracuse is a  
5 center of sort of human trafficking  
6 intersections going north, south, east, west.

7 There were definitely reports of  
8 growth in this serious problem during the  
9 pandemic. Is there a role that the  
10 State Troopers have been playing to try to  
11 capture the people involved in human  
12 trafficking?

13 SUPERINTENDENT BRUEN: Yes. Those  
14 cases develop either from, you know, local  
15 intelligence, one-off arrests where the  
16 Troopers or the local police interview the  
17 people involved.

18 And they can lead to very significant  
19 cases. That's one of the resources that the  
20 NYSIC is involved with, and some of the  
21 commitments that we've talked about in terms  
22 of additional tools -- cryptocurrency  
23 detection and the cellphone capabilities of  
24 analyzing that.

1           Cryptocurrency and cellphones go with  
2           every major crime, organized crime function  
3           that currently exists, from drugs, gun  
4           trafficking and human trafficking. So that  
5           capability is going to explode and ramp up.

6           CHAIRWOMAN KRUEGER: Thank you. I  
7           look forward to learning more about that.

8           At the time the state passed its  
9           "Enough Is Enough" legislation to try to  
10          address the growth in campus sexual assaults,  
11          there was supposedly the creation of a campus  
12          sexual assault victims unit within  
13          State Police, with a funding allocation of  
14          \$4 million for that unit.

15          Does that unit exist? And are we  
16          spending \$4 million, and how is that going?

17          SUPERINTENDENT BRUEN: Yes, that unit  
18          exists and was at one time fully staffed.  
19          But like every aspect of my agency, it's been  
20          impacted by my dramatic drop in Troopers.  
21          I'm at 10-year staffing lows, or close to it.

22          I do think these next three classes --  
23          the one that's in there in the academy right  
24          now, and the two that are proposed in the

1 budget -- will start to allow us to get back  
2 up to being fully staffed.

3 But that is one place the BCI --  
4 that's a BCI function, and that's a place  
5 that I've had to slow the fill. Because if  
6 you take -- you get BCI members by promoting  
7 uniformed Troopers. And then if you've taken  
8 the uniformed Troopers off the road, there's  
9 nobody to respond to radio, you know, calls  
10 and 911 calls.

11 So we're in that delicate spot of I've  
12 got a lot of great Troopers who are ready to  
13 be promoted to investigator and take on some  
14 of those roles and work in what we call a  
15 backroom, which is like a precinct detective  
16 unit. They're ready to go, but I need people  
17 out the door.

18 CHAIRWOMAN KRUEGER: Thank you very  
19 much.

20 I'm going to not need my -- the rest  
21 of my time, Assemblywoman Weinstein.

22 CHAIRWOMAN WEINSTEIN: Okay, so we'll  
23 go to Assemblyman Reilly, three minutes.

24 ASSEMBLYMAN REILLY: Thank you,

1 Madam Chair.

2 Hi, Superintendent. Thank you for  
3 joining us.

4 SUPERINTENDENT BRUEN: Thank you.

5 ASSEMBLYMAN REILLY: I wanted to talk  
6 to you on what we spoke about last year  
7 during the budget season -- and I was happy  
8 to hear that you mentioned it earlier, of  
9 course, the ARIDE and the DREs. And I'm glad  
10 that you're going forward, everybody -- all  
11 the Troopers are being trained for ARIDE,  
12 which is an enormous task, and I thank you  
13 for that.

14 Being that in last year's budget we  
15 allocated an additional \$10 million for DRE  
16 training, have we seen any turnkey with that  
17 in the State Police?

18 SUPERINTENDENT BRUEN: We are up over  
19 100 DREs, which is significant.

20 You know, the real drag -- and I think  
21 we talked about this last time -- is there's  
22 only so much training capacity in the nation  
23 for DRE training, due to the complexity of it  
24 and the nature of it, and how advanced that

1 Trooper or police officer has to be in order  
2 to get into the training.

3 But we're increasing it, and we're  
4 over 100. And I think we're shooting for a  
5 number that's over 110. And I would like to  
6 get there.

7 ASSEMBLYMAN REILLY: Awesome. Thank  
8 you. And I thank my colleagues for actually  
9 pushing for that in the budget and making it  
10 happen. So thank you.

11 One thing I want to touch on with the  
12 gun violence, with the shootings, especially  
13 in New York City. Raise the Age seems to be  
14 a point of contention with the 16- and  
15 17-year-olds that are armed with a loaded  
16 firearm. Currently that case would go to  
17 Family Court because it wouldn't fit under  
18 the exception where it could stay in Youth  
19 Part Criminal.

20 So right now we're trying to push for  
21 getting that part of the Raise the Age  
22 changed to allow loaded firearms to proceed  
23 in youth part. Do you know how many firearms  
24 the New York State Police have recovered from

1 those under 18 years old?

2 SUPERINTENDENT BRUEN: I do not. I do  
3 not have that number. We can get it.

4 I would say that it is probably  
5 significantly lower than NYPD's number. They  
6 have a different operating environment than  
7 we do.

8 But I can have someone provide that  
9 number to you.

10 ASSEMBLYMAN REILLY: Yeah, if we can  
11 get the state one. I have --

12 SUPERINTENDENT BRUEN: Well, remember,  
13 there would be two different numbers. One  
14 would be a statewide number outside of the  
15 City of New York, and one would be our  
16 internal number, how many have we done. So  
17 there would be two different numbers.

18 DCJS would probably have the -- well,  
19 we could -- we'll find both numbers for you.  
20 But I want to emphasize that, you know, the  
21 State Police would have one number and that  
22 that would be subsumed into the greater  
23 number, which is how many outside the City of  
24 New York.



1 ASSEMBLYMAN REILLY: Yeah, for all  
2 jurisdictions besides the State Police. I  
3 get it, yeah.

4 So like in New York City we had -- in  
5 2020 there were 411 arrests for under 18, and  
6 in 2021, 536. So I want to see what that  
7 comparison is, and I think that's a tool that  
8 really needs to be used.

9 SUPERINTENDENT BRUEN: No doubt that  
10 gun arrests and the numbers have been  
11 skyrocketing.

12 ASSEMBLYMAN REILLY: Thank you,  
13 Mr. Superintendent, I appreciate it.

14 SUPERINTENDENT BRUEN: Thank you, sir.

15 CHAIRWOMAN KRUEGER: Thank you.

16 I think now we're back to Senator  
17 Diane Savino, who's returned.

18 SENATOR SAVINO: Thank you. Sorry, I  
19 was on a phone call, I didn't hear you guys  
20 calling me.

21 Good to see you, Superintendent.

22 SUPERINTENDENT BRUEN: Good to see  
23 you.

24 SENATOR SAVINO: I'm not going to

1 touch on some of the issues that have already  
2 been raised. I'm happy to hear you guys are  
3 focusing on computer crimes and cyber crimes.  
4 They are certainly becoming a much more  
5 complicated problem.

6 I do want to ask you about the issue  
7 of cannabis. As you know, we legalized  
8 cannabis for adult use, we expanded medical,  
9 we have a thriving hemp program that's  
10 operational. But there seems to be, out  
11 there in the general public, this idea that  
12 because we decriminalized marijuana for  
13 personal use, that you could have up to  
14 3 ounces for personal use, that you could  
15 pretty much do whatever you want.

16 And no one seems to be enforcing this  
17 statute that you're not allowed to sell  
18 marijuana in the state yet. Anybody that  
19 doesn't have a license to sell is operating  
20 outside of the law. And yet and still, we  
21 have people flouting the law all over the  
22 place. They're setting up cannabis shops,  
23 they're operating stores, they have mobile  
24 vans, they're driving around Manhattan, and

1 nobody seems to be enforcing the law.

2 So -- and it upsets me only because if  
3 we're going to set up a legal regulated  
4 system where we're going to have licenses  
5 issued and we're going to expect people that  
6 we regulate to play by the rules, how is that  
7 going to work if people are openly, you know,  
8 violating the law and nobody's doing anything  
9 to stop it? Not the State Police, not the  
10 NYPD, no local government. Nobody's doing  
11 anything to stop this, and I'm just baffled  
12 as to why.

13 SUPERINTENDENT BRUEN: Well, we  
14 continue to enforce marijuana penal laws as  
15 they exist, and continue to make arrests  
16 related to marijuana trafficking.

17 To the extent that something was  
18 regulatory in nature, unlike the NYPD, I  
19 don't have the authority to enforce  
20 non-criminal regulatory laws. I must --

21 SENATOR SAVINO: I understand that.

22 SUPERINTENDENT BRUEN: -- only  
23 criminal laws. And we continue to do it,  
24 obviously, though, we're not arresting for,

1           you know, small amounts of marijuana because  
2           it's no longer a crime.

3                     SENATOR SAVINO:  So not to interrupt  
4           you -- because I only have a few seconds  
5           left -- so the other day the Albany Times  
6           Union wrote a restaurant review of a local  
7           restaurant that is getting into the cannabis  
8           business now.

9                     And instead of charging people for the  
10          cannabis products, they're giving them away:  
11          Come into our restaurant, pay a fee and we'll  
12          serve you food and then we'll give you  
13          cannabis products.  And they don't seem to  
14          have any concern about having this widely  
15          advertised.

16                    Now, would you say that that's  
17          something your office or the State Police  
18          should notify this restaurant, that they are  
19          in violation of existing law because you  
20          can't give or sell marijuana yet legally in  
21          the State of New York without a license?  Or  
22          should the Albany police do it?  Or what role  
23          do you think you should play in enforcing  
24          this law so that we don't have a system where

1 people are just doing what they want?

2 Because otherwise it doesn't make any  
3 sense for us to create a regulatory structure  
4 if we're just going to let people do whatever  
5 the hell they want.

6 SUPERINTENDENT BRUEN: I have to fall  
7 back on the fact that I can't enforce civil  
8 regulations.

9 So to the extent they violate the  
10 Penal Law, and to the extent that was a  
11 violation, a crime, to set up your own shop  
12 and that was a violation -- I mean a  
13 misdemeanor or a crime, you know, we would be  
14 able to enforce it.

15 But to the extent that it's a  
16 violation of regulations and it's civil in  
17 nature, I don't have that power, based on the  
18 way the Executive Law is written and about  
19 the jurisdiction of the State Police.

20 Local town, villages, the NYPD can  
21 enforce their city codes and enforce other  
22 kind of regulatory schemes, and I don't have  
23 that ability.

24 SENATOR SAVINO: I would just suggest

1 we might want to rethink that.

2 I don't have any more time. I'm happy  
3 to talk about it offline with you at some  
4 point.

5 SUPERINTENDENT BRUEN: Sure.

6 SENATOR SAVINO: Thank you.

7 CHAIRWOMAN KRUEGER: And just for the  
8 record, as the I guess lead sponsor of the  
9 marijuana legalization bill, I completely  
10 agree with Senator Savino.

11 This is not legal. They were never  
12 intended to be allowed to give away cannabis  
13 as a freebie with very expensive food or in  
14 some places very expensive T-shirts that come  
15 with free cannabis.

16 And I know that the Office of Cannabis  
17 Management has told me that they are  
18 exploring also how they insert themselves to  
19 stop this from happening. So hopefully they  
20 will reach out to you, Superintendent, and  
21 somehow we all can coordinate. Because yes,  
22 we wanted cannabis use to be out of the  
23 criminal justice system as much as possible,  
24 but it's the same issue. We have liquor

1 laws, and you can't sell liquor illegally.  
2 And we want to have the same approach with  
3 cannabis. So thank you.

4 SUPERINTENDENT BRUEN: Thank you.

5 CHAIRWOMAN KRUEGER: And now back to  
6 Assemblymember Weinstein.

7 CHAIRWOMAN WEINSTEIN: We next have  
8 Assemblywoman Rajkumar up, for three minutes.  
9 Thank you.

10 ASSEMBLYWOMAN RAJKUMAR: Thank you,  
11 Madam Chair Weinstein.

12 Good evening, Superintendent.

13 SUPERINTENDENT BRUEN: Good evening.

14 ASSEMBLYWOMAN RAJKUMAR: Our state and  
15 our entire country has seen an uptick in hate  
16 crimes recently, particularly directed  
17 towards the Asian-American community. The  
18 NYPD reported that New York City actually had  
19 a 100 percent increase in hate crimes in one  
20 year. This included a 361 percent increase  
21 in anti-Asian hate crimes. And last summer,  
22 one individual in Queens was arrested for  
23 four separate hate crimes against people of  
24 Asian descent. This included assaulting a

1 75-year-old woman with a hammer.

2 Last summer in my South Queens  
3 District there was a string of crimes  
4 targeted at Muslim Americans. And just a few  
5 weeks ago, on January 3rd, there was an  
6 attack on a Sikh American taxi driver at JFK  
7 Airport, one of many completely unacceptable  
8 hate crimes against the Sikh American  
9 community.

10 In her State of the State address the  
11 Governor included a proposal to combat hate  
12 crimes through a new hate and bias prevention  
13 unit. The State Police runs the Hate Crimes  
14 Task Force, so I wanted to ask you what your  
15 division will do to stem this tide of hate  
16 crimes and what resources you may need, and  
17 how can we help?

18 SUPERINTENDENT BRUEN: I think you're  
19 already helping by getting my staffing back  
20 up to acceptable levels. A lot of these  
21 things require people.

22 Even without the increase in staffing,  
23 I've doubled our commitment to the NYPD's  
24 hate crime unit, which we're part of, and



1 we've also got our hate crime unit up and  
2 running. That provides active support to  
3 incidents that occur upstate, mainly upstate.  
4 We'll either take the case over or work  
5 discrete leads.

6 We also have -- a big part of that is  
7 an education and support training program for  
8 other -- for local agencies. While COVID did  
9 not disrupt most police operations, it did  
10 put a crimp in in-person training, which this  
11 hate crimes training is in-person training.  
12 But we're ramping that back up and hope to be  
13 looking at that -- be expanding that back up.

14 The increase in anti-Asian hate crime  
15 in the city is extremely concerning.

16 ASSEMBLYWOMAN RAJKUMAR: What have  
17 been some of the greatest challenges that  
18 you've seen in stemming the tide of hate  
19 crimes against this community?

20 CHAIRWOMAN WEINSTEIN: That's --

21 SUPERINTENDENT BRUEN: I'm sorry?

22 (Off-camera interruption.)

23 ASSEMBLYWOMAN RAJKUMAR: I'm saying  
24 what are some of the greatest challenges --

1           SUPERINTENDENT BRUEN: Well, some of  
2           the challenges are what they are, which is,  
3           you know, policing in this age is difficult,  
4           getting cooperation from communities that may  
5           or may not, you know, trust the police.

6           We have not seen a huge barrier  
7           upstate to that. By and large we've had very  
8           good relationships with -- the State Police  
9           have, with Muslim communities and Asian  
10          communities upstate. So we're continuing to  
11          work hard and do what we can in terms of  
12          training support and apprehension of these  
13          folks.

14          ASSEMBLYWOMAN RAJKUMAR: Thank you.  
15          Please let me know what I can do to help  
16          bridge any cultural sensitivity gaps with the  
17          communities. And thank you for all of your  
18          work.

19          SUPERINTENDENT BRUEN: Thank you.

20          CHAIRWOMAN KRUEGER: Thank you.

21          Senator Brad Hoylman.

22          SENATOR HOYLMAN: Thank you,

23          Madam Chair.

24          Good evening, Superintendent. I just

1 had a couple of quick questions about the  
2 budget and gun tracing.

3 I see that there's \$6.2 million to  
4 support expansion of the gun tracing teams,  
5 and there is a Gun Tracing Task Force that  
6 the Governor is convening. Are you and your  
7 organization going to have a role in that?

8 SUPERINTENDENT BRUEN: That is -- yes,  
9 the Governor's directed that we do that. A  
10 meeting is occurring tomorrow and is with  
11 State Police and state fusion center folks  
12 from around the Northeast, as far away as  
13 Ohio.

14 That's an interstate group to look at  
15 trafficking, leveraging some new techniques,  
16 and leveraging -- I have to compliment the  
17 ATF and the person who runs the ATF in  
18 New York State. They have been, in my mind,  
19 a game-changer in terms of providing  
20 information, support and data for us to  
21 exploit and analyze. And a lot of that money  
22 that we're -- that's coming to the State  
23 Police is going to come with folks to analyze  
24 information that's been provided by the ATF,

1 raw information, and then lead to, you know,  
2 the criminal-side cases that we're going to  
3 be doing.

4 SENATOR HOYLMAN: Thank you.

5 I just wanted to bring your attention  
6 to -- and I'm sure you're familiar with --  
7 microstamping technology such as the case in  
8 California where guns are required to have a  
9 stamp on the firing pin that leaves like a  
10 serial number on the spent shell casings so  
11 you can connect the shells you recover at a  
12 crime scene to a particular gun.

13 We carry -- I carry legislation with  
14 Assemblymember Linda Rosenthal in connection  
15 with that.

16 Do you have any thoughts on gun  
17 tracing technology and how it might be useful  
18 for this task force?

19 SUPERINTENDENT BRUEN: Well, there are  
20 kind of two different concepts. There's the  
21 serial number tracing, which is point of  
22 sale, and then there's identification of two  
23 bits of evidence, either the shell casing or  
24 the lead, and tying that back to the gun.

1           That technology is fairly robust.  
2           Experts can generally identify, due to  
3           machine marks on the expended casing, that a  
4           particular casing has come from a gun.

5           The thing we're looking to develop is  
6           more on the lines of the flow -- what we're  
7           doing now is more this flow of guns through  
8           interstate trafficking and also tying them to  
9           prior crimes by what you're talking about,  
10          expended or recovered shell casings and tying  
11          that back to the gun.

12          SENATOR HOYLMAN: Thank you very much.

13          One final quick question. What do you  
14          think about the feasibility of Mayor  
15          Adams' idea of doing spot-checks for people  
16          bringing guns into New York City?

17          SUPERINTENDENT BRUEN: You know, I  
18          don't wish to express too many opinions. But  
19          searches that the State Police conduct have  
20          to always be in full harmony with the Fourth  
21          Amendment. And if you're coming into  
22          transportation infrastructure or getting on  
23          an airplane or getting on a train or coming  
24          into a public building, you may be subject to

1 searches or magnetometers.

2 If you're out on the street or driving  
3 your car, the rules are much more stringent  
4 in terms of what amounts to probable cause to  
5 stop and search somebody.

6 SENATOR HOYLMAN: Thank you for that.

7 CHAIRWOMAN KRUEGER: Thank you.

8 I believe the Senate is now done.  
9 We're handing it over to the Assembly.

10 CHAIRWOMAN WEINSTEIN: We have  
11 Assemblyman Burdick, then Assemblyman  
12 Walczyk, and then Assemblyman Palmesano, if  
13 no one else raises.

14 So Chris, you're up.

15 ASSEMBLYMAN BURDICK: Thank you, Chair  
16 Weinstein. I appreciate it.

17 And Superintendent, thank you very  
18 much for the work that you do and the women  
19 and men who every day do such an outstanding  
20 job in their duties.

21 I represent eight towns in  
22 Westchester County, each of course with their  
23 own local law enforcement agencies. And  
24 could you describe the relationship between

1 the State Police and local law enforcement,  
2 meaning what shared services are there, what  
3 programs, training, and so forth? Can you  
4 delve into that a little bit?

5 SUPERINTENDENT BRUEN: Well, we have a  
6 relationship with all the police agencies in  
7 Westchester County. And it varies  
8 depending -- and in other parts of the state.  
9 And it varies based on the department.

10 Some departments upstate are --  
11 contain two or three part-time police  
12 officers, so our relationship with them would  
13 be very different. We would come in and  
14 handle all their investigative work and all  
15 their major crimes.

16 In the case of Westchester County  
17 towns, who have a fully functioning,  
18 full-staffed department, it may be that we're  
19 working cases jointly, we're working a  
20 particular problem area together.

21 In some areas that are heavily  
22 policed, we -- our relationship would be  
23 different in terms of providing investigative  
24 support. We may be more on the highway in

1 certain spots of Westchester County, doing  
2 commercial vehicle enforcement or other  
3 things.

4 But frequently what happens in  
5 Westchester County is something happens and  
6 multiple agencies respond. And we've  
7 assisted all those departments, and they've  
8 assisted us in apprehending bad actors.

9 ASSEMBLYMAN BURDICK: And can you tell  
10 me, do you feel -- and obviously I think  
11 we're all concerned about staffing levels and  
12 we're delighted to see that we're on our way  
13 to trying to rectify that in terms of  
14 appropriations.

15 But have there been instances in which  
16 it's been difficult for you to have the  
17 personnel in order to respond to requests for  
18 assistance? And I'm not speaking so much  
19 about an emergency situation, which you'd  
20 find the resources to do it, but in  
21 situations which were less dire.

22 SUPERINTENDENT BRUEN: There's no  
23 doubt about it. It's happening every day.

24 I'm concerned about burnout on



1 Troopers who are in on overtime. The COVID  
2 response was a massive undertaking by this  
3 agency -- staffing locations, testing  
4 locations, the Javits Center, upstate  
5 locations, in addition to doing our ordinary  
6 jobs.

7 I've already indicated the CSAVU unit,  
8 you know, is suffering from people --  
9 there -- our backrooms are -- my main-line  
10 detective units are understaffed right now  
11 but still have the same number of cases. You  
12 know, it's hurting.

13 And you have done what you can do,  
14 which is allocate money in the budget -- or  
15 hopefully will allocate money in the budget  
16 for two new classes.

17 The one thing I can say about State  
18 Troopers is they can't be made in two months.  
19 It's a long process, and so -- it's a long  
20 process and a process that has to be planned  
21 out, you know, years in advance. They just  
22 don't -- I just can't hire them right off the  
23 street. It takes a long time to train them.

24 ASSEMBLYMAN BURDICK: Thank you very

1 much. Appreciate it.

2 CHAIRWOMAN WEINSTEIN: Thank you.

3 We now go to Assemblyman Walczyk.

4 ASSEMBLYMAN WALCZYK: Thank you,

5 Chairwoman.

6 Superintendent Bruen, thank you for  
7 joining us today. You spent time in the  
8 district attorney's office, lots of time with  
9 the Troopers, spent some time over at the  
10 Department of Corrections. Welcome. I think  
11 that is very relevant experience that is  
12 going to do great things, I hope, for the  
13 New York State Police.

14 Earlier one of the members brought up  
15 the old CoBIS program, which required us to  
16 fire projectiles out of every single weapon  
17 that got sold in the State of New York. It  
18 was ongoing for a while -- I think it was the  
19 Pataki administration that originally had put  
20 it in. That this was going to be the, you  
21 know, gun DNA that would be such a great  
22 solver of crimes for New York. And that ran  
23 for a while, I think until after 2010, maybe  
24 '11 or '12, and was shut down.

1                   Do you remember how many crimes that  
2                   CoBIS program, the gun DNA solved in the  
3                   State of New York?

4                   SUPERINTENDENT BRUEN: Yes, I do. It  
5                   was quite expensive, and the answer is it  
6                   solved no crimes.

7                   ASSEMBLYMAN WALCZYK: I'm sorry, it  
8                   was very expensive and not a single crime?

9                   SUPERINTENDENT BRUEN: Not a single  
10                  crime was solved with it.

11                  ASSEMBLYMAN WALCZYK: Not even one  
12                  crime in the State of New York.

13                  SUPERINTENDENT BRUEN: No.

14                  ASSEMBLYMAN WALCZYK: All right.  
15                  Well, thank you very much, Superintendent.

16                  Now that you're out of the Department  
17                  of Corrections, what do you think about the  
18                  Secure Vendor Program over there? Can we get  
19                  it done?

20                  SUPERINTENDENT BRUEN: I will say  
21                  this, that I think it's wonderful that Tony's  
22                  getting the commissioner -- is going to be  
23                  the full-time commissioner and confirmed. I  
24                  think that's spectacular. And I will keep my

1 opinions to myself.

2 ASSEMBLYMAN WALCZYK: (Laughing.) Is  
3 it the lawsuits that are the main deterrent  
4 over there, is why we don't get the Secure  
5 Vendor Program done? Or what do you think it  
6 is?

7 SUPERINTENDENT BRUEN: I -- like I  
8 say, I keep my opinions to myself.

9 ASSEMBLYMAN WALCZYK: That's fair. I  
10 will --

11 SUPERINTENDENT BRUEN: I will say  
12 this, that it's my honor to be superintendent  
13 and the State Police have done way for me for  
14 me than I will ever do for the State Police,  
15 I can tell you that.

16 ASSEMBLYMAN WALCZYK: Well, good deal.  
17 It's exciting to have you. Thank you for the  
18 time.

19 And I will yield back the rest of it,  
20 Madam Chairwoman.

21 SUPERINTENDENT BRUEN: Thank you.

22 CHAIRWOMAN WEINSTEIN: Okay, I see  
23 that Senator O'Mara has raised --

24 CHAIRWOMAN KRUEGER: Yes, I see

1 Senator O'Mara snuck in there very --

2 (Overtalk.)

3 CHAIRWOMAN WEINSTEIN: I'll send it  
4 back to the Senate.

5 CHAIRWOMAN KRUEGER: All right, thank  
6 you.

7 So Ranking Member Senator Tom O'Mara.

8 SENATOR O'MARA: Yes, thank you. I  
9 snuck in at the end.

10 Sorry, Superintendent, to prolong this  
11 any more. But a few questions about the hate  
12 crimes, which is, you know, obviously a very  
13 growing concern -- my -- my video was stopped  
14 by -- I don't know, the host? Okay. There  
15 it goes. I'm back on. I don't know why they  
16 cut me off. I think I'm dressed  
17 appropriately.

18 But on the hate crimes and the  
19 reporting of hate crimes, there has been an  
20 effort in my district to encourage the  
21 reporting of hate crimes. And there was an  
22 entity, a large business in my district that  
23 was interested in promoting this, and they  
24 did some investigating, some research on

1           their own and asked my office to look into  
2           it, and kind of hit a brick wall on what  
3           exactly is being done with the reporting of  
4           hate crimes. And there really didn't seem to  
5           be any kind of funnel, so to speak, on what  
6           either local law enforcement entities did  
7           with that or how people could go directly to  
8           the State Police too, because there is  
9           something for the State Police on a hate  
10          crimes reporting system.

11                        So where does that stand? And are we  
12          making use of that? Because, you know, we  
13          certainly have these crimes -- I'm a very  
14          rural upstate New York district. These are  
15          not just New York City or larger-city issues.  
16          Where we have individuals that want to be  
17          more proactive on this, to highlight this,  
18          you know, where do I send them? Or how do we  
19          better coordinate this?

20                        SUPERINTENDENT BRUEN: Well, I'm not  
21          exactly sure what the issue is. If somebody  
22          is reporting a crime, they should call 911.  
23          If they want to come to the State Police  
24          barracks in their communities, whether it's

1           --

2           SENATOR O'MARA:  It's not about  
3           reporting crimes in progress, it's about  
4           incidents that were likely hate-related,  
5           after the fact.  Maybe nobody made a report  
6           about it.

7           You know, how does that -- how can  
8           that kind of thing be followed up on?

9           SUPERINTENDENT BRUEN:  Well, I would  
10          say that that's the same -- it's not  
11          necessarily a crime in progress, but you go  
12          and report it to a State Trooper and we'll do  
13          follow-up investigation on it.

14          If we can't develop suspects, which  
15          sometimes happens in these things -- for  
16          example, you know, graffiti left on a park  
17          bench or on a road sign, that -- you know, a  
18          swastika -- it can be very hard to figure  
19          that out.  We've managed to figure out, in  
20          some cases, when someone finally told us who  
21          it was, you know, when they've done it on a  
22          number of occasions.

23          But for the most part, that's the way  
24          it should operate, are the Elmira Police

1 Department, in your case, the sheriff's  
2 department, or my Troop E folks should pick  
3 up that case, run it down, and investigate  
4 it. And then do the reporting that's  
5 necessary up through DCJS for a hate crime.

6 SENATOR O'MARA: Well, I can tell you  
7 that we kind of ran down those lines a little  
8 bit and there was no real coordination, it  
9 seemed. And even reaching out to the  
10 State Police and to DCJS on where this whole  
11 hate crimes reporting system stood, we were  
12 just unable to get a clear answer.

13 So I don't know, maybe I should touch  
14 base with you further on getting an actual --

15 (Overtalk.)

16 SUPERINTENDENT BRUEN: Yeah, I'd be  
17 willing to look into that and discuss that  
18 with the commissioner of DCJS. Generally  
19 speaking, I don't produce those sorts of  
20 reports, but I would be a submitting agency  
21 to DCJS.

22 I can certainly also refer to my major  
23 in Troop E, Major Staniszewski, and have him  
24 follow up on what's going on in that area



1 vis-a-vis hate crimes, do we feel that it's a  
2 sufficiently coordinated response. I know  
3 the sheriff and the chief out there I'm sure  
4 would be willing to look into it as well.  
5 And I'm sure there are other village police  
6 departments beyond Elmira and Horseheads and  
7 what have you.

8 SENATOR O'MARA: Yes. Yeah,  
9 absolutely. So thank you, I appreciate that.

10 I look forward to working further with  
11 the coordination of these agencies. So thank  
12 you.

13 SUPERINTENDENT BRUEN: Any time.  
14 Thank you.

15 CHAIRWOMAN KRUEGER: All right. Do  
16 you have any more, Assemblywoman?

17 CHAIRWOMAN WEINSTEIN: Yes, we still  
18 have Assemblyman Palmesano, with our final  
19 three minutes, our final questioner.

20 ASSEMBLYMAN PALMESANO: First,  
21 Superintendent, I just wanted to say thank  
22 you to you and the brave men and women of the  
23 State Police for the dangerous job they all  
24 do each and every day to keep us safe in our

1 communities, especially in light of the  
2 rising and dangerous crimes and violence  
3 we're seeing in our cities and communities  
4 all across New York State.

5 So first and foremost, I wanted to say  
6 thank you to you and, again, the brave men  
7 and women of the State Police for what they  
8 do for us. So thank you.

9 SUPERINTENDENT BRUEN: Thank you.

10 ASSEMBLYMAN PALMESANO: I just have  
11 one question, and it really stems around the  
12 issue of the legalization of marijuana.

13 I was opposed to the recreational use  
14 of marijuana and passing that. I had spoken  
15 to local law enforcement before this, spoken  
16 to local social services agencies and  
17 substance abuse agencies, and some of the  
18 things they brought up over and over again  
19 was the increased -- concerns regarding  
20 increased drug use associated with other  
21 drugs. Certainly point out the fact that it  
22 certainly could lead to more increased  
23 illegal and black market sales of marijuana  
24 and also lead to other crimes, the cost to

1           our communities, but particularly the issue  
2           of safety.

3                     And I was wondering, do you have any  
4           statistics relative to the percentage of guns  
5           and victims and crimes that are associated  
6           with the illegal or illicit sale of marijuana  
7           and how that might be -- is there any  
8           association with that that you could share  
9           with us on how those crimes might be  
10          associated with that relative to guns and  
11          violence and victims?

12                    SUPERINTENDENT BRUEN: We -- we  
13          certainly have made arrests in the past year  
14          where large amounts of marijuana were present  
15          with other drugs and guns. I don't know as  
16          my -- the Division of State Police numbers on  
17          that issue would be dispositive, since we  
18          don't track arrest numbers apart from our own  
19          agency.

20                    So I can certainly make -- you know,  
21          have our analysts look and see, you know,  
22          what we could find for the last year in terms  
23          of that, but I don't have that specifically  
24          broken down right in front of me.

1                   ASSEMBLYMAN PALMESANO: I'd certainly  
2                   like that information, because I really just  
3                   think the point I'm trying to get at is, you  
4                   know, not everyone thinks, you know, this is  
5                   a positive -- many people think that this is  
6                   a positive thing, the recreational use of  
7                   marijuana. But, you know, the concerns that  
8                   were brought up before we passed this and  
9                   made this the law of New York, which I  
10                  understand the ramifications of that that  
11                  were brought up by law enforcement and others  
12                  about -- with the passage of this and are we  
13                  seeing that increase in percentage of guns  
14                  being involved in crimes, more victims, and  
15                  more dangerous crimes taking place relative  
16                  to this, you know, black market, illegal sale  
17                  of marijuana.

18                  So yeah, it would be good to have,  
19                  because I think that's something we should be  
20                  paying attention to.

21                  CHAIRWOMAN WEINSTEIN: Thank you.

22                  And I'm going to throw it back to --  
23                  Senator Krueger, I believe we have exhausted  
24                  all of the questioners for the

1 superintendent.

2 CHAIRWOMAN KRUEGER: Perhaps we've  
3 literally exhausted them, but I don't know  
4 about that.

5 So I want to thank you very much,  
6 Superintendent. And we also, all of us,  
7 appreciate the hard work of the men and women  
8 of the State Police. So we just pass our  
9 appreciation back, and excuse you for the  
10 rest of the day. Thank you.

11 SUPERINTENDENT BRUEN: Thank you. And  
12 I will definitely pass on all your good  
13 wishes to the Troopers. Thank you.

14 CHAIRWOMAN KRUEGER: Thank you. And I  
15 am going to -- just for a little variation in  
16 topic, I will now be calling up, from the New  
17 York State Office of Information Technology  
18 Services, the interim CIO and director,  
19 Angelo Riddick.

20 Angelo, are you here with us?

21 INTERIM CIO RIDDICK: I certainly am.  
22 Good afternoon.

23 CHAIRWOMAN KRUEGER: I think it's  
24 evening by now. Good evening.

1 (Laughter.)

2 CHAIRWOMAN KRUEGER: All right, so I  
3 think you know the rhythm of these hearings.  
4 We have your written testimony, as does the  
5 public. We'd like you to summarize in  
6 10 minutes or less the major themes of your  
7 testimony.

8 INTERIM CIO RIDDICK: Absolutely.  
9 Thank you, Chairs Krueger and Weinstein and  
10 distinguished members of the State  
11 Legislature. It is the honor of a lifetime  
12 to partner with you during this pivotal  
13 moment in history.

14 I am Angelo "Tony" Riddick, New York's  
15 chief information officer and director of the  
16 state's Office of Information Technology  
17 Services.

18 For the last 22 months, ITS has been  
19 at the forefront of the state's COVID  
20 response. I've had the honor and challenge  
21 of being on the job for 14 of those  
22 22 months.

23 We enabled fully remote and then  
24 hybrid work for tens of thousands of state

1 employees, rapidly built applications and  
2 revamped state websites, and provided the  
3 tools that allowed New York to ensure  
4 uninterrupted services during a pandemic.

5 ITS created the vaccine scheduling  
6 system and the state's return-to-work portal  
7 to safely bring workers back to their  
8 offices.

9 We offered 24/7 support for the mass  
10 testing and vaxx sites, and provided the  
11 necessary upgrades to support online meetings  
12 and virtual government.

13 And we worked with our partners in the  
14 public and private sectors to build the  
15 Excelsior Pass platform, becoming the first  
16 state in the nation to offer digital proof of  
17 a COVID vaccine.

18 In fact, we recently partnered with  
19 the federal government and our friends at the  
20 Division of Veterans Services and the  
21 Department of Health to extend the Excelsior  
22 Pass to veterans who received their COVID  
23 shots at a VA facility. This information was  
24 once outside the state's jurisdiction and

1           could not be included in our immunization  
2           databases. Now, hundreds of thousands of  
3           New York veterans are able to access the  
4           Excelsior Pass so they can share proof of  
5           immunization and be easily welcomed into  
6           businesses and venues across the state.

7                         As a 30-year active-duty veteran who  
8           was vaccinated at the VA, I cannot thank  
9           Governor Hochul enough for her leadership and  
10          commitment to getting this done.

11                        So often in the last two years, when  
12          New York was challenged in new and varied  
13          ways, ITS was there with the solution. And  
14          while a number of long-term modernization  
15          projects were already underway in March 2020,  
16          the pandemic forced our state government to  
17          continuously pivot and adapt.

18                        Now that we've entered a new phase, we  
19          are leaning forward and working to cement the  
20          progress that has already been made. The  
21          truth is there are countless opportunities to  
22          be smarter, better and more agile.

23                        We are focused on accelerating  
24          modernization projects at multiple state



1 agencies, and understanding which solutions  
2 can help bridge the gap while we move to  
3 retire legacy technology.

4 We have enhanced our support model to  
5 give more state employees the ability to work  
6 remotely, so they can better support their  
7 agencies and more quickly and confidently  
8 respond to the next crisis.

9 As a state, we should be embracing  
10 technology as a solution -- not only in times  
11 of crisis, but also in times of calm. We  
12 know technology can support processes and  
13 help government operate more efficiently, and  
14 it can provide greater access to many more  
15 New Yorkers. Digital enhancements are  
16 ongoing and will continue to improve citizen  
17 interactions with their state government.

18 New tools are helping state agencies  
19 and their hardworking employees deliver  
20 faster results for all New Yorkers.

21 And right now our agency is  
22 implementing the technology to support a new  
23 law, which originated right here in the  
24 Legislature, that will require state agency

1 websites to be accessible in each of the  
2 12 most commonly spoken non-English  
3 languages. We have procured the necessary  
4 language translation tools and, following  
5 additional testing and configuration work,  
6 expect to deploy this new technology on time  
7 and to the benefit of many more New Yorkers.

8 We know technology can provide a  
9 lifeline to families in difficult times.  
10 During the height of the pandemic, ITS  
11 utilized technology to assist the Department  
12 of Labor in clearing their unemployment  
13 insurance backlog and delivering benefits to  
14 families in need.

15 We know technology can even help  
16 provide enhanced cyber-protection for the  
17 state's network and its data. And that  
18 brings me to cybersecurity, which is fast  
19 becoming the defining IT issue of our time.

20 No agency is better prepared or better  
21 positioned than ITS to tackle this diverse  
22 set of cyber challenges. We start by taking  
23 every threat seriously. We have endpoint  
24 detection tools already in place which

1 provide an extra layer of protection against  
2 intrusion, and in the coming year we will  
3 work with our partners at the local level to  
4 extend these protections.

5 We have top-notch security  
6 professionals who monitor the state's network  
7 and global threat landscape all day, every  
8 day. Prior to coming to New York I had  
9 extensive experience with the Army's Cyber  
10 Command and taught cybersecurity courses at  
11 the National Defense University, and yet I  
12 have never seen more attempted attacks than  
13 we are seeing today.

14 I urge you to join us in making this a  
15 priority now. To fight this new cyber war,  
16 we need more resources, we need more people  
17 and new recruiting techniques, and we need  
18 better intelligence-sharing at all levels of  
19 government. I am pleased to say Governor  
20 Hochul's budget achieves all of this and  
21 more.

22 The Executive Budget funds Year 1 of a  
23 multiyear investment that will allow the  
24 state to establish a strong "Zero Trust"

1 framework. "Zero Trust" means everything we  
2 do is secure and there are checks and  
3 balances on every device, every transaction,  
4 and every request for access. This will  
5 better protect the state's data from  
6 intrusion or attack.

7 If this budget is approved, we will  
8 use a portion of the new funding to enhance  
9 our Red Team, a group that tests security  
10 across executive agencies by identifying and  
11 launching attacks in a controlled  
12 environment. They are critical to the  
13 state's readiness to respond to a real  
14 threat.

15 The Executive Budget also recommends  
16 new cyber resources to provide local  
17 governments with expert strategic assistance  
18 and security solutions to mitigate ransomware  
19 attacks so they can better protect their own  
20 assets. I thank Governor Hochul for her  
21 leadership on this important issue and know  
22 it will allow us to make a strong statement  
23 to the world that New York State takes  
24 cybersecurity very seriously.

1           Thank you for your service, leadership  
2           and commitment to the State of New York. I  
3           am happy to take any questions you may have.

4           CHAIRWOMAN KRUEGER: Thank you very  
5           much, Commissioner.

6           And I believe that the first  
7           questioner will be Senator Diane Savino, our  
8           chair of Technology and all those topics that  
9           committee is covering.

10          SENATOR SAVINO: Internet and  
11          technology. Thank you, Senator Krueger.

12          CHAIRWOMAN KRUEGER: Thank you very  
13          much, Diane.

14          SENATOR SAVINO: Commissioner, it's  
15          good to see you again. I think the last time  
16          we saw each other was in early 2020, at the  
17          budget hearing then.

18          INTERIM CIO RIDDICK: Absolutely.

19          SENATOR SAVINO: You were just barely  
20          days on the job, not really -- I remember we  
21          met in my office and we talked about your  
22          extensive history and how you would be an  
23          amazing asset, not really understanding just  
24          how important your experience would be as the

1 state was about to shut down and go  
2 completely virtual.

3 Thank God you were part of the team;  
4 otherwise, I'm not really sure we would have  
5 been able to transition to a virtual  
6 workforce either on the state side or with  
7 local governments.

8 INTERIM CIO RIDDICK: Thank you very  
9 much.

10 SENATOR SAVINO: I want to talk a bit  
11 about, though, the area that you and I spoke  
12 about that day and you are an absolute expert  
13 on, and that of course is the issue of  
14 cybersecurity and the threats, which as you  
15 point out is really the threat of our  
16 lifetime right now.

17 We confirmed earlier today Jackie Bray  
18 as the new DHSES commissioner, and we talked  
19 with her yesterday about the role that  
20 homeland security plays with it. We also  
21 spoke to the State Police and the role that  
22 they play.

23 But we've had somewhat of a haphazard  
24 approach in this state of who's really

1 responsible. And I'm happy to see you're  
2 playing a bigger role certainly with the  
3 state agencies. The threats that we're  
4 seeing during the pandemic -- school  
5 districts being hacked on a regular basis,  
6 small local governments under attack  
7 constantly. And I know that there are  
8 limited resources and there have been up  
9 until now.

10 So I just want to ask a bit about what  
11 the Governor's proposing in her budget where  
12 she's talking about the hiring of an  
13 additional 248 people on your Red Team. And  
14 also in the infrastructure bill that was  
15 passed in Washington, there was \$2 billion  
16 set aside for states to apply for  
17 cybersecurity grants to enhance their  
18 protection.

19 So I'm wondering, are we going to use  
20 this -- are these 248 people, are they going  
21 to be part of the team to help local  
22 governments and school districts, et cetera,  
23 become more responsive and protect themselves  
24 better? And were we able to apply for any of

1           that infrastructure money?

2                     INTERIM CIO RIDDICK:  As I understand  
3           it, we're working on applying for that  
4           infrastructure money.  Unfortunately, I don't  
5           have visibility on that process.  But I can  
6           assure you -- and thanks for meeting with me  
7           last year -- that absolutely cybersecurity is  
8           a priority.

9                     As a matter of fact, after we met, I  
10          worked with my team to develop our strategic  
11          plan, and the number-one priority was and  
12          remains cybersecurity.

13                    The increase in the budget will allow  
14          us to hire a number of technicians, some of  
15          which will be working specifically cyber, as  
16          we look to a whole-of-state approach outside  
17          of just the state's infrastructure.  But as  
18          we look to work with local governments, we  
19          have to help with ensuring that that  
20          infrastructure is also secure.

21                    There are a number of methods that we  
22          can use, and my team is looking very deeply  
23          at the methodology that we have to use to get  
24          these people on board quickly.  And yes,



1 personnel are a priority and cyber will be  
2 inside of that priority stack. Thank you. I  
3 think that's a great question.

4 SENATOR SAVINO: So also because we're  
5 a home-rule state and we allow localities and  
6 school districts and, you know, villages to  
7 make their own decisions and purchase their  
8 own equipment, there seems to not necessarily  
9 be a cohesive approach to this.

10 Do you have any recommendations, as a  
11 person who's an expert in this, about the way  
12 we currently handle issues like technology  
13 purchases and software purchases? Should we  
14 allow that type of, I guess, autonomy because  
15 of the inherent risks of cyber leaks?

16 INTERIM CIO RIDDICK: I support that  
17 autonomy, and I think that's a great  
18 question, thank you.

19 I support the autonomy, but we need to  
20 partner with these local governments to make  
21 sure that they have the resources that they  
22 need, including tools and the sophistication  
23 to delivering cyber solutions to their own  
24 internal infrastructure.

1           SENATOR SAVINO: And finally, because  
2 I know there's a lot of people that have  
3 questions, the State of Pennsylvania two days  
4 ago passed a bill -- I'm not sure if the  
5 governor is going to sign it, though -- that  
6 would ban the payment of ransomware attacks  
7 from government funds.

8           I introduced a bill last year that  
9 would essentially do the same thing. It was  
10 a little controversial, but it's reflecting  
11 how challenging it is for us to deal with  
12 ransomware attacks. You know, when we reach  
13 out to either, you know, the FBI or the  
14 Justice Department, their response to  
15 policymakers is not to pay them. Because  
16 ransomware -- first of all, you're never  
17 going to get your data back anyway. It's  
18 just costing taxpayers an extraordinary  
19 amount of money. And you're contributing --  
20 my discussion with the FBI was you're  
21 contributing to a criminal enterprise, you're  
22 aiding and abetting, you know, international  
23 criminals. So you shouldn't pay it.

24           But at the same time, what do we say

1 to, you know, school districts, what do we  
2 say to healthcare facilities who have been  
3 hacked and whose data has been encrypted and  
4 they can't get access to it? So, you know,  
5 we're going to move the bill through the  
6 Senate's Internet and Technology Committee,  
7 and I'm sure I'll get a million phone calls  
8 from people who say that this is not the way  
9 to go about it.

10 But there has to be a way for, you  
11 know, states to develop policies that kind of  
12 send a message that we are not going to  
13 continue to be victims of cybercriminals.  
14 The answer, of course, would come from  
15 Washington. They're not doing anything on  
16 this issue, in spite of, you know, their  
17 rhetoric. They actually have not passed any  
18 meaningful legislation or adopted any  
19 policies.

20 So what would you suggest we say with  
21 respect to ransomware payments?

22 INTERIM CIO RIDDICK: First, Senator  
23 Savino, I absolutely respect your position on  
24 not paying ransomware. I don't want to tilt

1 my professional hand and talk about the  
2 strategies that we're discussing in ITS to  
3 mitigate these vulnerabilities, to make sure  
4 that we have resources available to help our  
5 localities and our agencies within the  
6 infrastructure recover from a ransomware  
7 attack.

8           Unfortunately, the best we can be in  
9 cybersecurity, and I've said this for years,  
10 is one town ahead of the posse. So being  
11 actively involved in establishing a  
12 relationship with localities, and  
13 establishing a solid relationship with the  
14 agencies that we support, is the first step,  
15 so that they understand what our strategy is.  
16 And hopefully one day we'll be able to  
17 totally defeat the ransomware attack. But  
18 until then, my team discusses this daily, and  
19 we have a plan.

20           SENATOR SAVINO: And then finally, do  
21 you find that local governments are notifying  
22 you when there are ransomware attacks?

23           INTERIM CIO RIDDICK: They certainly  
24 are. We get the notification from our

1 resource as well as the call from local  
2 governments at times. But we usually know  
3 just as they know, and we reach out to them,  
4 we provide ourselves -- we provide them the  
5 availability to discuss mitigation 24/7.

6 SENATOR SAVINO: Thank you. I look  
7 forward to working with you more on these  
8 very complicated issues. Good luck.

9 INTERIM CIO RIDDICK: Thank you so  
10 much. Look forward to talking to you again.

11 SENATOR SAVINO: Thanks. I yield my  
12 time back, Senator Krueger.

13 CHAIRWOMAN KRUEGER: Assemblywoman  
14 Weinstein.

15 CHAIRWOMAN WEINSTEIN: We do not have  
16 any Assemblymembers as of yet looking to ask  
17 questions of Mr. Riddick. So I will send it  
18 back to you, and you can go through the  
19 Senators that have questions.

20 CHAIRWOMAN KRUEGER: Thank you. All  
21 right.

22 Next up is Senator Zellnor Myrie.

23 SENATOR MYRIE: Thank you,  
24 Madam Chair.

1                   And thank you, Director Riddick, for  
2                   your patience and endurance in bearing with  
3                   us and testifying now.

4                   I just had a question around -- you  
5                   know, you mentioned some of the great work  
6                   the state has had to do during this pandemic  
7                   to stand up programs and applications. You  
8                   know, there was just a news article about  
9                   Guidehouse and the ERAP program and  
10                  application. And I understand that that is  
11                  somewhat breaking news, and so you don't  
12                  really have the opportunity to think and  
13                  respond to that.

14                  But I wanted to ask, in a somewhat  
15                  relevant way, what the implications are for  
16                  the Homeowners Assistance Fund application,  
17                  which I think is largely being utilized  
18                  online and that has a short window -- that we  
19                  are approaching in about a week -- for people  
20                  to apply.

21                  One, I wanted to see if there were any  
22                  concerns with what you're seeing as far as  
23                  those applications and people utilizing it  
24                  online. And, two, whether the Legislature or

1 the public is going to get any breakdown on  
2 where those applications are coming from and  
3 sort of whether they're being highly  
4 utilized, underutilized, or whether we need  
5 to do some more promotion.

6 INTERIM CIO RIDDICK: Well, Senator, I  
7 can assure you that the applications are  
8 being utilized, that the system is working to  
9 date, that we work with the agency to ensure  
10 that we provide the support that they need.  
11 I make myself available. The nuances, of  
12 course, always involve privacy and  
13 cybersecurity. Our team is actively involved  
14 with that.

15 SENATOR MYRIE: Thank you.

16 CHAIRWOMAN KRUEGER: Thank you.

17 Senator Brad Hoylman.

18 SENATOR HOYLMAN: Thank you,  
19 Madam Chair.

20 Good evening, sir. Thank you for  
21 being with us, Mr. Riddick. And thank you  
22 for your acknowledgment of the legislation  
23 that Assemblymember Yuh-Line Niou and I  
24 passed to require the translation of websites

1 into the 12 most widely spoken languages in  
2 New York State, and for your assistance in  
3 getting this bill signed. It's greatly  
4 appreciated.

5           Given concerns around COVID, and you  
6 just heard my colleague Senator Myrie around  
7 ERAP and other applications for homeowner  
8 assistance, do you have any sense of whether  
9 perhaps pushing the bill a little farther  
10 than it currently stands -- the statute,  
11 which says you have to translate within  
12 60 days for COVID-related websites of the  
13 State of New York, six months for everything  
14 else -- do you think with some of the more  
15 important websites like around ERAP, like  
16 around COVID, like around hate crimes, at  
17 NY.gov you could maybe get it done sooner  
18 than 60 days?

19           INTERIM CIO RIDDICK: I've made sure  
20 that my priority has always been the  
21 customer's priority. We understand the  
22 prioritization of COVID-facing websites,  
23 those agencies that have interaction with  
24 COVID business, if you will, for lack of a



1 better term, are prioritized.

2 Can we get that done in 60 days?

3 Absolutely, with that prioritization.

4 SENATOR HOYLMAN: Thank you.

5 And what's your perspective, looking  
6 back, on the Department of Labor and their --  
7 the websites that had crashed repeatedly  
8 during the height of the pandemic and the  
9 applications for unemployment insurance? Do  
10 you have any lessons learned from that?

11 INTERIM CIO RIDDICK: You know, the  
12 biggest lesson I learned is working  
13 personally with the commissioners and the  
14 senators who have questions, and making sure  
15 that I meet with them so that we can  
16 prioritize as a unit what their concerns are.

17 I don't have any future concerns with  
18 working with DOL and the infrastructure  
19 that's in place. We work continuously to  
20 improve not only relationships but the  
21 operation itself.

22 Again, as I stated last year, I'm a  
23 people person first, a process person. We've  
24 got to look at the products to make sure that

1           we have the right products in place to  
2           deliver the services that residents need, and  
3           we also look at policy to make sure we stay  
4           and guide them.

5                     SENATOR HOYLMAN:  And finally, are we  
6           investing enough in your department?  Do you  
7           have any staff to -- I mean, it's an enormous  
8           task that you have before you.

9                     INTERIM CIO RIDDICK:  That's a tricky  
10          question, Senator.

11                    I will tell you I did relate to my  
12          staff just recently that this is the first  
13          time that we received more money in any  
14          operation that I've ever had the honor of  
15          working with as a leader.  I compliment and I  
16          commend Governor Hochul on her effort to make  
17          sure that resources are available.

18                    Can we use more?  Absolutely.  But do  
19          we have enough to operate?  I assure you we  
20          do.

21                    SENATOR HOYLMAN:  Thank you very much.

22                    CHAIRWOMAN KRUEGER:  Thank you.

23                    And if the Assembly still doesn't  
24          have --

1                   CHAIRWOMAN WEINSTEIN: We do not have  
2 anyone.

3                   CHAIRWOMAN KRUEGER: Then I have one  
4 more question for the commissioner. Also  
5 recognizing that we met, and suddenly you  
6 were in the middle of COVID and all the  
7 complications therein. I think I asked you  
8 this question then, but I'm asking you again.

9                   The state has a system called WMS,  
10 Welfare Management System, that OTDA and  
11 Office of Children and Family Services  
12 operate on and parts of the Medicaid program  
13 operated on and our local governments'  
14 departments of social services all interact  
15 with. It was outdated in 1989 when we first  
16 turned it on.

17                   Even yesterday I was in a conversation  
18 with a state commissioner who said, "We  
19 really want to do this, but WMS is never  
20 going to be able to do the simple thing that  
21 would really help."

22                   So do you imagine in your tenure with  
23 the state we might finally get a system to  
24 replace the, again, beyond antiquated, beyond

1 not working correctly WMS system?

2 INTERIM CIO RIDDICK: Thank you so  
3 much for that question. And thank you for  
4 last year's education as well. I did a lot  
5 of homework to find out exactly what the  
6 impact of upgrading WMS would be.

7 Number one, I found out that most of  
8 the infrastructure itself resides on a  
9 mainframe. Now, the challenge with  
10 mainframes and moving to newer technologies  
11 is to keep life in that mainframe while you  
12 build a new solution. Therefore, I asked my  
13 technology team to look at mainframe as a  
14 service so that we can literally fix the car  
15 with the tires rolling.

16 As we do that, I found out -- thanks  
17 to you -- about the new instantiation that  
18 we're evolving to, and that's the Integrated  
19 Eligibility System. We've hired a new  
20 director in IES, a very, very skilled  
21 employee who's been with ITS for a number of  
22 years. She's taken on that monster, if you  
23 will. She's developed a program. We have a  
24 now deputy secretary who oversees the

1 agencies that that particular solution will  
2 provide for our residents.

3 We've had several meetings. I'm very  
4 confident that with the collaborative efforts  
5 that we've taken thus far, understanding what  
6 the mission is, that we can be on track to  
7 deliver this IES system in a reasonable  
8 amount of time. And we will not be slowed  
9 down by an antiquated system because we're  
10 breathing life at the same time.

11 CHAIRWOMAN KRUEGER: Thank you. I  
12 take that as very encouraging, and I look  
13 forward to living long enough to, I don't  
14 know, turn off WMS for the State of New York  
15 at some point. So thank you very much.

16 And I think, with that, we're going to  
17 excuse you for the evening and thank you for  
18 your hard work and urge you to move forth to  
19 do so many things, because we're in a world  
20 of everything being driven by technology and  
21 we just need to get better and better at it.

22 So thank you very much for joining us.

23 INTERIM CIO RIDDICK: Absolutely.  
24 It's definitely an honor. Have a good

1 evening.

2 CHAIRWOMAN KRUEGER: Thank you.

3 And now I'm going to be calling up our  
4 last government representative for this  
5 hearing. You thought it would never end.  
6 That's only part one of the hearing, folks.

7 The New York State Office of Indigent  
8 Legal Services, Patricia Warth.

9 Are you with us, Patricia?

10 ILS DIRECTOR WARTH: I am here.

11 CHAIRWOMAN KRUEGER: Great. Welcome.

12 ILS DIRECTOR WARTH: Thank you.

13 Good evening, everybody.

14 So as Senator Krueger said, I am  
15 Patricia Warth. I was nominated by the  
16 Indigent Legal Services Board earlier this  
17 year to replace Bill Leahy in June of 2021  
18 when he stepped down as director. So I'm  
19 happy to be here. This is my first time  
20 testifying on behalf of ILS.

21 And I want to thank you on behalf of  
22 the ILS board and the ILS office for the  
23 support that this Legislature has shown our  
24 office in the 11 years of our existence. And

1 of course I also want to thank you for this  
2 opportunity to talk to you about the  
3 Executive Budget as it pertains to indigent  
4 legal services.

5 And, you know, the Executive Budget  
6 for ILS is a story of good news and  
7 not-so-good news. So I'm going to start with  
8 the good news.

9 And the good news is that once again  
10 the Executive has included in the budget full  
11 funding for ILS to work towards one part of  
12 our mission, and that is improving the  
13 quality of mandated criminal defense. And  
14 this takes the form of, you know,  
15 \$23.8 million to fully fund implementation of  
16 the Hurrell-Harring settlement in five  
17 counties -- but, just as importantly, an  
18 additional \$50 million over last year's Aid  
19 to Localities budget to fully fund extension  
20 of the Hurrell-Harring settlement to the  
21 entire state, so all of the  
22 non-Hurrell-Harring counties and New York  
23 City. And so this year that will be a total  
24 of \$250 million in our Aid to Localities

1 Budget for that endeavor.

2 And so that's the fifth year of the  
3 five-year phase-in for full implementation of  
4 the Hurrell-Harring settlement extension to  
5 the entire state.

6 And I know that this funding, both the  
7 settlement funding and the funding to extend  
8 it statewide, would not be possible without  
9 this Legislature's support for the work that  
10 we do, and we very much appreciate it. We  
11 work diligently to ensure that the funding is  
12 being spent responsibly and in accordance  
13 with the goals of the settlement and its  
14 implementation statewide. And, you know,  
15 when I'm done I'm happy to answer questions  
16 about our progress in statewide  
17 implementation and progress with the  
18 settlement.

19 So that's the good news. But then  
20 there's the not-so-good news. The  
21 not-so-good news has to do with that part of  
22 our mission regarding improving the quality  
23 of mandated parental representation for  
24 parents in Family Court proceedings.



1           And, you know, this is just as legally  
2 mandated, constitutionally mandated and  
3 statutorily mandated as criminal defense, and  
4 yet once again, you know, the Executive  
5 Budget, at \$2.5 million in Aid to Localities  
6 for improved-quality Family Court  
7 representation is insufficient for the work  
8 that we need to do.

9           And, you know, I feel confident that  
10 based on last year's enacted budget, I don't  
11 need to convince you of how important it is  
12 to fully fund this initiative for ILS, to  
13 fully fund our request of \$9 million in Aid  
14 to Localities for this. And I think I don't  
15 need to fully convince you because it's  
16 because of you that last year's enacted  
17 budget included \$2.5 million for  
18 improved-quality Family Court representation.  
19 This was a legislative add in last year's  
20 budget, and we were gratified to see that the  
21 Executive in this year's budget honored what  
22 you did last year and included it in her  
23 proposed budget.

24           But the 2.5 million in this year's

1 Executive proposed budget is 6.5 million less  
2 than our request of 9 million and just a  
3 fraction of what is needed to address the  
4 lack of resources under which public defense  
5 attorneys currently work in the Family Court  
6 part of their practice.

7 And we recognize that the Legislature  
8 alone cannot fix this problem. The right to  
9 counsel in Family Court matters is a  
10 foundational constitutional and statutory  
11 right. It's no different from the right to  
12 counsel in criminal proceedings. And so it  
13 deserves a commitment by both the Executive  
14 and the Legislature to fully fund the quality  
15 improvements for mandated parental  
16 representation.

17 And I think that you appreciate the  
18 consequences of failure to address the crisis  
19 in Family Court representation. I think you  
20 understand that currently our public defense  
21 providers in their Family Court part of their  
22 practice work under crushing caseloads, that  
23 they don't have the resources that they need  
24 to fully investigate and litigate their cases

1 or to connect their clients with the supports  
2 that can prevent, you know, children from  
3 being removed from their parents. And I  
4 think that, you know, you understand what the  
5 model is that we're looking for in the  
6 funding.

7 In my written testimony I talk about  
8 sort of the various lenses through which one  
9 can view the importance of adequate funding  
10 for Family Court representation. I talk  
11 about the importance of family integrity and  
12 how fully funding this will not only honor,  
13 you know, the constitutional rights that  
14 parents have to legal representation, but it  
15 will also guard against children from being  
16 needlessly removed from their parents.  
17 Because currently, under our current system,  
18 public defense attorneys don't have the time  
19 and resources that they need to get courts  
20 the full information courts need in making  
21 decisions that are in the best interests of  
22 the children about these cases.

23 I also talk about the racial justice  
24 implications of this. I mean, we know that

1           currently our system is biased towards  
2           families of color and that bias plays out  
3           every day in our Family Courts. And, you  
4           know, the antidote to that is sufficient  
5           funding for attorneys who represent parents  
6           in Family Court issues.

7                     And I also talk about the problems  
8           inherent in fixing one part of the mandated  
9           public defense system -- you know, the  
10          criminal part of it -- but not fixing the  
11          other part of it, which is the Family Court  
12          part of it.

13                    So, you know, I encourage you to read  
14          my written testimony and to ask any questions  
15          that you have about it.

16                    But my ask to you today is that over  
17          the next several weeks you make it a priority  
18          to include the additional \$6.5 million for  
19          Family Court defense in the final enacted  
20          budget. And like I said, I recognize that it  
21          can't just be a legislative add, that this  
22          has got to be an Executive and Legislature  
23          joint commitment.

24                    And in asking you to do this, I want

1 to emphasize that this funding does not need  
2 to come from the General Fund. There is a  
3 special fund available, the Indigent Legal  
4 Services Fund, which has adequate funding  
5 right now to pay both for mandated criminal  
6 defense and to fully fund our request for the  
7 9 million for parental representation. And  
8 so I'm happy to answer any questions you have  
9 about that.

10 But before I finish I just want to  
11 touch very quickly on two additional issues  
12 that, though not in the ILS budget, are  
13 directly within our statutory mission.

14 And the first, of course, is the dire  
15 need to increase the Assigned Counsel Program  
16 rates. And I don't think I can explain the  
17 need for increased rates any better than  
18 Senator Bailey did in his editorial for the  
19 Daily News, so I'm not going to, you know, go  
20 on about it. But I will say that his  
21 editorial echoed a 2019 letter that  
22 Chief Judge DiFiore sent to the Legislature  
23 about the need to increase assigned counsel  
24 rates. And of course Judge Marks talked

1           about it earlier today in his testimony. So  
2           I think we can all agree that this is very  
3           important and now is the time to do it.

4                     I would also just add, you know, from  
5           ILS's perspective we're starting to see that  
6           the failure to address this issue is starting  
7           to have an impact on our ability to fully  
8           implement the Hurrell-Harring settlement and  
9           to extend it statewide. Because as you know,  
10          an important component of that is caseload  
11          relief. But if the Assigned Counsel Program  
12          rates are not increased, we will continue to  
13          see attorneys just abandon the assigned  
14          counsel panels. And as Judge Marks told you  
15          earlier today, when attorneys leave the  
16          panels, there's not enough attorneys for  
17          which courts can assign cases, and the  
18          attorneys that are left have overwhelming  
19          caseloads.

20                    So that's the perspective that we  
21          have. And, you know, I would encourage you  
22          to also address this issue as an ongoing  
23          discussion with the Executive about the final  
24          enacted budget.

1                   And then finally, as we do every  
2                   year -- and we do this every year because  
3                   it's important -- we do request full funding  
4                   for our partner, you know, the New York State  
5                   Defender Association. NYSDA's work is  
6                   incredibly important to the work that ILS  
7                   does. I describe it in a little more detail  
8                   in the written testimony.

9                   But we see the work of NYSDA as, you  
10                  know, critical to the ongoing work of  
11                  improving the quality of both criminal  
12                  defense and mandated parental defense. So  
13                  again, I ask you -- you know, reiterate that  
14                  request, as we do every year, that NYSDA  
15                  receive full funding.

16                  And so with that, I'm a little bit  
17                  short of my 10 minutes, and I will pause and  
18                  entertain questions.

19                  CHAIRWOMAN KRUEGER: Thank you.

20                  All right. So first up out of the box  
21                  is chairman of Codes, Jamaal Bailey.

22                  SENATOR BAILEY: Thank  
23                  you, Madam Chair.

24                  And thank you, Patricia, for being so

1 patient with today's testimony. It has been,  
2 as Chairwoman Krueger mentioned, it's been  
3 quite an extended hearing.

4 I want to thank you, and you've  
5 already said a lot of what I was going to  
6 already ask you about, the 18-B and the  
7 necessity for a raise for assigned counsel.

8 Just to put it in context, the last  
9 raise was in 2004. And in 2004 I, you know,  
10 was a few pounds -- a lot lighter and I was  
11 only an intern in the State Legislature.  
12 That tells you how long it's been since there  
13 has been a raise for assigned counsel.

14 But in all seriousness, could you --  
15 if you could flesh out what that means to the  
16 average indigent person, to that family who  
17 can ill afford not to have representation,  
18 especially in a Family Court proceeding.  
19 Could you give me an example of what an  
20 overburdened attorney pool or what  
21 overburdened assigned counsel means for the  
22 folks that you advocate for?

23 ILS DIRECTOR WARTH: Sure. I mean, I  
24 think it means two really critical things.



1 First, there's often a significant delay in  
2 the assignment of counsel, as the ACP  
3 administrator or the judge, you know, calls  
4 around trying to find somebody who will take  
5 the case. And so what it means is that  
6 somebody's not represented at their first  
7 court appearance. And that's true for both  
8 criminal cases and Family Court cases.

9 And, you know, that undermines the  
10 goals, of course, of the settlement and its  
11 expansion statewide.

12 But then the second thing that it  
13 means is that you're not -- you don't have  
14 time to -- your attorney doesn't have time to  
15 fully investigate or litigate the case or to  
16 meet with you. So practically speaking, as a  
17 litigant, you're seeing your attorney for  
18 five minutes at the beginning of a court  
19 appearance and at the end of a court  
20 appearance, and that's pretty much it. You  
21 do not have the time to talk to your attorney  
22 about the situation, about your life  
23 circumstances, to really sort of flesh out  
24 the situation.

1           And so as a result, you don't fully  
2 understand the proceeding against you.  
3 You're confused, you're anxious and you're  
4 upset. But more importantly, you're not able  
5 to convey to your attorney really critical  
6 information that the attorney can use to  
7 fully investigate the case, whether it's a  
8 Family Court case or a criminal case. And so  
9 what that means is that critical information  
10 is left uninvestigated and not presented to a  
11 court in whatever type of proceeding it would  
12 be key.

13           And so, you know, from a person's  
14 point of view, you know, you walk away from  
15 the situation feeling like the system didn't  
16 work for you. And often -- you know, I see  
17 this a lot in criminal cases, but people give  
18 up. And often they take a plea even if  
19 they're not guilty, but because they're  
20 just -- they know the system isn't working,  
21 they know it's not fair for them, and so they  
22 just throw in the towel and they just, you  
23 know, take whatever plea is recommended to  
24 them by the attorney.

1                   And the same thing happens in  
2                   Family Court proceedings as well. And so  
3                   sometimes people lose their children, when  
4                   they really shouldn't have to, because of the  
5                   lack of resources that their attorney had.

6                   SENATOR BAILEY: So it's fair to say  
7                   that the raise is not simply just about  
8                   compensating individuals more, it is about  
9                   providing families throughout the State of  
10                  New York with greater support systems via the  
11                  legal system and the surrounding system. I  
12                  think that would be a fair assessment to  
13                  make.

14                 ILS DIRECTOR WARTH: You know, and I'm  
15                 glad you said that, because what that goes to  
16                 is that, you know, we're asking for two  
17                 things. Right? We're asking for the  
18                 \$9 million in Aid to Localities for parental  
19                 representation, improved parental  
20                 representation. And we're asking for this  
21                 Legislature to, you know, work hard on  
22                 increasing the ACP rates.

23                 And I know you and I talked about that  
24                 earlier as parallel asks, and I really see

1           them as intertwined asks, because they both  
2           achieve the same thing: Ensuring that  
3           there's justice for our families and ensuring  
4           that children are not needlessly taken from  
5           their parents. And they're both needed to do  
6           that.

7                     SENATOR BAILEY: Absolutely. Look, I  
8           think that -- you know, I think that we need  
9           to fund defense, we need to fund prosecution,  
10          we need to fund family attorneys, we need to  
11          fund everybody. If we're not funding  
12          attorneys or offices or agencies that  
13          dispense the representation of the people,  
14          then I think that, you know, we're not -- I  
15          think we're doing ourselves a major  
16          disservice.

17                    My final question before I yield the  
18          rest of my time. Is there any -- you  
19          mentioned that -- and I think it's something  
20          that, if you're paying attention, that these  
21          unfortunate circumstances affect people and  
22          children of color more adversely. Is there a  
23          geographical bent to this in this state? Do  
24          you find that this is happening more

1           downstate or upstate? Or is it something  
2           that happens throughout our great state?

3                   ILS DIRECTOR WARTH: It's --  
4           unfortunately, it's something that happens  
5           throughout our great state.

6                   People are discriminated against  
7           because they're Black or brown and sometimes  
8           just because they're poor. You know, I see  
9           it every day in our courts, playing out, the  
10          moral judgments against people who are poor.  
11          And, you know, the sort of implicit biases  
12          that play out because of those judgments.

13                   It's unfortunate, but again, you know,  
14          I can tell you -- you know, I was a lucky  
15          attorney. My first gig as a criminal defense  
16          attorney was working for the Capital Defender  
17          Office here in New York, and we were  
18          adequately funded. And so I had the time to  
19          meet with my clients, to meet with their  
20          family members, to learn about their life  
21          circumstances. And I truly believe that that  
22          armed me -- the information I learned from  
23          them armed me with the tools that I needed to  
24          be able to fend off that type of implicit

1 bias.

2 Because it's that ability to humanize  
3 our clients, to tell their stories, that --  
4 that's the best anecdote that I can think of  
5 to the implicit bias in decision-making that  
6 is natural that we see play out every day in  
7 our court system.

8 SENATOR BAILEY: So it's fair to say  
9 that whether it's the Bronx County or  
10 Broome County, that we need to do this  
11 throughout the state. I think that would be  
12 a fair assessment.

13 This is my actual last question,  
14 because I just thought of another one.  
15 Obviously we have seen the -- based upon the  
16 Hurrell-Harring settlement, we have seen  
17 increased strength in representation along  
18 with a decline in caseload.

19 Would you venture to say that if the  
20 caseloads decline on the parental side, on  
21 the family side, that we would see that same  
22 quality of representation go up?

23 ILS DIRECTOR WARTH: Absolutely. I  
24 mean, they go hand in hand. And that's not

1 to say that it happens automatically. And  
2 that's -- you know, that's the value of  
3 having a state agency like ILS work with the  
4 counties on the plan for using the funding  
5 effectively to not only reduce caseloads but  
6 increase quality.

7 You know, it's that plan that's  
8 effectuated through contracts that we issue  
9 to the counties that I think is  
10 accountability for everybody involved. And  
11 we've seen that it's working very effectively  
12 in the Hurrell-Harring counties. We're  
13 starting to see it work effectively with, you  
14 know, extending Hurrell-Harring across the  
15 state. And we have an opportunity to see it  
16 work just as effectively with the 2.5 million  
17 that was part of ILS's Aid to Localities  
18 budget this year, and this week we are  
19 sending out the contracts to the five  
20 counties that were awarded \$500,000 each over  
21 three years for that 2.5 million. And we're  
22 already starting to meet with the counties to  
23 talk about how do we measure the improvement  
24 in representation that we're going to realize

1 through even that small amount of funding.

2 But yes, you know, the -- reduce the  
3 caseloads, monitor what is happening, and you  
4 will see improved quality.

5 SENATOR BAILEY: Thank you. I just  
6 want to say thank you for all the work that  
7 you do at ILS. I just want to say that the  
8 agency remains in excellent hands. Thank you  
9 for the work that you do in the agency,  
10 Patricia. It's a pleasure to work with you.

11 Madam Chair, I yield the rest of my  
12 time.

13 ILS DIRECTOR WARTH: Thank you.

14 CHAIRWOMAN KRUEGER: Thank you.

15 Chair Weinstein. We'll roll it to you  
16 for dueling chairs.

17 CHAIRWOMAN WEINSTEIN: Yes. And we'll  
18 go to Assemblyman Dinowitz, chair of the  
19 Codes Committee first, for 10 minutes.

20 ASSEMBLYMAN DINOWITZ: Thank you.

21 Well, first let me just say thank you  
22 to you, Patricia, and to ILS for the work  
23 that you do and for the impact that you've  
24 had on so many people, so many families in



1 New York. It makes a difference.

2 I just have a couple of questions.

3 One is kind of a very general question and  
4 then the other is a little more specific.

5 So your office, your goal is to be  
6 able to represent people who need  
7 representation. My question is in terms of  
8 people who should be eligible for  
9 representation, like how many are actually  
10 getting representation assigned to them?

11 ILS DIRECTOR WARTH: That's a really  
12 good question.

13 As part of that, we -- and as part of  
14 the settlement, we were required to develop  
15 standards for determining financial  
16 eligibility for assignment of counsel in  
17 criminal cases for the Hurrell-Harring  
18 settlement. And those standards are -- our  
19 authorizing statute, our implementing statute  
20 authorizes us to do those as well. So the  
21 settlement, you know, inspired us to do that.

22 And we have done those standards. We  
23 did a very extensive training program in  
24 partnership with NYSDA statewide to implement

1           these standards. I should also say OCA  
2           worked with us and the Office of Justice  
3           Court Supports on training judges, so we had  
4           training of providers and judges.

5                     And what we've been hearing, and  
6           particularly in Hurrell-Harring counties, is  
7           that they've been very effective at ensuring  
8           that people who cannot afford to retain  
9           counsel in criminal cases are getting  
10          counsel. And that because they streamline  
11          the eligibility process, people are getting  
12          counsel quickly. It's not a long, belabored  
13          process.

14                    This past year we updated those  
15          standards pursuant to a recommendation of the  
16          Chief Judge's Commission on Parental  
17          Representation. We updated those standards  
18          to include Family Court representation as  
19          well. And we're starting to work very  
20          closely with counties on -- and we worked  
21          with NYSDA on a training -- again, training  
22          providers in how to implement those standards  
23          in Family Court cases. And, you know, we're  
24          looking forward to having, you know, the

1 capacity to start to see how that's working  
2 too.

3 But what we're hearing is that when  
4 the standards are applied, that people who  
5 need counsel get it. In other words, that  
6 most people who apply for counsel get  
7 counsel.

8 ASSEMBLYMAN DINOWITZ: Okay. Well,  
9 that's good. That's very good to hear.

10 Coming from the Bronx, one of the big  
11 issues we have is the tremendous need for  
12 representation of people in our immigrant  
13 community, immigrant proceedings where people  
14 are facing deportation. And, you know, I  
15 don't know what the numbers are, but I'm sure  
16 it's quite significant.

17 Has your office been involved in  
18 establishing and improving representation to  
19 immigrant-related proceedings for persons who  
20 can't afford representation? Which I'm sure  
21 are a very significant portion of the  
22 community.

23 ILS DIRECTOR WARTH: Yeah. Our office  
24 isn't. That's not part of our statutory

1 mandate. Again, our mandate focuses on  
2 criminal defense in criminal court and  
3 parental representation in Family Court.

4           However, as you may know, several  
5 years ago the United States Supreme Court  
6 issued a decision saying that in criminal  
7 cases it's an obligation of the defense  
8 attorney to advise his or her noncitizen  
9 client of the immigration consequences of  
10 both the arrest and a possible conviction.

11           And so towards that end, we've  
12 developed six what we call regional  
13 immigration assistance centers. And so there  
14 are six centers across the state, they  
15 essentially cover the whole state, and they  
16 assist criminal defense attorneys and also  
17 Family Court attorneys in advising their  
18 clients as to the immigration consequences of  
19 either a criminal proceeding or a Family  
20 Court proceeding or, for clients who are  
21 involved in both, of both proceedings.

22           And so, you know, it's not quite, you  
23 know, what you were asking, but it's still  
24 the work that we can do on our end to ensure

1           that noncitizens have the representation that  
2           they need, at least in one part of their  
3           involvement in the justice system or the  
4           Family Court system.

5                     ASSEMBLYMAN DINOWITZ:   Okay.  Thank  
6           you very much.  And again, thank you for  
7           everything that you do.

8                     ILS DIRECTOR WARTH:   Thank you.

9                     CHAIRWOMAN KRUEGER:  I think we'll go  
10          back now to our other chair, Senator Brad  
11          Hoylman.

12                    SENATOR HOYLMAN:  Thank you, Chair  
13          Krueger.

14                    Good evening, Ms. Warth.  Thank you  
15          for your advocacy and all of your work -- and  
16          your colleague Burton Phillips, who used to  
17          be my colleague in the Senate.

18                    And wanted to also acknowledge all the  
19          work that my colleagues did last session in  
20          getting your -- and now the Executive having  
21          bought in, if you will, to the increase that  
22          we were able to provide last year.

23                    But when it comes to Family Court, you  
24          know, we look at Hurrell-Harring as kind of

1 the doomsday scenario, if you will, in terms  
2 of the Legislature being able to dictate its  
3 own budget.

4 Are you concerned that we might see  
5 something similar -- you know, a court case,  
6 a class action lawsuit where it might be  
7 mandated for us to require the funding of  
8 representation in Family Court?

9 ILS DIRECTOR WARTH: Absolutely. I  
10 mean, you know, Burton talks about this,  
11 right? He frames it as we're seeing  
12 historical echoes right now. Right?

13 The Hurrell-Harring lawsuit, you know,  
14 as people know was instigated by sort of a  
15 couple of key components: One, a  
16 constitutional and statutory right to counsel  
17 in criminal proceedings; two, you know, the  
18 counties having the responsibility of paying  
19 for that, you know, implementing that, right,  
20 which is really a state obligation; and  
21 three, a commission that studied it and found  
22 that the current system was deeply flawed and  
23 wasn't meeting constitutional and statutory  
24 obligations. So those were the essential

1 components that led to the Hurrell-Harring  
2 litigation.

3 Well, they all exist right now for  
4 Family Court representation. You know, you  
5 have the constitutional and statutory right  
6 to counsel of parents in Family Court  
7 proceedings. You have the state not stepping  
8 up to the plate, essentially, and doing its  
9 part in funding that but instead, you know,  
10 requiring the counties to do it. And then  
11 you have -- in 2019 you have a commission  
12 convened by a chief judge, in this case  
13 Chief Judge DiFiore, which did extensive  
14 hearings and collected a lot of information  
15 and produced a report that just basically  
16 mirrored the report that was issued back in  
17 2006 by then the Kaye Commission, really just  
18 outlining just how broken the system is for  
19 the delivery of legal representation for  
20 parents in Family Court proceedings.

21 And I also want to add one thing to  
22 that. You know, I was rereading a case, a  
23 1972 case called Matter of Ella B., and that  
24 was a case in which the Court of Appeals

1 reminded everybody that the right to counsel  
2 for parents in Family Court proceedings is a  
3 constitutional imperative. And it was  
4 interesting because the argument made to the  
5 court at that point for defending a judge's  
6 decision to not advise a mother who was at  
7 risk of losing her child that she had the  
8 right the counsel -- the argument that was  
9 made to defend that decision was, Well, it's  
10 Family Court, it's not the same as criminal.  
11 This isn't a right that is important.

12 And the Court of Appeals rejected that  
13 argument and said we're talking about a  
14 fundamental interest that a parent has in his  
15 or her children. Of course that's  
16 fundamental. Of course that's just as  
17 important as the right to counsel in criminal  
18 proceedings.

19 And, you know, what I think is key  
20 about the DiFiore Commission's report is that  
21 they not only frame the issue as the right  
22 for parents, but they also talk about the  
23 issue as the right for children to make sure  
24 that cases are fully and fairly litigated so



1           that judges have the full and complete  
2           information that they need to make decisions  
3           that are in the best interests of the  
4           children.

5                         And so I think the DiFiore Commission  
6           sort of closed the loop in that regard and  
7           really sort of talked about the importance of  
8           this funding both, you know, to honor the  
9           constitutional right for parents but also to  
10          honor the importance of family integrity.

11                        SENATOR HOYLMAN:  It's so interesting.  
12          So like -- so basically the sanctity of  
13          parenthood is viewed as integral, as  
14          important as the sanctity to one's liberty in  
15          a criminal case.

16                        ILS DIRECTOR WARTH:  Yeah.  I mean and  
17          I've had clients who had both a pending  
18          Family Court proceeding and a criminal  
19          proceeding, and almost uniformly they were  
20          more worried about the Family Court  
21          proceeding.  That meant more to them.  You  
22          know, losing their children meant more to  
23          them.

24                        SENATOR HOYLMAN:  Meant more.

1                   Now, so we're talking about  
2                   6.5 million to make up the differential, is  
3                   that correct?

4                   ILS DIRECTOR WARTH: That's correct,  
5                   yes.

6                   SENATOR HOYLMAN: And practically  
7                   speaking, what does that look like in terms  
8                   of the number of families that would then be  
9                   represented?

10                  ILS DIRECTOR WARTH: Well, you know,  
11                  that -- I would love to be able to give you  
12                  that answer. I think with the 2.5 we're  
13                  going to find out more, you know, the exact  
14                  number of how the families -- or how that  
15                  works.

16                  But it's also -- you know another way  
17                  to think about it is if, you know, you have  
18                  one public defender office, even just adding  
19                  one attorney reduces the caseloads of all the  
20                  attorneys in that office. So it really  
21                  impacts all of the clients for that office.

22                  And so, you know, whatever number I  
23                  gave you -- you know, if I just gave you a  
24                  number of what that one attorney -- the

1           number of clients that one attorney  
2           represented, it really would underestimate  
3           the full impact. Still, that's the kind of  
4           information we're going to try to get.

5                     SENATOR HOYLMAN: And then finally,  
6           can you help us understand why Family Court  
7           representation is part of the Public  
8           Protection budget hearing? How are those two  
9           connected?

10                    ILS DIRECTOR WARTH: Yeah. I mean, I  
11           think I go back to Ella B. for that one. You  
12           know, as soon as the Court of Appeals said  
13           this is the same, right, these two interests  
14           are both so foundational that the state  
15           really has a requirement to make sure that  
16           there's the right to counsel.

17                    And so after Ella B., the right to  
18           representation of parents in Family Court  
19           proceedings was added to County Law  
20           Article 18, which was already established for  
21           criminal cases. And so, you know, it's now  
22           the same offices, the same providers do both.  
23           They do both criminal representation and the  
24           representation of parents in Family Court

1 proceedings.

2 And so that's our office's mission.  
3 You know, we work to improve the quality of  
4 representation provided under County Law  
5 18-B. And so that's sort of where it all  
6 came together. But that also speaks to why,  
7 you know, I'm sort of reiterating the problem  
8 of trying to fix one part of the system and  
9 not the other part of the system.

10 SENATOR HOYLMAN: Thank you.

11 Finally, on the ILS -- (overtalk).  
12 Sorry, my 4-year-old interrupting. On the  
13 assigned counsel rates -- I'm not sure if you  
14 touched on this with Senator Bailey -- why do  
15 you take the position that the cost of any  
16 increases should be shouldered by New York  
17 State rather than by the counties or  
18 localities?

19 ILS DIRECTOR WARTH: Well, you know, I  
20 think we need to learn the lesson that we  
21 learned from 2004. And in 2004, you know,  
22 when the rate was increased, the counties had  
23 to fully assume fiscal responsibility for  
24 that increase. And so what we saw across the

1 state is that in order to pay for that  
2 increase, counties cut costs and mandated  
3 representation in other ways. Right?

4 And so we saw public defense  
5 providers, you know, their budgets were cut.  
6 We saw the creation of these conflict  
7 defender contracts that, you know, would ask  
8 one person to represent an inordinate number  
9 of clients in both family and criminal case  
10 proceedings.

11 And, you know, I really felt like --  
12 you know, my first several years at ILS was  
13 working as the chief attorney for the  
14 Hurrell-Harring settlement implementation  
15 unit, and truly I felt like a lot of what I  
16 was doing was undoing the damage from the  
17 decision made in 2004 to require the counties  
18 to pay the increase.

19 You know, and I'm not asking the state  
20 to pay the full cost for assigned counsel  
21 rates. You know, I think for the counties to  
22 continue to pay the current rates and the  
23 counties to, you know, to pay the increase I  
24 think is a sort of fair resolution of that.

1 SENATOR HOYLMAN: Thank you very much.

2 Thank you, Madam Chair.

3 CHAIRWOMAN WEINSTEIN: Thank you.

4 We go to Assemblyman Lavine, chair of  
5 the Judiciary Committee, 10 minutes. And  
6 he'll be followed by Assemblyman Epstein.

7 Go ahead, Mr. Lavine.

8 THE MODERATOR: I think you're still  
9 muted.

10 CHAIRWOMAN WEINSTEIN: No, you are not  
11 muted, but we cannot hear you.

12 Why don't we go to Assemblyman --  
13 since there are no other Senators, we'll go  
14 to Assemblyman Epstein while we figure out  
15 Mr. Lavine's issue with sound.

16 CHAIRWOMAN KRUEGER: And it might be  
17 the best to just turn yourself off, Chuck,  
18 and then try to come back into Zoom.  
19 Sometimes that takes care of it.

20 ASSEMBLYMAN LAVINE: Well, that  
21 worked.

22 CHAIRWOMAN KRUEGER: Oh, okay. Fine.

23 CHAIRWOMAN WEINSTEIN: Since Harvey's  
24 busy talking on the -- yes, go ahead.

1 (Laughter.)

2 ASSEMBLYMAN LAVINE: Thanks. And  
3 sorry.

4 Patricia, I was once a public  
5 defender. I did 18-B work in the criminal  
6 realm and in Family Court. And I was also  
7 learned counsel on death penalty cases and  
8 did CJA work in the federal courts. So  
9 needless to say, I could not be prouder of  
10 what you do. But I want to share what my  
11 experience was as an 18-B attorney.

12 Sure enough, whenever I needed an  
13 expert, whenever I needed an investigator, I  
14 had to engage in a lengthy piece of motion  
15 practice -- and that's assuming on some of  
16 these cases I could find a qualified  
17 investigator or the experts would be willing  
18 to work at what were the 18-B rates in those  
19 days. Now, this is a long time ago.

20 I never had that problem on death  
21 penalty cases. I never once had that problem  
22 in representation in the federal courts.

23 What's the experience these days in  
24 terms of attorneys being able to work with

1 experts and investigators who actually will  
2 be paid?

3 ILS DIRECTOR WARTH: Yeah. Well, the  
4 experience is different depending on whether  
5 it's a criminal case or a Family Court case.  
6 Because of the Hurrell-Harring settlement and  
7 its extension statewide, we've worked with  
8 the counties on making funding available --  
9 and this is state funding available -- in  
10 criminal cases for the ACP attorneys to  
11 access experts without having to go through  
12 that difficult motion process.

13 And so we're working with the assigned  
14 counsel programs, you know, so part of what  
15 we're doing is we're building the  
16 infrastructure for the assigned counsel  
17 programs so that there's somebody within the  
18 program. And every program designates  
19 somebody different to review a request for an  
20 expert and then to review vouchers for an  
21 expert. But it doesn't have to go in front  
22 of a judge, and it's not a complicated  
23 request process.

24 And in some cases, you know, if you



1           need an expert like an investigator --  
2           sometimes you need the investigator  
3           yesterday. And if you have to go through the  
4           complicated process, evidence is going to be  
5           lost. And so now the ACPs have systems in  
6           place in their criminal cases where, you  
7           know, the person can get the expert and then  
8           get the ACP to pay for it with the, you know,  
9           post hoc application, if you will.

10                     And so that's working really, really  
11           well for the criminal attorneys. The same  
12           thing isn't available for Family Court  
13           attorneys because the funding isn't there.  
14           And that's the type of thing we want to do,  
15           is to make sure that we can do that for both  
16           the criminal side of a public defense  
17           practice but also the Family Court side of  
18           it.

19                     ASSEMBLYMAN LAVINE: Well, good  
20           lawyering and good lobbying, Patricia.

21                     If we are able to make some progress  
22           in terms of being able to take care of this  
23           differential, does the amount that you  
24           suggested cover not simply just the attorneys

1 but experts and investigators as well?

2 ILS DIRECTOR WARTH: So for -- you  
3 know, we're issuing -- you know, again I go  
4 back to the 2.5 that was added as a result of  
5 this Legislature's work. We worked, you  
6 know, very quickly to get board approval to  
7 issue an RFP. We issued an RFP for five  
8 awards of \$500,000 each over three years. So  
9 that's not a lot of money. It's \$167,000 per  
10 year.

11 We had 25 counties apply, all of  
12 them -- I mean, just really excellent  
13 proposals. You know, We had a scoring  
14 system. We're issuing contracts to the top  
15 five awardees this week. And I think three  
16 of those contracts include that type of  
17 funding. And so like Cortland County was one  
18 of the awardees, and so they're funding an  
19 attorney to reduce caseloads. And then the  
20 extra funding that they have that -- you  
21 know, they're having a pot of money so they  
22 can access experts in their Family Court  
23 cases as well.

24 And so, you know, it's a small amount

1 of money, but it's going to have a  
2 significant impact in that county. And it's  
3 going to jump-start the process of improving  
4 the quality of representation.

5 Now, to be fair, when I talked to the  
6 public defender, he said, you know, "I wish I  
7 had enough money for a social worker. That's  
8 what I really need." You know, so that's why  
9 we're asking for more.

10 ASSEMBLYMAN LAVINE: And let me  
11 advocate for that, because as part of the  
12 training to be learned counsel on death  
13 penalty cases, the fact that social workers  
14 play such a critical role in adopting a  
15 holistic approach to handling a case is  
16 something I will never forget.

17 So I didn't mean to leave out social  
18 workers from the equation. And I simply want  
19 to say thanks for what you do. And whatever  
20 time I have left, I rest my case.

21 ILS DIRECTOR WARTH: Thank you.

22 CHAIRWOMAN KRUEGER: Thank you. I  
23 think, Assemblywoman, we're still done, so --

24 CHAIRWOMAN WEINSTEIN: Okay, we have

1 now Assemblyman Epstein. Three minutes on  
2 the clock, please.

3 ASSEMBLYMAN EPSTEIN: Thank you, Chair  
4 Weinstein.

5 Appreciate you being here, Director.

6 So, you know, we've talked about  
7 limited resources for -- just to disclose,  
8 I'm a former civil legal services lawyer for  
9 decades, ran programs. And so this is  
10 something that is deeply meaningful to me as  
11 well.

12 And I'm wondering, since we always  
13 talk about limited pots, I'm wondering,  
14 instead of focusing on an area of law,  
15 focusing on a population. And I'm wondering  
16 what -- if you've had those conversations  
17 internally that say, you know, with a  
18 population of veterans, they need family law  
19 help, housing help, you know, public  
20 benefits. Can we do comprehensive services  
21 to that population instead of driven to an  
22 area of law?

23 ILS DIRECTOR WARTH: Yeah, I mean, I  
24 think that's a really good question.

1           Except the issue that we would have  
2           with that is that the constitutional  
3           statutory mandate doesn't just target a  
4           population. You know? It targets everybody  
5           who is entitled to counsel. And so I think  
6           we'd be doing a disservice to our mission if  
7           we were to just limit it to a population.

8           Having said that, I will admit that  
9           for the 2.5 million that we received in Aid  
10          to Localities for improved-quality parental  
11          representation, we did focus -- for the RFP  
12          that we issued, we did focus that funding on  
13          one type of Family Court matter, and that's  
14          state intervention matters. Those are the  
15          matters that involve parents, you know,  
16          potentially losing their children.

17          And so yes, we did -- you know, given  
18          the limited funding, we did focus, you know,  
19          sort of along the lines of what you're  
20          talking about.

21          I would also say, though, that, you  
22          know, I understand the issue of limited  
23          funding. But we do know that this year we do  
24          have a healthier economy and a healthier

1 state budget. And I also reiterate what I  
2 said about the Indigent Legal Services Fund:  
3 The additional funding that we're requesting  
4 for parental representation can and should  
5 come out of that fund. That's exactly what  
6 it was made for.

7 ASSEMBLYMAN EPSTEIN: Just so you  
8 know, I think we should have a right to  
9 counsel. I firmly believe in the right to  
10 counsel statewide on a whole host of issues  
11 for lower-income New Yorkers. And so, you  
12 know, I agree that the pot doesn't have to be  
13 limited. But I think once we continue to  
14 show successes, like you said, like in a  
15 certain type of Family Court case if we  
16 create a right, in a certain type of, you  
17 know, population we create a right -- that,  
18 you know, whether it's -- we talked about,  
19 you know, more money for housing, but that's  
20 still -- then the lawyer is making the  
21 choice -- you know, the Governor.

22 Instead of saying you have a right,  
23 now you can exercise this right to get free  
24 services because you're entitled to it,

1           instead of the program saying, oh, we're  
2           going to choose which case based on this  
3           initial money we got that we think has the  
4           most merit.

5                     ILS DIRECTOR WARTH: Right, yeah.

6                     ASSEMBLYMAN EPSTEIN: So I wonder how  
7           you'd feel -- I know I've run out of time,  
8           but it would be great to continue the  
9           conversation about how we reframe the  
10          conversation.

11                    ILS DIRECTOR WARTH: Yeah, I mean --  
12          and I think that's how our mandate is  
13          different from normal civil legal services.  
14          There's already been a court decision that  
15          somebody has the right to counsel for the  
16          work that we do. You know, so -- so, you  
17          know, it's not quite in the same area.

18                    CHAIRWOMAN WEINSTEIN: Thank you.

19                    We have Assemblywoman Kelles to close  
20          for this witness.

21                    ASSEMBLYWOMAN KELLES: Thank you.

22                    And my deepest apologies. All of us  
23          are running in between three different  
24          meetings all at the same time, so I'm sure --

1           you know, I may have missed some things. And  
2           I understand the questions that are being  
3           asked.

4                     I see that the budget increases by  
5           50 million in funding for the continued  
6           expansion of performed guidance for -- by the  
7           Hurrell-Harring. Is that the funding you're  
8           referring to that you are requesting?

9                     ILS DIRECTOR WARTH: No. That is  
10          already in the Executive Budget. And that is  
11          part of the five-year plan to implement the  
12          extension of the Hurrell-Harring settlement  
13          statewide in a five-year increment. So the  
14          first year was 50 million, the second year --  
15          and so this is the fifth year, so this is the  
16          full 250 million needed.

17                    ASSEMBLYWOMAN KELLES: Okay. And in  
18          the request I'm curious if it incorporates  
19          for all the specialty courts like the Mental  
20          Health Court -- you were speaking about  
21          Family Court earlier -- to cover the legal  
22          counsel -- right to counsel.

23                    I agree with my colleague who just  
24          spoke. Absolutely huge supporter of right to



1           counsel across the whole state for everyone  
2           who is low-income and needs it. So I'm  
3           trying to get a sense of what the request  
4           would cover. Does it cover all specialty  
5           courts? Does it also cover resource  
6           coordinators for these courts that I know  
7           help once -- you know, once cases are  
8           finalized, help individuals access the  
9           resources that they're required to, for  
10          example? A really important position on top  
11          of the social workers.

12                        So I'm trying to get a sense of what  
13                        is incorporated into that request.

14                        ILS DIRECTOR WARTH: Well, the  
15                        extension of the Hurrell-Harring settlement  
16                        statewide is all criminal cases where  
17                        somebody's entitled to counsel and  
18                        financially eligible for assigned counsel.

19                        And so that would cover any specialty  
20                        court that's a criminal court. Which tends  
21                        to be the -- you know, substance abuse  
22                        courts, the opioid courts, the mental health  
23                        courts. So that involves people arrested for  
24                        a criminal offense.

1           For the Family Courts, it's a little  
2           bit different. And so, you know, you can  
3           face a situation where somebody has, you  
4           know, both a pending criminal case and a  
5           Family Court case, in it might be an  
6           integrated court, and they're going to have  
7           one attorney, the criminal attorney, who's  
8           going to have sufficient resources because of  
9           everything this Legislature has done in  
10          supporting our work to implement the  
11          settlement and extend it -- but then the  
12          Family Court attorney on the Family Court  
13          proceeding isn't going to have the same  
14          resources.

15                 ASSEMBLYWOMAN KELLES: Right. So the  
16          request is to -- but that's not --

17                 ILS DIRECTOR WARTH: The additional  
18          6.5 million in Aid for Localities for  
19          improved-quality parental representation.

20                 ASSEMBLYWOMAN KELLES: Got it. And  
21          that was the other piece you were speaking  
22          with Assemblymember Lavine about.

23                 ILS DIRECTOR WARTH: Right.

24                 ASSEMBLYWOMAN KELLES: And with

1           respect to the resource coordinators and the  
2           investigators for the criminal courts, I had  
3           heard earlier a little piece. But does this  
4           funding request also cover those types of  
5           services and positions?

6                     ILS DIRECTOR WARTH: So our funding  
7           can pay for staff or people associated with  
8           the public defender. Right? But we can't --  
9           we don't pay for court staff.

10                    ASSEMBLYWOMAN KELLES: Got it. Thank  
11           you so much.

12                    CHAIRWOMAN KRUEGER: Thank you for  
13           testifying. And I think that our chairs did  
14           a good job of grilling you, so we covered a  
15           lot of territory. Thank you for being with  
16           us tonight.

17                    And for others who have been waiting  
18           patiently, we are now shifting into the  
19           second part of this hearing. And in the  
20           second part, with non-governmental  
21           representatives, we have panels that people  
22           have been put on.

23                    Each individual will get three minutes  
24           to testify. Then legislators will have three

1 minutes in total to ask questions of the  
2 panel. So hopefully that's not too  
3 complicated. And the panels aren't that many  
4 people. We have two or three -- oh, on one  
5 or two we have four reps.

6 So I know some of you are thinking,  
7 Will I ever leave for dinner? Maybe not.  
8 But we're trying to make sure that everybody  
9 has a chance to testify and that legislators  
10 have a chance to ask a few questions.

11 And again, for anyone watching,  
12 everyone is welcome to submit written  
13 testimony, even if you feel that you don't  
14 have a chance to go over all your critical  
15 points in your presentation. Or you might  
16 not have gotten a slot to testify. I'm  
17 getting questions even today, now, can people  
18 be added to today's hearing. The answer is  
19 no, of course.

20 But you can submit written testimony.  
21 And every legislator and all of the staff and  
22 the central staff that work on the budget on  
23 behalf of the Assembly and the Senate do get  
24 all of this.

1                   So now I would like to call up  
2           Panel A: The Vera Institute of Justice,  
3           Shayna Kessler, senior planner; and Neighbors  
4           Link, Karin Anderson Ponzer, director,  
5           Neighbors Link Community Law Practice.

6                   Are both of our panelists here with  
7           us? I see them, yes. All right, so let's --  
8           in the order you were called up.

9                   Hi, Shayna. Take your mute off and  
10          please testify.

11                  MS. KESSLER: Good evening. Thank you  
12          very much, Madam Chair.

13                  And thank you to the full committee  
14          for your time and perseverance today.

15                  My name is Shayna Kessler. I am a  
16          senior planner with the Vera Institute of  
17          Justice. I am pleased to testify today in  
18          support of two areas in which Vera leads work  
19          in New York: Legal representation for  
20          immigrants, and pretrial reforms in the  
21          criminal legal system.

22                  Regarding immigration, we support an  
23          increased investment in New York's  
24          immigration legal services, specifically a

1           \$15.3 million investment in the Liberty  
2           Defense Project and a \$9.1 million investment  
3           in the Office for New Americans, totaling  
4           \$24.4 million. This would support critical  
5           legal services for immigrants facing  
6           deportation, including the pioneering  
7           New York Immigrant Family Unity Project, or  
8           NYIFUP.

9                     New York's investment in such  
10           representation provides a beacon of hope for  
11           those torn from their homes by immigration  
12           enforcement, which continues to be an  
13           enormous risk.

14                    Immigrant New Yorkers are deeply woven  
15           into the fabric of our state. One in three  
16           New York children has an immigrant parent,  
17           and more than one-quarter of our workforce is  
18           foreign-born. During the pandemic,  
19           immigrants performed work that sustains our  
20           economy and safeguards public health, and  
21           they'll continue to do so long after it ends.

22                    Providing lawyers to people is key.  
23           Immigrants in detention with lawyers are  
24           10 times more likely to prove the right to

1 remain in the United States than those  
2 without lawyers. Governor Hochul included  
3 \$20 million in her Executive Budget for these  
4 services, but that falls short of the need,  
5 and thousands are still forced into detention  
6 and immigration court without access to  
7 counsel.

8 Just this month we're seeing the worst  
9 COVID-19 outbreak in ICE detention since the  
10 pandemic began. We call on the Legislature  
11 to increase funding to \$24.4 million this  
12 year and simultaneously to pass the Access to  
13 Representation Act, which would establish a  
14 permanent right to representation for people  
15 facing deportation in our state. The public  
16 understands that this is the fair thing to  
17 do, and polling shows that 93 percent of  
18 New Yorkers support government-funded lawyers  
19 for people in immigration court.

20 Regarding the public safety budget, we  
21 appreciate the Governor's proposal to triple  
22 Executive funding for community-based gun  
23 violence responses and for \$10 million in new  
24 funding to support pretrial services. These

1 represent an important investment in  
2 evidence-based approaches to gun violence and  
3 criminal legal system involvement.

4 We hope the Legislature will continue  
5 its long-time commitment to these issues by  
6 providing additional funding, especially for  
7 pretrial services. We also urge that this  
8 money go to non-law enforcement entities that  
9 are better suited to support the success of  
10 individuals and communities.

11 Thank you very much for your time and  
12 support for these issues.

13 CHAIRWOMAN KRUEGER: Thank you.

14 And Shayna Kessler -- I'm sorry, that  
15 was Shayna Kessler.

16 Karin Anderson, excuse me. It's  
17 getting a little late.

18 MS. PONZER: Absolutely. Thank you so  
19 much for the opportunity to testify this  
20 evening.

21 My name is Karin Anderson Ponzer, and  
22 I'm the director of the Neighbors Link  
23 Community Law Practice. The mission of  
24 Neighbors Link is to make the whole community



1 stronger through the healthy integration of  
2 immigrants.

3 Neighbors Link is grateful to the  
4 Assembly and the Senate for convening this  
5 important hearing today. We've long been  
6 vocal advocates for access to legal  
7 representation for immigrants in removal  
8 proceedings and in applications for  
9 immigration benefits.

10 We urge the inclusion of 24.4 million  
11 in funding for immigration legal services in  
12 the fiscal '22-'23 New York State budget.  
13 Our legal team represents hundreds of  
14 immigrant New Yorkers every year in  
15 immigration matters ranging from deportation  
16 defense to naturalization. But we still must  
17 turn away many more because our attorneys and  
18 our Department of Justice-accredited  
19 representatives simply can't handle any more  
20 cases.

21 Our community-based organization has  
22 witnessed the devastation that immigrant  
23 New Yorkers have experienced in recent years  
24 due to harsh immigration policies. But we

1           also know the transformative power of  
2           immigration law to protect the vulnerable and  
3           to keep families together and transform  
4           lives -- if and when an individual facing the  
5           immigration system has access to  
6           representation.

7                     Our clients are low-to-moderate-income  
8           New Yorkers who are balancing jobs, family,  
9           and a lot of other responsibilities with  
10          limited resources. They're the backbone of  
11          the communities where we live and work.  
12          They're healthcare workers, food service  
13          workers, teachers, child and healthcare  
14          providers, construction, building and trade  
15          workers, and so many more.

16                    When they are able to achieve  
17          permanent legal status, naturalization as  
18          U.S. citizens, and reunite with families, our  
19          communities are stronger. But when their  
20          families are torn apart by deportation,  
21          separated by delays in immigration  
22          application processing, and preyed upon by  
23          unscrupulous practitioners, our communities  
24          are weaker and we all feel the pain.

1           The experience of the past 10 years  
2 demonstrates that immigration law will always  
3 impact the lives of New Yorkers, whether it's  
4 through overbroad civil enforcement that  
5 tears families apart or changes in federal  
6 law that may create new opportunities to  
7 achieve legal status.

8           Whether it's through barriers to  
9 federal benefits like the CARES Act funding,  
10 because of a lack of immigration status --  
11 which made it impossible for many people to  
12 access those funds -- or the urgent need of  
13 New Yorkers that we see these days for legal  
14 assistance to help friends and family who  
15 fled persecution and violence in their  
16 countries of origin, robust funding for  
17 immigration legal services is an investment  
18 that makes all New York stronger.

19           Neighbors Link endorses the continued  
20 funding of the LDP and ONA, and the expansion  
21 of funding to 24.4 million.

22           Thank you so much.

23           CHAIR KRUEGER: Excuse me. I see  
24 Senator Pete Harckham's hand up.



1 follow up.

2 Thank you very much, Senator, for the  
3 question, and I think it's a terrific one and  
4 thank you for considering it. There's  
5 certainly an enormous need for funding for  
6 legal and social services. There's  
7 insufficient access to not just attorneys but  
8 social worker support and a wide variety of  
9 things.

10 And so there's a bill, the Access to  
11 Representation Act, which would at the  
12 structural level really advance New York's  
13 leadership in this area by establishing a  
14 right to representation for people in  
15 New York facing deportation. And that bill  
16 would -- the funding that we're seeking would  
17 do a significant amount of good, but it  
18 wouldn't come close to meeting the full need  
19 of all the people that go unrepresented, of  
20 all the people that go without the full scope  
21 of services that they should have when  
22 they're facing permanent family separation  
23 and deportation.

24 And so, you know, passing the

1 Access to Representation Act would advance  
2 New York's leadership and really -- and  
3 ensure that no one in New York faces the  
4 terrifying prospect of deportation without an  
5 attorney. And so I think that's really the  
6 next step.

7 There's some great work that can be  
8 done through the budget by funding this work,  
9 and we very much look forward to advancing  
10 the Access to Representation Act and  
11 advancing New York's leadership on that  
12 level.

13 CHAIRWOMAN KRUEGER: Thank you.

14 And next I see --

15 CHAIRWOMAN WEINSTEIN: -- Assemblyman  
16 Burdick.

17 CHAIRWOMAN KRUEGER: Oh, you're back.

18 CHAIRWOMAN WEINSTEIN: Thank you. The  
19 microwave is working.

20 I see Assemblymember Burdick, to close  
21 on this panel.

22 ASSEMBLYMAN BURDICK: Yes, thank you.

23 And thank you both for your testimony.

24 And Neighbors Link, without any

1 question, is an absolute gem in the district  
2 that I represent in Mount Kisco -- but they  
3 operate, of course -- you operate throughout  
4 Westchester County, and you do some  
5 trailblazing work. And I was pleased to be  
6 able to get some funding to Neighbors Link  
7 earlier this year.

8 And I just -- a couple questions. One  
9 is on the budgetary request. Do you know  
10 what agency that would be -- is that going to  
11 be -- what agency would that be a part of a  
12 budget to? Because I may have missed it in  
13 your testimony, but I didn't see what part of  
14 the budget it would relate to.

15 MS. PONZER: The Office for  
16 New Americans.

17 Shayna, if you would like to speak to  
18 that.

19 MS. KESSLER: That's correct. It's  
20 under the Office for New Americans. There's  
21 two lines --

22 ASSEMBLYMAN BURDICK: But there are  
23 two parts, right? One is the -- that there  
24 are two different asks on the money side.

1 Are they both to the Office for  
2 New Americans?

3 MS. KESSLER: That's correct.

4 Yes. They're both --

5 ASSEMBLYMAN BURDICK: Okay. That's  
6 fine. I just need to know when we're putting  
7 together budget letters and that sort of  
8 thing to try to get support for it.

9 And the Access for Representation Act,  
10 do you have any idea how that's coming along?  
11 I assume that there might be other states in  
12 the country that have similar statutes, and  
13 could you tell us a little bit about that?

14 MS. KESSLER: Certainly, yes. This is  
15 a growing movement across the country. There  
16 is a bill -- Maryland is the other state with  
17 the most active bill on this level. Colorado  
18 is considering one, and several other  
19 states -- there's a total of eight states  
20 right now that fund deportation defense. All  
21 of them followed New York's lead in doing so.

22 And really the sort of next step in  
23 this movement is the leadership of New York  
24 in passing the Access to Representation Act.



1           And this is really, you know, to both serve  
2           New Yorkers facing deportation and providing  
3           really critical services to New Yorkers, but  
4           also really modeling for the federal  
5           government that it should be the federal  
6           government stepping up to foot this bill.

7                     And it will be with the leadership of  
8           New York and the states that are following  
9           New York, I believe, that will ultimately  
10          make this happen at the federal level and  
11          ensure that everybody does have access to  
12          representation.

13                    ASSEMBLYMAN BURDICK:  And lastly, and  
14          my time is running out, but then it would be  
15          made -- by putting it in here, then, it would  
16          be grant funding that would then be available  
17          to agencies like Neighbors Link, correct?

18                    MS. KESSLER:  That's exactly right.  
19          Yes.

20                    ASSEMBLYMAN BURDICK:  Okay.  Thank you  
21          very much, and keep up the good work you're  
22          doing.

23                    CHAIRWOMAN KRUEGER:  Thank you,  
24          ladies, both for being with us and hanging

1 out all day. Although at least you don't  
2 have to sit in a conference room all day.

3 CHAIRWOMAN WEINSTEIN: We have --  
4 we do have another.

5 CHAIRWOMAN KRUEGER: Oh, you have  
6 another --

7 CHAIRWOMAN WEINSTEIN: Assemblymember  
8 Kelles --

9 CHAIRWOMAN KRUEGER: Assemblymember  
10 Kelles likes to come in last.

11 ASSEMBLYWOMAN KELLES: I apologize. I  
12 like to listen to the conversation. I learn  
13 so much from it.

14 But I will be quick. I actually both  
15 wanted to thank you both on the work that  
16 you're doing. And my deepest apologies, but  
17 I'm pivoting slightly. I support -- I'm just  
18 going to put that out there -- I will  
19 certainly fight -- Chris, I'll second what he  
20 said.

21 But Shayna, I actually wanted to speak  
22 with you very briefly about a conversation  
23 that I had earlier today with OCA with  
24 respect to a report from the Vera Institute

1 on the worsening of the racial disparities in  
2 bail being set that has been significantly  
3 increased, actually, for people of color,  
4 particularly men of color, and get a sense  
5 from you of what needs to be -- what  
6 information do we need.

7 What needs to be done, in your  
8 opinion, from the research that you did? How  
9 can we address that issue?

10 MS. KESSLER: I will say I will have  
11 to refer you to my colleagues whose expertise  
12 is in bail. My expertise is on the  
13 immigration side.

14 But what I can say with certainty is  
15 that standing firm on bail reform -- that the  
16 reforms were solid. We are grateful that  
17 they were enacted, and we certainly support  
18 their continuation. And that will be what  
19 will enable us to ensure that we have the  
20 policy in place to address the racial  
21 disparities in the system.

22 Apologies that I can't speak in detail  
23 to that report.

24 ASSEMBLYWOMAN KELLES: Don't worry

1 about it.

2 MS. KESSLER: But certainly I will  
3 inform my colleagues and refer them to you as  
4 well.

5 ASSEMBLYWOMAN KELLES: Wonderful. If  
6 they could reach out, that would be amazing.

7 I have worked with your institute for  
8 many years as a county legislator as well, so  
9 I know you cover many issues. So no worries  
10 that you are not an expert in every single  
11 one of them. I know you work with a great  
12 team.

13 So thank you to both of you. I  
14 relinquish my last minute.

15 CHAIRWOMAN KRUEGER: Okay. And now --  
16 I just don't want to cut off anybody else  
17 accidentally. No? All right.

18 Now I will thank these two testifiers  
19 and go on to Panel B, Legal Services of the  
20 Hudson Valley, Rachel Halperin, CEO; New York  
21 State Coalition Against Domestic Violence,  
22 Joan Gerhardt, director of public policy and  
23 advocacy; Treatment Not Jail Coalition,  
24 Anthony Maud; and Families Civil Liberties

1 Union, Sebastian Doggart, executive director.

2 Good evening, everyone. Okay. Is

3 Legal Services' Rachel Halperin in here?

4 Yes, she is. I'll start with you.

5 Good evening.

6 MS. HALPERIN: Good evening. I'm

7 Rachel Halperin. I'm the CEO of Legal

8 Services of the Hudson Valley. We provide

9 comprehensive civil legal services in seven

10 counties in the Hudson Valley.

11 I'm also here tonight on behalf of the

12 Legal Services Coalition of New York, which

13 is a membership organization of over

14 50 civil/legal services providers throughout

15 New York State.

16 We are requesting that New York State

17 dedicate state funding to ensure the

18 continuity and sustainability of New York's

19 legal services for crime victims, which is in

20 jeopardy because of the decline in federal

21 VOCA funds coming into New York State.

22 In 2018, OVS issued an RFP for

23 attorney services for crime victims and

24 awarded \$16.7 million a year to over

1           60 providers, which created an extensive  
2           network of civil legal services support for  
3           crime victims. As a result of this funding,  
4           for example, my organization created 20 new  
5           positions and has provided legal services to  
6           almost 1200 crime victims in close to 2,000  
7           cases since 2018.

8                         Last month, OVS notified all the  
9           providers under this contract that the  
10          contract was going to be terminated one year  
11          early, effective September 2022. OVS did  
12          explain that was because of a decline in  
13          federal VOCA funds to New York State and they  
14          could no longer afford these contracts.

15                        OVS invited current providers to  
16          compete in an RFP that was issued this month  
17          that lumps all three of the OVS programs  
18          together so we would compete against each  
19          other for a smaller pot of money.  
20          Immediately upon receipt of this notice,  
21          LSHV, like other providers, had to close our  
22          intakes.

23                        These legal cases in custody,  
24          immigration, divorce, orders of protection,

1 take months and years. And as attorneys,  
2 we're ethically obligated -- once we enter  
3 our appearance, we have to provide  
4 representation to clients despite losing our  
5 funding. We also put a hiring freeze on any  
6 open positions.

7 Legal Services Coalition, in  
8 coordination with NYSCADV, who you're going  
9 to hear from after me, met with the  
10 Governor's staff prior to her releasing her  
11 budget to explain this issue and encourage  
12 her to please put funding in the budget to  
13 keep providers whole. Unfortunately, this  
14 funding was not included in the budget.

15 Now is not the time to cut back on  
16 these critical and life-saving supportive  
17 services. You've heard all day about the  
18 increase in crime and gun violence. It is  
19 not the time to cut services to victims of  
20 crime. Respectfully, we ask the Legislature  
21 to ensure adequate funding for all providers  
22 serving crime victims under the OVS legal  
23 services funding for the next two years so  
24 that services can remain intact and steady.

1                   And finally, we support our colleagues  
2                   at NYSCADV and their advocacy to keep all  
3                   victim service organizations whole in all the  
4                   OVS organizations they have.

5                   Thank you.

6                   CHAIRWOMAN KRUEGER: Thank you.

7                   Next, Joan Gerhardt from NYSCADV.

8                   MS. GERHARDT: Thank you. Thank you,  
9                   Chair.

10                  Yes, that's the New York State  
11                  Coalition Against Domestic Violence, and we  
12                  were established more than 40 years ago as  
13                  the statewide nonprofit organization of local  
14                  domestic violence service providers committed  
15                  to preventing and ending domestic violence.

16                  In New York, nearly 100 domestic  
17                  violence programs operate 250 locations  
18                  around the state. NYSCADV is recognized by  
19                  the U.S. Department of Health and Human  
20                  Services and the U.S. Department of Justice  
21                  as the information clearinghouse and resource  
22                  center on domestic violence for New York  
23                  State. We provide education, training, and  
24                  technical assistance to service providers and



1 support policies to enhance domestic violence  
2 intervention and prevention.

3 What makes this Executive Budget so  
4 troubling is its funding cuts to victim  
5 services and new government mandates. Here  
6 are four specific concerns. First, OVS is  
7 cutting funding for hundreds of victim  
8 assistance providers in the next round of  
9 awards -- providers that offer essential  
10 services to victims of domestic violence,  
11 sexual violence, child abuse, and many other  
12 crimes.

13 These cuts are due to decreases in  
14 New York's federal VOCA grant. Despite  
15 New York State's surplus, and with millions  
16 of dollars available in pandemic aid, there  
17 is no proposed solution to these cuts in the  
18 Executive Budget. Other states have  
19 implemented fixes to protect their victim  
20 service providers -- New York has not.  
21 New York's VOCA grant is \$140 million less  
22 today than it was just four years ago.

23 We are therefore asking for  
24 \$140 million in the state budget and again

1 next year. In total, the federal Crime  
2 Victims Fund, which fuels state VOCA grants,  
3 is expected to return to prior levels. One  
4 hundred forty million dollars represents  
5 0.06 percent of the proposed \$216 billion  
6 budget and will ensure the continuity of  
7 these critical services.

8 Second, we have several concerns about  
9 Part H in the PPGG budget, which would  
10 mandate a 40-hour training for all  
11 DV advocates. We ask that you remove the  
12 proposal from the budget. Domestic violence  
13 programs are finding it hard to recruit and  
14 train new employees because of high turnover,  
15 but creating new mandates and increasing  
16 state oversight will not ease this burden.

17 Frankly, when providers are facing  
18 significant funding cuts, the state should be  
19 focused on making programs whole so they can  
20 retain advocates, not placing more burdens on  
21 them. We were not asked to collaborate on  
22 this proposal despite our federally  
23 designated role as a domestic violence  
24 resource center for the state.

1           Third, we ask the Legislature to  
2           increase the TANF set-aside for  
3           nonresidential DV services. The Executive  
4           Budget returns the set-aside to \$3 million,  
5           the same level it was when it was first  
6           proposed in 2000.

7           So we're asking for \$6 million, and  
8           we're also seeking to maintain \$5 million of  
9           new Aid to Localities funding for an  
10          OCFS-directed flexible-funding pilot project.

11          Thank you very much.

12          CHAIRWOMAN KRUEGER: Thank you.

13          Our next testifier is Anthony Maud. I  
14          believe I'm -- I'm hopefully saying that  
15          correctly.

16          MR. MAUD: Yes. My name is Anthony  
17          Maud, and I'm 35 years old. I'm a proud  
18          member of the Treatment Not Jail Coalition,  
19          which is what I'm here today to discuss.

20          I grew up in Buffalo with a  
21          developmental and learning disability,  
22          including dyslexia and ADHD. As a child, it  
23          always took me time to catch on to things. I  
24          was also emotionally disabled due to being a

1 victim of physical and sexual abuse by a  
2 trusted family member.

3 I was in group homes from ages 9 to  
4 12, at which time I experienced additional  
5 abuse. My father was severely addicted to  
6 crack cocaine, which trickled down to me as a  
7 teenager. I turned to drugs as a way to  
8 cope. I have a record and have spent time in  
9 prison, mostly due to my drug use and  
10 untreated mental health issues.

11 Notably, despite having been through  
12 the criminal legal system many times, I have  
13 never been offered the opportunity to  
14 participate in court-ordered diversion.

15 I'm not alone. Our justice system  
16 currently does not provide enough  
17 non-incarceratory opportunities for people  
18 like me who are struggling with mental health  
19 and substance use issues.

20 Our default is always jail and prison,  
21 but it doesn't address the root causes that  
22 bring people to engage in criminal behavior.  
23 In fact, studies consistently show that jail  
24 and prison exacerbate these underlying issues

1 and make people more likely to reoffend.

2 Treatment courts, as specialized court  
3 parts that allow judges to mandate  
4 alternatives to incarceration, are shown to  
5 work. They are better at healing those who  
6 are struggling with substance use and mental  
7 health issues. They are better at breaking  
8 the cycle of recidivism and promoting public  
9 safety. And finally, they're substantially  
10 more cost-effective.

11 Unfortunately, only a small fraction  
12 of those charged with crimes are eligible for  
13 these types of courts. The Treatment Not  
14 Jail Act subsequently expands access to  
15 courts by involving existing law, CPL 216,  
16 which in 2009 created drug courts in every  
17 county in New York.

18 TNJ extends eligibility to those with  
19 mental health concerns and moves away from  
20 arbitrary charge restrictions, instead  
21 allowing judges to accept those they  
22 determine would benefit from treatment and  
23 whose treatment would benefit the public.

24 The TNJ Act also makes significant

1 improvements to the model outlined in 2009,  
2 building on the research that we have learned  
3 over the last 13 years to implement a  
4 treatment court program rooted in harm  
5 reduction, due process, and procedural  
6 justice principles.

7 Please note that speaking today is the  
8 single most scariest thing I have done in my  
9 life. But I'm doing this to help others who  
10 will get in trouble due to their own genetic  
11 backgrounds.

12 I welcome questions.

13 CHAIRWOMAN KRUEGER: Thank you.

14 And our last testifier on this panel  
15 is Sebastian Doggart, from the Families Civil  
16 Liberties Union.

17 MR. DOGGART: Good evening. I am  
18 Sebastian Doggart, executive director of the  
19 Family Civil Liberties Union, an independent,  
20 nonpartisan, nonprofit group assisting  
21 families and kids across the U.S.

22 Four years ago, the FCLU testified  
23 before this same body. We presented  
24 extensive evidence to you to show why the

1 New York Unified Court System is causing  
2 untold harm to our children.

3 We called on you to deny Lawrence  
4 Marks' funding requests until independent,  
5 effective oversight of the judiciary was  
6 established. We warned you of specific  
7 judges and court officials, including  
8 Mr. Marks, and showed how they were all  
9 perpetrating fraud, waste, and abuse on the  
10 public. You ignored all those warnings.

11 Hoping we are not a 21st-century  
12 Cassandra, the FCLU is now here again to warn  
13 you of the harm being inflicted by this  
14 broken judiciary on millions of New York  
15 families. Our request is that you deny the  
16 funding requests in their entirety by both  
17 the UCS and Commission on Judicial Conduct.

18 We also ask that you fund cameras in  
19 courts; insist on a radical review of the  
20 corrupt Attorney for the Child program; enact  
21 a total overhaul of the procedures for  
22 appointing or electing judges; and work to  
23 end the toxic Title IV-D program that is  
24 tearing families apart.

1           Your task is to protect the public,  
2           and that means to ensure that there is  
3           effective oversight on expenditure. You have  
4           failed in this task dismally. For the last  
5           five years, the Center for Public Integrity  
6           has given the State of New York's judicial  
7           accountability a failing grade of F, ranking  
8           48th out of 50 states in terms of judicial  
9           accountability.

10           The organization which you fund to  
11           oversee the judiciary is the Commission on  
12           Judicial Conduct, the CJC. It is a sham.  
13           Every complaint presented by private citizens  
14           is dismissed with a boilerplate letter. And  
15           guess who is on the CJC letterhead? Robert  
16           Tembeckjian, to whom you gave a plum position  
17           as a witness today. Robert Tembeckjian, who  
18           has ruled the CJC, unelected, for a  
19           Putin-style 17 years. Robert Tembeckjian,  
20           who you have rewarded with ever-rising wages,  
21           over \$200,000 due to him the next year, not  
22           including add-ons.

23           Of the hundreds of criminal complaints  
24           filed by the FCLU, the CJC has investigated



1 precisely none. The CJC has shown it does  
2 not need reform, it needs to be shut down.  
3 Tembeckjian needs to be investigated and  
4 audited, and a new judicial oversight body  
5 set up that is truly independent and made up  
6 at least partly by non-attorneys. The foxes  
7 cannot be allowed to run the henhouse.

8 Now the consequences of Tembeckjian's  
9 negligence have been tragic. In the report  
10 we submitted to you four years ago, we warned  
11 you of the conduct of a rogue Suffolk County  
12 judge, Hope Zimmerman. It was Zimmerman who  
13 willfully ignored the pleas of a mother that  
14 her 7-year-old child Thomas Valva was in  
15 mortal danger.

16 Siding with the father, an NYPD cop,  
17 Zimmerman ignored ample evidence of imminent  
18 danger. The result? Tommy Valva was left in  
19 a freezing garage overnight and died of  
20 hypothermia. If Tembeckjian had recommended  
21 Judge Zimmerman's suspension earlier,  
22 Tommy Valva would still be alive today.

23 We also warned you and the CJC of the  
24 abusive practices of Douglas Hoffman, the

1 supervising judge for the New York Family  
2 Court since 2009. Hoffman is being sued for  
3 sexual harassment by his own court attorney,  
4 Alexis Marquez.

5 In an age of Me Too, when Governor  
6 Hochul and many in this Legislature have  
7 called on us to believe women, you'd have  
8 thought that Judge Hoffman would at least  
9 have been suspended until the outcome of a  
10 trial with independent investigation, right?  
11 Not at all. Hoffman, a friend of  
12 Mr. Tembeckjian, has continued to sit pretty  
13 on the bench and even had his wages  
14 increased.

15 The allegations here are strikingly  
16 similar to those which brought down  
17 Governor Cuomo.

18 Why does this Legislature apply double  
19 standards to the executive and judicial  
20 branches of government? This Legislature  
21 needs to do a line-by-line audit of  
22 Mr. Marks' application. That budget is a  
23 blatant attempt to defraud the public. Why  
24 are the salaries of judges not identified

1 anywhere there? Where in this budget are the  
2 generous fringe benefits they reward you to  
3 lavish upon them?

4 In Mr. Marks' budget, no reasons are  
5 given for renewed funding of the appalling  
6 Attorney for the Child program --

7 CHAIRWOMAN KRUEGER: Your time is up.  
8 Thank you very much.

9 MR. DOGGART: I'm wrapping up now.

10 We ask you to please read our detailed  
11 2022 report on the New York court system,  
12 which provides evidence on why you need to  
13 deny the Judiciary's demand for funding, to  
14 shut down the CJC, and order Mr. Tembeckjian  
15 to fund cameras in court. To radically  
16 reform --

17 CHAIRWOMAN WEINSTEIN: Your time is  
18 up, sir.

19 CHAIRWOMAN KRUEGER: Your time is up.  
20 Thank you.

21 Zellnor Myrie for the first question.

22 MR. DOGGART: -- tearing families  
23 apart.

24 SENATOR MYRIE: Thank you.

1                   CHAIRWOMAN KRUEGER: Thank you,  
2 Sebastian.

3                   SENATOR MYRIE: Thank you,  
4 Madam Chair.

5                   Thank you to all of our panelists, and  
6 a special thanks to Anthony for your  
7 testimony and for being vulnerable and  
8 sharing your story. That is very much  
9 appreciated.

10                  This is really for anyone on the  
11 panel. You know, I empathize with the  
12 request that you have made regarding the lack  
13 of resources that you have to do your job.  
14 We've introduced a bill that has to deal with  
15 the Victim Compensation Fund and fair access  
16 to it. We know that many individuals who are  
17 unfortunately victims of crimes do not take  
18 advantage of the resources that are available  
19 to them because of the current structure and  
20 the requirements that they either interface  
21 with law enforcement or the short window in  
22 which they can apply after the crime, the  
23 reporting requirements, et cetera.

24                  And I'm wondering if you can talk

1           about whether you are supportive of this  
2           effort or you can speak to the challenges  
3           that victims face in getting the resources  
4           that they need.

5                     MS. GERHARDT: I would be happy to  
6           step in on that, Senator.

7                     Yes, we're very supportive of the  
8           bill. We think the more resources that can  
9           go to all victims in New York State, the  
10          better. They just don't have enough  
11          resources.

12                    And I think, you know, the very  
13          compensation reimbursements that you're  
14          talking about are the same VOCA grants that I  
15          was talking about in my testimony. The VOCA  
16          that comes into New York State is really  
17          split into two buckets of money: Assistance  
18          grants that go out to service providers, and  
19          compensation that goes out directly to  
20          victims. So I think, hand in hand, both of  
21          these buckets are so critical to New York  
22          State, and the compensation is working very  
23          well. I think people are getting their  
24          resources.

1           I think there's another proposal that  
2           the Governor has to bump some of the  
3           compensation reimbursement for private  
4           property, with which we also agree. So I  
5           think the more that we can get compensation  
6           reimbursement to victims of all types, that's  
7           great.

8           But I think right now our focus has to  
9           be on the grants to victim service providers,  
10          because we're talking about significant cuts  
11          to the very organizations that help those  
12          victims. Whether it's legal services, mental  
13          health, medical, domestic violence advocacy,  
14          it runs the gamut for all types of victims,  
15          and it's something the state really needs to  
16          address urgently.

17          CHAIRWOMAN KRUEGER: Assemblymembers?

18          CHAIRWOMAN WEINSTEIN: Yes, we do  
19          have -- we have Assemblyman Ra first, and  
20          then Assemblyman Walczyk, and then  
21          Assemblyman Epstein. Three minutes each for  
22          these members.

23          ASSEMBLYMAN RA: Thank you, Chair.

24          I just had a question for Ms. Gerhardt

1           regarding this training requirement proposal.  
2           I'm just wondering, you know, if you know  
3           of -- relative to something similar in other  
4           states, or whether there's any type of  
5           standard that may be something that should be  
6           advocated for as an alternative to this.

7                     MS. GERHARDT: That's a great  
8           question, Assemblymember.

9                     There are many states that have  
10          training and certification programs for  
11          advocates. We in New York State already have  
12          requirements in our regulations for domestic  
13          violence advocates, but all of those states  
14          rely on the coalitions or other domestic  
15          violence service providers for that training.

16                    And the reasoning is New York State is  
17          the only state in the country that I'm aware  
18          of that has a state-level agency focused on  
19          domestic violence, which we really  
20          appreciate.

21                    But what we don't want to see is, you  
22          know, with so much need out there with  
23          respect to survivors, and so much support  
24          that domestic violence service providers

1 need, we really don't need to be duplicating  
2 efforts.

3 And NYSCADV, as the state coalition,  
4 does a tremendous amount of training and TA,  
5 as coalitions do across the country, and as  
6 we are federally designated to do. So we'd  
7 rather see the state-level agency do a bunch  
8 of other things that are frankly already in  
9 their enabling statute -- updating policies  
10 for other state agencies and counties,  
11 employee awareness programs, training for  
12 court personnel and judges, which the  
13 Governor's Blue Ribbon Commission on Forensic  
14 Evaluators just called for.

15 So there is a critical need for a lot  
16 of support. We just don't think it's wise to  
17 have the state agency focus on training when  
18 it's already happening throughout other  
19 entities in New York State.

20 ASSEMBLYMAN RA: Great. Thank you.

21 CHAIRWOMAN WEINSTEIN: Thank you.

22 We go to Assemblyman Walczyk.

23 ASSEMBLYMAN WALCZYK: Yeah, my first  
24 question -- thank you, Madam Chair -- my



1 first question is for Joan as well.

2 I was just looking at some crime  
3 statistics statewide, some of the reports  
4 from our cities showing over the last few  
5 years what direction -- and we know, we've  
6 seen large reports about crime waves, but  
7 something that really stuck out to me was,  
8 well, homicides are going up, shooting  
9 victims, burglaries, grand theft auto has  
10 doubled -- all of these things.

11 You have seen a decline in reports of  
12 rape across New York State. How do you  
13 square that? What's -- what do you think is  
14 responsible for that? And what should we be  
15 concerned about right now?

16 MS. GERHARDT: I'm not really familiar  
17 with the decline in reports of rape. That  
18 might be a question better posed to my sister  
19 coalition, the New York State Coalition  
20 Against Sexual Assault.

21 What I can tell you is throughout the  
22 pandemic, certainly, demand for domestic  
23 violence services increased. Because I think  
24 we have seen a lot of increases in reports of

1 violence in domestic settings, and that of  
2 course has to do with a lot of people working  
3 from home, not having the escape of working  
4 outside of the house or the potential to meet  
5 with advocates outside of the home.

6 So, you know, in the early days of the  
7 pandemic, with respect to domestic violence,  
8 we were actually referring to it as the  
9 pandemic within the pandemic because we saw  
10 such increases in the number of police  
11 reports, calls to hotlines -- really  
12 throughout the entire state.

13 So I can't quite square the data point  
14 you're suggesting about the decrease in rape,  
15 but I offer you the crime statistic increase  
16 in domestic violence.

17 ASSEMBLYMAN WALCZYK: Yeah, neither  
18 can I. I appreciate that perspective.

19 Is Mr. Doggart still with us?

20 MR. DOGGART: Yes, I am. Yes, I am.  
21 Hi.

22 ASSEMBLYMAN WALCZYK: I was just  
23 wondering -- right at the top of your report,  
24 Dr. Steven Baskerville said, "The family

1 courts are operating a kidnapping and  
2 extortion racket." What are you talking  
3 about, good sir?

4 I'll yield the rest of my time.

5 MR. DOGGART: Oh. Well, the family  
6 court had become a racket in which there is a  
7 huge amount of money going on, and the  
8 victims of this are the kids.

9 Let me give you one example of  
10 what's the -- part of the racket, which is  
11 where the Legislature is in fact a  
12 beneficiary of it. Your General Fund accepts  
13 millions of dollars a year in federal funds  
14 provided under the Title IV-D program of the  
15 Social Security Act. And this provides  
16 matching funds from all child support orders  
17 made by family judges -- family court judges.

18 Now, that in turn incentivizes those  
19 judges to always allocate a winner and a  
20 loser, with that loser almost always being  
21 the monied parent. This scheme tears  
22 families apart. And it's a racket because  
23 the Democrat -- or the judges, often  
24 Democrats, are helping their Democrat

1 colleagues to earn huge amounts of money  
2 through the Title IV-D money -- program.

3 So one of the -- and the consequences  
4 of that, as we've heard -- and if you don't  
5 pay the child support because of these  
6 orders -- and I have seen orders which are  
7 300 percent of someone's salary -- these  
8 people go to jail. And many of them then  
9 commit suicide. It's a terrible cycle. But  
10 it's all there because of the money.

11 So that's why we call on the  
12 Legislature to voluntarily withdraw from the  
13 toxic Title IV-D program. There are many  
14 other ways that this corruption is going on,  
15 and it's a racket, and Dr. Baskerville is  
16 correct in saying that --

17 CHAIRWOMAN WEINSTEIN: Thank you.  
18 Your time is up.

19 CHAIRWOMAN KRUEGER: Time is up.

20 CHAIRWOMAN WEINSTEIN: I see that  
21 there is a Senator?

22 CHAIRWOMAN KRUEGER: Yes.

23 CHAIRWOMAN WEINSTEIN: Senator --

24 CHAIRWOMAN KRUEGER: Yes, I see that

1 Senator Bailey has joined us. Thank you.

2 Senator Bailey.

3 SENATOR BAILEY: Thank you,

4 Madam Chair.

5 I just wanted to express my  
6 appreciation for the Legal Services of the  
7 Hudson Valley, being a representative of  
8 Westchester County.

9 Thank you for the work that you do,  
10 not just in your testimony but in ensuring  
11 that we continue to provide excellent legal  
12 services, specifically in the area of the  
13 City of Mount Vernon, around the housing that  
14 you do. It does not go unnoticed.

15 And Anthony, thank you for your  
16 courage and for being willing to tell your  
17 story today. It is very difficult to do that  
18 in such public forum, and I just wanted to  
19 say thank you for your bravery in doing so.  
20 It takes a lot to do that.

21 And look, I just wanted to, I guess,  
22 make a long statement in that I appreciate,  
23 you know, you all taking your time for this  
24 testimony.

1                   But mostly, Rachel, I just want to say  
2                   thank you. Especially in Mount Vernon, in  
3                   the four square miles of Mount Vernon  
4                   obviously we've had some concerns with the  
5                   housing issues. And I just wanted to thank  
6                   Legal Services of the Hudson Valley for  
7                   really stepping up, and I figured this would  
8                   be the optimal time.

9                   Madam Chair, I yield the rest of my  
10                  time.

11                 CHAIRWOMAN KRUEGER: Thank you very  
12                  much.

13                 MS. HALPERIN: Thank you,  
14                  Senator Bailey.

15                 CHAIRWOMAN KRUEGER: I think we have  
16                  Assemblymember Epstein.

17                 CHAIRWOMAN WEINSTEIN: Epstein, yes.  
18                  Mr. Epstein, who's the final Assemblymember.

19                 ASSEMBLYMAN EPSTEIN: Thank you,  
20                  Chairs.

21                 Yes. I also -- Anthony, thank you for  
22                  your testimony. I deeply appreciate it.

23                 And Rachel, I just -- kind of on the  
24                  civil legal services front, I'm just trying

1 to figure out where the holes are, you know.  
2 Because I know, you know, we've seen a lot  
3 more money for housing representation and --  
4 on the ground and in your offices across the  
5 state. And, you know, obviously you talk to  
6 other legal service partners.

7 Where do you see the biggest need, and  
8 where do you see us not really having really  
9 stepped up to kind of meet those needs?

10 MS. HALPERIN: Thank you. That's a  
11 great question.

12 I mean, I think overall we have been  
13 very happy, the civil legal services  
14 community, with the Governor's budget. The  
15 additional funds for tenant defense were  
16 obviously much needed, she put money in there  
17 for our foreclosure -- our HOPP program -- as  
18 well as our Disability Advocacy Program,  
19 which is why we were just very surprised that  
20 with -- we know there is a focus and that  
21 people understand the value civil legal  
22 services brings to communities and the  
23 importance of the work that we do -- that  
24 this statewide network that was just built in

1 2018 of legal services attorneys supporting  
2 crime victims would be dismantled, you know,  
3 a couple of years after it was built.

4 And this is really essential work that  
5 we all do across the state. Victims of  
6 consumer fraud, of identity theft, victims of  
7 domestic violence, sexual assault, elder  
8 abuse, bankruptcy -- this is really, soup to  
9 nuts, supporting crime victims in our state.  
10 And so we are very concerned that this  
11 funding was just abruptly terminated with no  
12 plans to keep providers whole and enable us  
13 to keep services going.

14 Just additionally -- this is a bit off  
15 topic, but since you asked, the LSAF funds,  
16 which are always very needed, we are asking  
17 this year, the Legal Services Coalition, for  
18 funding to be added to the LSAF for civil  
19 legal services. So rather than money being  
20 transferred from that to general revenue,  
21 it's to keep it in LSAF to support civil  
22 legal services. It's \$9.2 million, is the  
23 coalition's ask in that.

24 ASSEMBLYMAN EPSTEIN: And how would



1           that be distributed around the state? Do you  
2           guys have a formula?

3                        Because I know the LSAF funding  
4           doesn't fund all the providers around the  
5           state.

6                        MS. HALPERIN: Right. So we would be  
7           asking for that new money to then be RFP'd.

8                        ASSEMBLYMAN EPSTEIN: Thank you.

9                        MS. HALPERIN: Thank you.

10                       CHAIRWOMAN KRUEGER: Thank you.

11                        Just one more question from myself to  
12           Joan Gerhardt.

13                        You were talking about a loss of some  
14           federal money that you're confident you're  
15           going to get back next year, so you're asking  
16           us to keep you whole in the absence of some  
17           federal dollars that will come back.

18                        Can you just clarify what that story  
19           is?

20                        MS. GERHARDT: Sure. We're talking  
21           about the Victims of Crime Act funding at the  
22           federal level, and those grants, that VOCA  
23           grant bucket, is funded out of the Crime  
24           Victims Fund, again at the federal level.

1           And that big, huge pot of money that  
2           fuelled grants to all the states has been  
3           depleted really since 2018. So in New York  
4           State, our grant now is \$140 million less  
5           than it was in 2018.

6           Congress took steps to fix the Crime  
7           Victims Fund to essentially divert more money  
8           from general resources into the Crime Victims  
9           Fund, and the forecast is that the Crime  
10          Victims Fund will replenish itself in two to  
11          three years to a level enough to return the  
12          state grants to levels that we saw back in  
13          our 2018-2019 timeframe.

14          But for now most states are trying to,  
15          you know, take care of that shortfall for the  
16          short-term period of two years. And they're  
17          doing it by either using state general  
18          revenues or using pandemic relief. So we  
19          know states like California, Washington  
20          State, Iowa, Alaska, Maryland have all taken  
21          precautionary steps to ensure that the victim  
22          service providers remained whole as this fund  
23          at the federal level replenishes. That's  
24          what we're asking New York State to do in

1           this budget. And likely next year's as  
2           well --

3                   CHAIRWOMAN KRUEGER: Okay.

4                   MS. GERHARDT: -- until we know that  
5           that grant comes back up.

6                   CHAIRWOMAN KRUEGER: Thank you for the  
7           clarification of that.

8                   I want to thank everyone for joining  
9           us tonight -- yes? Sorry, Helene.

10                  CHAIRWOMAN WEINSTEIN: Senator, we  
11           have Assemblyman Burdick who has a quick  
12           question.

13                  CHAIRWOMAN KRUEGER: Oh. Sorry,  
14           Chris.

15                  CHAIRWOMAN WEINSTEIN: He snuck in  
16           there.

17                  ASSEMBLYMAN BURDICK: That's right,  
18           and I apologize because I was over on  
19           another meeting.

20                  So -- and first of all, I want to  
21           thank you folks for doing the tremendous work  
22           that you do.

23                  And Rachel, it's so good to see you  
24           and to represent you in the Assembly. We

1           have met, and you just -- you're doing an  
2           awesome job with the services that you  
3           provide.

4                     And I'm wondering if you could explain  
5           a little bit more -- that 200 million that's  
6           obviously -- that you're looking for, it's  
7           obviously statewide. And can you tell me  
8           what the needs are? They would be  
9           distributed, as we were discussing a minute  
10          ago, throughout the state.

11                    And can you give me an idea of what  
12          your agency is needing out of that 280?

13                    MS. HALPERIN: Well, I can tell you in  
14          Westchester, for example, all of the agencies  
15          in Westchester receive about \$8 million a  
16          year. And so that would be legal services,  
17          that would be domestic violence providers, My  
18          Sister's Place, Hope's Door, WestCOP, the  
19          Office for Women. So I know for Westchester  
20          it's a total of \$8 million.

21                    I think Joan can talk a little more  
22          precisely about the numbers.

23                    Part of our issue is we really need  
24          information from OVS as to how much money

1           they currently contract and what their  
2           deficit is going to be. And it's that  
3           number, it's that difference of what programs  
4           are currently funded at and what the cuts  
5           they're anticipating for next year are --  
6           it's that number that would close the funding  
7           gap so that programs can remain whole and  
8           continue providing the services they're  
9           providing.

10                   ASSEMBLYMAN BURDICK: Okay. I think  
11           I'm trying to get -- what I think that we  
12           should do is to try to discuss this offline  
13           so that I have a better idea of what the  
14           needs are.

15                   And I think you do -- you know,  
16           obviously 280 million is a fairly big number.  
17           And I think Helene would tell you that too.  
18           And so we have to get an idea of how we're  
19           going to approach this. But I certainly am  
20           very sympathetic to wanting to see this  
21           funded somehow.

22                   You know, one concern that we in the  
23           Legislature have is that, you know, where we  
24           normally get funds from the federal

1 government, and we start funding it through  
2 state funds -- then guess what -- we no  
3 longer get funds from the federal government.

4 And so, you know, it's a little bit of  
5 a balancing act to make sure that we can  
6 continue to get the funding that we need from  
7 the federal government.

8 But let's -- if we could, I would  
9 really like to talk to you offline about it.

10 MS. HALPERIN: Thank you.

11 ASSEMBLYMAN BURDICK: Thank you.

12 CHAIRWOMAN KRUEGER: So I'm going to  
13 thank the panelists, and we're going to move  
14 on to Panel C.

15 And I will read off the groups and  
16 names first. Prisoners' Legal Services for  
17 New York, Karen Murtagh, executive director;  
18 Releasing Aging People in Prison Campaign,  
19 Theresa Grady, community leader; Center for  
20 Community Alternatives, Sirena Sharpe,  
21 community leader; and JPMorgan Chase  
22 PolicyCenter, Nan Gibson, executive director.  
23 Not familiar with that.

24 Anyway, welcome, everyone. You know

1 the rules. Three minutes, and we will go  
2 down the list starting with Karen Murtagh,  
3 Prisoners' Legal Services.

4 MS. MURTAGH: Thank you.

5 Good evening, Madam Chairs Krueger and  
6 Weinstein and esteemed members of the  
7 Legislature. It's so nice to see you all.  
8 Thank you for inviting PLS to testify before  
9 you today.

10 As you know, PLS was founded in 1976  
11 in response to the uprising. This past fall  
12 we commemorated the 50th anniversary of the  
13 uprising. PLS provides legal representation  
14 and assistance to incarcerated New Yorkers to  
15 protect their civil and human rights and help  
16 them prepare for reintegration into society  
17 upon release.

18 PLS currently has six offices  
19 statewide located in Albany, the Bronx,  
20 Buffalo, Ithaca, Newburgh, and Plattsburgh.  
21 Our work focuses on addressing conditions of  
22 confinement in New York State prisons,  
23 including medical and mental healthcare, jail  
24 time and sentence calculations, illegal

1 disciplinary hearings involving solitary  
2 confinement and loss of good time, visitation  
3 rights of parents with their children,  
4 educational and vocational training for  
5 people with disabilities, and preparing  
6 people who are maxing out of prison for  
7 successful reintegration into their  
8 communities through our Pre-Release and  
9 Re-Entry Program -- we call it our PREP  
10 program.

11 For fiscal year 2022-'23, Governor  
12 Hochul has maintained PLS' prior executive  
13 funding by including PLS in her Executive  
14 Budget for \$2.2 million. We are requesting  
15 both houses of the Legislature to jointly add  
16 an addition 2.4 million, 1.2 from the  
17 Assembly and 1.2 from the Senate, resulting  
18 in total funding for PLS of 4.6 million.

19 This funding will allow PLS to  
20 adequately staff our six offices across the  
21 state, continue providing critical legal  
22 services to incarcerated people in state  
23 prisons, and help address a significant  
24 portion of the unmet needs. And it will



1 expand PLS's Pre-Release and Re-Entry Program  
2 beyond the Bronx and Manhattan.

3 In my testimony I share in detail a  
4 number of the court decisions and settlements  
5 that we have entered into with DOCCS over  
6 this past year that demonstrates how PLS  
7 holds DOCCS accountable and ensures that the  
8 incarcerated population is treated justly and  
9 fairly. I also attached a very lengthy  
10 appendix that summarizes PLS's advocacy  
11 efforts over this past year on behalf of  
12 hundreds of incarcerated people.

13 This advocacy and our litigation  
14 highlights the need for PLS to be present --  
15 because if left unchecked, our prisons could  
16 quickly return to pre-Attica conditions. A  
17 prime example of this is the recent release  
18 of the New York State Inspector General's  
19 investigation and findings where it found  
20 that DOCCS's drug testing program needed to  
21 be completely overhauled.

22 In her report, Inspector General Lang  
23 lays out PLS's role in bringing the  
24 false-positive issue to the attention of

1 DOCCS, a role that was critical in DOCCS's  
2 final decision to suspend the buprenorphine  
3 testing, reverse all of the sanctions that  
4 had been given over the past year for  
5 positive drug tests, and alert the Inspector  
6 General's office.

7 I have said in the past, you know, PLS  
8 saves the state money in thousands of  
9 disciplinary hearings that we are -- that are  
10 reversed over the years and seriously  
11 restoring thousands of years of jail time and  
12 sentencing time to people's sentences. But  
13 more important than that, than the monetary  
14 savings, is what PLS does for public and  
15 prison safety.

16 CHAIRWOMAN KRUEGER: Thank you.  
17 Karen, I have to cut you off; you have been  
18 past your time for a little while.

19 MS. MURTAGH: Okay. Thank you,

20 CHAIRWOMAN KRUEGER: But thank you.  
21 We will look at the testimony.

22 Next is Release Aging People in Prison  
23 Campaign, Theresa Grady.

24 MS. GRADY: Thank you, Chairperson.

1           My name is Theresa Grady, and I am a  
2           community leader for the Release Aging People  
3           in Prison Campaign. I'm speaking today on  
4           behalf of myself and three of my fellow RAPP  
5           community leaders: Nawanna Tucker, Lisette  
6           Nieves, and Jeannie Colon.

7           The crisis of mass incarceration is at  
8           a boiling point, with people dying in  
9           New York state prisons once every three days,  
10          on average. Academics have called long  
11          sentences and perpetual parole denials  
12          New York's new death penalty.

13          The path forward is clear. Give  
14          incarcerated people who have rehabilitated  
15          themselves a pathway to return home.

16          As of -- all of us -- me, Nawanna,  
17          Lisette, and Jeannie have a loved one in a  
18          New York State prison. My husband is 67  
19          years old, 17 years into his 40-year  
20          sentence, and suffering from severe chronic  
21          illness. These men have grown into mature  
22          adults who bear no resemblance to the people  
23          who entered prison so long ago.

24          But under existing laws, the prison

1 system doesn't care about that. Even when  
2 they do become eligible for parole, research  
3 shows the Parole Board will likely ignore  
4 their rehabilitation and deny their release  
5 based solely on one thing that can never  
6 change: their original conviction.

7           Worse, data shows they are even more  
8 likely to get denied because they are all  
9 Black or brown. Every day we live in fear  
10 that our loved ones will become, to the  
11 state, another death statistic. The average  
12 age of death in state prisons is only 58.

13           Governor Hochul included valuable  
14 policies and programs to serve currently  
15 formerly incarcerated people in her Executive  
16 Budget, but there is a glaring omission. The  
17 proposal falls into two categories of prison  
18 programs and reentry supports. What's  
19 missing is a bridge between them --  
20 meaningful opportunities for those who have  
21 transformed to actually get released.

22           If the prison system remains addicted  
23 to endless punishment, much of the potential  
24 of Governor Hochul's reforms will perish

1 behind bars.

2 Parole reform will give  
3 community-driven and transformed people a  
4 chance at freedom on a case-by-case basis,  
5 and an opportunity to serve as mentors,  
6 nonprofit leaders, and drug counselors for  
7 young people in their home communities.

8 One report found a violence  
9 interrupter program led by formerly  
10 incarcerated people led to 20 percent less  
11 gun violence.

12 A Columbia University report found  
13 passage of elder parole, and fair and timely  
14 parole, would save \$522 million annually --  
15 money that could be invested in mentor  
16 programs, services for crime survivors,  
17 quality mental health care, education, and  
18 more. Together these bills would expand  
19 eligibility for case-by-case parole  
20 consideration and make the process more fair.  
21 And they may save our loved ones' lives.

22 The bills are also backed by some of  
23 the largest victim and survivor advocacy  
24 groups in the state, including the Crime

1 Victims Treatment Center and the New York  
2 State Coalition Against Sexual Assault, who  
3 prioritize rehabilitation over endless  
4 punishment.

5 It is time for lawmakers to act to  
6 give our loved ones and countless others who  
7 have transformed their lives a pathway to  
8 return home.

9 Thank you.

10 CHAIRWOMAN KRUEGER: Thank you very  
11 much. Perfect timing also. Thank you.

12 (Laughter.)

13 CHAIRWOMAN KRUEGER: Our next  
14 testifier is Sirena Sharpe, Center for  
15 Community Alternatives.

16 Good evening.

17 MS. SHARPE: Hi. Good evening.

18 My name is Sirena Sharpe, a leader  
19 with the Center for Community Alternatives  
20 and a resident of Syracuse. I'm testifying  
21 in support of including the Clean Slate Act  
22 in the Senate and Assembly one-house budgets.

23 I am one of more than 2 million  
24 New Yorkers who have experienced perpetual

1 punishment because of a conviction record,  
2 even though I finished serving my time over a  
3 decade ago.

4 When I was 16, I became homeless and  
5 struggled with drug use. A year later I was  
6 convicted of a drug charge and spent a year  
7 and a half incarcerated. I was released at  
8 the age of 19 and was eager rebuild my life.

9 I applied for dozens of jobs but was  
10 turned down repeatedly. More than 70  
11 employers rejected me because of my record.  
12 Finally I got a job as a cashier. I thought  
13 I could finally move forward with my life, so  
14 I put all my energy into applying for  
15 college. But again, my conviction history  
16 came up and the college didn't want to admit  
17 me.

18 New York should not be systematically  
19 blocking college access to the people who  
20 need it most. A Brennan Center report  
21 estimates that people with conviction  
22 histories collectively lose hundreds of  
23 billions of dollars in earnings every year.  
24 This is particularly urgent in low-income

1 communities and communities of color, which  
2 have borne the brunt of mass incarceration  
3 and which are disproportionately affected by  
4 old conviction records.

5 And what about women across our state  
6 who are trying to overcome these barriers to  
7 build stable lives for our families and  
8 ourselves? As a survivor of domestic  
9 violence with a conviction history, I  
10 struggled to leave an abusive relationship  
11 because landlords hesitated to rent to me due  
12 to my record.

13 The mechanics of the bill are simple.  
14 Once someone like me has completed their  
15 sentence, is off of probation and parole, and  
16 after a three- or seven-year waiting period,  
17 our records would be automatically sealed.  
18 Those who have new convictions or pending  
19 charges would not be eligible.

20 For me and so many others, a clean  
21 slate is a real chance at redemption. Those  
22 of us who have served our time want the same  
23 thing everyone else does: A stable job, a  
24 roof over our heads, and the ability to



1 provide for our loved ones.

2 The Governor's inclusion of  
3 Clean Slate in the 2023 budget is a testament  
4 to the advocacy of directly impacted  
5 individuals and the broad coalition of  
6 supporters who have fought tirelessly for  
7 this vital relief. We appreciate Governor  
8 Hochul's support for the key principles that  
9 underpin Clean Slate, but the proposed  
10 language in her Executive Budget includes  
11 changes that significantly weaken the  
12 existing bill, including dramatically  
13 delaying when an individual becomes eligible  
14 for sealing and thereby limiting the  
15 legislation's effectiveness.

16 We ask you to include in your  
17 one-house budgets the full Clean Slate bill  
18 as is. Clean Slate is a jobs bill, a housing  
19 bill, and an anti-poverty bill.  
20 Automatically sealing past conviction records  
21 is also a matter of simple fairness. We urge  
22 you to include the Clean Slate Act in the  
23 budget without weakening amendments and bring  
24 real relief to all New Yorkers.

1 Thank you.

2 CHAIRWOMAN KRUEGER: Thank you very  
3 much.

4 And our last of the panel, Nan Gibson.

5 MS. GIBSON: Thank you,  
6 Senator Krueger, Assemblymember Weinstein,  
7 and committee members.

8 My name is Nan Gibson, and I'm  
9 executive director of the JPMorgan Chase  
10 PolicyCenter.

11 JPMorgan Chase is probably one of the  
12 largest employers and contributors to the  
13 economy of the State of New York. We  
14 appreciate the opportunity to provide  
15 testimony in support of the Clean Slate Act,  
16 which would implement automatic record  
17 expungement in New York State.

18 One in three Americans has an arrest  
19 or conviction record that can significantly  
20 impact their ability to get a job, housing,  
21 or an education. The petition-based  
22 expungement system is costly, complicated,  
23 and time-consuming.

24 In New York State, it's estimated that

1 more than 600,000 people are today eligible  
2 to have their records cleared, but very few  
3 pursue the complex process. This means that  
4 even after fulfilling their justice system  
5 obligations, people with criminal records  
6 often continue to be blocked from fully  
7 participating in the economy.

8           The drag on the earnings potential of  
9 tens of millions of Americans are costs not  
10 only borne by individuals, their families,  
11 and their communities, but they also have  
12 larger economic consequences for business and  
13 society.

14           This issue also disproportionately  
15 affects people of color. Three-quarters of  
16 New York State's formerly incarcerated  
17 population is either Black or Latinx. Clean  
18 Slate legislation can help change this.

19           As we continue to recover from the  
20 pandemic, businesses are adapting to economic  
21 conditions and resuming their search for  
22 skilled workers. By reducing barriers to  
23 employment for those with criminal records,  
24 we will be able get more people back to work

1 more quickly.

2 JPMorgan Chase is committed to giving

3 people across the country a second chance.

4 In 2020, JPMorgan Chase hired more than

5 2100 people with criminal backgrounds --

6 about 10 percent of our new hires in the

7 U.S. -- whose history had no bearing on the

8 requirements of the job they were seeking.

9 And with a workforce of more than 30,000 in

10 New York State, the firm is always in need of

11 local talent to fill open positions.

12 Last year, JPMorgan Chase helped

13 launch the Second Chance Business Coalition,

14 co-chaired by our chairman and CEO, Jamie

15 Dimon. The coalition has grown to more than

16 40 large companies, many based in New York,

17 with the goal of expanding hiring and

18 advancement practices for people with

19 criminal records within these companies and

20 beyond.

21 If implemented, Clean Slate

22 legislation will help bolster the state's

23 economy by more fully tapping the talents of

24 thousands of people who are currently

1 unemployed or underemployed because of their  
2 criminal records. When someone cannot get  
3 their foot in the door to compete for a job,  
4 it hurts businesses and communities by  
5 limiting access to opportunity.

6 The benefits of automatic record  
7 expungement are clear. We urge the New York  
8 State Legislature and Governor Hochul to  
9 enact Clean Slate legislation.

10 Thank you very much for your  
11 consideration.

12 CHAIRWOMAN KRUEGER: Thank you very  
13 much, all four of you.

14 And I'm going to call up  
15 Senator Zellnor Myrie first.

16 SENATOR MYRIE: Thank you,  
17 Madam Chair.

18 And again, thank you to the panelists  
19 for your incredible patience and endurance.  
20 I'm not sure you anticipated having to  
21 testify so late in the day, so I just want to  
22 offer my thanks.

23 Thank you for sharing your stories as  
24 well. Ms. Gibson, it is good to see you.

1 I'm hoping that you can convey to any  
2 reticent business owner or businesses  
3 throughout the state who say that this is not  
4 a population that I can tap into -- if you  
5 can just -- and you already alluded to some  
6 of this in your testimony, but just sort of  
7 talk to the economic benefits and to the  
8 businesses across the state -- being that  
9 JP Morgan is one of the largest, as you have  
10 already communicated.

11 MS. GIBSON: Sure. And thanks for the  
12 question, and thanks for your leadership on  
13 this legislation.

14 Well, so as I said in the testimony,  
15 JPMorgan Chase is committed to giving people  
16 with criminal backgrounds an opportunity to  
17 succeed and be part of our inclusive  
18 workforce strategy.

19 We have gone and created community  
20 hiring models where we work with nonprofit  
21 partners in the communities, and legal  
22 services partners, to help get more people  
23 through what is a very complex process, the  
24 hiring process, in and of itself.

1           And given the regulatory framework  
2           that we operate in -- regulations through the  
3           FDIC that have to be met -- we have worked  
4           diligently to find a way to expand the number  
5           of people who we can bring on board who have  
6           a criminal background, as I said, but that  
7           criminal background has no bearing on the job  
8           that they're going to be performing.

9           So we have -- I think as evidence of  
10          the success of the work that we've been  
11          doing, our business leaders in markets across  
12          the country are interested in having this  
13          community hiring model in their markets,  
14          because it's a very committed workforce. We  
15          see very low turnover in the folks who we're  
16          bringing on and, you know -- and we see  
17          dedicated workers.

18          So I hope that answers your question.

19          SENATOR MYRIE: It does. Thank you,  
20          Ms. Gibson.

21          And again, thank you to rest of the  
22          panel for your time and your patience and for  
23          being vulnerable.

24          Thank you.

1 CHAIRWOMAN KRUEGER: Thank you.

2 And Assemblywoman Weinstein?

3 CHAIRWOMAN WEINSTEIN: Right. We have  
4 several Assemblymembers. Let's start with  
5 Assemblyman Lawler.

6 ASSEMBLYMAN LAWLER: Thank you,  
7 Chairwoman.

8 I guess my question is probably  
9 directed more towards Theresa, but certainly  
10 I would be interested in everybody else's  
11 opinions if they wish to opine.

12 It is really more of a -- just a --  
13 one question, straightforward. You know, I  
14 know there is a push for elder parole. I'm  
15 just curious, is there any offense or crime  
16 that you believe would not warrant release  
17 for somebody who's over the age of 55?

18 (Phone interruption.)

19 MS. GRADY: Excuse me. I've got to  
20 get this -- one second.

21 ASSEMBLYMAN LAWLER: No problem.

22 MS. GRADY: I'm sorry, Senator (sic).

23 ASSEMBLYMAN LAWLER: That's okay.

24 MS. GRADY: No. No. My belief is



1           that everybody is due a chance at redemption.  
2           I mean, you know, it could be a police  
3           officer, it could be a doctor or nurse.

4                     These people 55 and older, the  
5           recidivism rate for them is like 1 percent,  
6           if that.

7                     So I just believe that everybody is  
8           due that respect. You know, most of them are  
9           aged out. Ailed out. The recidivism for  
10          them is so low that no, I don't believe that,  
11          you know, there should be a limit to it.

12                    And, you know, elder people today in  
13          prison age by two years on a daily basis.  
14          For instance, I'll say to you my husband, who  
15          is 67, who's ailing -- very much so -- when I  
16          see my husband today, he's shaking and  
17          trembling from what's ailing him. So he  
18          looks more to me like 72 years old instead of  
19          67.

20                    So what I'm trying to say is that no,  
21          I don't believe there's a limit. Can you  
22          understand that for me?

23                    ASSEMBLYMAN LAWLER: I do. And I  
24          appreciate your sincerity in that, I do.

1 MS. GRADY: Okay.

2 ASSEMBLYMAN LAWLER: Okay.

3 Karen or Sirena, if either of you  
4 wanted to respond to that, you're welcome to.  
5 If not, that's fine.

6 Okay. Thank you.

7 CHAIRWOMAN KRUEGER: Thank you.

8 MS. SHARPE: Oh, I'm sorry. I was  
9 going to answer. I was trying to find the --

10 ASSEMBLYMAN LAWLER: So sorry. Go  
11 ahead.

12 MS. SHARPE: For the Clean Slate bill,  
13 I know one of the things that makes -- you  
14 don't qualify if you have a sex crime. So  
15 that's all I wanted to add, if that answers  
16 your question.

17 ASSEMBLYMAN LAWLER: Okay. No, I  
18 appreciate that.

19 Okay. Thank you very much.

20 CHAIRWOMAN WEINSTEIN: We go to the  
21 Senate, then.

22 CHAIRWOMAN KRUEGER: Thank you. And I  
23 believe we have Senator Hoylman.

24 SENATOR HOYLMAN: Good evening.



1 services that are required. So we triage.  
2 You know, we receive an average of 10,000  
3 letters a year, and we can't take all of  
4 those cases. So we take the worst cases.

5 So our proposal this year is to ask  
6 for the Senate and the Assembly to both pitch  
7 in an equal amount of 1.2 million, which  
8 would get PLS to a final budget of 4.6.  
9 Currently this year our budget is 3.55. The  
10 4.6 would allow us to finally adequately  
11 staff our existing offices.

12 And we just recently opened a very  
13 tiny office in the Bronx. We have one person  
14 working there, a social worker, who is  
15 setting up our entire Pre-Release and  
16 Re-Entry Project where we are working with  
17 people that are maxing out of prison.

18 So earlier we heard from  
19 Commissioner Annucci and a number of people  
20 about the different safety nets when people  
21 get out and parole is there. That isn't --  
22 that doesn't exist for people that max out of  
23 prison. They're given \$40 and a bus ticket  
24 and a pat on the back, "Hope you make it."

1           So our PREP program meets people in  
2           prison for the year before they're released,  
3           and then when they come home we work with  
4           them for three years upon release to help  
5           them reintegrate into the community. But  
6           right now we can only accept, you know, 20 or  
7           30 clients.

8           We have a small foundation funding to  
9           do this, and if we could get the funding  
10          we're requesting, we could expand the whole  
11          PREP program to all five boroughs of New York  
12          City, which have the highest percentage of  
13          people maxing out of prison.

14          SENATOR HOYLMAN: Thank you. That was  
15          very clear, and I really appreciate it.

16          And a special hello to Ms. Grady from  
17          RAPP. I look forward to working with you on  
18          the elder parole legislation in the coming  
19          weeks and months.

20          Thank you, Madam Chair.

21          CHAIRWOMAN KRUEGER: Thank you.

22          And I think we're handing it back to  
23          the Assembly. I think we're done with  
24          Senators.

1                   CHAIRWOMAN WEINSTEIN: Okay. We have  
2 a number of Assemblymembers.

3                   We will start with Assemblyman Weprin.

4                   ASSEMBLYMAN WEPRIN: Thank you,  
5 Madam Chair.

6                   And thank you, panelists, for being --  
7 coming this late in the day. And I know  
8 you've experienced it in the past, even in  
9 person. So again, thank you for coming.

10                  My first year as chair of Corrections  
11 was 2017. And Karen Murtagh, you may  
12 remember that you were one of the first  
13 advocates to meet with me and explain how  
14 important the work that you have done -- that  
15 you do for those that really have no other  
16 alternative. And I found out firsthand, and  
17 I've referred you a number of cases during my  
18 tenure. And every dollar that you get is not  
19 enough. I mean, you do so much, such  
20 God-sent work for people that really have no  
21 other alternative, and I have seen it  
22 firsthand.

23                  And anything I can do in my power to  
24 make you whole -- and I know it's always a

1 catch-up -- but a \$4.6 million request, half  
2 from the Assembly, half from the Senate, plus  
3 the 2.2 from the Governor, seems very  
4 reasonable, and I know you will put that to  
5 good work.

6 And again, I want to thank RAPP for  
7 all of their advocacy, and I'm hoping that  
8 this year is going to be the year that we can  
9 get fair and timely parole done as well as  
10 elder parole. And I'm hoping to put elder  
11 parole on an upcoming agenda very soon.

12 Thank you for coming.

13 MS. MURTAGH: Thank you, Assemblyman.

14 CHAIRWOMAN WEINSTEIN: Assemblyman  
15 Burdick.

16 I'm sorry. I mean, Assemblyman --  
17 Senator Bailey, have you --

18 SENATOR BAILEY: Yes. I just --

19 CHAIRWOMAN KRUEGER: He went.

20 SENATOR BAILEY: No, I didn't go yet,  
21 Liz.

22 CHAIRWOMAN KRUEGER: Oh, I'm sorry,  
23 Senator Bailey. I didn't realize -- for this  
24 panel. Excuse me.

1                   SENATOR BAILEY: No, no problem.

2                   Sorry. Just really, really briefly.

3                   Ms. Grady and Ms. Sharpe, thank you  
4                   for your stories. Ms. Sharpe, especially  
5                   speaking about the issues that many  
6                   individuals who have the best of intentions  
7                   in terms of making sure they procure  
8                   employment and do everything that they,  
9                   quote, unquote, are supposed do, and then  
10                  they are effectively disregarded by  
11                  society -- and I thank you for, you know,  
12                  continuing to, you know, to fight and show  
13                  that.

14                  You know, everybody's life is  
15                  valuable. And that the economic sustenance  
16                  will be what eventually brings us to  
17                  prosperity. So that brings me to Ms. Gibson.  
18                  I didn't forget you, Karen, I'll get to you  
19                  in a second.

20                  But Ms. Gibson, I would just ask you  
21                  that -- I guess from your experience, from  
22                  your personal experience implementing  
23                  something like Clean Slate, how quickly would  
24                  we as a state be able to reap the benefits of



1           this expanded economic pool?

2                       MS. GIBSON: Well, I would say that  
3 depends on how quickly you can implement it,  
4 right?

5                       But I think what we have seen in other  
6 states is that by reducing the friction in  
7 the labor market, it allows people to take  
8 advantage of employment opportunities, you  
9 know, housing opportunities, and education  
10 opportunities. So it is, you know -- we have  
11 already seen in the work that we have done,  
12 you know, separately outside of the Clean  
13 Slate legislation, just in our work with the  
14 FDIC to encourage them to change some of the  
15 regulations around the types of, you know,  
16 crimes that someone might have in their past  
17 or record that they might have in their past,  
18 whether or not we would need to get a waiver  
19 to hire them -- and just with changes to FDIC  
20 regulations which all banks are able to take  
21 advantage of.

22                      You know, anecdotally, we have seen  
23 that even those types of small changes have  
24 made a meaningful difference in our ability

1 to hire. So, you know, when we have seen it  
2 in a highly regulated environment, you could  
3 imagine that the benefits, you know, will  
4 also cascade in less-regulated settings.

5 SENATOR BAILEY: Again, I just imagine  
6 that, you know, especially for a successful  
7 organization like Chase to be able to see  
8 that and to be able to see the benefits that  
9 will be able to come from an economic  
10 perspective, I would imagine that, as Senator  
11 Myrie said, this would cascade, I think you  
12 mentioned, all the way up and down the state.

13 So I wanted to thank you,  
14 Senator Myrie and Assemblymember Cruz for  
15 their work on this piece of legislation.

16 And Karen, I just wanted to thank you  
17 for everything that you do with PLS in terms  
18 of being incredibly responsive and having  
19 conversations with the chair -- with Chair  
20 Hoylman in terms of, you know, that possible  
21 expansion. That would be excellent.

22 You have been nothing but excellent in  
23 terms of some of the serious -- and to the  
24 minute things that some -- or

1           apparently seemingly minute things that some  
2           folks face in correction facilities. And PLS  
3           has always been there every step of the way.

4                        So I just wanted to show my  
5           appreciation for you what do and again, as  
6           many colleagues have said, thank you all for  
7           your incredible patience and your testimony.

8                        MS. MURTAGH: Thank you, Senator.

9                        CHAIRWOMAN KRUEGER: Okay. Now back  
10           to the Assembly. Thank you.

11                       CHAIRWOMAN WEINSTEIN: Assemblyman  
12           Burdick.

13                       ASSEMBLYMAN BURDICK: Thank you, and I  
14           join my colleagues in thanking you all for  
15           your perseverance and patience with us.

16                       And Ms. Sharpe, thank you for sharing  
17           with us your personal story and account.

18                       And I follow very closely the work of  
19           RAPP, and in fact a member of RAPP is on my  
20           own internal advisory committee on the work  
21           that I do on the Correction Committee.

22                       And I appreciate your mentioning your  
23           concerns about the iteration of Clean Slate  
24           that's in the Executive Budget. And I have

1 not had a chance to read the Article VII yet,  
2 and I'm just wondering -- Ms. Gibson, I first  
3 want to commend JPMorgan for endorsing  
4 Clean Slate. And last year JPMorgan endorsed  
5 Clean Slate in the form that Ms. Sharpe had  
6 described.

7 And I'm wondering whether you have had  
8 a chance to review the Article VII iteration  
9 of it, and whether you're going to be urging  
10 the Legislature as well to take action on  
11 Clean Slate in its original form.

12 MS. GIBSON: Well, thank you for the  
13 question.

14 And our -- as we understand it, there  
15 are efforts underway to -- discussions  
16 underway to try to come to some type of  
17 agreement about moving forward. And we would  
18 just encourage the Legislature and the  
19 Governor to work together to, you know, move  
20 a meaningful Clean Slate piece of  
21 legislation.

22 ASSEMBLYMAN BURDICK: Fair enough.  
23 Thank you. I appreciate that.

24 And again, we really do appreciate

1 your advocacy. And keep up the good work  
2 that you all are doing.

3 MS. GIBSON: Thank you. Appreciate  
4 it.

5 CHAIRWOMAN WEINSTEIN: I -- let's see  
6 if we -- we have two Assemblymembers,  
7 Assemblywoman Kelles and then Assemblyman  
8 Epstein.

9 ASSEMBLYWOMAN KELLES: Wonderful.  
10 Thank you so much.

11 I want to shout out to both Theresa  
12 Grady and Sirena Sharpe. Thank you both for  
13 being here and the work that you do. I very  
14 much enjoyed working with your organizations.

15 And I do -- I want to follow up.  
16 Theresa, really quickly, one thing that you  
17 said -- just to add my support. I think  
18 there is lot of misrepresentation of the  
19 Elder Parole bill. First of all, people are  
20 eligible only after serving 15 years and  
21 being beyond the age of 55.

22 And I have been hearing people talk  
23 about today that it would allow people who  
24 committed a crime later on in life to be

1 eligible. That's why the 15 years is there.  
2 So that's a clarification.

3 The second clarification is that it  
4 gives them the opportunity to be eligible for  
5 parole. There is lot of manipulation of  
6 this, that it is an instantaneous allowing  
7 them out of prison if they're over 55 years  
8 old. That is a tremendous manipulation of  
9 the actual details of the bill.

10 So, Theresa, you have been a wonderful  
11 person in educating on the details of that.  
12 I highly appreciate the distinction that this  
13 creates the opportunity to enter back into  
14 the community, to prove the rehabilitation  
15 and transformation. So thank you for your  
16 work on that.

17 MS. GRADY: Thank you.

18 ASSEMBLYWOMAN KELLEES: Absolutely.

19 And Karen -- there you are, Karen.  
20 Thank you so much for your work.

21 There are two things that I wanted to  
22 just bring up. One -- and it's good to see  
23 you again, I look forward to continuing to  
24 work with you -- with respect to staffing.

1 From conversations that I have had with PLS,  
2 the recommendation from the American Bar  
3 Association is for one representative to  
4 every 400.

5 We have 31,000 in our state, which  
6 means that even by the national  
7 recommendation, we are thousands, right --  
8 we're hundreds of representatives short. How  
9 many short of what we actually need?

10 MS. MURTAGH: I haven't done the  
11 numbers lately, but that -- that whole --  
12 that math problem is on our website where we  
13 lay out the American Bar Association  
14 recommendations.

15 And we now have approximately  
16 27 employees in core PLS. We have an  
17 immigration unit too, but the immigration  
18 unit does something completely separate from  
19 conditions of confinement.

20 So we are way over.

21 ASSEMBLYWOMAN KELLES: So it's 27 for  
22 those 31,000 -- which is way under the  
23 400 recommendation rate. So that is what  
24 you're referring to when you're asking for

1           this additional funding.

2                     With my last few seconds, if you could  
3           talk about what you're not able to provide.  
4           And specifically you mentioned issues with  
5           good time, and not -- for people not being  
6           given appropriate good time or being allowed.  
7           Can you talk briefly about that? Maybe I  
8           missed something.

9                     CHAIRWOMAN WEINSTEIN: You know --  
10          Assemblywoman, you know, the time is up. So  
11          perhaps you could send that information to us  
12          and we would share --

13                    ASSEMBLYWOMAN KELLES: Yes, I'm good.

14                    CHAIRWOMAN WEINSTEIN: -- that with  
15          all of the members who have been here.

16                    So we're going to move on to  
17          Assemblyman Epstein to close this panel.

18                    ASSEMBLYMAN EPSTEIN: Thank you,  
19          Chair. And I'll be quick.

20                    I also want to appreciate Theresa for  
21          all you do, it really -- time and time again,  
22          you keep coming back and talking to us.

23                    Sirena, thank you for your advocacy.

24                    MS. GRADY: Thank you.





1 pass-through agency is DCJS, and perhaps  
2 there's money in there that they're going to  
3 RFP down the road. But none of that was  
4 communicated to me yet.

5 So all I know is that we got what we  
6 have gotten, you know, for the past six  
7 years.

8 And I completely agree with you. I  
9 don't like coming to the Legislature to try  
10 to get an add for this, because PLS is much  
11 more like a state agency than a typical  
12 nonprofit. We have six offices across the  
13 state. We are tasked with providing civil  
14 legal services to all incarcerated people in  
15 New York State prisons.

16 So, you know, trying to piecemeal this  
17 and saying you add this and you add that, it  
18 really should be a complete Executive item.  
19 It was, under Hugh Carey and under Mario  
20 Cuomo, in its beginnings. But then slowly,  
21 when more prisons were built and more money  
22 was needed, then the Assembly pitched in and  
23 now the Senate has pitched in. And I -- I  
24 totally appreciate the support of the

1           Legislature, because we wouldn't exist if we  
2           didn't have your support.

3                     But it really should be, in my  
4           opinion, my humble opinion, an  
5           Executive-funded item, because it is a state  
6           responsibility to provide civil legal  
7           services for people that are incarcerated.

8                     ASSEMBLYMAN EPSTEIN: Thank you.

9                     Thank you, Chair.

10                    CHAIRWOMAN KRUEGER: Okay. So I think  
11           we have now completed this panel.

12                    Thank you very much, all of you, for  
13           your work and your advocacy.

14                    I'm going to shift to Panel D, for  
15           those of us still keeping track.

16                    (Zoom interruption.)

17                    CHAIRWOMAN KRUEGER: Okay, sorry.

18                    Everyone else mute, please.

19                    Assigned Counsel Association of  
20           New York State, Brian Zimmerman, vice  
21           president, and New York State Defenders  
22           Association, Susan Bryant, executive  
23           director.

24                    Good evening, both of you. Why don't

1 we start with Brian Zimmerman.

2 MR. ZIMMERMAN: Thank you for this  
3 opportunity to address you. My name is Brian  
4 Zimmerman. I'm the vice president of the  
5 Assigned Counsel Association, a group formed  
6 to advocate for assigned counsel, who provide  
7 legal representation for indigent adults and  
8 children in family, criminal, Supreme and  
9 Appellate courts.

10 Representing our most vulnerable  
11 citizens in these courts is a privilege we  
12 have chosen, and one we do not take for  
13 granted. I'm here because of a growing  
14 crisis in all these courts. There are too  
15 few attorneys to represent the numbers in  
16 need, whether a domestic violence victim, a  
17 parent or child separated by state action, a  
18 parent fighting to see their children, or a  
19 criminal defendant seeking to defend their  
20 innocence while languishing in jail or  
21 seeking appellate redress.

22 Statewide, there are approximately 30  
23 to 50 percent less attorneys available to  
24 handle this ever-increasing number of cases.

1           Why the exodus? First and foremost, the  
2           legislatively set compensation rate has  
3           remained at \$75 per hour since 2004, while  
4           the costs to practice have risen every year  
5           for 18 years. It is simply unaffordable for  
6           our attorneys to continue this work, and even  
7           harder to recruit new attorneys. No job in  
8           New York State has seen no raise in over  
9           18 years.

10                   As a voice for the underserved we  
11           represent, too many cases and too few  
12           attorneys equates to an inability to provide  
13           high-quality representation. Court  
14           proceedings are needlessly delayed, and  
15           decisions for these most vulnerable people --  
16           the poor, the underserved, often in our Black  
17           and brown communities, do not get public  
18           protection. The lasting trauma inflicted on  
19           those indigent communities is immeasurable  
20           and repeats itself year after year.

21                   In 2003, inadequate rates then  
22           resolved when a court imposed a rate of  
23           \$90 per hour, admonishing the Legislature to  
24           act then and not repeat this crisis. Sadly,

1 the crisis has repeated. Chief Judge  
2 DiFiore, multiple state commissions, and the  
3 New York State Bar Association have urged  
4 action. You heard ILS today urge action.  
5 Nine major New York City bar associations  
6 have taken legal action, challenging  
7 New York's failure to provide  
8 constitutionally required access to justice.

9 We thank Senator Bailey, Assemblyman  
10 Magnarelli, and former Assemblyman Lentol for  
11 sponsoring legislation to increase those  
12 rates that's been introduced for the last  
13 three years under Senate 3527 and Assembly  
14 6013. This is an upstate and downstate  
15 issue.

16 We are advocating for attorneys to be  
17 compensated at the federal defender hourly  
18 rate of \$158 per hour, with a cost-of-living  
19 provision. We are asking that the costs  
20 above \$75 per hour be a state, not a county  
21 expenditure.

22 We applaud the Senate and Assembly for  
23 introducing legislation, but this crisis will  
24 not end until the money to fund the

1           legislation is part of the final budget. We  
2           ask the Senate and Assembly to make ending  
3           this crisis a legislative priority and  
4           include appropriations in the budgets of each  
5           house to support the above legislation.

6                     Our society is judged by what it does  
7           to meet its responsibility to the least  
8           fortunate, and never more importantly than  
9           when their liberty and equal access to  
10          justice is at stake. The time to act is now.

11                    Thank you for your time and support.

12                    CHAIRWOMAN KRUEGER: Thank you very  
13          much.

14                    And our next speaker is Susan Bryant.

15                    MS. BRYANT: Good evening,  
16          Chair Krueger and Chair Weinstein and members  
17          of the Public Protection budget committee.

18                    My name is Susan Bryant. I'm the  
19          executive director of the New York State  
20          Defenders Association, also known as NYSDA.  
21          Thank you for the opportunity to testify this  
22          evening about funding for NYSDA's Public  
23          Defense Backup Center and Veterans Defense  
24          Program. Continued survival of both will

1 improve racial justice, public defense, and  
2 community safety.

3 For over 40 years NYSDA has received  
4 yearly grants from the state to operate the  
5 Public Defense Backup Center, which helps the  
6 state meet its constitutional obligation to  
7 provide quality public defense. Our staff  
8 provide essential legal and technical support  
9 services to public defenders around the  
10 state, from training programs to our case  
11 management system to our publications and  
12 legal hotline.

13 I'm here to ask both the Senate and  
14 the Assembly to ensure that this year's  
15 budget includes 2,989,000 for NYSDA's Public  
16 Defense Backup Center. This includes  
17 2,089,000 -- which is the same amount we  
18 received last year and since 2012. We're  
19 also asking for an additional \$900,000 in  
20 order to meet a critical need to establish  
21 the statewide Defender Discovery & Forensic  
22 Support Unit.

23 In the brief time I have left, I want  
24 to describe what we need for that unit. And



1           that unit comes out of the fabulous discovery  
2           laws that you passed several years ago, which  
3           removed the blindfold and have allowed  
4           defenders to receive the information that  
5           they so desperately need to advise their  
6           clients and to provide representation.

7                     The state's invested \$40 million each  
8           year to meet the needs of prosecutors, police  
9           and other law enforcement with regard to the  
10          discovery law, but no funding has been  
11          provided to help public defenders. Public  
12          defenders and their clients cannot continue  
13          be left behind.

14                    The \$900,000 we have requested would  
15          be a modest and cost-effective way to help  
16          public defenders throughout the state. As we  
17          have shown for the last four decades, our  
18          Public Defense Backup Center's centralized  
19          services have created efficiencies. The new  
20          unit would also improve statewide efficiency  
21          by centralizing resources, and staff with  
22          forensic science and discovery expertise can  
23          provide high-quality technical and legal  
24          support and training.

1           It would also help us enhance our  
2 public defense case management system, and it  
3 would provide assistance to family defenders  
4 as well who are significantly underresourced,  
5 as you heard from Patricia Warth from the  
6 Office of Indigent Legal Services a little  
7 while ago.

8           Our budget testimony includes much  
9 more details on the need for the unit and the  
10 funding for it.

11           I also want to mention our Veterans  
12 Defense Program, which we're asking for last  
13 year's funding level of \$720,000, and we'll  
14 be submitting testimony with regard to VDP to  
15 the Human Services budget committee members  
16 as well.

17           Thank you for your support, and I  
18 appreciate your time and appreciate the  
19 support that we've received from the  
20 Legislature over the years.

21           CHAIRWOMAN KRUEGER: Thank you both  
22 for your time and your testimony.

23           And I see Jamaal Bailey, chair of  
24 Codes, with his hand up.

1                   SENATOR BAILEY: Very brief.

2                   Susan, thank you so much for what you  
3 do with the defenders and your constant  
4 communication and correspondence with us and  
5 our amazing staff. And so this is the  
6 portion where we make sure we shout out to  
7 our amazing staff here that does so much  
8 incredible work in helping us get those  
9 legislative accomplishments done. So I just  
10 wanted to make sure I thank you for that.

11                   Brian, thank you for the shout out,  
12 but also the 18-B. These are definitely  
13 things that are critically important that  
14 we've heard about.

15                   I think both of you have raised  
16 salient arguments as to why, you know, each  
17 of what you've spoken about should be  
18 accomplished. I just, again, want to thank  
19 you for your patience.

20                   And we're at that point of the program  
21 where I yield my time. Thank you,  
22 Madam Chair.

23                   CHAIRWOMAN KRUEGER: Thank you, Sir  
24 Chair.

1                   Chairwoman Weinstein, do you have any  
2                   Assemblymembers?

3                   CHAIRWOMAN WEINSTEIN: We do not have  
4                   any members waiting to ask a question. So  
5                   it's all yours.

6                   CHAIRWOMAN KRUEGER: Well, then thank  
7                   you very much for having made your points so  
8                   clearly, both of you. We will now release  
9                   you for the evening.

10                  And I will be calling up the next  
11                  panel, which is Panel E: Police Benevolent  
12                  Association of New York, Troy Caupain, PBA  
13                  secretary; New York State Police  
14                  Investigators Association, Timothy Dymond,  
15                  president; New York State Correctional  
16                  Officers & Police Benevolent Association,  
17                  Michael Powers, president.

18                  Good evening, gentlemen. I guess  
19                  we'll take you in the order I just read your  
20                  names, so the State PBA first.

21                  DIRECTOR CAUPAIN: Good evening,  
22                  Madam Chair and respected panel. I  
23                  appreciate the opportunity to speak to you  
24                  again this evening.

1                   Two years ago I addressed the panel  
2                   for the Park Police members after an  
3                   executive memorandum was submitted, sent out  
4                   by the former governor and state operations  
5                   director, which basically gave operational  
6                   control to the State Police of the  
7                   Park Police as well as basically stopped all  
8                   hiring, transfers and promotions for the  
9                   Park Police within the agency.

10                   And it's been two years of  
11                   frustration, anxiety and just unanswered  
12                   questions that we've received from the agency  
13                   regarding our futures. Obviously my written  
14                   testimony goes into more detail with that.

15                   And I would just like to state that  
16                   this past Friday, ironically, the agency put  
17                   out a memorandum stating that they are now  
18                   going to put on an academy class for the fall  
19                   of 2022. Which is again ironic, because we  
20                   sat down with the Commissioner on  
21                   December 7th, which was supposedly a meeting  
22                   about his conversations with the Executive  
23                   Chamber, and there was no information passed  
24                   on at all regarding hiring or anything to do

1 with the Park Police. Basically it was: We  
2 have nothing for you.

3 So again, it's very ironic that that  
4 came out. We appreciate that it came out.  
5 Obviously, according to the Commissioner, the  
6 same day that our memorandum was sent  
7 regarding the Park Police, he sent a  
8 memorandum to the executive staff which  
9 talked about the game-changing budget that  
10 Governor Kathy Hochul has now submitted on  
11 behalf of OPRHP, where in fact the agency is  
12 going to receive -- will have an operating  
13 budget of \$199.3 million.

14 And in bold print he states on his  
15 Executive Budget summary that the agency will  
16 be in full hiring mode for 2022 and they're  
17 bringing their ETFs to the number 2,087,  
18 which is the highest level they've had since  
19 2009.

20 So our questions today are --  
21 obviously this is a budget hearing. So the  
22 first thing we would ask the panel and the  
23 legislative body is to please assist us in  
24 rescinding that executive memorandum that put

1 the Park Police basically in extinction,  
2 through the agency.

3 And secondly, we would ask for more  
4 transparency as it relates to the budget and  
5 the money that was appropriated to the Office  
6 of Parks and Recreation. If they're  
7 receiving almost \$200 million, how much money  
8 is being allocated for the Park Police? Is  
9 it just one academy class? Is it going to be  
10 multiple academy classes?

11 And with that, we're going to need  
12 help from the Legislature to ask the Governor  
13 to pass the 20-year retirement bill that she  
14 vetoed several weeks ago, and make that part  
15 of the budget. And we also need additional  
16 funding where we can have a geographic  
17 package submitted on behalf of the  
18 Legislature to, again, address the retention  
19 problem. We've lost over 140 members since  
20 2014, 79 in the last year and a half since  
21 this executive order came out, two years  
22 since this executive order came out.

23 So we would need those two things from  
24 the Legislature, along with that memorandum

1           being rescinded, in order for us to get some  
2           kind of real direction as it relates to the  
3           Park Police within OPRHP.

4                        So I thank you for your time.  Again,  
5           my testimony was submitted.  And I look  
6           forward to any questions you have regarding  
7           our future and what we need from the  
8           Legislature moving forward.  Thank you so  
9           much.

10                   CHAIRWOMAN KRUEGER:  Thank you.

11                   And our next testifier -- sorry, it's  
12           not Michael Powers, it was the one, I'm  
13           sorry, just above.  Excuse me.  Sorry.  
14           Timothy Dymond, president of the New York  
15           State Police Investigators Association.

16                   PRESIDENT DYMOND:  Thank you.

17                   Good evening, Senate and Assembly  
18           members.  My name is Tim Dymond, and I am a  
19           Senior Investigator for the New York State  
20           Police.  I am currently the elected president  
21           of the New York State Police Investigators  
22           Association.

23                   I represent roughly 1100 Investigators  
24           and Senior Investigators across the State of



1 New York, and several thousand retirees. I  
2 am incredibly proud to represent this elite  
3 group of men and women in the State Police  
4 that handle the most serious of cases. Day  
5 in and day out, these folks go out and do  
6 their job at a high level, and without them,  
7 this state would certainly suffer.

8 Our members buy the illegal handguns  
9 undercover. Our members investigate and  
10 infiltrate street gangs that are committing  
11 many of the shootings that we're seeing  
12 today. Our members go out and work on the  
13 murders that these gangs commit. Those are  
14 our people, and I'm very proud.

15 We continue to deal with historic  
16 policy change and job expectations that seem  
17 to increase by the day. But there are a few  
18 topics I would like to touch on and have the  
19 Legislature consider for the pending budget.

20 Our highest priority, as it was last  
21 year, is replacement of retiring members in  
22 our ranks. We continue to lose members at an  
23 alarming pace. Last year I spoke of the  
24 shortage we were dealing with with Senior

1           Investigators. I'm pleased to report today  
2           that the Division has filled most of those  
3           open senior positions, and for that we are  
4           thankful. Now we need to backfill the  
5           Investigator positions.

6                     Nearly every special detail and  
7           station is running on a reduced manpower  
8           level, while the workload continues to  
9           increase with the rise in violent crime. The  
10          Legislature can debate the causes for the  
11          increase in crime, but there's no debating  
12          the fact that these crimes need to be  
13          investigated to prevent future crimes from  
14          being committed.

15                    As Superintendent Bruen explained  
16          earlier, it takes a while for us to get a  
17          good Trooper candidate out and into the  
18          field. It takes many, many more years to get  
19          an Investigator out into the field. So we  
20          need to get that process going this year. We  
21          ask that the Legislature provide a  
22          substantial new recruit class to help us  
23          replenish the ranks and keep New Yorkers  
24          safe.

1           We were pleased to hear this year the  
2           Governor is supporting increased funding to  
3           be used in the battle against gun violence  
4           that is occurring across the state. I think  
5           it's very important to note that we are  
6           seeing violent crime increases not only in  
7           New York City -- New York City gets the  
8           headlines -- we are seeing the same problems  
9           in Buffalo, Syracuse, Albany, Newburgh,  
10          Poughkeepsie.

11          The expansion of our Community  
12          Stabilization Units and Anti-Gun Task Force  
13          and different technologies will help reduce  
14          gun crime, but it's not enough. We must get  
15          the trigger-pullers off the street, period.

16          We ask the Legislature to support  
17          expanding these units and every other BCI  
18          unit that investigates gun crime.

19          Lastly, last year during the budget  
20          hearings we asked the Legislature to consider  
21          supporting a safer, more appropriate firearm  
22          for use by the 300 BCI members working  
23          undercover in the most dangerous conditions  
24          across New York. With your support, the

1 Division has explored this concept, and  
2 approval of the updated concept is imminent.  
3 For this we are thankful.

4 However, final approval for the  
5 undercover weapons is the first phase. We  
6 respectfully request that the Legislature  
7 conclude this process by providing to the  
8 Division the funding necessary to purchase  
9 the firearms and related equipment to  
10 complete the project. The estimated cost is  
11 approximately \$150,000, and it will be a  
12 small investment in the safety of our  
13 undercover police officers.

14 Lastly, thank you for allowing me the  
15 opportunity to bring these important issues  
16 to your attention on behalf of my membership,  
17 and I appreciate it and I appreciate what you  
18 guys do.

19 CHAIRWOMAN KRUEGER: Thank you very  
20 much.

21 And next, Michael Powers.

22 Oops. I think your voice is not  
23 coming through. Try to unmute yourself.  
24 Okay, try again. I think he froze this time.

1                   CHAIRWOMAN WEINSTEIN: We can't hear  
2 you. But we can see you, that nice smile.

3                   CHAIRWOMAN KRUEGER: Yes, we do see  
4 the nice smile.

5                   CHAIRWOMAN WEINSTEIN: Not frozen.

6                   CHAIRWOMAN KRUEGER: Try one more  
7 time.

8                   You know, I'm sorry, Mr. Powers, we  
9 cannot hear you speaking.

10                  CHAIRWOMAN WEINSTEIN: Should we go to  
11 some members' questions and --

12                  CHAIRWOMAN KRUEGER: What a good idea.

13                  CHAIRWOMAN WEINSTEIN: And then you  
14 can come back.

15                  CHAIRWOMAN KRUEGER: So let's go to  
16 questions. And maybe what you can do,  
17 Mr. Powers, is close yourself out of Zoom and  
18 reopen it. Sometimes just that works.

19                  All right. And we'll start with, I  
20 guess, Assemblymembers. Helene Weinstein,  
21 who would you like?

22                  CHAIRWOMAN WEINSTEIN: I do see that  
23 Senator Savino has her hand raised.

24                  CHAIRWOMAN KRUEGER: Oh, okay. Hello,

1 Senator Savino. I thought you were off for  
2 the evening. What would you like to ask?

3 SENATOR SAVINO: I am here, Senator  
4 Krueger, ever-present, no matter where I am.

5 (Laughter.)

6 CHAIRWOMAN KRUEGER: Fair enough.

7 SENATOR SAVINO: Actually, I wanted to  
8 ask -- I'll start with Troy from the  
9 Parks Police, because he referenced a piece  
10 of legislation that the Governor recently  
11 vetoed, it was a 20-year pension bill that  
12 the Legislature passed last year, I think it  
13 was unanimously in both houses. And in her  
14 veto message she made some reference to the  
15 fact that it should be negotiated before it  
16 comes to her desk. But in fact, it should be  
17 negotiated at the bargaining table.

18 And I was just wondering if she had  
19 raised that issue, because quite honestly,  
20 you can't negotiate pensions, they are a  
21 prohibitive subject of collective bargaining.

22 But since she referenced it in her  
23 veto message, I was wondering if in fact that  
24 you had brought it up in discussions with the

1 Park Police.

2 DIRECTOR CAUPAIN: Thank you, Senator,  
3 for that question. I hope you can still hear  
4 me; I don't see myself.

5 SENATOR SAVINO: I can hear you.

6 DIRECTOR CAUPAIN: Yes, we did bring  
7 that to the attention of the executive  
8 chamber. It was -- obviously we cannot do  
9 that in contract negotiations. It's against  
10 the law. It's actually against several laws.  
11 And we did bring that to their attention.

12 Obviously we're hoping to have  
13 conversation with the second floor and the  
14 executive chamber to somehow clarify that,  
15 and hope that if there was -- if the Governor  
16 felt that we could do it in collective  
17 bargaining, even though we couldn't, then it  
18 seems to us that there was some type of  
19 appetite, if you will, or feeling that if we  
20 did get it done, that she would be okay in  
21 passing it or putting it through in the  
22 budget or through the Legislature.

23 So we're hoping that we can have some  
24 real conversation regarding that and hope





1 the workers, whether it's the Park Police,  
2 whether it's the New York State Police  
3 Investigators or NYSCOPBA, is not included as  
4 part of the implementation of policies that  
5 we adopt and the agencies are supposed to  
6 implement.

7 So hopefully Mike will be able to get  
8 on board and tell us a bit of what's  
9 happening at DOCCS and maybe share what's  
10 happening with respect to the implementation  
11 of HALT, and are his members being properly  
12 prepared and trained.

13 CHAIRWOMAN KRUEGER: Great. I believe  
14 that Michael Powers has rejoined us. And  
15 with any luck, we are now going to be able to  
16 hear him.

17 SENATOR SAVINO: Great. Thank you.

18 CHAIRWOMAN WEINSTEIN: So your  
19 presentation now.

20 CHAIRWOMAN KRUEGER: Hi, Michael. Are  
21 you ready to testify?

22 PRESIDENT POWERS: Yes. Yes, I am.  
23 Can you hear me?

24 CHAIRWOMAN KRUEGER: We can hear you.

1           Excellent.

2                   PRESIDENT POWERS: Wonderful. Thank  
3           you for your patience.

4                   Again, good evening, esteemed members  
5           of the Legislature. I'm Michael Powers,  
6           president of NYSCOPBA. On behalf of more  
7           than 30,000 active and retired members, thank  
8           you for the opportunity to appear in front of  
9           you.

10                   For years the State of New York has  
11           touted itself as the progressive capital of  
12           the world. The process of decarcerating  
13           New York's prisons is viewed as a victory for  
14           social justice. Sadly, though, this effort  
15           has also drastically changed the state's  
16           rehabilitation model, which has resulted in  
17           significant human costs.

18                   Over the last decade, the working  
19           environment inside correctional facilities  
20           has become increasingly more violent.  
21           Despite a prison population being at its  
22           lowest point in nearly 40 years, violent  
23           attacks on staff by incarcerated --

24                   CHAIRWOMAN KRUEGER: Oh, we've lost

1 your voice again. Let's see. Try it one  
2 more time.

3 PRESIDENT POWERS: Can you hear me  
4 now?

5 CHAIRWOMAN KRUEGER: Yes, now I can.

6 PRESIDENT POWERS: Thank you.

7 So as I mentioned, we're at 1173  
8 assaults recorded this past year. Every one  
9 of these assaults on staff has its own story.  
10 The one that sent a shiver down my spine was  
11 the story of Correction Officer Adrea  
12 Adamczyk out at Mid-State. Officer Adamczyk  
13 required 70 stitches to her forehead after  
14 she was viciously assaulted by a man she was  
15 charged to oversee, for simply directing him  
16 to take a shower.

17 This was an unprovoked, violent  
18 assault upon an employee of the state. But  
19 don't be fooled -- this terrible incident was  
20 inevitable. Today in New York State prison  
21 facilities, more than three correction  
22 officers like Adrea are injured at the hands  
23 of inmates. Three more will be hurt  
24 tomorrow, and three more will be hurt the

1 next day.

2 As a result of the overhaul of the  
3 disciplinary system within correctional  
4 facilities, there are very few deterrents in  
5 place to dissuade inmates from attacking  
6 staff. HALT is fully implemented, the  
7 ability to remove and separate violent  
8 individuals will be severely hampered. The  
9 incarcerated population is well aware of  
10 this. After an attack, the chants of 15  
11 days, 15 days" echo the hallways and cell  
12 blocks.

13 Our prisons will soon be  
14 consequence-free environments, allowing  
15 dangerous individuals to thrive in chaos and  
16 hurt anyone who attempts to stand in their  
17 way.

18 We have promoted a bill pending in the  
19 Legislature that will bring stakeholders to  
20 the table and partake in a violence study.  
21 Until that legislation is passed and that  
22 violence study is complete, we demand that  
23 any changes in policies that alter the  
24 disciplinary system be put on hold, including

1 the implementation of HALT.

2 There are ways to protect everyone.

3 The state just needs to implement them with  
4 the same urgency that they enacted polices to  
5 improve the well-being of the incarcerated  
6 community. The pandemic has only made  
7 staffing and morale issues worse. Correction  
8 officers are physically and mentally  
9 exhausted, mandated to work --

10 (Zoom audio dropped.)

11 CHAIRWOMAN KRUEGER: You're faded out  
12 again, sorry.

13 Try doing that trick you seem to know  
14 to come back.

15 (Pause.)

16 PRESIDENT POWERS: How's that?

17 CHAIRWOMAN KRUEGER: You're back.

18 PRESIDENT POWERS: We're back.

19 CHAIRWOMAN KRUEGER: Yes, you are.

20 PRESIDENT POWERS: Now the hardworking  
21 men and women of NYSCOPBA should be properly  
22 recognized and equally compensated as their  
23 healthcare counterparts, whom they escort  
24 around the blocks every day. Simply put, all

1 correction officers must be included in a  
2 financial incentive program to make up for  
3 the --

4 (Zoom audio dropped.)

5 CHAIRWOMAN KRUEGER: Sorry, Michael,  
6 we've lost you again.

7 ASSEMBLYMAN EPSTEIN: Can he not use  
8 that mic? Is there a way to take the mic  
9 off? Because there might be a short in the  
10 mic.

11 CHAIRWOMAN KRUEGER: It could be a  
12 short in the mic, but I don't know how he  
13 goes --

14 PRESIDENT POWERS: Can you hear me  
15 now?

16 CHAIRWOMAN KRUEGER: Yes.

17 PRESIDENT POWERS: Yes, we're back.

18 CHAIRWOMAN KRUEGER: Sometimes if you  
19 take your visual off, it improves the mic.  
20 So you could try that also.

21 PRESIDENT POWERS: We're just checking  
22 one thing here real quick. I apologize.

23 CHAIRWOMAN KRUEGER: Sure.

24 PRESIDENT POWERS: As I mentioned, we

1 demand that correction officers be included  
2 in the worker retention bonuses proposed in  
3 the Executive Budget.

4 For years we've talked about  
5 contraband in our facilities, and it's as  
6 prevalent as ever. Now is the time to fund  
7 our Secure Vendor Package Program, as well as  
8 utilize full-body scanners. There is no  
9 sugar-coating the current situation in our  
10 facilities. Conditions are abysmal, and  
11 these violence issues must be addressed  
12 immediately.

13 Thank you for the opportunity. I  
14 welcome any questions you may have.

15 CHAIRWOMAN KRUEGER: Thank you very  
16 much.

17 And now, looking for hands up, and I  
18 believe it's the Assembly's turn.

19 CHAIRWOMAN WEINSTEIN: We will go to  
20 Assemblyman Palmesano first.

21 ASSEMBLYMAN PALMESANO: Yes, thank  
22 you.

23 First I just want to say briefly thank  
24 you to all of you for -- you and your

1 members, for what you do for us in our  
2 communities and your jobs each and every day  
3 to keep us safe. So thank you.

4 My question is for Mr. Powers.

5 Mr. Powers, I know you talked about the  
6 violence and assaults that are going on in  
7 our correctional facilities. I've mentioned  
8 that too. I know over the past six years  
9 it's an increase of 55 percent,  
10 inmate-on-staff assaults. You know, you  
11 mentioned about HALT and the restrictions on  
12 the special housing units. I think that's an  
13 issue that needs to be addressed. You know,  
14 obviously I don't think we're ready for it.

15 On that issue, you mentioned the  
16 violence study bill that NYSCOPBA and others  
17 are pushing. Earlier today Commissioner  
18 Annucci talked about a violence task force  
19 that DOCCS is forming to investigate violence  
20 in the prisons. I know, obviously, those two  
21 aren't the same. So is what DOCCS is  
22 promoting, the violence study bill, compared  
23 to -- like what's the differences? And this  
24 DOCCS task force, is it sufficient enough,



1 and how is the study bill better?

2 PRESIDENT POWERS: Well, the violence  
3 task force was presented to us a couple of  
4 weeks ago, a little over a month ago, and we  
5 haven't even scheduled -- we haven't even had  
6 our first meeting here.

7 As you're well aware, Assemblyman,  
8 we've had many issues -- you know, this is a  
9 subject matter that quite frankly for this  
10 last seven years as -- my tenure as president  
11 of NYSCOPBA, we've been dealing with this  
12 since Jump Street. A task force is between  
13 the administration, some superintendents and  
14 some --

15 (Zoom audio dropped.)

16 CHAIRWOMAN KRUEGER: We lost you,  
17 Michael.

18 PRESIDENT POWERS: Can you hear me?

19 ASSEMBLYMAN PALMESANO: Yes.

20 CHAIRWOMAN KRUEGER: Now, yes.

21 PRESIDENT POWERS: The violence study  
22 includes stakeholders such as members of the  
23 Legislature, policyholders, administrators,  
24 union officials and many others that we feel

1 is vital in addressing this violence study.

2 ASSEMBLYMAN PALMESANO: Mr. Powers, I  
3 know you mentioned the compensation package.  
4 I know, you know, from talking to correction  
5 officers in my district, that the morale is  
6 really down with the closures and everything  
7 else, the working conditions, the mandated  
8 overtimes.

9 And then when this came up earlier  
10 about the two and-a-half-times overtime pay  
11 being paid to nurses working in our  
12 correctional facilities, whereas the  
13 corrections officers working side by side  
14 with them are not getting that same  
15 compensation -- when your members see that,  
16 what does that do for the morale of those who  
17 are working a dangerous job?

18 PRESIDENT POWERS: Well, it's been  
19 very difficult for our staff, especially from  
20 a morale standpoint. In the height of the  
21 initial pandemic in 2020, it became a very  
22 difficult time. Many members got caught up  
23 in some of the quarantine issues, as the  
24 acting commissioner talked about earlier, you

1 know, and some of them unfortunately having  
2 to --

3 (Zoom audio dropped.)

4 CHAIRWOMAN KRUEGER: We lost you  
5 again.

6 PRESIDENT POWERS: The morale in our  
7 facilities has been very, very low since --  
8 well, the last year and a half. And it's  
9 been very difficult to -- it's been very  
10 difficult to bring that morale around in any  
11 fashion with the department as of late. And  
12 we feel it's necessary, as you mentioned, to  
13 be categorized as the essential employees  
14 that they are and that they --

15 (Zoom audio dropped.)

16 CHAIRWOMAN KRUEGER: Sorry, Michael,  
17 you both ran out of time and you ran out of  
18 sound.

19 ASSEMBLYMAN PALMESANO: Madam Chair, I  
20 would just ask if I could just indulge --  
21 maybe give him a chance, you know, because he  
22 got cut off a couple of times, you know, on  
23 an important issue.

24 CHAIRWOMAN KRUEGER: Sure.

1           ASSEMBLYMAN PALMESANO: I'd like to  
2 ask one more question, hopefully, if I could.  
3 I'd appreciate your indulgence in that, and  
4 my fellow committee members.

5           Mr. Powers, the other question I was  
6 going to ask you is -- I mean, the  
7 commissioner talked about regarding the  
8 Secure Vendor Program. He said he's waiting  
9 for the right time. I would argue the right  
10 time was several years ago.

11           How much is the drug contraband  
12 problem contributing to this rising violence  
13 that's going on in our prisons? You know,  
14 what do you say about the Secure Vendor  
15 Program, and what can we be doing right now  
16 for it?

17           PRESIDENT POWERS: It's significant.  
18 You know, a majority of the contraband is  
19 coming in through the packages and through  
20 the visit room. And, you know, to be able  
21 to -- to hinder that in any capacity I feel  
22 strongly would reduce the amount of  
23 contraband coming into the facility, which  
24 would ultimately reduce the amount of

1 violence that we're dealing with.

2 And, you know, the numbers don't lie,  
3 right? I mean, you know, we're dealing with  
4 a much smaller inmate population and more  
5 acts of violence.

6 (Zoom audio dropped.)

7 CHAIRWOMAN KRUEGER: Thank you.

8 I think we don't -- oh, we do have an  
9 additional Senator, excuse me.

10 Senator Sue Serino.

11 SENATOR SERRANO: Thank you,  
12 Chairwoman.

13 And thank you to the panel for coming  
14 here today and for everything that you do. I  
15 really appreciate it.

16 And Mike, you know, sometimes it's a  
17 little too easy for lawmakers to evaluate the  
18 issues that are discussed today from the  
19 comfort of our offices, but you did a really  
20 good job I think helping legislators  
21 understand the challenges that your members  
22 are facing every single day.

23 And having said that, can you talk a  
24 little bit about the prison closures and how

1           they've impacted your members? Because I'm  
2           sure that your members have shared some  
3           personal stories with you that really might  
4           help lawmakers understand that there are very  
5           real people and families at the other end of  
6           these decisions.

7                     PRESIDENT POWERS: Yes, Senator,  
8           without question. You know, it's very --  
9           it's a very difficult time when a facility  
10          closes regardless of where it is in the State  
11          of New York --

12                    (Zoom audio dropped.)

13                    CHAIRWOMAN KRUEGER: No --

14                    PRESIDENT POWERS: Can you hear me?

15                    CHAIRWOMAN KRUEGER: I have to say I  
16          think it's unfair to ask Mr. Powers questions  
17          when we can't really hear him answer. So  
18          maybe just -- if it's okay, perhaps Michael  
19          could reach out to Senator Serino, perhaps  
20          tomorrow during daytime, from a working  
21          phone. I just -- it's very -- it's unfair to  
22          him, and it's not his fault that his  
23          equipment isn't working correctly.

24                    ASSEMBLYMAN PALMESANO: Yeah, but I

1 think, Madam Chair, that he's trying and I  
2 think we should, you know, keep giving him a  
3 little bit of indulgence. I mean, these  
4 individuals that he represents are going  
5 through a very difficult time with the  
6 violence that's going --

7 CHAIRWOMAN WEINSTEIN: I would make  
8 this suggestion. I would make this  
9 suggestion, that the member ask the question  
10 and if Mr. Powers has a problem with his mic,  
11 I'd like him to be able to give us, in  
12 writing, the answers to the question so we  
13 can circulate that. Because I think we'd all  
14 like to hear the answers.

15 CHAIRWOMAN KRUEGER: That's a good  
16 answer. Thank you.

17 SENATOR SERRANO: Chairwoman, I just  
18 had another part of that too that I was  
19 just -- my question, maybe they can answer  
20 it, is do you believe DOCCS needs to  
21 reevaluate its procedure for designating  
22 prisons for closure? Because I'd like to see  
23 what they have to say about that.

24 And then for just for Troy, you know,

1           Troy, your frustration is totally  
2           understandable, and we'll do what we can to  
3           ensure that your concerns are heard.  
4           Transparency is the least the state can do  
5           for members who do so much to protect such a  
6           key part of this state.

7                         So thank you very much to the whole  
8           panel. And thank you, Chairwoman.

9                         DIRECTOR CAUPAIN: Thank you, ma'am.  
10          Appreciate that.

11                        CHAIRWOMAN KRUEGER: Thank you. So  
12          Troy thanks you. And let's see if Mr. Powers  
13          can speak to us again to answer your last  
14          question, Senator Serino.

15                        (Pause.)

16                        CHAIRWOMAN KRUEGER: I don't think so.

17                        PRESIDENT POWERS: We tried switching  
18          to a new microphone.

19                        CHAIRWOMAN WEINSTEIN: Oh, okay.

20                        PRESIDENT POWERS: We tried.

21                        CHAIRWOMAN KRUEGER: We tried? Is  
22          that better?

23                        PRESIDENT POWERS: I hope so.

24                        CHAIRWOMAN KRUEGER: Okay.



1                   SENATOR SERINO: We can hear you now.

2                   PRESIDENT POWERS: So to answer your  
3 question, Senator, yes, it's very difficult  
4 on our staff. And many have to uproot their  
5 families, uproot out of the communities in  
6 which they reside. It creates a burden.

7                   And this round of closure was pretty  
8 significant in numbers as far as it affected  
9 across the State of New York. And, you know,  
10 obviously it has an impact on not only the  
11 community but, you know, in the state  
12 workforce as well. And it falls outside the  
13 lines of security as well, because it impacts  
14 civilian staff as well.

15                  SENATOR SERINO: And the other part of  
16 that, Mike, was do you believe that DOCCS  
17 needs to reevaluate its procedure for  
18 designating prisons for closure?

19                  PRESIDENT POWERS: Oh, yeah. You  
20 know, a good heads up would be, you know, a  
21 good idea, you know, because of the impact  
22 that it has. And unfortunately in the last  
23 two years, you know, we had to deal with that  
24 during the holiday season, you know, in

1 rounds of closures. So it's -- yeah, it  
2 became quite difficult for many of our staff.

3 And, you know, we've been assured that  
4 going forward there will be a better  
5 communication mechanism in place.

6 CHAIRWOMAN KRUEGER: Thank you. Thank  
7 you. I think we've gone far beyond the three  
8 minutes.

9 Assemblywoman?

10 CHAIRWOMAN WEINSTEIN: Yes, we have a  
11 number of members. So just so people know  
12 their order, Assemblyman Reilly, then  
13 Assemblyman Walczyk, Assemblyman Lawler,  
14 Assemblyman Ra and Assemblyman Weprin.

15 But we'll start with Assemblyman  
16 Reilly.

17 ASSEMBLYMAN REILLY: Thank you,  
18 Madam Chair.

19 Thank you to the panel.

20 I have a question directed at  
21 Mr. Diamond. With the investigations of the  
22 firearms and how many incidents are happening  
23 throughout the state, especially that the New  
24 York State Police Investigators are involved

1 in, I know that we talked about, during the  
2 day, firearm possession by those under  
3 18 years old as it appears under Raise the  
4 Age.

5 How many -- do you know the number or  
6 how prevalent it is where those that are  
7 under 16 -- under 18 are arrested with a  
8 firearm, a loaded firearm.

9 PRESIDENT DYMOND: I don't have exact  
10 numbers to present to you today, but I can  
11 tell you that much like gangs did 10 or 15  
12 years ago with drugs, where they had the  
13 younger crowd hold for them for the lesser  
14 penalty, we're seeing the same pattern in  
15 urban areas now where younger members of  
16 gangs are carrying the guns, holding the  
17 guns, because they are inevitably going to  
18 Family Court, which is just not really the  
19 solution for the problems we're having.

20 ASSEMBLYMAN REILLY: I know under  
21 Raise the Age now, currently, that if they're  
22 in possession of a firearm and they display  
23 it, there's a possibility they can go to  
24 Youth Part Criminal if there's extenuating

1           circumstances and the judge accepts it from  
2           the DA.

3                     I actually introduced legislation that  
4           would require a loaded firearm, mere  
5           possession by a 16- or 17-year-old, make that  
6           qualification. I'm hoping that we'll be able  
7           to make that happen, because I think that's  
8           something you nailed there on the head with  
9           gangs using these underage kids to hold the  
10          firearms.

11                    Do you think that's something that you  
12          guys could support? And hopefully we can get  
13          the DAs Association on board as well.

14                    PRESIDENT DYMOND: Yes, we would  
15          absolutely support that. I think it's  
16          important that everyone listening tonight  
17          knows that, you know, there's a small number  
18          of shooters out there. And you -- I'm sure  
19          you know this from your career, there's a  
20          small number in these communities.

21                    But that number can do a lot of damage  
22          if there's no consequences for their actions.

23                    ASSEMBLYMAN REILLY: So in the unit  
24          that you talk about at the state level -- I

1 know from the NYPD, we have similar units --  
2 we have those that follow shooters that have  
3 participated in multiple trigger-pulls.

4 Do you keep that record? And is it  
5 possible that we can expand -- if you have  
6 those records, and of course not publicly --  
7 but to monitor how many are under age 18?

8 PRESIDENT DYMOND: We would have to  
9 work on that. Our community stabilization  
10 units, which are very similar to the teams  
11 that New York City is about to roll out,  
12 under Mayor Adams' plan yesterday, they  
13 target our violent areas, areas that are  
14 seeing a spike in shootings.

15 So we could track that, but that's  
16 something to definitely look into so we can  
17 take some of these more prevalent shooters  
18 off the street.

19 ASSEMBLYMAN REILLY: Thank you, sir.

20 PRESIDENT DYMOND: Thank you.

21 CHAIRWOMAN KRUEGER: Thank you.

22 Senator Jamaal Bailey.

23 SENATOR BAILEY: Thank you,

24 Madam Chair.

1           I want to thank you all for your  
2           testimony and, most importantly, for your  
3           service and those that you represent, for  
4           what you do.

5           Let me say that the door is always  
6           open to discuss justice-related items. As  
7           the chair of the Codes Committee, I welcome  
8           further discussion on what your opinions may  
9           be on these important justice-related  
10          matters -- not necessarily in these three  
11          minutes that we have here, but you should  
12          feel free to reach out to me.

13          I would love to speak to you in  
14          furtherance of some of the discussions that  
15          Assemblymember Reilly had mentioned in  
16          relation to some of the conversations about  
17          Raise the Age. They can't be appropriately  
18          fleshed out here, but I would hope that we  
19          could have a more in-depth conversation at a  
20          later time.

21          To Mr. Dymond, I wanted to ask you a  
22          question. In your written testimony, you  
23          spoke about the need for more equipment.  
24          Could you like illuminate a little bit more

1 about what equipment is required? And it was  
2 said \$150,000. How far would that go and how  
3 many investigators would that be able to  
4 assist?

5 PRESIDENT DYMOND: So the equipment  
6 we're specifying in that is not just the  
7 firearms we're looking to get, it's the  
8 holsters, concealed holsters, and ammunition.  
9 And that would be concealed for the 300,  
10 roughly, working undercovers we have  
11 throughout the state. And they're doing, you  
12 know, not just gang work, they're doing  
13 antiterrorism work. They're in pretty much  
14 every area of the state, from down on  
15 Long Island out to Buffalo and over to  
16 Plattsburgh.

17 SENATOR BAILEY: Okay. I was just  
18 reviewing the written testimony. I just  
19 wanted to illuminate that.

20 PRESIDENT DYMOND: Thank you.

21 SENATOR BAILEY: And to Troy Caupain,  
22 I understand about the inclusion and the  
23 desire be included, and I think that's a  
24 laudable goal that we should all continue to

1 have for the conversation.

2 Mr. Powers, we've heard you loud and  
3 clear in terms -- well, as loud as we can. I  
4 didn't mean that. But thank you for -- but  
5 seriously, thank you for sticking with this  
6 and thank you for the women and men that you  
7 represent and what you do. I truly  
8 appreciate you.

9 And with that being said, I yield the  
10 rest of my time.

11 DIRECTOR CAUPAIN: Appreciate you,  
12 Senator.

13 CHAIRWOMAN KRUEGER: Thank you very  
14 much, Senator.

15 Assemblywoman.

16 CHAIRWOMAN WEINSTEIN: We go to  
17 Assemblyman Walczyk.

18 ASSEMBLYMAN WALCZYK: Gentlemen, to  
19 you and your members, thanks for protecting  
20 and thanks for serving.

21 To Mr. Powers, do we have corrections  
22 officers in the State of New York who are  
23 still paying off student loans?

24 PRESIDENT POWERS: I would imagine.



1 ASSEMBLYMAN WALCZYK: What's that  
2 going to be like for morale in the facility  
3 if the Governor's TAP plan goes through in  
4 this budget?

5 PRESIDENT POWERS: It won't be -- it  
6 probably won't be received very well.

7 ASSEMBLYMAN WALCZYK: I'm just -- I  
8 mean, you represent -- I also represent and  
9 know personally a bunch of COs, some of them  
10 who are still paying for college, some of  
11 them who went to the State University of  
12 New York and are still paying for college,  
13 and they have a job as a correction officer  
14 to do so.

15 And it's just -- it's amazing to me --  
16 I mean, I know the CO talk, right? And  
17 there's going to be free college for the --  
18 some of them inmates who they're afraid that  
19 will assault them in our facilities. It  
20 just -- it blows my mind.

21 The Secure Vendor Program, what's  
22 stopping DOCCS from finally implementing this  
23 thing? What do we gotta do?

24 PRESIDENT POWERS: Pull the trigger.

1           You know, I mean, we've been talking  
2           about this for what, four or five years now.  
3           You know, they started a pilot program, it  
4           got pulled out from under them. They needed  
5           to make some amendments to it. And we  
6           haven't seen what that looks like yet.

7           ASSEMBLYMAN WALCZYK: Was there  
8           anything actually wrong with that pilot  
9           program?

10          PRESIDENT POWERS: In our opinion, no.  
11          You know. But, you know, there was a lot of  
12          politics involved in it and a lot of advocate  
13          concerns. And, you know, they shelved it.  
14          And I just -- I'm just as curious as you are  
15          as to where it is.

16          ASSEMBLYMAN WALCZYK: Yeah, me too.

17          If we were to implement the Secure  
18          Vendor Program and some of the other  
19          recommendations that you put forward -- and I  
20          know this has been a challenge in our  
21          facilities for a long time -- do you think by  
22          doing some of these things we could actually  
23          eliminate drugs or in large part eliminate  
24          drugs in our facilities?

1           PRESIDENT POWERS: I think it would  
2 significantly reduce the amount of drugs and  
3 contraband in our facilities, without  
4 question.

5           ASSEMBLYMAN WALCZYK: Thanks,  
6 Mr. Powers.

7           Mr. Dymond, I notice that vehicle  
8 theft has doubled. Nobody's really reported  
9 on this thing; it's probably not as  
10 interesting to talk about as gun violence  
11 every day. But vehicle theft has doubled in  
12 the State of New York. Is that something we  
13 should be concerned about?

14          PRESIDENT DYMOND: Yes. I think the  
15 vehicle theft in the State of New York,  
16 there's so many other violent, more serious  
17 crimes that are increasing across the state,  
18 that vehicle theft or any type of theft,  
19 which you're seeing everywhere, is kind of  
20 being pushed to the back.

21          As sad as that is, that's kind of the  
22 situation we're in with triaging the levels  
23 of importance by the crimes.

24          ASSEMBLYMAN WALCZYK: I hear you.

1           And Chairwoman, just with the  
2           remainder of my time, I want to just tell the  
3           membership that the Secure Vendor Program in  
4           our correctional facilities, this is going to  
5           help protect employees, this is going to help  
6           protect inmates or incarcerated individuals,  
7           those college students that we're concerned  
8           about their safety.

9           This will literally save lives and,  
10          for many, is the only way, if we're able to  
11          eliminate drugs coming into our facilities,  
12          the only way that they're actually going to  
13          beat addiction. If we continue to allow  
14          these drugs to get into our facilities,  
15          nobody is better off. Nobody is safe. The  
16          public isn't better off, the individuals  
17          aren't more rehabilitated.

18          The time has come and gone -- we need  
19          to put the Secure Vendor Program in now.

20                 PRESIDENT POWERS: Thank you,  
21          Assemblyman.

22                 CHAIRWOMAN KRUEGER: I think it's  
23          still yours, Assemblywoman.

24                 CHAIRWOMAN WEINSTEIN: We go to

1 Assemblyman Lawler, followed by  
2 Assemblyman Ra.

3 ASSEMBLYMAN LAWLER: Thank you,  
4 Chairwoman.

5 Mr. Powers, I had the opportunity to  
6 tour Sing Sing over the summer, and I just  
7 want to commend NYSCOPBA, I toured it with  
8 them, along with the superintendent of  
9 Sing Sing. And I want to commend NYSCOPBA  
10 and your members. They do a professional  
11 job, they go to work every day under  
12 difficult circumstances. And one of my  
13 biggest takeaways from meeting with your  
14 members was the concern that they have for  
15 their own safety and the safety of their  
16 fellow corrections officers.

17 And I think it is our responsibility  
18 to ensure that your members have the  
19 resources and support that they need to,  
20 first and foremost, ensure the safety of  
21 those that are in their care, but themselves,  
22 to ensure that they go home at night.

23 I think the number of attacks and  
24 assaults that have occurred in the jails, in

1           our prisons across the state is outrageous.  
2           I had the chance to visit Rikers in the fall.  
3           And even though that's, you know, New York  
4           City, the concerns were the same, in many  
5           respects heightened, given what has gone on  
6           over in Rikers.

7                     And I think, you know, punitive  
8           segregation is necessary when you're looking  
9           at what has occurred inside the prisons and  
10          the violent attacks that your officers have  
11          faced. And, you know, we will see, as HALT  
12          is fully implemented, the impact that will  
13          have on your members. But I can assure you  
14          that we will not be silent, you know, as that  
15          program is fully implemented and we see the  
16          consequence of it.

17                    So I just want you to know we do  
18          support your efforts and those of your  
19          members. And I also want to just point  
20          something out for you as well as your  
21          colleagues on the panel. I've introduced  
22          legislation so that anyone who participates  
23          in the death of a law enforcement officer,  
24          first responder or corrections officer gets

1 life in prison without the possibility of  
2 parole. And I think there needs to be severe  
3 consequences for those who would commit such  
4 a crime. And your officers and that of  
5 Mr. Dymond and Troy, your officers all  
6 deserve our support. And so I just want you  
7 to know that. I appreciate your work. I  
8 don't really have a question for you, but I  
9 wanted you to know that we support you.

10 PRESIDENT POWERS: I appreciate the  
11 words, sir, and --

12 DIRECTOR CAUPAIN: Thank you.

13 PRESIDENT POWERS: -- I appreciate the  
14 fact that you've gone into the facility, as  
15 many legislators should.

16 And I'll be sure to convey that  
17 sentiment to our front line, and we thank  
18 you.

19 ASSEMBLYMAN LAWLER: Absolutely.

20 CHAIRWOMAN WEINSTEIN: We now go to  
21 Assemblyman Ra.

22 ASSEMBLYMAN RA: Thank you, Chair.

23 Just for the Police Benevolent  
24 Association of New York, Mr. -- I apologize,

1 Cow-pain, Ca-pain? I'm sorry.

2 DIRECTOR CAUPAIN: That's fine, sir,  
3 thank you.

4 ASSEMBLYMAN RA: Sorry, I have a  
5 two-letter last name, so anything longer than  
6 that I have trouble with.

7 (Laughter.)

8 ASSEMBLYMAN RA: It was great to hear  
9 that news about a class coming in and  
10 everything. But I'm wondering if you can  
11 just elaborate -- I know -- certainly I share  
12 your concern for transparency in terms of,  
13 you know, what portion of that budget will go  
14 towards officers. But A, you know, my  
15 understanding is that you're down like  
16 50 percent. So what is the number of  
17 officers you need to really be at full  
18 strength?

19 And then also, you know, how do we  
20 make sure that -- having classes is great,  
21 but what do we need to do to make sure that  
22 those that are going through those academy  
23 classes stay within your ranks and don't --  
24 and we're not just training people for other



1 departments?

2 DIRECTOR CAUPAIN: Great question,  
3 sir. I appreciate those.

4 DCJS recognizes our tour strength  
5 should be statewide, somewhere around 387.  
6 And that was several years ago when we  
7 submitted a staffing bill -- obviously, the  
8 PBA pushed that back in 2014 or '15. But 387  
9 would be a huge number for us get to, you  
10 know, provide the police services across the  
11 state with the increased acreage and  
12 properties that we're given every year. I  
13 know in the Executive Budget the Governor  
14 talks about a new park in inner-city  
15 Rochester, and those things. So that number  
16 would be ideal for us.

17 Secondly, in order to stop the  
18 revolving door, if you will -- again, I'm  
19 22 years on and I've watched 498 members  
20 graduate the academy, and our number is 192.  
21 Again, over the last seven years we've  
22 watched over 150 walk out the door.

23 So I'd say we need several things from  
24 the agency as well as the state. We need to

1 be competitive. Obviously we work in -- you  
2 know, I'm from Long Island, I work out of  
3 Jones Beach -- I see your Nassau County flag.  
4 you know, we have Suffolk and Nassau, you  
5 know, right beside us. We have a lot of our  
6 members throughout the state that work, you  
7 know, in -- around municipalities where their  
8 benefits are greater, their salaries are  
9 greater, they have opportunities for  
10 promotions and transfers and things like  
11 that. And we address all of those things  
12 within the Park Police.

13 So first would be the 20-year bill.  
14 That would be huge for our members in order  
15 to obviously give them something to look  
16 forward to after a year -- excuse me, a  
17 career in law enforcement.

18 We need to have, you know, a  
19 geographic put in place for -- obviously, to  
20 be competitive in the downstate areas. And I  
21 attached the agency's geographic plan that  
22 they submitted back in November of 2019 but  
23 never pushed for that to continue on.

24 And then thirdly, obviously, again, we

1           need to be able to increase our base  
2           salaries, honestly. I mean, we haven't had  
3           an upgrade since 2001. So again, we're not  
4           competitive in this world of law enforcement,  
5           and that's a problem for us.

6                     And those academy classes are going to  
7           bring a lot of those members downstate, sir,  
8           and we need to be able to get them back home.  
9           Because if we don't then, again, they're  
10          going to walk out the door. So we need to  
11          have continued classes, we need to offer  
12          competitive salaries and pension and  
13          retirement packages, and that will enhance  
14          our staffing levels -- and it will keep  
15          people here.

16                    ASSEMBLYMAN RA: Great. Well, thank  
17          you. Thank you for all you do, you know, not  
18          just with -- you know, people have -- seek  
19          outdoor recreation; you guys are keeping  
20          those facilities safe. And certainly we've  
21          taken advantage of so many facilities that  
22          you guys work in, you know, as testing sites  
23          and vaccine sites over the last couple of  
24          years. So thank you, sir.

1                   DIRECTOR CAUPAIN: I appreciate you.

2 Thank you.

3                   CHAIRWOMAN KRUEGER: Thank you.

4                   I just have one quick question before

5 I think I close this panel down, for

6 Tim Dymond.

7                   So we heard about shortages of new

8 officers, the new class -- Troy is pointing

9 out real concerns about whether any of them

10 do end up going to and staying in the

11 Park Police division of State Police.

12                   And I asked the head of the State

13 Police earlier today whether there was a real

14 need to have 250 State Troopers in New York

15 City at this time. Not that I don't like

16 running into them in my city, but we also

17 have, I think, 35,000 NYPD members. And I

18 hear from my upstate colleagues that they're

19 frustrated they don't have enough

20 State Police and Park Police.

21                   So I'm just curious, from your

22 perspective, do you think 250 of you should

23 be assigned to New York City at a time?

24                   PRESIDENT DYMOND: I don't know what

1 the appropriate number is. That is not my  
2 skill set.

3 I can tell you that anywhere you can  
4 have New York State Troopers, you want to  
5 have them, with the level of professionalism  
6 and the way they carry themselves. I know  
7 our members do terrific work down there with  
8 the DEA, ATF, FBI task force. We offer a  
9 very dynamic skill set that's utilized daily  
10 down there. So that's where I'll go with  
11 that.

12 CHAIRWOMAN KRUEGER: Thank you very  
13 much. And then I want to thank --

14 DIRECTOR CAUPAIN: Senator, if I  
15 can --

16 CHAIRWOMAN KRUEGER: Yes, please.

17 DIRECTOR CAUPAIN: If I can address  
18 that question just for the Park Police  
19 members, we do obviously have state parks  
20 within the city -- Riverbank State Park and  
21 Roberto Clemente and Gantry and Clay Pits and  
22 so many others. And they're acquiring new  
23 property, you know, every year.

24 Unfortunately, our New York City

1 region, we are woefully down in membership  
2 because, again, the members that do sign up  
3 and are sent to New York City, most of them  
4 are from upstate and then they want to go  
5 home. And obviously not having the ability  
6 to go home, they leave us.

7 Another issue that we can -- the  
8 Legislature can help us with is the  
9 diversifying of our recruitment. Because  
10 again, I don't believe the agency is truly  
11 taking a really good look at how to recruit  
12 New York City and the downstate area, and  
13 that's obviously to their detriment and we're  
14 losing a lot of members out of the New York  
15 City zone.

16 So I would say we do have a footprint  
17 because of the environments that we work in.  
18 We just need to be able to recruit in and  
19 around those areas so we can keep those  
20 members downstate.

21 CHAIRWOMAN KRUEGER: Well, I want to  
22 thank all three of you again for joining us  
23 tonight, and we look forward to continuing to  
24 work with all of you and your members.

1                   And I'm going to call up the next and  
2 last panel --

3                   DIRECTOR CAUPAIN: Thank you, Madam  
4 Chair.

5                   PRESIDENT DYMOND: Thank you.

6                   PRESIDENT POWERS: Thank you.

7                   CHAIRWOMAN KRUEGER: Thank you.

8                   DIRECTOR CAUPAIN: Thank you,  
9 Chairwoman Weinstein.

10                  CHAIRWOMAN KRUEGER: We have the  
11 District Attorneys Association of New York,  
12 Anthony Jordan; We have the New York State  
13 Court Clerks Association, Imogene Jones; we  
14 have the Center for Judicial Accountability,  
15 Elena Sassower.

16                  So in the order that I called you,  
17 Anthony Jordan.

18                  DAASNY PRESIDENT JORDAN: Great.  
19 Thank you, Madam Chairwoman. And Chairwoman  
20 Weinstein, thank you, and the esteemed  
21 members who've persevered today. I saw you  
22 start at 9:30, so it's been a long day.

23                  Thanks for the opportunity to speak to  
24 you briefly, and I think I would start with

1 saying that there are some things certainly  
2 in the Executive Budget that are encouraging,  
3 including ITAP and NIBIN. Those are  
4 certainly important initiatives and ones that  
5 we hope continue to be pushed forward.

6 What I want to touch on, though, is  
7 what this Executive Budget really is lacking.  
8 And I think most importantly, it's lacking  
9 adequate resources to bring about the stated  
10 goals that you all worked so hard and pushed,  
11 beginning really in 2019 and even before, in  
12 terms of criminal justice transformation, for  
13 lack of the better word, and what has  
14 occurred since.

15 And the budget -- this budget I think,  
16 for one, really grossly underfunds pretrial  
17 services. And that problem, that lack of  
18 funding continues to contribute to a  
19 significant resource gap throughout the  
20 state, and something that ought to be and we  
21 would encourage this body to consider.

22 But I think most importantly, this  
23 budget continues to ignore the funding needs  
24 and the costs of discovery. We've repeatedly



1           cautioned, beginning when these discussions  
2           were beginning in earnest in 2019, that there  
3           were going to be significant costs and  
4           significant burdens associated with honoring  
5           the spirit of that law and maintaining  
6           compliance.

7                     Counties have certainly been  
8           advocating that they can't afford the  
9           significant costs. And the result of this, I  
10          think you're compromising victims, witnesses  
11          and ultimately really harming the very  
12          communities that you're charged with  
13          protecting.

14                    I think I would close -- and then open  
15          for any questions, certainly. But if the  
16          goal of the changes to discovery was to  
17          improve the exchange of information, that is  
18          something that the state should step up and  
19          fund. And that is something that is lacking  
20          in this budget. And we would certainly ask  
21          and encourage that this body, both Senate and  
22          Assembly, look to add important funding to  
23          address those needs.

24                    So thank you very much for giving us

1           this opportunity, and I'll answer any  
2           questions or let you move on to the next  
3           panelist.

4                   CHAIRWOMAN KRUEGER: Thank you. We'll  
5           take all three of you and then we'll ask  
6           questions. So thank you.

7                   DAASNY PRESIDENT JORDAN: Thank you,  
8           Senator.

9                   CHAIRWOMAN KRUEGER: Thank you.  
10          Imogene Jones.

11                   NYSCCA PRESIDENT JONES: Good evening,  
12          everyone. My name is Imogene V. Jones, and I  
13          have the pleasure of being the president of  
14          the New York State Court Clerks Association.  
15          It's truly an honor to be before this august  
16          body.

17                   The Court Clerks Association is  
18          composed of women and men working for the  
19          Unified Court System in one of 19 supervisory  
20          peace officer titles, including senior court  
21          clerk and going up to deputy chief clerk,  
22          located within the City of New York. With  
23          over 1300 active and well over 1,000 retired  
24          members, the Court Clerks Association is one

1 of the largest of the 11 employee  
2 associations within the Unified Court System  
3 of the State of New York. Our office is  
4 located in Tribeca, at the core of the Big  
5 Apple.

6 I've been employed by the New York  
7 State court system for 32 years, and a civil  
8 servant for 38. Today I urge you to look  
9 favorably on the budget bills affecting the  
10 court system. The system is suffering from  
11 years of a starvation budget. The COVID-19  
12 pandemic has wreaked havoc on the entire  
13 court system.

14 As with many of our society's  
15 institutions, years of neglect, the failure  
16 to maintain infrastructure, and the failure  
17 to cohesively implement modern technology has  
18 made it very difficult for the courts to  
19 deliver service as expected and deserved.

20 Despite the circumstances throughout  
21 the pandemic, court clerks have done their  
22 jobs. Our foremost challenge has been the  
23 loss of employees. The courts are currently  
24 suffering from unacceptable backlogs because

1 no one is there to do the work. Please  
2 remember, as we prioritize cases involving  
3 life and death, justice delayed is justice  
4 denied.

5 In 2020 our membership was just under  
6 1600 members, and as of today's date our  
7 active members total 1332. In recent years  
8 we've had over 1700 members. This incredible  
9 loss of personnel, coupled with the salary  
10 compression of our titles with those of lower  
11 civil service titles, has led to incredibly  
12 bad morale. It is long past time for the UCS  
13 to reallocate our titles and pay us  
14 accordingly.

15 The basic infrastructure, the  
16 courthouses and courtrooms in New York City,  
17 are in deplorable condition. The buildings  
18 are crumbling, the basements where records  
19 are often stored are dank, there is old and  
20 broken furniture needing to be replaced. The  
21 HVAC systems are wholly inadequate. These  
22 buildings are the responsibility of the City  
23 of New York. The State of New York should  
24 hold the city accountable for these failures

1 and, if necessary, make the improvements and  
2 charge-back the city, the same as the city  
3 would do to a homeowner for a dangerous  
4 sidewalk condition.

5 The court system's technology consists  
6 of outdated computers, printers, scanners and  
7 other equipment. The wifi service, which  
8 modern civilization takes for granted, is  
9 spotty, slow and inadequate. The video  
10 formats for remote hearings, although they  
11 are to be secure, are clunky compared to  
12 available freeware. Which leads me to  
13 comment on the software. Too many  
14 applications are incapable of  
15 cross-referencing and communicating with each  
16 other. An address updated in Family Court  
17 should automatically update a record in  
18 Criminal Court.

19 It is probably easy for you to listen  
20 to this and think, Well, this is government,  
21 what do you expect? I will tell you what I  
22 expect. I expect the equipment to do my job.  
23 I expect to work in a safe environment. And  
24 I expect to be paid for the full value of my

1 work.

2 Thank you very much for the  
3 opportunity to be heard.

4 CHAIRWOMAN KRUEGER: Thank you very  
5 much.

6 And then the last person on the panel,  
7 Elena Sassower, from Center for Judicial  
8 Accountability.

9 Hmm. Is Elena not with us? Or is she  
10 just not --

11 CJA DIRECTOR SASSOWER: Hi. I'm  
12 sorry --

13 CHAIRWOMAN KRUEGER: Ah, there you  
14 are. Okay.

15 CJA DIRECTOR SASSOWER: Yes. My  
16 statement is three minutes. I would ask your  
17 indulgence if I go over perhaps a couple of  
18 seconds so that I don't have to race through  
19 it. Thank you.

20 I am Elena Sassower, director and  
21 cofounder of the nonpartisan, nonprofit  
22 citizens' organization Center for Judicial  
23 Accountability.

24 By two citizen taxpayer actions we've

1 sued New York's three government branches for  
2 corrupting the state budget. Each was  
3 "thrown," by fraudulent decisions of  
4 self-interested judges of the Unified Court  
5 System, whose chief administrative judge,  
6 Lawrence Marks, was your first witness and  
7 was, with them, protected from accountability  
8 by the Commission on Judicial Conduct, whose  
9 administrator/counsel, Robert Tembeckjian,  
10 was your second witness.

11 Andrew Cuomo may be gone as governor,  
12 and Sheldon Silver long gone as Assembly  
13 speaker and now dead, but Governor Hochul's  
14 Executive Budget, with its included  
15 legislative and judiciary budgets, is just as  
16 flagrantly unconstitutional and rife with  
17 unlawfulness, fraud, and larceny.

18 Thus far, the Legislature's response  
19 has been of the same ilk. Look at how these  
20 legislative hearings are being conducted --  
21 not as hearings for each of Governor Hochul's  
22 five appropriations bills, plus a revenue  
23 bill -- consistent with the constitutional  
24 scheme of a rolling budget, enacted bill by

1 bill. Rather, they are organized by  
2 so-called "programmatic areas," with  
3 testimony and questioning mostly not about  
4 numbers, but about non-fiscal policy, such as  
5 Governor Hochul has loaded into so-called  
6 Article VII legislation, not bills -- which  
7 the Legislature, by fraud, has converted into  
8 budget bills, in the Governor's name,  
9 including for "public protection."

10 And the 10 minutes that citizens used  
11 to have for their testimony, as recently as  
12 2018, is now three minutes.

13 Suffice to bullet point that the  
14 unconstitutionality, fraud, and larceny of  
15 the state budget have been enabled and  
16 perpetuated by New York's corrupt "public  
17 protection" entities funded in the budget.  
18 The Commission on Judicial Conduct is a prime  
19 example. Others include the Judiciary's  
20 attorney grievance committees, the  
21 Judiciary's Inspector General, the Joint  
22 Commission on Public Ethics, the Legislative  
23 Ethics Commission, and the State Inspector  
24 General.



1           It is not a heavy lift to fix their  
2           corruption. Indeed, it does not necessarily  
3           require emendation of existing laws --  
4           because, in many respects, the laws  
5           establishing them are perfectly fine, even  
6           exemplary. Rather, the laws are being  
7           violated by those appointed to operate them,  
8           such as Mr. Tembeckjian. In other words, the  
9           personnel needs to be investigated,  
10          prosecuted, and removed. And this is obvious  
11          from comparing the laws with how the "public  
12          protection" entities have handled complaints  
13          filed pursuant thereto.

14                 I look forward to discussing with you  
15          the mountain of fully-documented complaints  
16          pertaining to the budget that I have filed  
17          with all the aforesaid "public protection"  
18          entities -- and others. When are you  
19          available?

20                 Our website is [www.judgewatch.org](http://www.judgewatch.org), and  
21          from its prominent center panel entitled  
22          "Comparing New York's Legislature Before &  
23          After its Fraudulent Pay Raise," you can find  
24          the evidentiary substantiation of this

1 testimony.

2 Thank you.

3 CHAIRWOMAN KRUEGER: Thank you.

4 All right, Senator Bailey, I saw your  
5 hand up.

6 SENATOR BAILEY: Thank you,  
7 Madam Chair. I thank you all for your  
8 indulgence in staying up to the final panel.

9 DA Jordan, you mentioned that the  
10 funding needs were not adequate. What would  
11 be a sufficient amount that you would believe  
12 would be adequate?

13 DAASNY PRESIDENT JORDAN: Thank you,  
14 Senator.

15 What we have looked at in terms of  
16 ongoing needs are -- you're probably looking  
17 statewide at \$100 million, is what we're --  
18 best estimates based on technology, human  
19 need, storage, training, and then additional  
20 staffing for the review, especially -- I  
21 think a very important initiative was the  
22 implementation of body cameras for  
23 State Police.

24 The consequence of that is they have a



1 mean \$100 million per year, \$100 million in  
2 totality, or phased over what period of time?

3 DAASNY PRESIDENT JORDAN: I think that  
4 is our initial estimate per year, based on  
5 all-in costs to do it right.

6 But again, I think because that can  
7 be -- you know, that is a number that we have  
8 been discussing and kicking around. I think  
9 until you actually look at where do we end  
10 and how do we balance it out -- I think  
11 as we've looked at addressing the need for  
12 discovery, one of the benefits, and I know it  
13 was a problem for the court administration,  
14 as they testified earlier, but the shutdown  
15 of courts gave us time to get caught up, and  
16 that is now gone.

17 So I think what we're looking at is a  
18 significant need for increasing bodies just  
19 to push through discovery.

20 SENATOR BAILEY: And I guess the last  
21 question related to -- and having prior  
22 conversations, I think that you were there  
23 physically at one of the hearings that we had  
24 and speaking about the regional differences

1 in county versus county. Some DA's offices  
2 have been updated more recently, for lack of  
3 a better term, and some unfortunately are  
4 still running on relatively antiquated  
5 equipment.

6 Does that also factor into the  
7 \$100 million figure? Or is that just the  
8 global scale? And I think I've run out of  
9 time, sorry.

10 DAASNY PRESIDENT JORDAN: I think one  
11 of the resource gaps we see is the haves and  
12 the have-nots. And that's something we  
13 should always look to address.

14 But technology is definitely a gap  
15 where those that have current technology,  
16 it's a little bit easier, because they can be  
17 more dynamic in their ability to review  
18 things.

19 So yeah, that's definitely something  
20 that we see as a challenge.

21 SENATOR BAILEY: Okay. And we can  
22 follow up at a later time in relation to  
23 other things.

24 I just want to thank you for your

1           patience and everybody for your patience in  
2           this respect. And thank you --

3                     DAASNY PRESIDENT JORDAN: Please do.  
4           I look forward to working with you, Senator.

5                     SENATOR BAILEY: Thank you, DA Jordan,  
6           Mr. President.

7                     Thank you, Madam Chair.

8                     CHAIRWOMAN KRUEGER: Thank you.  
9           Assemblywoman?

10                    CHAIRWOMAN WEINSTEIN: Assemblyman  
11           Lawler.

12                    ASSEMBLYMAN LAWLER: Thank you,  
13           Madam Chair.

14                    Tony, I hope you're doing well. I'm  
15           sure when you left the Assembly you didn't  
16           envision being back on these budget hearings,  
17           but here you are.

18                    So I just want to address really one,  
19           if you would, concern that I have. And it  
20           really comes down to this. I certainly  
21           believe that district attorneys should have  
22           discretion in the charges that they bring,  
23           based on evidence or lack thereof. But I do  
24           not believe that district attorneys should be

1 blanketly saying "I will not enforce this law  
2 because I don't agree with it." If they  
3 don't like the law, they should run for the  
4 State Legislature.

5 I'd like to know what the official  
6 position of the District Attorneys  
7 Association is with respect to members openly  
8 defying the State Legislature and deciding  
9 that their judgment is better than that of  
10 the members who are elected to set the laws  
11 of the State of New York and to blanketly  
12 say, We will not enforce laws or to downgrade  
13 those laws across the board.

14 DAASNY PRESIDENT JORDAN: So much like  
15 you all, the DAs Association consists of  
16 62 independently elected district attorneys  
17 who represent their particular counties. And  
18 we're all tasked with delivering criminal  
19 justice in the way that we feel best  
20 represents our communities.

21 The association is not in a position  
22 to criticize or condemn someone who is, in  
23 their mind, reflecting the values and the  
24 desires of their county. I'm assuming -- you

1 know, in this particular instance DA Bragg is  
2 new, DA Bragg is attempting to navigate  
3 challenging waters. And, you know, what I  
4 would suggest is that we all give him time to  
5 find where he has hit the right message and  
6 is addressing the right problems. And I  
7 think we already heard him looking to say,  
8 you know, there's things that we need to  
9 address.

10 And so much like in your chamber, you  
11 all have different constituents and different  
12 needs, and I think that's very similar with  
13 the 62 DAs.

14 ASSEMBLYMAN LAWLER: And there's no  
15 question there's different parts of the  
16 state. I just think it is deeply concerning  
17 when a district attorney who is sworn to  
18 uphold all of the laws of the State of  
19 New York openly defies those laws and says:  
20 I will not enforce them, I will not --  
21 regardless of the evidence, regardless of the  
22 facts, regardless of the circumstances, I'm  
23 not going to enforce that.

24 I just think that's deeply troubling.



1           And I certainly hope within the DAs  
2           Association internally -- you don't have to  
3           share those discussions -- I do hope that  
4           there is some level of pushback against that,  
5           because it's a very dangerous precedent to  
6           set across our state.

7                   CHAIRWOMAN KRUEGER: Thank you.

8                   Senator Brad Hoylman.

9                   SENATOR HOYLMAN: Thank you,  
10           Madam Chair. We've almost made it to the  
11           end, and I can see the finish line. So thank  
12           you to the two chairwomen for this really  
13           robust conversation that we've been having  
14           today.

15                   I just wanted to note that DA Bragg is  
16           not the first district attorney to say that  
17           he won't prosecute certain crimes. There's a  
18           long history of that.

19                   But I wanted to ask a question to our  
20           court clerk representative, Ms. Jones. Thank  
21           you for being here, really appreciate it. I  
22           don't know if you heard, but Judge Marks  
23           earlier today, the first person to testify,  
24           alluded to the fact that the Chief Judge is

1 going to seek, again, consideration of a  
2 court consolidation proposal.

3 And I was wondering what your thoughts  
4 about that were, if you've been consulted on  
5 anything up to now, and if your members have  
6 concerns you want to share with us.

7 NYSCCA PRESIDENT JONES: Thank you so  
8 very much, Mr. Hoylman for your question.

9 No, we have not been consulted in  
10 regards to the consolidation. We've had no  
11 input whatsoever. We would like some.

12 The problem that we see -- one of the  
13 problems we see is the lack of people to  
14 implement these items.

15 I want to say -- to Mr. Jordan, I want  
16 to say that you were incorrect to say that  
17 the courts were shut down. Truly, let me say  
18 that myself and my fellow coworkers were  
19 there at the courthouse every day from the  
20 beginning of this pandemic, especially when  
21 you consider talking about criminal court  
22 cases, where there's a time frame and people  
23 must be processed. And so the courts were  
24 open every day in regards to that.

1                   And we have some concerns about the  
2                   consolidation because of the fact of the lack  
3                   of manpower that we have. And as I said in  
4                   my statement, that we're down to 1300  
5                   members, and we need way more than that if  
6                   you want to consolidate a court.

7                   SENATOR HOYLMAN: Thank you very much.  
8                   Thank you for your service.

9                   And thank you, Chair Krueger.

10                  CHAIRWOMAN KRUEGER: Thank you.  
11                  Assemblymember Weinstein.

12                  CHAIRWOMAN WEINSTEIN: Assemblyman  
13                  Palmesano.

14                  ASSEMBLYMAN PALMESANO: Thank you.

15                  Hey, Tony, it's good to see you. It's  
16                  been a long time. Hope you're doing well.

17                  My question is around the issue of  
18                  discovery. When we talk about the bail -- a  
19                  lot of time -- there's always talk about the  
20                  bail laws, but the discovery laws come up a  
21                  lot when we talk about it.

22                  My first question on that issue is  
23                  have you seen -- have our counties and our  
24                  DAs had to dismiss cases due to the inability

1 to comply with the discovery laws and  
2 potentially releasing dangerous individuals  
3 back onto the street, and to what extent?

4 DAASNY PRESIDENT JORDAN: And if I  
5 could, Assemblyman -- Ms. Jones, I apologize.  
6 I meant not to have suggested that your staff  
7 wasn't coming in, but that the functioning of  
8 processing cases -- or not processing, but  
9 actually moving cases was delayed.

10 So I apologize, I certainly didn't  
11 mean to imply that you folks weren't coming  
12 in and working, because I certainly know that  
13 you were.

14 Relative to dismissing of cases --  
15 sorry, Phil -- absolutely. I know there's  
16 been a significant number of cases around the  
17 state that have had to be dismissed because  
18 law enforcement couldn't get the material to  
19 the prosecutor's office timely in order to  
20 then be able to turn over, in compliance with  
21 the requirements of the statute.

22 And much of that has been well-covered  
23 and well-documented. But hundreds and  
24 hundreds of misdemeanor cases in our city

1 courts have had to be dismissed by DAs around  
2 the state. And that's unfortunate, because  
3 that's not justice, that's not being able to  
4 fit a widget through a particular-sized hole.  
5 And that's not the way -- I don't think that  
6 was the goal of the legislation when it was  
7 passed, and it's certainly not something that  
8 we want to see happen.

9 ASSEMBLYMAN PALMESANO: Great. Also  
10 on the issue on discovery is your timing and  
11 your releasing of that information -- you  
12 know, when it's released, how early compared  
13 to how it used to be.

14 Have these changes in the discovery  
15 laws impacted witness and victim cooperation?  
16 And if so, how?

17 DAASNY PRESIDENT JORDAN: It has. I  
18 certainly couldn't tell you percentages or  
19 the extent. But we do hear on a regular  
20 basis concerns from witnesses and victims  
21 when we can't assure them that their  
22 identities won't be disclosed. We used to be  
23 able to control that fact or that part of the  
24 process much easier, and now it is dependent

1           upon a motion in front of a court. And  
2           that's just a different conversation with the  
3           witness or a victim that, well, we'll do our  
4           best to protect your identity for as long as  
5           we can, but -- and once you say the "but,"  
6           depending on the nature of the crime, what  
7           they witnessed, their own sensibilities or  
8           sense of self-confidence is going to dictate  
9           whether or not they cooperate at that point.

10                   And we see it from simple vehicle and  
11           traffic matters to street shootings.

12                   ASSEMBLYMAN PALMESANO: (Muted.)

13                   CHAIRWOMAN WEINSTEIN: Phil, we can't  
14           hear, but the time is up. So I don't know if  
15           that was --

16                   CHAIRWOMAN KRUEGER: Yes, I think  
17           that's -- the time is up.

18                   Senator Tom O'Mara.

19                   SENATOR O'MARA: Thank you. Palmesano  
20           got the hook, huh? For the end of the night.  
21           That's appropriate for Phil. Sorry, Phil.

22                   DA Jordan, Assemblyman, it's great to  
23           see you, be with you. We still miss you in  
24           the Legislature.

1           I have a couple of follow-up questions  
2           on discovery. I think you maybe intimated a  
3           bit in some of your initial comments that  
4           some changes to some of the timing of the  
5           discovery requirements might be helpful in  
6           the flow, in the management of your offices,  
7           to be able to better handle the discovery.

8           Could you comment on that?

9           DAASNY PRESIDENT JORDAN: I think the  
10          objective of that would be to try to take the  
11          critical pieces of the discovery and get them  
12          out as quickly as possible.

13          But when it comes to the, you know,  
14          13th memo book of the officer directing  
15          traffic and those types of items that don't  
16          go to the merits of the case, and all of the  
17          lab, the background of the lab work, all of  
18          the different material that goes with that,  
19          those would be the things, if we could find a  
20          way to create a staggering of what's due and  
21          when it's due.

22          Also, quite frankly, allow defendants  
23          to waive delivery of certain discovery in  
24          order to pursue a plea negotiation. Not

1 allow us to make plea negotiations contingent  
2 upon that -- but if they choose to want to  
3 move the case along, because there's a lot of  
4 value in that, and certainty and  
5 understanding, that would be the stuff that  
6 we're thinking about.

7 To give you a sense, when they  
8 estimated how much data we would use, the  
9 estimate -- what we ultimately did just in  
10 the first year, so 2020 -- and that was  
11 during -- when crime numbers were down, we  
12 were four and a half times the amount of  
13 storage that was anticipated based on  
14 historical use. Just so you can get a sense  
15 of how much is really out there but doesn't  
16 really go to the merits of the case in terms  
17 of plea discussions.

18 Certainly trial, all of that should be  
19 delivered. And delivered well before trial.

20 SENATOR O'MARA: I agree. And as a  
21 former prosecutor myself, I welcomed a lot of  
22 these discovery changes to move things up,  
23 just out of basic fairness, because some of  
24 stuff was so last-minute being provided.



1           Now, this is -- these changes have  
2           been in effect, you said, really starting in  
3           2020, and we've pretty much been in COVID  
4           throughout that entire period, and courts  
5           have slowed down in handling cases in jury  
6           trials and things like that.

7           Do you have any sense yet at this  
8           point, because of the COVID situation, what  
9           the impacts of the discovery and the bail  
10          reforms have been on the general disposition  
11          of cases? And how much is this going to  
12          prolong cases? Or is it going to, you think,  
13          force more cases to trial or just have later  
14          plea bargain discussions on these?

15          You know, it's just too early to tell  
16          because of COVID and the whole situation that  
17          we've had for two years.

18          DAASNY PRESIDENT JORDAN: COVID --  
19          I'll be quick, Chairwoman. COVID has made it  
20          difficult to say with any kind of degree of  
21          certainty. But what we are definitely seeing  
22          is a significant increase in litigation.  
23          Just look at the types of decisions that are  
24          being -- or issues that are being litigated.

1           And the more litigation you have, the longer  
2           the case will be delayed and the longer that  
3           justice is prolonged.

4                     And it's not litigation over merits,  
5           over probable cause, over suppression. It's  
6           litigation over whether did the failure to  
7           provide this memo book constitute bad faith  
8           and the case should be dismissed? And when  
9           you get that type of distraction from judges  
10          being able to manage cases and make important  
11          decisions, that I think is where we would  
12          like to see some guidance.

13                    And certainly when you read the  
14          decisions, that's what these judges are  
15          saying: You know, it would be nice to have  
16          better guidance or clarity as to what this  
17          all means.

18                    SENATOR O'MARA: Thank you.

19                    DAASNY PRESIDENT JORDAN: Thank you,  
20          Tom.

21                    CHAIRWOMAN KRUEGER: Thank you.  
22          Assemblywoman Weinstein.

23                    CHAIRWOMAN WEINSTEIN: Yes, we go to  
24          Assemblyman Ra.

1 ASSEMBLYMAN RA: Thank you, Chair.

2 Tony, good to see you. But I have a  
3 question actually for Ms. Jones.

4 Earlier we discussed somewhat with  
5 Chief Administrative Judge Marks regarding  
6 the adequacy of funding within OCA for -- you  
7 know, we have the new judges that were added  
8 last year, and obviously funding for adequate  
9 staff is important. And you did talk about,  
10 you know, funding being needed to get rid of  
11 the backlogs that we now have.

12 I was wondering if you can address  
13 what you're seeing with regard to that.

14 NYSCCA PRESIDENT JONES: Well, we have  
15 mounds and mounds of work that is backing up  
16 and less equipment to do it. It seems that  
17 they want us to do more with less. And we  
18 have less staffing.

19 As I said, the equipments are  
20 outdated. You know, we don't -- the state  
21 does not buy top-of-the-line equipment on  
22 anything, as we all know. So it's already  
23 two years behind, usually, when they purchase  
24 it in the first place.

1           And so it's just difficult. And with  
2           lack of -- our members leaving, resigning or  
3           retiring because of whatever reasons,  
4           attrition, that it's just less people there  
5           to get the work done. Hiring more judges,  
6           but you don't have clerks to cover judges.  
7           You have judges who are sitting in chambers  
8           because there's no clerk to cover their  
9           parts.

10           So it's very difficult to correct  
11           backlog when you don't -- are not given all  
12           the efficient equipment and personnel that  
13           you need to get it done.

14           ASSEMBLYMAN RA: Thank you.

15           Just quickly with my remaining time,  
16           Tony, I wanted to bring up -- there was that  
17           decision back in the fall regarding the  
18           requirement of, you know, potentially turning  
19           over information about crime victims and the  
20           ability to visit the scene of a crime -- in  
21           particular, a person's home. And I know the  
22           DAs Association had kind of weighed in with  
23           regard to that.

24           I'm just wondering your thoughts as to

1           whether that provision, you know, has caused  
2           fear for crime victims in reporting crimes,  
3           especially when it's their home that's, you  
4           know, the setting of a crime.

5                     DAASNY PRESIDENT JORDAN: Well, if  
6           it's -- I don't know whether it's caused fear  
7           about reporting a crime, because typically  
8           it's going to be in the instance of a violent  
9           crime, a home invasion, which is -- you know,  
10          causes lifetime damage. It's the anxiety and  
11          angst of the victim when they find out that  
12          that motion is pending. Right? That now  
13          this person wants to come back, and all of  
14          the uncertainty.

15                    One of the challenges, what will be  
16           interesting is to see how the Appellate  
17           Divisions work all of this out in the coming  
18           years if that provision isn't stricken.  
19           Certainly that decision was a very powerful  
20           statement as to the damage that such a  
21           provision can cause, but that's something  
22           that we'll just have to continue to monitor.

23                    ASSEMBLYMAN RA: Thanks.

24                    CHAIRWOMAN KRUEGER: Thank you.

1           All right, to close us out for this  
2 hearing, Senator Sue Serino.

3           SENATOR SERINO: Thank you,  
4 Chairwoman. I know it's been a long day, and  
5 I appreciate both you and Assemblymember --  
6 Chairman Weinstein.

7           First I just want to say to Imogene  
8 that I know that our court clerks play such a  
9 critical role, and I really appreciate  
10 everything that you do, so thank you so much.

11           And for DA Jordan, Senator O'Mara and  
12 Assemblyman Palmesano asked a few of the  
13 questions that I had, but I just have one  
14 more with regard to the discovery reforms  
15 that went into effect in 2020 had really  
16 increased the amount of materials that are  
17 required to be turned over while  
18 significantly decreasing the amount of time  
19 the prosecutors have to turn over those  
20 materials. Right?

21           So I hear from my DAs in my area about  
22 these challenges, and I know that the funding  
23 that you're seeking is not only reasonable  
24 but necessary to ensure that you can comply

1 and still effectively seek justice for the  
2 victims.

3 But can you describe some of the  
4 logistical challenges that these reforms have  
5 posed for the district attorneys' offices?  
6 Kind of to give folks an idea of the human  
7 impact that these changes have had.

8 DAASNY PRESIDENT JORDAN: It glitched.  
9 I think you said "technical challenges,"  
10 Senator?

11 SENATOR SERINO: Some of the  
12 logistical challenges.

13 DAASNY PRESIDENT JORDAN: Logistical,  
14 okay. Sure.

15 Well, some of the things that  
16 Ms. Jones was saying about technology within  
17 the court clerks' offices are very real  
18 problems that we have to face. We have law  
19 enforcement agencies around the state that  
20 some are still using some version of DOS, I  
21 think, in terms of their computer system, and  
22 they have to find a way to get us the  
23 material.

24 And so what we've had to do is we've

1 taken hundreds of police agencies that all  
2 use different software programs, have  
3 different technology, and we have to find a  
4 way to have them get all of their information  
5 to us. And then once we have it, this is  
6 where -- you know, so some of it is  
7 technology, but then this information all has  
8 to be reviewed by human eyes because you want  
9 to make sure that confidential information  
10 isn't inadvertently disclosed. A  
11 grandmother's Social Security number. The  
12 phone number for -- you know, a home phone  
13 number for the victim of a crime.

14 So those are all things that have to  
15 be reviewed. And all of that within, you  
16 know, 20 days, has to come in, be reviewed  
17 and pushed out the door. And there was some  
18 lengthening of that, I think, to 35 days,  
19 30 days. But we've always tried to stick  
20 with the shorter turn-around to get all of  
21 that in. And it's very difficult, especially  
22 with cases that are crimes in progress where  
23 the police have to make the arrest for public  
24 safety, but then the investigation is



1 ongoing. So you have that constant pull and  
2 tug.

3 And this is happening hundreds of  
4 times a day in larger counties and dozens of  
5 times a day in our office, which is a smaller  
6 office and with fewer people. So I think  
7 it's that -- trying to find that balance.  
8 Oh, by the way, we have to get the local  
9 court, we have to cover hearings, we have to  
10 cover trials, we have to meet with victims,  
11 et cetera. And I think that's where the  
12 staffing needs to really come in and -- to  
13 address that challenge.

14 CHAIRWOMAN KRUEGER: Thank you very  
15 much for your answers.

16 And with that, I am going to  
17 officially close the Public Protection  
18 hearing of 2022. I want to thank my friend  
19 and partner in government, Helene Weinstein,  
20 from the Assembly Ways and Means Committee.

21 And you'll be excited to know, in case  
22 you really don't know what else to do past a  
23 few hours from now, you can come right back  
24 for the Education hearing, starting at 9:30

1 in the morning.

2 I want to thank all of our panelists  
3 today throughout the day. I want to thank  
4 all my colleagues, from both houses, both  
5 parties, who sat through a 13-hour hearing.  
6 And this is just the first of 13 of them.

7 So with that, I wish everyone a safe  
8 home and we'll all -- many of us will be back  
9 here at 9:30 in the morning.

10 Thank you very much, everyone. Good  
11 night.

12 CHAIRWOMAN WEINSTEIN: Thank you, Liz.  
13 Ditto.

14 NYSCCA PRESIDENT JONES: Thank you,  
15 and good night, everyone.

16 (Whereupon, at 10:29 p.m., the budget  
17 hearing concluded.)

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