

1 JOINT HEARING BEFORE THE NEW YORK STATE SENATE
2 STANDING COMMITTEE ON CRIME VICTIMS, CRIME, AND
3 CORRECTIONS; STANDING COMMITTEE ON CIVIL SERVICE AND
PENSIONS; STANDING COMMITTEE ON INVESTIGATIONS AND
GOVERNMENT OPERATIONS; STANDING COMMITTEE ON CODES

4 PUBLIC HEARING:

5 EXAMINING POLICE SAFETY AND
6 PUBLIC PROTECTION IN NEW YORK CITY

8 Legislative Office Building
9 Van Buren Hearing Room A, 2nd Floor
10 181 State Street
Albany, New York 12247

11 March 11, 2015
12 10:00 a.m. to 1:00 p.m.

13 PRESIDING:

14 Senator Patrick M. Gallivan
15 Chairman, NYS Senate Standing Committee on
Crime Victims, Crime, and Corrections

16 Senator Martin J. Golden
17 Chairman, NYS Senate Standing Committee on
Civil Service and Pensions

18 Senator Carl L. Marcellino
19 Chairman, NYS Senate Standing Committee on
Investigations and Government Operations

20 Senator Michael J. Nozzolio
21 Chairman, NYS Senate Standing Committee on Codes

22 PRESENT:

23 Senator John J. Bonacic

24 Senator Leroy Comrie

25 Senator Ruben Diaz, Sr.

1 PRESENT (continued):

2 Senator Simcha Felder

3 Senator Andrew Lanza

4 Senator Thomas F. O'Mara

5 Senator Michael Venditto

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9 SPEAKERS:

PAGE QUESTIONS

10 Thomas Krumpter
11 Acting Police Commissioner
12 Nassau County Police Department

10 29

12 Alfonso David
13 Counsel to the Governor
14 Terrence O'Leary
15 Deputy Secretary for Public Safety
16 State of New York

60 67

15 R. Bruce McBride
16 Commissioner of Police
17 State University of New York

107 --

17 Thomas H. Mungeer
18 President
19 The Police Benevolent Association
20 of the New York State Troopers

115 121

21 Kevin Mulverhill
22 Sheriff
23 Franklin County, New York

134 143

21 Thomas Czyz
22 Co-Founder/CEO
23 Armoured One

148 150

23 Jeffrey Kayser
24 President
25 NYS Police Investigators Association

157 165

		PAGE	QUESTIONS
1	SPEAKERS (continued):		
2	Frank Sedita	171	192
3	President		
4	District Attorneys Association of NYS		
5	Michael Powers	219	227
6	President		
7	Tammy Sawchuk		
8	Executive Vice President		
9	John Terlesky		
10	Treasurer		
11	NYS Correctional Officers & Police		
12	Benevolent Association		
13	Drew Cavanagh	245	258
14	Secretary		
15	Police Benevolent Association of NYS		
16	Bernard Rivers	245	258
17	Director		
18	Environmental Conservation		
19	Superior Officers Association		
20	David Zack	261	284
21	Chief of Police, Town of Cheektowaga		
22	Police Department		
23	Vice President, New York State		
24	Association of Chiefs of Police		
25	Richard Wells	261	284
26	President		
27	Police Conference of New York		
28	Peter Patterson	261	284
29	Vice President of Nassau County PBA		
30	Legislative Chairman,		
31	State Association of PBAs		
32	Margaret Ryan	261	284
33	Executive Director		
34	NYS Association of Chiefs of Police		
35	Dr. Robert Worden	298	309
36	Director		
37	Dr. Sarah J. McLean		
38	Associate Director		
39	John Finn Institute		

1 SENATOR GALLIVAN: Good morning, everybody.
2 Thank you for being here today.

3 This is a joint Senate Standing Committee on
4 Crime Victims, Crime, and Corrections; Civil Service
5 and Pensions; Investigations and Government
6 Operations; and the Codes Committee, coming together
7 for a public hearing to examine police safety and
8 public protection.

9 In light of the things that we have seen
10 raised across the nation, not too recently in
11 New York City as well, we thought it appropriate to
12 examine these issues; to look specifically at police
13 safety, and what is needed to assist police to
14 effectively do their jobs.

15 And then, of course, the criminal justice
16 system, there have been cries and calls for reform.

17 The Governor, in particular, has proposed
18 several reforms.

19 And the committees have come together to
20 examine -- to examine those issues, and we
21 appreciate your participation.

22 I'm Senator Pat Gullivan. I chair the
23 Crime Victims, Crime, and Corrections Committee.

24 We are joined today by
25 Senator Carl Marcellino, to my left, your right, who

1 chairs the Government -- Investigations and
2 Government Operations Committee;

3 Senator Martin Golden, who is to my right, a
4 former New York City police officer, chairs
5 Civil Service and Pensions;

6 And we're also joined by Senator Ruben Diaz,
7 to your far right.

8 Senator Mike Nozzolio is the Chair of the
9 Codes Committee, and will be joining us as well,
10 along with others.

11 Other members may be moving in and out. It's
12 a very busy day in the Capitol. There are a number
13 of different committee meetings, budget process,
14 going on, so there will be people moving in and out
15 throughout the hearing.

16 But we appreciate your participation.

17 We do have written testimony from most
18 everybody who is going to present today.

19 If we don't have it from you, before you do
20 testify, if you're able to provide us with that.

21 And, I would just point out, with written
22 testimony, it is wonderful for us, and we can read
23 it. And we're more interested in what you have to
24 say.

25 So if at all possible, if you're able to

1 summarize and just make points, and have a
2 conversation with us, about the things that you deem
3 important on the relevant issues that we came
4 together for.

5 So, with that, I would ask if,
6 Senator Marcellino, do you have anything to add?

7 SENATOR MARCELLINO: Yeah, the only thing
8 I would add to the situation is, again, I second my
9 colleague, with the idea that we don't need people
10 reading their testimony. We can do that.

11 Despite what you might read in the papers, we
12 do read, and most of us graduated from school, so
13 we're able to do that.

14 [Laughter.]

15 SENATOR MARCELLINO: But what we need is, as
16 Pat said, is a conversation.

17 The issues are extremely important: the
18 relationship between the community, and the police
19 department whose job it is to protect us from people
20 who are bent on doing bad things.

21 We want to be able to help our police. We
22 want to be able to help them in their relations with
23 the community.

24 We want to make sure that there is a positive
25 relationship between the police departments all over

1 the state, with the people that they are sworn to
2 serve, and that's a positive thing.

3 It's -- in some cases, it seems to be the
4 bent of certain individuals to turn the community
5 against its police force.

6 I can think of no more dangerous scenario
7 that would happen, if that was to happen.

8 There should be a cooperative relationship
9 between the police, there should be a positive --
10 and the people. There should be a positive
11 relationship between the police and the public.

12 This -- it is good for everyone if the public
13 understands that the police are here to preserve and
14 protect, and that cooperation with the police
15 department is important so that they can do their
16 jobs, and the public gets the benefit of being able
17 to live in communities that are safe and streets
18 that are safe.

19 So, with that, I will turn it over to you,
20 Pat --

21 SENATOR GALLIVAN: Thank you, Carl.

22 SENATOR MARCELLINO: -- and Ruben has
23 something to say about this.

24 SENATOR GALLIVAN: Thanks.

25 Senator Golden, followed by Senator Diaz.

1 SENATOR GOLDEN: Thank you very much,
2 Mr. Chairman.

3 Thank you all for showing up here today.

4 I think my colleagues already hit the nail on
5 the head; this is about reactions that are going on
6 across not just this state, but other states, and
7 people overreacting and trying to have different
8 outcomes by using the court system and restraining
9 police officers and limiting district attorneys'
10 rights and abilities to prosecute.

11 So we're going to be, obviously, listening to
12 "grand jury" testimony; what do we want to do about
13 a grand jury that's been working well here for the
14 past hundreds of years?

15 We'll talk about the broken-windows theory;
16 the resources to offices and how to keep them safe;
17 and bulletproof glass, bulletproof doors; training;
18 other resources; perception to the police
19 departments and police conduct; and how we can help
20 to give the police officers and district attorneys
21 across the state of New York the tools they need to
22 continue to bring crime down here in the state of
23 New York and in the city of New York.

24 And it's becoming more and more difficult
25 each and every day, as we see the number of

1 incidents, although, be it a small number, four or
2 five have driven the media and many cities to react.

3 And we want to make sure that this state
4 reacts appropriately and does what's necessary to
5 keep our citizens safe; but at the same token, we
6 want to keep our police officers and our district
7 attorneys, to give them the teeth that they need to
8 be able to keep this city and state safe.

9 A safe city, a safe state.

10 So, I want to thank this Committee.

11 I think this Committee has done an awful lot
12 of good work, and it's going to continue to do good
13 work, as we move forward to make sure we put the
14 appropriate legislation forward, as well as the
15 appropriate dollars where needed, to be able to
16 protect our "thin blue line."

17 Thank you.

18 SENATOR GALLIVAN: Senator Diaz.

19 SENATOR DIAZ: Thank you, Mr. Chairman --

20 [Microphone turned on.]

21 SENATOR DIAZ: It's on? Okay.

22 Thank you, Mr. Chairman.

23 You know, we do meetings after meetings, and
24 we are always back to the same starting point. All
25 throughout the nation, from west to east -- from

1 north to east and west to south, we have the same
2 complaints: How police and the law-enforcement
3 officers treat Black and Hispanic and minority
4 communities.

5 All the complaints are based on the
6 relationship between the law enforcement and the
7 treatment towards Black and Hispanic and minority
8 communities.

9 If it were not because of that, we would not
10 be here.

11 We have been here over and over and over.

12 So not until the relationship -- or, the way
13 in which the police or the law-enforcement officers
14 address or treat our community, it never will be
15 changed.

16 We read in the paper, we read the same thing:
17 the same abuses, and the same accusations, the same
18 complaints.

19 But hopefully, today, something will be done.

20 [Unintelligible] to say that. Too many of
21 these [unintelligible].

22 But I'm glad that you, Mr. Chairman, have
23 called to this meeting, and let's go with it.

24 SENATOR GALLIVAN: Thank you, Senator.

25 Our first presenter will be Thomas Krumpert,

1 who is the acting commissioner of the Nassau County
2 Police Department.

3 And Bruce McBride will be next.

4 Good morning, Commissioner.

5 When you're ready.

6 COMMISSIONER THOMAS KRUMPTER: Good morning.

7 I'd like just to take a moment and thank this
8 Committee for holding these hearings.

9 It is an extremely important topic in light
10 of the national view right now, and some significant
11 incidents that have occurred throughout the country.

12 Nassau County Police Department is the
13 thirteenth largest major-city department in the
14 country. We currently have approximately
15 2200 officers.

16 It's frequently touted that Nassau County is
17 the largest safe suburban county in America, and
18 it's a proud distinction that we're, you know, very
19 excited about in Nassau County.

20 In 2014 crime was reduced by 9.5 percent over
21 2013.

22 Over the last 5 years, crime is down
23 25 percent, and shootings in Nassau County is down
24 33 percent.

25 Just to show exactly what that means:

1 In the police district of Nassau County last
2 year there were six homicides.

3 That gives a per capita homicide rate
4 of .56 per 100,000 residents.

5 In New York State, in 2013, it was
6 3.3 homicides per 100,000 residents.

7 And in the country, as a whole, it was 4.5.

8 So I think you get the feeling of just how
9 safe Nassau County is.

10 Now, what adds something special to all this,
11 is that you would think that, over the last several
12 years, we've significantly increased the size of the
13 police department; and that's just not the case.

14 In September of 2008, the police department
15 was 2750 sworn. And as I stated earlier, we are now
16 at approximately 2200 sworn.

17 You know, so the question is, you know: How
18 have we accomplished this?

19 And, you know, first and foremost, you have
20 to give credit where credit is due.

21 The cops in Nassau County go out there every
22 single day and do a great job, putting their life on
23 the line, and are motivated to do the right thing by
24 the residents in Nassau County.

25 The other area that we have focused a

1 significant amount of energy on, while we've made
2 significant reductions in the Nassau County Police
3 Department, we have invested significantly in our
4 intelligence-led policing model.

5 Five years ago there were three people
6 assigned to the intelligence section.

7 As of today, we have approximately 17 -- not
8 approximately -- 17 intelligence analysts,
9 civilians; and 10 sworn members assigned to that
10 unit. And in the next month we'll hire another
11 seven.

12 In Nassau County we take an all-crimes
13 approach, using intelligence-led policing, from the
14 ground up.

15 At the core of that is, you know, we leverage
16 technology.

17 You know, we use the system, ShotSpotter,
18 which is a real-time gunshot location system that's
19 currently deployed in Roosevelt and Uniondale.

20 You know, when we rolled out that system, we
21 worked with the community. And it's about community
22 relationships, it's about building trust.

23 And when we first tested that system, shots
24 were going off every single day in those two
25 hamlets. And over time, we've seen a reduction of

1 90 percent.

2 As a matter of fact, when we first tested
3 that system, we fired over 600 rounds at
4 60 locations, and received 3 phone calls to 911.

5 We didn't advise the community we were doing
6 the testing. We didn't want them to feel that those
7 shots were by us and assume we expected them to
8 call.

9 And people became used to the sound of
10 gunshots in their community.

11 That's pretty scary when you're talking about
12 a suburban community.

13 So what we've done, is we turned around that
14 community, and we've seen significant reductions in
15 shots by over 90 percent in the last 5 years.

16 LPR technology, it's the same thing.

17 License plate readers have become an integral
18 part of how we police in Nassau County.

19 And what we've done there is, when I was a
20 cop on patrol, if we had a burglary pattern, if we
21 had a robbery pattern, we would make -- you know,
22 30, 40, 50 cops would be assigned to that pattern.

23 Now, with the use of technology, we're
24 solving those patterns a lot faster.

25 LPRs we'll put in a neighborhood, and we're

1 usually able to solve a burglary pattern with fewer
2 than 10 burglaries in total.

3 Once a pattern's established in a given area,
4 we put out that technology, and we can take license
5 plates that are gathered by that technology,
6 forty to fifty thousand, sort them, analyze it, and
7 come down to three to four cars of interest, and
8 usually, you know, focus on a single or two
9 subjects.

10 You know, with all that being said, in March
11 of last year, March of 2014, the chief of the
12 department, Steve Skrynecki, and I sat down, and
13 what we believed, was we could do better in
14 Nassau County, and we implemented three programs
15 last year.

16 First, we took a look at our ethics.

17 We took a look at a department that, really,
18 for all purposes, is corruption-free.

19 It's not to say we don't have our problems.

20 We have problems, like any large department.
21 We have 3200 employees.

22 But we weren't satisfied with being,
23 virtually, corruption-free. We weren't satisfied
24 with very few complaints and very few issues.

25 We wanted to do better.

1 So we went out on a request for proposal.

2 PERF (Police Executive Research Forum) won
3 that bid, and we are currently going through a major
4 overhaul of our ethics.

5 One of the most interesting parts of that
6 was, we did a survey to gauge the public trust of
7 the Nassau County Police Department.

8 That survey was conducted, under the
9 direction of PERF, by Sienna Polling, a very
10 reputable polling company.

11 And what we found was something startling.

12 What we found is, that even though we have
13 aggressively policed Nassau County, even though we
14 significantly reduced the force, what we found was,
15 we had a high degree of trust from the community.

16 As a matter of fact, the Nassau County as a
17 whole, the trust was measured at over 80 percent --
18 just -- excuse me, just about 80 percent.

19 As the minority community, we have more work
20 to do, but we're just about 70 percent positive view
21 of the Nassau County Police Department.

22 This is a county with 1.3 million residents,
23 primarily police -- 1.1 million residents, by
24 Nassau County Police Department, and the minority
25 community had a very favorable impression of the

1 Nassau County Police Department, and as the
2 community as a whole.

3 So it can be done; you can balance the public
4 trust with the objectives of the police department.

5 Last year we conducted an ethics training, we
6 conducted a use-of-force training.

7 In March of last year we overhauled our
8 completely use of -- excuse me -- our use-of-force
9 policy.

10 Chief Skrynecki led a committee, and we,
11 literally, spent thousands of hours going over our
12 use-of-force policy for the first time since 1986.

13 With all those things that are positive in
14 Nassau County, we do have issues.

15 Last year there were 550 police officers
16 injured in the line of duty.

17 And the other major issue that faces
18 Nassau County, that is killing people every day, is
19 the heroin epidemic that faces not only
20 Nassau County, but Long Island.

21 Last year 100 people, 100 young people, died
22 of overdoses, predominately of heroin and opioids.

23 It is killing kids and it's destroying the
24 future.

25 We have had over -- just under 800 heroin and

1 opioid overdoses reported to the police last year.

2 It is a significant issue.

3 And as we move forward, I ask this Committee
4 to consider a couple of items related to heroin.

5 First and foremost, it's a difficult drug to
6 overcome, with a 90 percent relapse rate reported in
7 some studies.

8 There are some positives coming about, but
9 we'll wait and see.

10 So the first thing that I ask, is that you
11 consider legislation that would require a 72-hour
12 hold on victims of overdoses transported to the
13 hospital.

14 What we're seeing in Nassau County, and we're
15 aggressively dealing with this problem, as a matter
16 of fact, we have actually trained every single
17 police officer in the department on the use of
18 Narcan, and it is saving lives.

19 Last year, since May, we had over 200 people
20 saved from Narcan. We had 100 people die.

21 If not for the Narcan intervention by the
22 police department, that number surely would have
23 been well over 200 fatalities.

24 So what happens is, and what we're finding
25 is, that when people are responding to these calls,

1 we save their lives, we transport them to the
2 hospital, and then they're out of the hospital very
3 quickly. They're out of the hospital to overdose
4 again without any intervention, any treatment,
5 without any help or assistance.

6 And we've actually had a case last year,
7 where we saved a person's life on day one. By day
8 four, we saved the person's life a second time. And
9 within five days after that, the person died of an
10 overdose.

11 So we're getting them the help on the front
12 end, and what we really need is those hospitals to
13 hold those individuals and get them the intervention
14 that they need.

15 The second item is statistics.

16 As I stated earlier, you know, we're a model.
17 We use intelligence-led policing, and what we use is
18 analytical data to drive our crime deterrents and
19 crime prevention.

20 But what we don't know is the full scope of
21 the heroin, and hospitals are not required to report
22 that data.

23 So it would be worthy of consideration to
24 actually look at the possibility that the hospitals
25 would be required to report that overdoses by

1 ZIP code and drug, so that would allow us to target
2 our efforts.

3 And we do take a holistic approach to heroin
4 in Nassau County.

5 In 2014 we were awarded the Cisco IACP
6 (International Association of Policing) Community
7 Policing Award for our heroin initiatives, but, we
8 can do more.

9 As a result of that, we would be able to
10 target our enforcement by looking at where we know
11 of known overdoses, where we know of arrests, and
12 work towards alleviating that problem.

13 It is the single biggest challenge that faces
14 the Nassau County Police Department, and like
15 I said, it is killing our young people.

16 The third item is diversion.

17 Diversion has been in effect for almost
18 five years now, and to my knowledge, there hasn't
19 been a single study to look at diversion in this
20 state.

21 And there's some concerning issues with
22 diversion that we're finding, and the impact of
23 those are unknown.

24 The first issue that we're seeing is, on
25 occasion, there are large quantities of drugs being

1 held by an individual that is eligible for
2 diversion.

3 One case in Nassau County, a person was put
4 into diversion while he had in his possession
5 200 decks of heroin.

6 Think about it, what is 200 decks of heroin?

7 200 decks of heroin is a street value of
8 somewhere between 3,500 and 4,000 dollars of heroin.

9 The second item that we're seeing is, in
10 Nassau County, 34 percent of the people that enter
11 diversion, their addiction is marijuana.

12 Throughout this country, experts are saying
13 over and over again, there's no physical addiction
14 possibility with marijuana; and, yet, in
15 Nassau County, 34 percent of the people are going
16 into diversion with their sole addiction of
17 marijuana. Their drug of choice, marijuana.

18 The third item --

19 SENATOR NOZZOLIO: No, this is the fourth.

20 COMMISSIONER THOMAS KRUMPTER: What's that?

21 SENATOR NOZZOLIO: This is the fourth.

22 We're paying attention.

23 [Laughter.]

24 COMMISSIONER THOMAS KRUMPTER: Yep.

25 So it's, uh -- it creates a significant issue

1 with this.

2 And, you know, a study by the State, after
3 five years, would be a worthwhile expenditure, to
4 see if these problems are widespread.

5 You know, as far as heroin, it is a
6 significant impact.

7 It is affecting thousands of people in
8 Nassau County.

9 And thanks to the Senate; specifically,
10 Senator Skelos, Senator Martins, and Senator Hannon,
11 they made funding available for the Nassau County
12 Police Department, and we're seeing that return
13 investments.

14 One of the other issues that we face with
15 heroin diversion is, if you're a heroin dealer in
16 Nassau County, or, pretty much, anywhere in
17 New York State, you deal heroin, and it's got some
18 other substance, or it's a very high level of
19 purity, what you'll see is a fatal overdose.

20 If we arrest that individual, that individual
21 can go into diversion and not be held accountable
22 for dealing that poison.

23 Make no bones about it, heroin is poison.
24 90 percent purity we're seeing in heroin.

25 When I was a street cop working in Harlem as

1 a housing cop in 1989, 1990, we would see heroin,
2 where the lab results would come back, 4, 5, 6, 7,
3 8 percent.

4 And now we're seeing 90 percent purity.

5 It is a major challenge for Nassau County, or
6 Long Island, for that matter, and I would imagine
7 the rest of the state.

8 It is an epidemic and it is spreading.

9 SENATOR GALLIVAN: Commissioner, if I may, we
10 had -- we do recognize the heroin problems that we
11 face statewide.

12 We've actually, separately, put together a
13 task force, a separate committee of the Senate, to
14 more fully examine it.

15 So we would greatly appreciate it, if you're
16 able to reduce that to writing, so that we can
17 submit it to them.

18 And if you're available, we would reach out
19 to you.

20 There will be separate hearings on the
21 heroin.

22 I just wanted you -- I didn't know if you
23 were aware of that.

24 COMMISSIONER THOMAS KRUMPTER: I wasn't aware
25 of that, and I would make myself available. And

1 I would be more than happy to put that down in
2 writing.

3 And, you know, like I said, it is something
4 that is a priority of not only the department, but
5 the -- County Executive Mangano, who has established
6 a task force. And we are taking a collaborative
7 approach to heroin.

8 We don't believe the answer in, you know,
9 addressing drug issues in the state is directly
10 related to enforcement.

11 And the approach we do take is holistic, as
12 is demonstrated by the fact that the county
13 executive invested a significant amount of money in
14 training every single police officer in the use of
15 Narcan; and to my knowledge, the first major police
16 department to train every single member in Narcan.

17 SENATOR GALLIVAN: Great.

18 Well, we'll look -- if we're able to -- if
19 you had additional comments beyond the heroin,
20 I think you're right on, the significant problem
21 that we face, and we are going to fully examine it.

22 But, time really precludes us from getting
23 deep into the heroin issue today.

24 COMMISSIONER THOMAS KRUMPTER: Absolutely.

25 SENATOR GALLIVAN: If you could continue,

1 please.

2 COMMISSIONER THOMAS KRUMPTER: I will
3 continue.

4 So the other item is, safety of police
5 officers.

6 Paramount to the safety of police officers is
7 training. And, they are frequently the victims of
8 assault.

9 As a matter of fact, there was 550 police
10 officers in Nassau County that were injured in the
11 line of duty in 2014.

12 Resisting-arrest charges in Nassau County,
13 and for that matter, New York State, have become
14 disposable charges.

15 People are rarely sentenced to any time for
16 resisting arrests, and those charges are frequently
17 dismissed.

18 You know, I would urge this body to seriously
19 consider making resisting arrest and fleeing a
20 police officer a felony as a baseline charge.

21 People have to know they're going to be held
22 accountable if they resist arrest.

23 Our police officers are out there every
24 single day doing the job in Nassau County.

25 It was very unfortunate, over the last

1 four years, to have five police officers die in the
2 line of duty.

3 We are looking for, you know, some assistance
4 in that way.

5 The other item that we're looking for is
6 training.

7 You know, what is the most important thing,
8 not only to the public safety, but the safety of
9 officers, is an adequate amount of training.

10 In Nassau County, in late fall, late last
11 year, making use of the Homeland Security funds, we
12 conducted an act of duty -- excuse me -- an
13 active-shooter drill at 5:30 in the morning at the
14 Roosevelt Field Mall.

15 We've developed great relationships with the
16 malls and the business-holders, and we've been doing
17 those drills.

18 But, unfortunately, the funding available
19 through Homeland Security is only a fraction of what
20 we would actually need to train all the members in
21 active-shooter drills.

22 Those drills are paramount.

23 Active-shooters is probably what we face as
24 the highest risk to a multi-casualty event in
25 Nassau County.

1 And when you actually go into these drills
2 and you watch what they learn in a real-world
3 environment, it's priceless.

4 So what happens is, generally, in
5 Nassau County, you go through recruit training,
6 you're trained.

7 We have trained every police officer in
8 active-shooter, but what we can't do is get that
9 regular training in.

10 Homeland Security funds, you know, increasing
11 that training block of that money would pay huge
12 dividends.

13 The other part of that, where we currently
14 are in Nassau County, is this country is moving to a
15 new paradigm in training, and that new paradigm is
16 scenario-based training.

17 In Nassau County, we are in a position where
18 we occupy a grammar school.

19 We do not have the facilities, nor do we have
20 the capability, to provide that needed
21 scenario-based training.

22 It is the environment that law enforcement is
23 going to. It's the best practice in this country.

24 To that ends, the county executive has
25 committed to building a new police academy.

1 The first phase of that police academy, we
2 expect to have a shovel in the ground, and that'll
3 be the first-part solution to the problem that we
4 have in Nassau County with training.

5 The next will be, to be quite blunt, we don't
6 have the funding for it yet.

7 As you move forward and look at the capital
8 funding in this year's budget, we really would
9 request that you consider funding a tactical village
10 in Nassau County.

11 That training environment will not only be
12 used by Nassau County, but it will be used in a way
13 on a regional base.

14 Nassau County is responsible to train the
15 19 village police departments.

16 We partner with federal and state agencies to
17 provide training on Long Island, but not only
18 Long Island, but the region as a whole.

19 So, with that, I'd be more than happy to
20 answer any of your questions.

21 SENATOR GALLIVAN: Thank you, Commissioner.

22 We've been joined by several other members.

23 Senator Felder is at the very end. Next to
24 him, Senator Comrie, and then Senator Venditto.

25

1 Senator Marcellino.

2 SENATOR MARCELLINO: Yeah.

3 SENATOR GALLIVAN: Oh, and I'm sorry.

4 And Senator Nozzolio, but he was introduced
5 earlier.

6 SENATOR NOZZOLIO: Need no introduction.

7 Thank you, Commissioner.

8 SENATOR MARCELLINO: Yeah, thank you,
9 Commissioner, for your testimony.

10 This last issue of the training facilities
11 and, you know, lack of funding, has there been any
12 thought given to doing regional a training center;
13 joining with Suffolk County, perhaps even the
14 City of New York, in some kind of a regional
15 facility that could be utilized by all of the
16 departments locally in the downstate regions, so
17 that we don't have to burden all of them duplicating
18 a training facility in Suffolk County, a training
19 facility in Nassau County, a training facility in
20 Queens, or Brooklyn, and so forth?

21 Has there been some thought or some
22 discussions of that basis?

23 COMMISSIONER THOMAS KRUMPTER: Senator,
24 absolutely.

25 You know, it's our vision that, you know,

1 there's a baseline of training that all
2 law-enforcement agencies have to provide.

3 What we're asking that you consider funding
4 of is that tactical village, which would allow us to
5 do that regional-type approach to training with
6 Suffolk County and the other downstate agencies.

7 New York City has a very robust facility, as
8 you're aware. They just opened up a new academy, an
9 \$800 million facility.

10 And we believe that, going forward, this is
11 not a police academy; it's a training center. A
12 training-and-intelligence center.

13 We'd be looking to bring world-class training
14 into Nassau County, and make that training
15 accessible and available to the other agencies in
16 the region.

17 We believe that we have to work together.

18 We believe that the only way that we are
19 going to deal with a major situation is through
20 working and partnering together.

21 We regularly conduct drills with
22 New York City, we regularly conduct training with
23 New York City, and in securing the City's grant, and
24 other training.

25 And New York City routinely makes their

1 specialized training available to Nassau County.

2 They are a great partner. And, you know, we
3 have always been there for them, and they've always
4 been there for us, and we have a great relationship.

5 Same with the Suffolk County; we have regular
6 training that, you know, everybody participates in.

7 You know, you have your baseline recruit
8 training, and that's a little bit different for
9 regionalized. But when you start to get into more
10 advanced training, it becomes cost-prohibitive for
11 any single agency to be the keeper of that training
12 for themselves.

13 When you start talking training for
14 emergency-services unit, bureau of special
15 operations, which is our tactical teams, they
16 routinely go into New York City and conduct, you
17 know, engage in, training with them in their
18 ESU school.

19 SENATOR MARCELLINO: I hear what you're
20 saying.

21 The concern that we have is, Nassau, Suffolk,
22 obviously butt up against one another.

23 There are -- we're an island, so we have
24 that. We have Queens and Brooklyn on the island,
25 physically, so that the sharing of, you know, the

1 facility with all of these communities, and the
2 utilization and joint expense-sharing might be a
3 good way to go, and might be worth looking at,
4 rather than duplicating it.

5 Because I can see every county in the state
6 saying, Well, you did it for Nassau County. Why
7 can't we get one? Why can't we get one up in
8 Chemung or in other counties around the state?

9 So, if there can be a consolidation, where
10 police officers can go to get this kind of very good
11 tactical training that you're proposing, rather than
12 duplicating it all over the place, centralized in
13 different parts of the state might be the way to go
14 on that.

15 Do you have -- and I'm looking at the other
16 issue of concern.

17 We had the police officers that were murdered
18 in their car.

19 Do you have vehicles that are properly
20 outfitted so that they might be bullet-resistant
21 glass that is -- I don't know about bulletproof, but
22 bullet-resistant, so it wouldn't be so easy to shoot
23 them if they were in a car and somebody could sneak
24 up to them?

25 Is there some means of -- with -- do you have

1 enough vests for your officers to -- bulletproof
2 vests, so that they can have them on deployment?

3 Are they updated periodically?

4 I know these things have a tendency to become
5 outdated and can wear out.

6 Do you have the wherewithal to provide your
7 people with that kind of equipment?

8 COMMISSIONER THOMAS KRUMPTER: You know,
9 the -- as far as the bulletproof glass, or, you
10 know, armoring a car, there is certain
11 cost-prohibitions against, you know, armoring a car.

12 It creates a significant situation, too,
13 where, generally speaking, once you start putting
14 bulletproof glass in, those are not going to be able
15 to go down or up because of the thickness of that it
16 has to be in order for that to happen.

17 So there are a significant number of
18 logistical issues.

19 There's also, you know, the public
20 impression.

21 If you start putting bulletproof glass in all
22 the vehicles, it's going to remove you to a certain
23 degree, because now you're not going to be able to
24 roll down your window, you're not going to be able
25 to hear what's going on outside.

1 So it does provide a level of security; but
2 at the same token is, there are logistical and
3 cost-related issues.

4 As far as bulletproof vests, over the last
5 two years, every single police officer in
6 Nassau County was -- received a new, uh -- new
7 ballistic vest.

8 Thanks, in large a part, to the
9 State Attorney General who funded about \$500,000 of
10 those vests last year.

11 So, we have replaced all those vests. They
12 were a little bit outside the five-year period,
13 which is the warranty.

14 I would say that, you know, please keep in
15 mind, it's important that this body keeps in mind,
16 that Kevlar has been around for 40 years, and at
17 this point, Kevlar doesn't degrade.

18 There are other issues that arise with Kevlar
19 after a period of five years. It starts to wear, it
20 starts to open up, and it starts to not fit the body
21 in the same way, which creates significant issues.

22 So we keep an eye on the body armor.

23 We've, you know, gotten into a pattern of
24 regularly replacing that body armor.

25 And, you know, the State Attorney General

1 funded it for about 500,000, the County funded it
2 for another \$2 million, for the Nassau County Police
3 Department.

4 What's important to realize is, that the
5 vest-replacement program that has been funded by the
6 Department of Justice -- United States Department of
7 Justice, has, for all practical purposes, being --
8 is defunded.

9 And when you're talking \$700 a vest, it --
10 depending on the fiscal health of an entity, it can
11 become a real hardship.

12 So a State program, in that respect, would,
13 you know, serve the officers, and probably would be
14 the single best thing that the State could do to
15 provide for the safety of the law-enforcement
16 officers of this state.

17 SENATOR MARCELLINO: The -- there have been
18 calls for a -- and it reverts back to many years
19 ago, we talked about a civilian review board of
20 police activities, that was once proposed, and
21 instituted in the city of New York and other places.

22 Recently, after recent events, people have
23 been talking about, potentially, a new form of
24 monitoring, or a monitor, for the police forces that
25 might be a level imposed upon the police

1 departments.

2 What are your thoughts on this?

3 COMMISSIONER THOMAS KRUMPTER: You know,
4 there's been a number of civilian-complaint review
5 boards, but I don't know of anything that would
6 suggest that it raises the public trust.

7 And as I stated earlier today, Nassau County
8 enjoys a very high degree of public trust.

9 As far as a monitor, I think it's important
10 to realize that every law-enforcement agency in this
11 state has a monitor: that is the elected district
12 attorneys of the counties.

13 In Nassau County, for instance, the
14 public-corruption unit reviews each and every
15 shooting that a police officer is involved in.

16 They also oversee and monitor every single
17 investigation of a police officer if it is an
18 investigation related to a criminal complaint.

19 In Nassau County, I think we've demonstrated
20 that we have the ability to police ourselves. And
21 I think the district attorney is there as a backstop
22 to ensure that we do not step out of line.

23 And if that doesn't work, there's another
24 little person that floats around the state, and
25 that's the assistant U.S. attorneys and the

1 U.S. attorneys that monitor our conduct, and ensure
2 that the district attorneys are doing their job.

3 So as far as adding additional layers on it,
4 I don't know that that's necessary.

5 What I do know is, we have a system, and, by
6 all accounts, it appears to be working.

7 SENATOR MARCELLINO: The police force of
8 Nassau County, in my dealings with them, has been
9 very positive.

10 I find them to be a well-trained, very
11 articulate group of men and women.

12 Do they reflect the community in their
13 makeup?

14 Because there have been some statements that,
15 you know, the police force are like an outside
16 organization, where they don't -- where they come
17 into communities and there's -- they're not
18 reflective of the community that they're designed to
19 serve.

20 Do we have a police force that is reflective?

21 I believe I know the answer to that, but I'd
22 like to hear you say it.

23 SENATOR GALLIVAN: It's a -- I will tell you
24 that is a significant challenge. It's also an area
25 that I've been involved with in Nassau County for

1 the last 10 years.

2 It all starts with the recruiting.

3 In Nassau County, we have spent exorbitants
4 amount of money; literally, millions of dollars,
5 every single exam we've given.

6 And the answer, you know, Senator, is, no, we
7 do not reflect the community at this point in time.

8 And we have a little bit of an anomaly in
9 Nassau County, and that goes to a single test for
10 all the village police departments and the
11 Nassau County that we pull off of.

12 The villages give priorities to their
13 residents, so we go out and we actively recruit, we
14 work hard, and we work towards that, you know,
15 reflection of the community, you know, because we do
16 believe that's important.

17 But in our case, you have some villages that
18 are hiring the minority applicants before we get to
19 them at a point in time on the list.

20 And pursuant to law, we are required to go in
21 list order.

22 Nassau County is under a federal consent
23 decree since 1983.

24 With a little luck, we'll get out of that
25 consent decree shortly, and we have been working

1 with the Department of Justice to address that
2 problem.

3 SENATOR MARCELLINO: Thank you, Commissioner.

4 SENATOR NOZZOLIO: I'm going to interrupt the
5 rest of the Panel, just for a second.

6 Thank you, Commissioner. Your testimony is
7 very helpful.

8 We've got a long list witnesses.

9 In the interest of time, we're going to
10 initiate a time for each member, to 7 minutes.

11 And, Commissioner, and other witnesses, be
12 mindful of that.

13 So that we can ask more questions of the
14 Commissioner, if we could keep the questions as
15 concise.

16 The information you provided is invaluable,
17 but we want to try to narrow our scope so that we
18 can answer more questions.

19 With that, our next member.

20 SENATOR GALLIVAN: Senator Venditto.

21 SENATOR VENDITTO: Thank you very much,
22 Senator.

23 Commissioner, I just want to thank you for
24 making the trip up here today.

25 I commend you on the good work that you're

1 doing.

2 We've had chance to work together personally
3 when I was with the county legislature, and I'm
4 anticipating that we'll continue to do good work
5 together.

6 So I commend, of course, you, and, of course,
7 the men and women of our police force, and those
8 around the state, sacrificing their lives so that we
9 can enjoy ours.

10 You know, one thing I've been noticing around
11 the areas that I am privileged to represent, is
12 that, you know, we had a stigma for years, for
13 decades, when it came to the drug epidemic, and you
14 were talking about it recently.

15 Residents seem to be more willing to discuss
16 the issue now. And to that end, we've been hosting
17 many events: Narcan training, seminars, drug-drops.

18 We've been trying into helping the environment
19 as well.

20 Are you finding that you have the manpower
21 and the resources that you need to help us execute
22 these events if we wanted to keep them going across
23 the county?

24 COMMISSIONER THOMAS KRUMPTER: Senator, it's
25 a very valid point, and the answer is, yes, thanks

1 to a generous grant from the three Senators
2 I mentioned earlier.

3 And, any assistance we can provide to you, or
4 Senator Marcellino, in those drug-drops, Narcan
5 training, we have available funding available for
6 that, and we do have the necessary resources.

7 And, you know, your consideration on
8 continuing that funding in this budget cycle would
9 be greatly appreciated.

10 SENATOR VENDITTO: I appreciate that.

11 And we're going to be fighting, here on this
12 Panel, and throughout the Senate, to get you the
13 resources that you need.

14 Residents are also asking about your presence
15 in and around the schools, in public places like the
16 county preserves, things like that.

17 Maybe you can just talk a little bit about
18 what you've been working on as far as that's
19 concerned.

20 COMMISSIONER THOMAS KRUMPTER: You know, in
21 Nassau County, we pride ourselves not only on being
22 a leader in intelligence-led policing, but we -- at
23 the very core of the Nassau County Police Department
24 is community policing, and responding to the needs
25 of the community and what they deem to be important.

1 We're an extension of the community; and to
2 that ends, we have always taken that approach.

3 One of the major changes is what the precinct
4 COs have been directed this year, is to hold
5 community forums, where they're hosting those
6 community forums, where they are really there to
7 listen, and just provide information on what's going
8 on.

9 But, they're to talk for a very short time,
10 10 minutes, 15 minutes, and then the rest of the
11 time is spent to get community feedback, to address
12 those very problems that you're talking about.

13 SENATOR VENDITTO: Yeah, and, just lastly,
14 you know, obviously, there's been more of an
15 international awareness as to what's going on around
16 the world on certain threats. And, we have several
17 large malls in county.

18 Have you been in touch with, you know,
19 ownership, administration, of these malls, and
20 certain public places, so that our residents can be
21 assured that we have a presence there as well?

22 COMMISSIONER THOMAS KRUMPTER: Absolutely.

23 We are constantly monitoring the threats and
24 risks in Nassau County.

25 We have a great relationship and open

1 dialogue, where New York City actually has members
2 in our intel center. The federal agencies have
3 members in our intel center. We hold regular
4 briefings.

5 We are in constant communication with our
6 critical infrastructure, the malls.

7 As a matter of fact, Roosevelt Field has
8 opened their video stream to us, which provides an
9 added layer of security in the event of an incident
10 at that mall -- any incident at that mall.

11 SENATOR VENDITTO: Appreciate the time,
12 Commissioner.

13 And thank you to my fellow Senators.

14 SENATOR GALLIVAN: Senator Golden.

15 SENATOR GOLDEN: Thank you, Commissioner --
16 Thank you, Commissioner, for being here
17 today.

18 Again, I'd like to -- the -- some of the
19 questions that you propose, obviously, the
20 bulletproof -- not the bulletproof, but, the
21 resisting arrest, and the fleeing of a police
22 officer, this Panel has taken that very seriously.

23 Obviously, if you're a police officer, you
24 make an arrest, you take the case into the DA, and
25 the DA gets his burglary, gets his robbery. The

1 resisting arrest is at the bottom of the list, they
2 just let it go.

3 And, we're going to ask, and we're talking to
4 district attorneys across the state, to prioritize
5 those resisting arrests, and we're increasing the
6 penalty, that's my bill, as well as fleeing a police
7 officer.

8 We had a pursuit two weeks ago, it started in
9 Jersey, went through Staten Island, came into
10 Brooklyn. Six different law enforcements, two cops
11 hurt, over a robbery that took place in New Jersey.

12 So we have a bill that's going to also take
13 care of that.

14 We got to get the Assembly, hopefully,
15 online, that they will pass this and see the
16 importance of this bill, and, the Governor to sign
17 that bill.

18 Senator Marcellino pointed out the
19 bulletproof glass.

20 This resistant film -- bullet-resistant film,
21 that's made by several companies across this
22 country, the film seems to work in resisting the
23 bullets and deflecting bullets from the car, adding
24 no weight or no sound issues to that car.

25 Now, if that were something that were

1 appropriate, would you change and be open to
2 something like that?

3 And the other portion of that would be the
4 panels on the car doors -- bulletproof panels on car
5 doors, so that the police officers have an extra
6 opportunity, in a gun battle, to be able to save
7 themselves and others.

8 COMMISSIONER THOMAS KRUMPTER: I would
9 strongly support that, and the department, I would
10 immediately look to acquire that film.

11 And, you know, as a matter of fact, after
12 I leave here, we'll be looking into that a little
13 bit more closely.

14 You know, the -- one of the top priorities,
15 obviously, the number one priority, is that we
16 provide for the safety of our members.

17 And we have to -- in order to do that, we
18 have to provide them with the right equipment and
19 the right training.

20 SENATOR GOLDEN: Technology; how is the
21 technology in your department?

22 Does each of these members have a telephone?

23 Do they have a -- an iPad, or a computer,
24 in the vehicle?

25 COMMISSIONER THOMAS KRUMPTER: Every officer

1 in Nassau County has a computer in the vehicle.

2 And then the radio system in Nassau County,
3 thanks to a funding from the State, as well as the
4 federal government, as well as almost a \$50 million
5 investment by Nassau County, is -- coverage is
6 remarkable.

7 SENATOR GOLDEN: Do they have individual,
8 when they get out of the -- radios that --

9 COMMISSIONER THOMAS KRUMPTER: Every officer
10 has a -- every car has a car radio. And every
11 officer on patrol has a portable radio; a handheld
12 radio.

13 SENATOR GOLDEN: So they don't have a
14 telephone, though? It's just the --

15 COMMISSIONER THOMAS KRUMPTER: Not a
16 telephone, no, sir.

17 SENATOR GOLDEN: So they don't take iPads
18 into locations and make a reports. They're still
19 doing the reports on paper, and not doing them on
20 iPads, or anything in that twenty-first-century
21 type of technology?

22 COMMISSIONER THOMAS KRUMPTER: At this point
23 in time, it's timing is everything.

24 And where we're currently at, is we're
25 implementing a new reporting system that will have

1 that very field reporting that you're describing.

2 The -- we use Panasonic Toughbooks.

3 And we are currently experimenting with a
4 Panasonic Tab which are coming in.

5 And when we come online with the new
6 reporting system, that will -- they will have the
7 ability to walk into a house with their iPad or
8 their other tab-like device, or laptop, and do the
9 reports right in the residence, right in the place
10 of business.

11 SENATOR GOLDEN: Thank you.

12 I want to thank my colleagues, because that's
13 important, because I think that's what this Panel is
14 all about; is trying to find out, with the safety of
15 our officers, our district attorneys, and to make
16 sure that we have the resources.

17 So whatever resources you need, we've got to
18 know what you need, and how we can help you get
19 them.

20 The 550 officers that you said were injured,
21 have you -- and it's not enough time to do it now --
22 if you could give us a report on how they were
23 injured, and how we could participate in getting you
24 additional resources that would decrease those
25 injuries.

1 I'm sure, you know, they acted -- it's
2 usually in the -- an arrest situation, or a vehicle
3 accident, which is unfortunate.

4 But there may be tools out there that we have
5 not supplied, or your department cannot afford to
6 get yet, and we can play a role in helping you do
7 that.

8 The other area that Senator Marcellino went,
9 was the monitor that they talked about.

10 There's a monitor they want to put in the
11 grand juries that were for police officers only.

12 Obviously, they changed that somewhat to
13 doing monitors for all cases.

14 I believe, anyway. That's the conversation
15 that is being had.

16 Do we need a monitor for -- just for police
17 officers, a two-tiered system here in the state of
18 New York: one for police officers, and one for
19 the -- you know, a separate one for the bad guys?

20 COMMISSIONER THOMAS KRUMPTER: Police
21 officers are held to a higher degree of
22 accountability than anyone else in this state.

23 And as I stated before, there is a
24 checks-and-balances within the system.

25 It's not -- in Nassau County, and for that

1 matter, throughout New York State, adding another
2 tier is -- you know, is redundant.

3 And, you know, at what point is enough is
4 enough?

5 And in this particular case, police officers
6 in Nassau County are monitored by the department.

7 If the department doesn't act appropriately,
8 the district attorney has and can take steps to
9 address this situation.

10 And then if the district attorney acts
11 inappropriately, there is the U.S. attorney and the
12 federal system that is also monitoring these cases.

13 SENATOR GOLDEN: The -- and last question:
14 Grand juries.

15 They obviously want to now create -- I'm sure
16 this is a question for the district attorneys, but
17 I want to ask you specifically: grand jury reports.

18 I don't know how the court systems are in
19 Nassau County. I'm a New York City guy.

20 I know that our court systems are extremely
21 backlogged, and we do have issues.

22 What does that do to the grand jury, that
23 we've been so successful over the past 100 years
24 here in the great state of New York, that we have to
25 go and change and get a grand jury report done, and

1 slow this process down even further, and limit the
2 amount of people that want to come forward to
3 actually join grand jury pools, knowing that now
4 they have to do a grand jury report?

5 And, does the grand jury report help to do
6 anything that hasn't already been done here in this
7 great state?

8 COMMISSIONER THOMAS KRUMPTER: As far as a
9 grand jury report is, I -- you know, I really
10 haven't -- I don't have an opinion. I'm not a
11 lawyer.

12 Because, I was under the impression the grand
13 juries can already issue a report. They can issue a
14 grand jury report.

15 SENATOR GOLDEN: That is correct.

16 But if they don't choose, they'll be required
17 to do that now.

18 COMMISSIONER THOMAS KRUMPTER: You know, it's
19 something that would have to be looked at very
20 closely.

21 SENATOR GOLDEN: Thank you very much.

22 I appreciate you coming forward.

23 Whatever we can do to help the police
24 department, please let us know.

25 And, Nassau, you're doing a great job.

1 Thank you.

2 COMMISSIONER THOMAS KRUMPTER: Thank you.

3 SENATOR GALLIVAN: Senator Diaz.

4 SENATOR DIAZ: Thank you, Mr. Chairman.

5 Commissioner, thank you for being here.

6 I have a simple question: Tell me again,

7 what is the number of the police officers in

8 Nassau County?

9 COMMISSIONER THOMAS KRUMPTER: Currently, the
10 police officers, about 2200 sworn police officers,
11 down from 2750 -- 2,750 in 2008.

12 SENATOR DIAZ: Can you tell me the breakdown
13 of the -- the ethnic breakdown: how many White? how
14 many Black? how many Hispanic?

15 COMMISSIONER THOMAS KRUMPTER: I can get you
16 that, Senator. I don't have that.

17 SENATOR DIAZ: But you don't know that?

18 COMMISSIONER THOMAS KRUMPTER: I don't have
19 that off -- you know, with me.

20 SENATOR DIAZ: So there not too many.

21 2100 police officers, you don't know how many
22 Black? how many Hispanic?

23 COMMISSIONER THOMAS KRUMPTER: There is --
24 you know, I would have to get you the specific
25 numbers, Senator.

1 SENATOR DIAZ: I mean --

2 COMMISSIONER THOMAS KRUMPTER: I'd be happy
3 to do that.

4 I will get you the numbers, sir.

5 SENATOR DIAZ: You talk about 500 police
6 officers were injured.

7 COMMISSIONER THOMAS KRUMPTER: Uh-huh.

8 SENATOR DIAZ: Right?

9 You said about -- that the 500 police --

10 COMMISSIONER THOMAS KRUMPTER: 550 police
11 officers.

12 SENATOR DIAZ: Were injured?

13 COMMISSIONER THOMAS KRUMPTER: 550 injured.

14 SENATOR DIAZ: Of those injuries, how many
15 were related to public violence, or, not related to
16 personal --

17 COMMISSIONER THOMAS KRUMPTER: Between 10 and
18 15 percent annually are injured in the line of duty.

19 And as a result of affecting arrests, or
20 chasing a subject, is another 5 to 10 percent.

21 SENATOR DIAZ: But not all 550 injuries were
22 related to the line of duty?

23 COMMISSIONER THOMAS KRUMPTER: Those are all
24 line-of-duty injuries. It's just a matter of how
25 they were injured.

1 In Nassau County, our police officers also
2 provide ambulance service, so some are injured while
3 transporting an ambulance -- you know, transporting
4 and aiding.

5 Some are injured as a result of car
6 accidents.

7 That's the number of people we've had injured
8 in line of duty, is 550.

9 SENATOR DIAZ: Do you know, Commissioner,
10 more or less, how many arrests the department does
11 in a year?

12 COMMISSIONER THOMAS KRUMPTER: In 2014 we
13 made approximately 20,000 arrests.

14 SENATOR DIAZ: Do you know how many -- or,
15 the ethnic breakdown on those ratios?

16 COMMISSIONER THOMAS KRUMPTER: I don't have
17 that ethnic breakdown.

18 SENATOR DIAZ: You don't know?

19 COMMISSIONER THOMAS KRUMPTER: Again, we can
20 get you that, sir.

21 SENATOR DIAZ: Thank you.

22 SENATOR GALLIVAN: Senator Felder.

23 SENATOR FELDER: Good morning, Commissioner,
24 and thanks for being here.

25 I wanted to get off on an entirely different

1 point for a moment, and I was wondering if you had
2 some information with regards to terrorism and the
3 public safety in schools, public and non-public
4 schools.

5 I'm wondering whether you're aware, as to
6 whether the public and non-public schools have a
7 very specific plan in place?

8 When we were kids, we had fire drills.

9 I know we always waited for those fire
10 drills.

11 But, there was a plan -- at least some
12 semblance of a plan in place.

13 And I'm wondering -- I've discussed this with
14 the city -- police commissioner in New York City.

15 And I'm curious as well, as whether, in
16 Nassau County, whether you're aware of specific
17 plan, whether the teachers are trained, principals,
18 supervisors, or whatever else?

19 You know, unfortunately, it's become more
20 common, whether it's terrorism or a gunman or
21 somebody coming in, and whether the people in charge
22 of our kids know what to do when that happens?

23 COMMISSIONER THOMAS KRUMPTER: You know, in
24 Nassau County, there is approximately 60 different
25 school districts, and a significant number of other

1 institutions of higher learning, and, you know,
2 grammar schools. There are a number of other, you
3 know, educational facilities. We have a number of
4 college campuses in Nassau County.

5 And one of the things that I can probably
6 talk for the next several hours on is all that we've
7 done working with them as partners in this.

8 For just some salient points:

9 The chief of the department, Steve Skrynecki,
10 sits on the BOCES committee for school safety.

11 We have worked with them, and continue to
12 work with them.

13 They do have plans. They have lockdown
14 drills.

15 They -- Nassau County is rolling out panic
16 alarms, a panic-alarm system, where they'll have
17 direct alarms into, with voice and GPS activation,
18 we're rolling out.

19 We are also working with the schools,
20 where -- remember, there are 60 schools. We have a
21 significant number of them. We have access to their
22 video in the event of an emergency.

23 So we have done a lot in Nassau County to
24 address that.

25 If you would like, I'd be more than happy to

1 get into the detail, and -- but it would be -- we
2 could spend the next several hours talking about all
3 we've done.

4 SENATOR FELDER: I would like very much, but
5 I know that time is limited.

6 And I just wanted to thank you, and I'm
7 honored to be here with you today.

8 COMMISSIONER THOMAS KRUMPTER: Senator, thank
9 you very much for your time.

10 SENATOR GALLIVAN: Thank you, Senator.

11 Commissioner, you've been very patient with
12 the questions.

13 Just a couple more.

14 Two particular areas, and they are among the
15 Governor's criminal justice reform proposals.

16 One of them involves a statewide use-of-force
17 policy.

18 So DCJS, municipal police training council,
19 will be charged with developing the policy that all
20 agencies statewide would have to follow, at a
21 minimum. And then, of course, you could be more
22 restrict -- stricter at the local level.

23 Do you have any thoughts on that?

24 COMMISSIONER THOMAS KRUMPTER: In
25 Nassau County, we -- Chief Skrynecki and I, the

1 chief of the department, in January of last year,
2 came in, and we looked at the use-of-force policy in
3 Nassau County Police Department, which wasn't
4 updated, overhauled, in -- since 1986; so, close to
5 30 years.

6 There was significant changes, and it was a
7 fragmented policy.

8 What we turned around and did is, in a very
9 organized fashion, the Nassau County Police
10 Department, literally, spent thousands of manhours
11 in rewriting our policy.

12 In May and June of 2014 we trained every
13 single police officer on that new policy.

14 So we -- you know, the timing of this is what
15 I'm asking you to look at.

16 This was well before Ferguson. This was well
17 before, you know, we recognized there was a change.

18 As far as the Governor's proposal, I really
19 don't know what he's going to do with the
20 use-of-force policy, so I -- you know, at this
21 point, I would say I don't really have -- you know,
22 have an opinion one way or the other.

23 What I can say is, that we have a very
24 extensive policy in Nassau County, and we have
25 trained our officers in it. And it really is,

1 I believe, a model for use-of-force policies, you
2 know, that's out there.

3 SENATOR GALLIVAN: Fair enough.

4 The last area, the requiring -- and this is
5 not exact, but the requiring of a reporting of
6 certain pedigree-type information, including race,
7 on arrest, it would include, as I understand it,
8 traffic stops, things of that nature.

9 Any thoughts on that; implications for the
10 officers, the officer on the street, the
11 practicality of it?

12 I mean, if you could comment, either way;
13 practical, not practical, whatever thoughts you
14 have.

15 COMMISSIONER THOMAS KRUMPTER: It creates a
16 situation of tracking that data, how you obtain that
17 data, the accuracy of the data is called into
18 question.

19 You pull over someone at a car stop, and it's
20 a single -- it's a simple car stop.

21 And now, when you start asking about
22 demographic data, is, you know, something that you
23 would have to question the accuracy.

24 Are you going to look at the appearance of
25 the person?

1 You know, so now is the person Caucasian?

2 Is the person Hispanic?

3 Is the person African-American?

4 Are they a mix of all of the above?

5 I would tell you that that is data that we
6 actually track in Nassau County, every single car
7 stop, but the accuracy of the data is, you know,
8 suspect, at best.

9 SENATOR GALLIVAN: Thank you, Commissioner.

10 SENATOR MARCELLINO: I just have one
11 follow-up.

12 SENATOR GALLIVAN: Oh, Senator Marcellino.

13 SENATOR MARCELLINO: Yeah, Commissioner, just
14 one quick question.

15 You mentioned before, when there is a use of
16 a firearm by one of the officers, there is a review
17 of that incident?

18 COMMISSIONER THOMAS KRUMPTER: In
19 Nassau County, yes.

20 SENATOR MARCELLINO: By internal people?

21 COMMISSIONER THOMAS KRUMPTER: Currently in
22 Nassau County, every single shooting is investigated
23 in two ways: On an administration investigation,
24 and a criminal investigation.

25 Criminal investigation is conducted by the

1 homicide squad, and, overseen and monitored, and,
2 ultimately, the district attorney will issue a
3 report in certain cases.

4 So the district attorney monitors every time
5 a firearm is used in Nassau County.

6 SENATOR MARCELLINO: Thank you very much.

7 SENATOR GALLIVAN: Thank you, Commissioner.

8 SENATOR NOZZOLIO: Very helpful,
9 Commissioner.

10 Thank you for your testimony.

11 COMMISSIONER THOMAS KRUMPTER: Again,
12 Senators, thank you very much for this opportunity,
13 and have a good afternoon.

14 SENATOR GALLIVAN: Thank you.

15 And we will follow up on the heroin issues.

16 COMMISSIONER THOMAS KRUMPTER: Thank you.

17 SENATOR GALLIVAN: Our next witness is
18 counsel to the Governor, Alfonso David; and with him
19 is Mr. Terrence O'Leary.

20 Would you state your title, Mr. O'Leary.

21 ALFONSO DAVID: Good morning.

22 Deputy secretary for public safety.

23 SENATOR NOZZOLIO: Welcome, gentlemen.

24 Thank you very much for being here, and we
25 welcome your testimony.

1 ALFONSO DAVID: Thank you very much,
2 Senator Nozzolio.

3 Other Senators presented, thank you.

4 As you may know, the Governor has introduced
5 a proposal in the budget to reform the criminal
6 justice system in a variety of different ways.

7 What I want to focus on this morning is the
8 \$60 million that the Governor has included in the
9 budget to address body-worn cameras, bulletproof
10 windows and vests.

11 Essentially, eligible law-enforcement
12 agencies, with the Governor's proposal, will have
13 the ability to choose how to issue grants, and
14 resulting in the spending that's tailored to their
15 specific needs.

16 Now, this approach keeps legal and policy
17 decisions at the local level, and it ensures that
18 any ongoing costs are supported by the availability
19 of other grants and local funding.

20 Specifically, as we think about providing
21 resources for local law enforcement, we're focusing
22 on enhancing safety, of course, for law enforcement
23 and their communities.

24 And the \$60 million in grants to eligible
25 law-enforcement agencies will provide the provision

1 of safety and other related equipment, including
2 body-worn cameras, bulletproof glass, and
3 replacement vests.

4 We will also include dollars in the budget --
5 or, have included monies in the budget for related
6 training.

7 The grants will be developed, pursuant to a
8 plan that's prepared by the commissioner of Criminal
9 Justice Services, in consultant with the -- in
10 consultant -- on consultation, I'm sorry, with the
11 superintendent of state police, and it's going to be
12 approved by the director of the budget.

13 Where the funding, we're also going to be
14 focused on high-crime areas.

15 Local law-enforcement areas will submit a
16 spending plan with eligible uses to access relevant
17 grant funds.

18 The proposal that the Governor has
19 introduced, we worked on for the past few months.

20 We consulted with the District Attorneys
21 Association, and, certainly, advocacy organizations
22 and local law enforcement, on ensuring that whatever
23 plan we introduce not only supplements the existing
24 resources that the state and the federal government
25 provides to local law enforcement, but,

1 specifically, that we provide additional resources
2 through state services and monies for those local
3 law-enforcement agencies.

4 Terry O'Leary is going to spend a few minutes
5 talking about the existing resources that we have
6 provided, and we continue to provide through the
7 state.

8 And he's also going to highlight additional
9 resources that are unrelated to the \$60 million that
10 we have included in the budget for body-worn
11 cameras, bulletproof vests, and bulletproof windows
12 as well.

13 Terry.

14 TERRENCE O'LEARY: Thank you.

15 Good morning, Senators.

16 So as --

17 SENATOR MARCELLINO: Before you go too far,
18 is that \$60 million actual money? Or is it money to
19 be obtained later by grants, and would they be
20 competitive?

21 ALFONSO DAVID: Those would be -- no, the
22 dollars are available now as a part of a special
23 infrastructure account that's in the budget.

24 It's a part of "\$115 million" line item in
25 the budget.

1 SENATOR MARCELLINO: Thank you.

2 ALFONSO DAVID: Sure.

3 TERRENCE O'LEARY: So it is anticipated that
4 the \$60 million will be dispersed in a similar
5 fashion to what DCJS has previously done most
6 recently with the gun -- Gun-Involved Violence
7 Elimination project, or, "GIVE," which I know
8 Commissioner Green testified before.

9 Early results of the GIVE initiative have
10 been positive.

11 We've seen a decrease in GIVE jurisdictions
12 throughout upstate and Long Island, a reduction in
13 the number of overall crime; a reduction in the
14 number of shootings, a reduction in the murder rate,
15 as well as reduction in property crime as well.

16 Last year the State handed out over
17 \$13 million to these 20 jurisdictions, and it was --
18 it was competitive, but it was also, more
19 importantly, it was evidence-based.

20 We wanted to make sure that what we were
21 doing actually achieved results, as opposed to just
22 passing money along to jurisdictions.

23 And as part of this initiative, DCJS hosted a
24 GIVE forum, where they put on a presentation about
25 procedural justice that was extremely well-received

1 by law-enforcement officers from those GIVE
2 jurisdictions.

3 And what procedural justice looks to do is
4 not only to verify and legitimize officers'
5 authority, but to also involve an increased
6 confidence among those in the community.

7 This is a step that predated any of the
8 recent events that we've heard about, but it is
9 something that we think is entirely consistent with
10 what the Governor is seeking to do with his criminal
11 justice reform plan.

12 So, specifically, what we've seen in GIVE
13 jurisdictions:

14 Indexed crime was down over 5 percent;

15 Violent crime was down 7 percent;

16 Murder was down 8 1/2 percent;

17 Firearm-related violent crime was down
18 3 percent;

19 And property crime was down 5 percent as
20 well.

21 One of the Governor's initiatives, as was
22 asked about before, involves the new use-of-force
23 policy.

24 What the statute would require, the proposed
25 legislation, is just that every police force

1 actually adopt a use-of-force policy.

2 As I'm sure the Senators know, not every
3 police force within New York State has a
4 use-of-force policy.

5 So what we would do, under the statute, is
6 have the MPTC develop a baseline policy that is
7 derived from Article 35, current existing law, to
8 give guidance to local departments and to their
9 members who may not have the resources or the
10 wherewithal.

11 You heard Commissioner Krumpter talk earlier,
12 and we actually met this morning, and he was talking
13 about the great work that they did in overhauling
14 their policy.

15 Not every jurisdiction has the ability to do
16 that.

17 I come from a small upstate town, with six
18 officers. They can't put together a workforce to
19 develop a policy.

20 This would give those resources through the
21 MPTC, but it would in no way restrict a
22 law-enforcement department that chose to go above
23 and beyond what Article 35 currently requires.

24 So with that brief overview, we'd be happy to
25 answer any of your questions.

1 SENATOR NOZZOLIO: Thank you both for
2 outlining those issues.

3 I know the Committee is anxious to talk to
4 you about a number of questions.

5 We're going to limit each member to
6 7 minutes, so if you can be conscious of that, and
7 we'll engage in our dialogues.

8 Senator Gallivan.

9 SENATOR GALLIVAN: Thank you, Chairman.

10 Thank you both for being here today, and your
11 testimony.

12 Mr. David, I wanted to talk about the
13 Governor's budget; specifically, that 150 million
14 infrastructure account.

15 I know, originally, the Governor proposed, if
16 I remember, in the original budget, \$15 million for
17 state police. I think it was for vehicles.

18 ALFONSO DAVID: Correct.

19 SENATOR GALLIVAN: And that, along with some
20 other areas in the 30-day amendments, got wrapped
21 into that special infrastructure account.

22 So we heard testimony at our budget hearing
23 from the two unions representing the members of the
24 state police out working in the field; the uniformed
25 force and the investigators.

1 And what was common in that particular area,
2 and this has happened in years past, was the
3 condition of the state police fleet.

4 And are you going to address that in this
5 year's budget?

6 And what are the Executive's plans to replace
7 the fleet now, or over a period of years, to ensure
8 that people are safe out there, our protectors,
9 I mean, can be safe so that they can protect others?

10 ALFONSO DAVID: We have had conversations
11 with the state police, and those discussions are
12 ongoing.

13 But I will ask Terry to more specifically
14 answer your question.

15 TERRENCE O'LEARY: Sure.

16 And I believe Superintendent D'Amico
17 testified to this as well.

18 The current budget allows for a significant
19 portion of the state fleet to be replaced this year,
20 and will be completely up-to-date after next year's
21 budget. It's a two-year plan.

22 I did hear the testimony of the union
23 representative, and he expressed concerns, which are
24 shared by us as well, that these vehicles,
25 particularly in rural areas where they have to cover

1 large geographic jurisdictions, be safe and
2 up-to-date.

3 We will be replacing the fleet, they will be
4 up-to-date.

5 And all vehicles, I believe, will be under
6 either 125,000 miles, or 130,000 miles, by the end
7 of the '16-'17 fiscal year.

8 SENATOR GALLIVAN: So I think you both know
9 that I was a trooper a one point in time. And if
10 I remember correctly, both on the road and in
11 administrative positions, and if I remember
12 correctly, the cutoff at that time, during my years,
13 and for a long period of time, was 100,000 miles,
14 that the experts, whoever they may be, and I'm not a
15 mechanic, said was the top level to ensure safety
16 for the police officers.

17 What's different now that that number is now
18 125,000 miles versus 100,000 miles?

19 TERRENCE O'LEARY: Making no comment on the
20 Senator's age, I do believe that vehicles are --

21 SENATOR GALLIVAN: And I appreciate that.

22 [Laughter.]

23 TERRENCE O'LEARY: -- the vehicles -- the
24 technology is better now.

25 Cars last longer. They don't break down as

1 easily.

2 The state police do have mechanics that they
3 work with in other jurisdictions -- in more regional
4 areas, they also will contract out, to make sure
5 that the vehicles are in working fashion and in
6 working order.

7 But I think it's generally accepted that cars
8 last longer they used to.

9 SENATOR GALLIVAN: State police vehicles, are
10 they inspected, the safety inspection, like all
11 other vehicles have to be, where you get that
12 sticker after going through that -- that
13 multiple-point process, checking the brakes,
14 emissions, things of that nature?

15 TERRENCE O'LEARY: I would certainly hope so.

16 I'm not aware any -- I don't know your
17 answer, but I am not aware of any exception in the
18 law from it being inspected.

19 But beyond that, the state police do have
20 mechanics on staff.

21 And the union, rightfully so, has been
22 vigilant in making sure that their members are
23 traveling in safe vehicles.

24 And when issues do arise and concerns do
25 arise about specific vehicles, those are shared with

1 the state police management, and those vehicles
2 are -- I don't want to use the term "inspected"
3 because it's a legal term, but they are reviewed to
4 make sure that they're in working order.

5 SENATOR GALLIVAN: All right, if I may follow
6 up on that, again, safety issue:

7 If I remember correctly, in the past several
8 years, I'm not sure specifically this year, again,
9 those two unions representing members of the state
10 police also testified about the condition of their
11 vests.

12 And you have the 60 million that's available
13 for the local agencies.

14 Are there -- what provisions are there to
15 ensure that the troopers, investigators, have vests
16 that are up-to-date?

17 TERRENCE O'LEARY: So the superintendent and
18 I spoke on this issue specifically when we went
19 through the proposals.

20 They do rotate their vests out at five years.
21 They don't to go six or seven years as other
22 departments have done.

23 It's within existing budget, and they're
24 continuing to rotate vests out at 5 years,
25 20 percent each year.

1 SENATOR GALLIVAN: Thanks.

2 I was not aware that -- regarding the
3 use-of-force policy, that some agencies in the state
4 did not have that.

5 You may or may not be aware, but you've got
6 organizations, like the International Association of
7 Chiefs of Police, and others, have model policies
8 that are already in existence, that, based on
9 experience, extensive research, and those are
10 available.

11 I don't know necessarily by statute is the
12 proper way to go about doing this, but I would
13 suggest that the Municipal Police Training Counsel,
14 at this point in time, at the very least, can be
15 offering up securing those policies, and offering
16 them up as a service to those agencies, without
17 completely redoing them.

18 You can comment on that.

19 That was really not a question, but if you'd
20 like to comment on that, go right ahead.

21 TERRENCE O'LEARY: No, understood.

22 And the MPTC currently does training. And
23 through DCJS, they fill in all the gaps in doing
24 training of police and peace officers throughout the
25 state where agencies may not have their own

1 academies or their own resources. And through that
2 they do train on use-of-force policy.

3 But this is certainly something that the MPTC
4 will be working on.

5 SENATOR GALLIVAN: Thank you.

6 SENATOR NOZZOLIO: Thank you,
7 Senator Gallivan.

8 We've been joined by Senator Tom O'Mara.
9 Thank you, Senator.

10 Senator Golden.

11 SENATOR GOLDEN: Thank you, Mr. Chairman.

12 SENATOR NOZZOLIO: Oh, pardon me,
13 Senator Golden.

14 Also joined by Senator Bonacic.

15 Thank you, Senator.

16 SENATOR GOLDEN: Thank you.

17 And thank you for referring to
18 Senator Gallivan's age.

19 [Laughter.]

20 SENATOR GOLDEN: The -- I'm sure the --
21 Superintendent D'Amico would put claims to that
22 \$60 million, and probably could use that in the
23 first six months of -- or the next six months of
24 this year.

25 I think it's a good start, but I think you

1 need something that's going to be ongoing, something
2 that's going to be annually, to be able to get these
3 police departments up to snuff across the state of
4 New York.

5 I believe that our police departments do not
6 have the equipment they need, not just to keep them
7 safe, but to keep the people that they represent
8 safe, and they need more dollars.

9 I know New York City could eat that money up
10 in a heartbeat.

11 And my colleagues would have a stroke as
12 I say that right now.

13 But they could.

14 , technology is not included in that;
15 correct? Just bulletproof glass, or is technology
16 included in that?

17 TERRENCE O'LEARY: Part of it includes
18 body-cameras.

19 Should a police department choose to
20 implement body-cameras, they can apply for funding
21 from DCJS --

22 SENATOR GOLDEN: But no other type of
23 technology, just the body-cameras; right?

24 TERRENCE O'LEARY: Those are the main three
25 things that we're focused on.

1 ALFONSO DAVID: Bulletproof glass.

2 Body-cameras, and bulletproof glass.

3 SENATOR GOLDEN: Okay. And is --

4 TERRENCE O'LEARY: And when we say

5 "bulletproof glass," I heard -- Senator, I heard
6 your question earlier, it would include technology.

7 So it's not only bulletproof glass, but also
8 the film that you talked about that could be applied
9 to windows; which, obviously, depending on the
10 glass, there are issues.

11 If it weighs down the car, the life of the
12 car may become shorter, and the film is less
13 resistant.

14 Those things that we're looking at, and we'll
15 be open to working with the departments for their
16 applications.

17 SENATOR GOLDEN: And you'll set a criteria up
18 for the police departments, or the police
19 departments set their own criteria?

20 TERRENCE O'LEARY: The criteria for, what?

21 Technology they're going to want to use?

22 SENATOR GOLDEN: Correct.

23 TERRENCE O'LEARY: Certainly, we're going to
24 want to make sure whatever they choose to use is
25 something that has been shown to be efficacious;

1 that it will actually protect officers.

2 But, the specifics will be laid out in DCJS's
3 request for proposals.

4 SENATOR GOLDEN: And, again,
5 Senator Marcellino asked some good questions this
6 morning.

7 Again, backing up on one of his questions:

8 With the criteria that's being placed into
9 circulation, how long will that take? And how soon
10 before that money gets out the door to these police
11 departments?

12 ALFONSO DAVID: Well, I think our position
13 is, as quickly as we can get through and sign off on
14 an executive budget.

15 SENATOR GOLDEN: Great answer.

16 The --

17 [Laughter.]

18 TERRENCE O'LEARY: We will -- our plan is to
19 move forward as quickly as possible, to make sure
20 that we create criteria, implement a plan, have the
21 money accessible to police departments.

22 And, again, this is not mandated.

23 This will be available to police departments
24 across the state.

25 SENATOR GOLDEN: This is something that this

1 Panel has been striving for; and that's making sure
2 that the resources are available for our district
3 attorneys, for our police departments, our
4 corrections facilities, to make sure that they have
5 the tools that they need to be able to get the job
6 done.

7 So we are thankful for this amount of money
8 that's coming out, but I think if there's a way of
9 increasing that.

10 And, of course, doing it, I think you have to
11 do an actual five-year plan that gets these police
12 departments up to snuff across the state of
13 New York.

14 And the sooner we do that, the safer this
15 city will be, meaning the city of New York; and the
16 other cities -- other big five cities, and the towns
17 and villages across the state.

18 Right now, in New York City, shootings are
19 up.

20 Are shootings up across the state?

21 TERRENCE O'LEARY: Shootings were down in
22 2014 across the state.

23 Not outside of New York City, violent crime
24 was down 6 percent; indexed crime, overall, was down
25 6 percent; murder was down 16 percent; and property

1 crime was down 6 percent.

2 I do not have the actual number of shootings,
3 but we can get a report to you --

4 SENATOR GOLDEN: I believe shootings are up.

5 And I believe that the technology that we
6 have in our hospitals are keeping these people
7 alive.

8 And over the past 20 years, all the laws and
9 resurgencies that we've had across the countries,
10 we've been able, from the battlefield, to bring that
11 expertise to the hospitals and keep these trauma
12 rooms going and keeping these people alive.

13 But I got to tell you, it's only a matter of
14 time before that trend changes.

15 I know that homicides and shootings are up in
16 the city of New York, and that's a bad trend.

17 So I'm hoping that -- I think the police
18 commissioner is doing a great job in the city of
19 New York, but the -- he needs the tools and the
20 assets, as well, to be able to keep a handle on
21 crime.

22 But once shootings are up, it's only a matter
23 of time before homicides start to go up again.

24 So we're hoping that there is a reversal of
25 that, and that shootings come down, as well as

1 homicides.

2 And I thank you, and the Governor for his
3 approach.

4 ALFONSO DAVID: Thank you, Senator.

5 SENATOR NOZZOLIO: The panel has been joined
6 by Senator Lanza.

7 Next up, Senator Marcellino.

8 SENATOR MARCELLINO: Thank you.

9 Let me just go back to the issue of
10 competitiveness.

11 The money that we're talking about, the
12 \$60 million, good start. Like it. Like what you
13 want to spend it on.

14 What I don't like is the thought that a
15 community or a police department would have to
16 compete with another police department for money, so
17 we then generate winners and losers in this
18 situation.

19 I can see justifying the need for an amount
20 of money, and then dealing with the justification
21 for it, but, the idea of competing bothers me.

22 Again, is it a competitive grant? Or is it
23 a -- back where the department would have to justify
24 need, and the amount of money requested based on the
25 justification of need?

1 ALFONSO DAVID: I think we're saying both
2 things.

3 We want to make sure that police departments
4 have the resources they need, but there's a
5 recognition that not every single police department
6 will want bulletproof glass, not every single police
7 department will need bulletproof vests.

8 So we need to make sure that we have the
9 resources available, and allow those police
10 departments to apply for the resources they need,
11 and have the specific criteria, the minimum
12 standards, of course, outlined, so those police
13 departments can meet those standards.

14 And we will work with the Division of Budget,
15 the Criminal Justice Division, to make sure we
16 develop those standards.

17 SENATOR MARCELLINO: See, I would call that
18 justifying. I wouldn't call that a competitive
19 situation.

20 ALFONSO DAVID: Correct.

21 SENATOR MARCELLINO: Okay?

22 Good. At least we're on the same page on
23 that.

24 Thank you.

25 ALFONSO DAVID: Sure.

1 SENATOR NOZZOLIO: Thank you,
2 Senator Marcellino.

3 I have questions, gentlemen.

4 First of all, thank you for coming. Thank
5 you for being here.

6 Secretary O'Leary, you mentioned you're from
7 a small town in upstate where there's a six-person
8 police force.

9 TERRENCE O'LEARY: That was an approximation.
10 It may be a little bit smaller, even.

11 SENATOR NOZZOLIO: That's a big police force
12 in most of the towns in my district, if they have a
13 police force at all.

14 So, that's in line with Senator Marcellino's
15 comments, that we implore you to reach out,
16 ascertain need, and help those smaller police forces
17 that don't have a professional grantsman on staff,
18 that don't understand, or can't take the time,
19 really, to understand.

20 It's the role of DCJS.

21 And the Governor's Office could do good work
22 in that regard.

23 You have already in many cases, but, focus on
24 the smaller police forces, and I appreciate your
25 willingness to do that.

1 ALFONSO DAVID: Absolutely.

2 SENATOR NOZZOLIO: You heard, the
3 commissioner, and the last testifier, talk about, in
4 response to questions of a so-called "independent
5 monitor."

6 I'd like to you address the Governor's
7 intentions in the Article 7 language that
8 accompanies his budget proposals.

9 Discuss for me, and for the Panel's benefit:
10 The Governor we know already has the opportunity to
11 appoint a special prosecutor, he has the authority
12 to do so.

13 In your recollection, has he ever supported;
14 and, in effect, nominated a special prosecutor,
15 under his authority?

16 ALFONSO DAVID: No.

17 SENATOR NOZZOLIO: That -- what check --
18 then, as I understand the Article 7 proposals, that
19 the Governor will decide the independent monitor.

20 And what triggers that deployment?

21 ALFONSO DAVID: Sure, maybe we can start with
22 the executive law.

23 So under Executive Law 632 and 633, the
24 Governor has statutory authority to appoint a
25 special prosecutor where the district attorney fails

1 to prosecute or is unable to prosecute.

2 We've had a number of instances in the past
3 where former governors appointed special
4 prosecutors.

5 Governor Pataki appointed a special
6 prosecutor in the past. And certainly Governor
7 Cuomo did, Mario Cuomo, appointed a special
8 prosecutor as well.

9 In both of those cases, the first, the
10 special prosecutor was appointed, in part, because
11 the district attorney indicated that he was
12 unwilling to assign the death penalty in one of
13 those cases. And as a result, the Governor
14 concluded that a special prosecutor should be
15 appointed.

16 In another case, the special prosecutor was
17 appointed because the victims were unwilling to
18 cooperate with the district attorney. As a result,
19 it met the standard of unwilling or unable to
20 prosecute the case. And as a result, the special
21 prosecutor was appointed by the Governor.

22 So that's the current law.

23 The problem with the current law is, the
24 Governor is appointing a special prosecutor, in many
25 instances, in a vacuum, without any information.

1 So what the Governor is proposing in his
2 executive budget is to allow the district attorneys
3 to provide him with information in two cases:

4 The first case is where there is a fatality
5 and the district attorney fails to prosecute;

6 And the second is, where there is a fatality,
7 and the district attorney prosecutes, but there is
8 no indictment.

9 In both of those cases, the Governor could
10 appoint a special prosecutor under existing law.

11 But, again, the problem is, the Governor has
12 no information as to what happened in the
13 grand jury, what happened during the course of the
14 investigation.

15 And so he's asking for the information to be
16 provided to an independent monitor, an advisor, of
17 sorts, that will review the documentation and
18 information, and inform him as to whether or not
19 it's appropriate to appoint a special prosecutor.

20 The reason why that's critically important is
21 because, otherwise, the Governor is simply reviewing
22 information that's in the press as to what people
23 may think, whether or not it's appropriate to
24 appoint a special prosecutor.

25 And we think it's critically important not

1 only for accountability, but also transparency.

2 Many advocates will ask the Governor, in
3 certain types of cases, to appoint a special
4 prosecutor, and this allows him to make an informed
5 decision.

6 SENATOR NOZZOLIO: Under what would trigger
7 that Governor decision; not necessarily this
8 governor, any governor in the future, if this was
9 established?

10 What template or protocols are there that
11 provides this authority?

12 ALFONSO DAVID: Well, there's a specific
13 standard that's outlined in the Article 7 bill, and
14 what it says is: If the independent monitor
15 determines that there were substantial errors of
16 such magnitude that there exists a reasonable
17 probability that an indictment would have resulted
18 but for these errors, and that the presumption of
19 regularity afforded to such proceedings can no
20 longer apply, or, there exists newly discovered
21 evidence of such magnitude that there exists a
22 reasonable probability that such evidence, had been
23 presented to the grand jury, an indictment would
24 have resulted.

25 That's, essentially, the existing standard of

1 what we would think of as misconduct, or, new
2 information.

3 SENATOR NOZZOLIO: And that certainly goes
4 beyond the gubernatorial authority to appoint a
5 special prosecutor.

6 This almost allows the Governor, a governor,
7 to appoint another one-person grand jury.

8 ALFONSO DAVID: Well, actually, we think that
9 the Governor's power under 6312 is untouched.

10 In the Article 7 proposal, we mention -- we
11 do not mention 6312.

12 The Governor is simply appointing an
13 independent monitor to advise him.

14 It in no way inflates his existing statutory
15 authority under 633 or -2. That power is untouched.
16 It's not inflated in any way.

17 SENATOR NOZZOLIO: It -- what about a time
18 frame?

19 And this is something that we hear from many
20 police officers and police officer representatives.

21 We heard it frequently during the budget
22 hearing we had two weeks ago -- held two weeks ago,
23 that there's no end to this process, there's no
24 finality to this process.

25 And, before you answer in that area, Counsel,

1 could you also deal with the issues of layer upon
2 layer of review already existing, from federal,
3 community, other state, and local?

4 ALFONSO DAVID: Sure.

5 Well, under existing law there is no time
6 frame that currently exists.

7 So, in a given case, let's just assume the
8 grand jury issues no indictment in a case in
9 November of last year, or October of last year.

10 The Governor could appoint a special
11 prosecutor in that case into the future. There is
12 no restriction under existing law.

13 And we're not changing that. We're in no way
14 affecting existing law.

15 We're simply informing existing law, so that
16 the Governor can, when he does, or is forced to make
17 a decision, he makes an informed one.

18 The other question that you're raising, in
19 terms of the time frame, we've included some
20 additional parameters, so that the district attorney
21 has sufficient time to provide the information to
22 the independent monitor. And we've included that in
23 the chapter amendment, or in the 30-day amendments,
24 in the Article 7.

25 SENATOR NOZZOLIO: Thank you very much for

1 your testimony, and your clarity on some of these
2 provisions.

3 One last question that I have, and that was
4 raised, first by Senator Diaz, and then by
5 Senator Marcellino: The requirement that a police
6 officer become a census-taker.

7 In effect, when -- not necessarily an arrest,
8 but an apprehension, or a traffic stop, or some type
9 of formal process that the police engages in,
10 demographic data is going to have to be extracted.

11 And police officers are trained to do a lot
12 of things, but, they're also trained not to ask
13 questions of race or origin.

14 Now we're -- this proposal appears to be
15 directly contrary toward what a police officer has
16 been trained to do. And, frankly, it seems to be
17 outside the scope of what a police officer should be
18 required.

19 Please comment on that.

20 ALFONSO DAVID: Sure.

21 So the proposal that the Governor is
22 advancing will require local police departments and
23 officers to provide data along the lines of race and
24 gender and ethnicity, and, we have included specific
25 provisions for criminal violations, misdemeanors,

1 and arrests.

2 In many of those cases, the information or
3 the documentation that police departments use
4 already has that information.

5 To the extent it doesn't, we will be creating
6 model documents for police departments to use so
7 that we minimize any burden that may exist for the
8 local law-enforcement agencies.

9 SENATOR NOZZOLIO: It's not -- it's a lot
10 easier said than done.

11 That I went through information from the
12 Department of Corrections, that required an
13 analysis, post conviction. And that this was in
14 line with the -- the -- those incarcerated, and
15 counting those incarcerated, for redistricting
16 purposes, at the place of their incarceration.

17 That the Corrections Department had had to
18 upheave its normal census-taking processes.

19 And whether this proposal gets accepted or
20 not, I do not know, but, we need to even look at
21 what Department of Corrections is doing, because,
22 now, that data is akin to census data, for purposes
23 far beyond the original intention of taking a count
24 and an approximation of those incarcerated.

25 ALFONSO DAVID: No, Senator, your point is

1 well-taken.

2 I think that we have to be careful that when
3 we compile data, we're using the data for the
4 intended purposes.

5 Right now, the federal government compiles
6 data based on race and ethnicity and gender, but
7 it's inaccurate, to a large degree, because they
8 have to compile the information from local
9 law-enforcement agencies, and they're utilizing
10 different mechanisms to obtain that information.

11 So what our objective is, is to create some
12 type of uniform system within the state, that we can
13 actually rely on the data that's being relied -- in
14 many instances, relied on, either by the Legislature
15 or by the executive, not only for funding purposes,
16 but also for training, and, potentially, for
17 creating policy.

18 SENATOR NOZZOLIO: Thank you very much,
19 gentlemen.

20 Any other questions from the Panel?

21 Yes, Senator Lanza.

22 SENATOR LANZA: Thank you, Chairman.

23 Counsel, obviously, the proposals before us
24 from the Executive were prompted by a number of
25 notable grand jury decisions.

1 Is it the Governor's position that those
2 grand jury decisions were wrong?

3 ALFONSO DAVID: The Governor has not taken a
4 position on those decisions.

5 And that's -- I think when you look at the
6 proposal, I would advise to look at the proposal
7 through that prism.

8 The problem that I think the Governor is
9 faced with, is we have a decision, at least in the
10 Eric Garner case, that many have concluded is wrong,
11 in part, because there is a video, and the public
12 has viewed the video.

13 But the problem is, the public was not a part
14 of the grand jury process.

15 No one knows whether or not the instructions
16 were proper or not.

17 No one knows whether or not there was a
18 problem with specific grand jurors.

19 And I think that is, I think, the tension
20 that we're trying to resolve here.

21 The Governor is not opining on those cases,
22 in part, because he doesn't have sufficient
23 information.

24 SENATOR LANZA: Well, if the Governor did not
25 disagree with those decisions, why would we even

1 have proposals for so-called "reforms"?

2 ALFONSO DAVID: Because there is --

3 SENATOR LANZA: Because the grand jury system
4 has been -- has been the -- the process has been the
5 same for a long time in this country. And now, all
6 of a sudden, we have these radical reforms.

7 So one can only imply that it is because the
8 Governor believes that the grand jury decision, in
9 that case, and others, was wrong.

10 And I'm asking, based upon what would the
11 Governor believe that those decisions were wrong?

12 ALFONSO DAVID: The Governor recognizes that
13 there is a perceived, or, in some instances, actual,
14 lack of trust in the system.

15 I think we can agree to disagree on several
16 cases. Whether or not we agree with the outcome in
17 the Garner case or in the Ferguson case.

18 And I think that's from, our perspective,
19 beside the point.

20 What we're focused on is that, New Yorkers,
21 to a large degree, depending on race or ethnicity or
22 location or geographic -- or residency, I should
23 say, may have lost trust in the criminal justice
24 system.

25 And what we're seeking to do with this

1 proposal is provide greater transparency and
2 accountability.

3 We are not changing the grand jury system
4 per se; but, instead, allowing the Governor to make
5 an informed decision when he's asked --

6 SENATOR LANZA: Well, I would have to
7 disagree.

8 ALFONSO DAVID: -- to appoint a special
9 prosecutor.

10 SENATOR LANZA: You are suggesting that we
11 change the grand jury system.

12 So, part of the American way, from its
13 beginning, has been the notion that we will have a
14 jury of peers --

15 ALFONSO DAVID: Uh-huh.

16 SENATOR LANZA: -- and that there is a
17 presumption of innocence.

18 And so what you're saying now, though, is
19 when we disagree with a decision, that we're going
20 to have politics enter the equation. We're going to
21 have someone other than the grand jury and a jury of
22 the peers.

23 We're going to have, for instance, a governor
24 then look at the evidence that was part of the grand
25 jury.

1 So tell me how that does not fundamentally
2 change the grand jury procedure when you're dealing
3 with certain cases where you disagree.

4 Because my understanding is, only when, a
5 governor.

6 And -- and a two-part question:

7 In this case, the Governor happens to be a
8 lawyer.

9 So you might argue that the Governor has the
10 expertise to actually look at what happened in the
11 grand jury and make some type of legal determination
12 or opinion.

13 There is no requirement that a governor be a
14 lawyer.

15 So really what's happening here, is we're
16 inserting, aren't we, politics into the situation,
17 that any governor who disagrees with a grand jury
18 can then trigger this new procedure that you're
19 suggesting?

20 ALFONSO DAVID: Well, Senator Lanza, we
21 actually may have spoken about this before you
22 walked in, so I'll just briefly --

23 SENATOR LANZA: I'm sorry. There are lots of
24 budget hearings going on.

25 ALFONSO DAVID: Yeah, I know, so I'll briefly

1 restate, I think, just the framework.

2 Under Executive Law 632 and 633, current law,
3 the Governor can appoint a special prosecutor where
4 the district attorney fails to prosecute or is
5 unable to prosecute.

6 A very broad statute.

7 So when you think about, and your point
8 regarding politics --

9 SENATOR LANZA: I was here, by the way, when
10 you said that.

11 ALFONSO DAVID: Oh, okay. I'm sorry.

12 You know, right now, the Governor could
13 appoint a special prosecutor, in many cases, simply
14 because he believes that the district attorney was
15 unable to prosecute; or, because the victims are
16 unable to or unwilling to cooperate with the DA; or,
17 because the DA makes a public statement that
18 suggests that they're unwilling to, effectively,
19 prosecute the case.

20 So that standard is not being affected at
21 all.

22 Instead, what we're doing, again, is
23 informing the process, so that when the Governor is
24 asked, or has to make a determination on his own,
25 whether or not it's appropriate to appoint a special

1 prosecutor, he does so in an informed way.

2 He has no idea what happened in the
3 grand jury room.

4 We don't have the grand jury minutes, we
5 don't have the instructions, we don't have the
6 charges, so he has no way --

7 SENATOR LANZA: So isn't that the same as
8 saying, that whenever our governor disagrees with a
9 grand jury decision, the governor will decide, for
10 whatever reason, usually politics, because that's
11 what drives the executive and the legislative
12 branch, that's how our system is based, so, wouldn't
13 the case be, that whenever a governor disagrees with
14 a decision, that's when the governor, under this
15 suggestion, would step in and overturn, in effect,
16 that decision, or attempt to overturn that decision?

17 And isn't that contrary to everything we
18 believe in as Americans, where we wanted to separate
19 the procedure regarding criminal prosecutions from
20 politics?

21 Would we not be doing precisely the opposite
22 of what we're supposed to be doing as Americans?

23 ALFONSO DAVID: Well, I actually respectfully
24 disagree on that, Senator, because I think the focus
25 here, again, is informing the process, as opposed to

1 changing existing law.

2 Existing law is, the Governor can appoint a
3 special prosecutor tomorrow, in many cases. And the
4 standard, again, is very broad.

5 That is not being affected in any way.

6 So the question of whether or not the
7 Governor is second-guessing the grand jury, we tend
8 to think the Governor is actually informing his
9 determination as to whether or not to appoint a
10 special prosecutor.

11 Because, the contrary, which is, under the
12 existing framework, if he were to make a decision
13 tomorrow, is really going to be based on what he
14 read in the "New York Post," or what he read in
15 "New York Times."

16 SENATOR LANZA: Which would make for an
17 irresponsible decision.

18 So --

19 ALFONSO DAVID: Right.

20 SENATOR LANZA: -- but what you're saying
21 now, is that the Governor would like to look at the
22 testimony and the proceedings of the grand jury, and
23 then make his own political decision as to whether
24 or not the right or wrong thing happened.

25 ALFONSO DAVID: I don't think it's a

1 political decision, I think it's a legal one,
2 because the standard is outlined not only in 632 and
3 -3, but it's also outlined in the Article 7.

4 It's not --

5 SENATOR LANZA: If the grand juries, for
6 instance, on Staten Island; so, those members from
7 the community, those peers, of that defendant, that
8 accused, is there any suggestion that they, all
9 those members, ignored the law?

10 ALFONSO DAVID: No, not at all.

11 SENATOR LANZA: Is there any suggestion that
12 any of them acted based upon any bias?

13 ALFONSO DAVID: No.

14 SENATOR LANZA: So why these radical
15 suggestions to change what has been the most
16 respected criminal process in the entire world?

17 Why now?

18 ALFONSO DAVID: Again, I think because there
19 is a perceived lack of trust, or an actual lack of
20 trust, by many community members.

21 And I think in this day and age, where we
22 have information and documentation that's provided
23 to the public outside of the grand jury process, and
24 there is, in some instances, a lack of alignment --
25 or at least a perceived lack of alignment, I should

1 say, between the actual outcome and what's publicly
2 available, we need more information to assess
3 whether or not it's appropriate, in certain
4 instances, to appoint someone else to review that
5 process.

6 I think if we ignore that, what we do is
7 further erode the public's trust in the system.

8 The public currently -- and I think when you
9 look at the polls, the public currently does not
10 have the trust in the system that we would like the
11 public to have.

12 And this proposal will hopefully engender
13 trust in the system, but also provide greater
14 accountability.

15 SENATOR LANZA: Well, we're just going to
16 have to leave off disagreeing.

17 You know, there was a time -- when I was a
18 prosecutor in Manhattan, there was a time when there
19 was a perception within the public that too many
20 criminals were getting off, if you will --

21 ALFONSO DAVID: Absolutely.

22 SENATOR LANZA: -- and escaping conviction.

23 And there was talk about the technicalities
24 that exist in our criminal justice system.

25 I tell you those protections are the greatest

1 the world has ever known, and part and parcel of the
2 American way.

3 There was no rush to judgment then to say
4 we're going to eliminate the presumption of
5 innocence because we feel too many guilty people are
6 getting away with committing crimes.

7 And in the same way, we should not be
8 engaging in knee-jerk reactions now to change a
9 tried-and-true process, that makes it difficult.

10 And while it was frustrating to me as a
11 prosecutor then, I wouldn't want to live in any
12 other country except ours, where we make it
13 difficult for the king, the queen, the executive, to
14 decide, based upon politics, when someone is guilty
15 and when someone isn't.

16 Thank you, Mr. Chairman.

17 SENATOR NOZZOLIO: Thank you, Senator Lanza.

18 Senator Bonacic.

19 SENATOR BONACIC: I think Senator Lanza spoke
20 quite eloquently on what is perceived as an attempt
21 to politicize, or give opportunity to politics to
22 intervene with, a grand jury system.

23 Many years ago I also made presentations to
24 the grand jury as an assistant district attorney.
25 We did several of them.

1 Now, I want to ask you, though, specifically,
2 some questions.

3 You talk about this independent monitor;
4 right?

5 ALFONSO DAVID: Uh-huh.

6 SENATOR BONACIC: Who would appoint the
7 independent monitor?

8 Where would his qualifications?

9 Could be another DA?

10 Could it be?

11 ALFONSO DAVID: Yes.

12 SENATOR BONACIC: Should it be?

13 ALFONSO DAVID: Yes.

14 SENATOR BONACIC: I think this Governor is up
15 to his ears with taking care of state business and
16 budgets and laws.

17 And, now, he wants to take the time to get
18 involved in grand jury processes throughout the
19 state of New York?

20 That to me seems a reach, all in the quest of
21 public trust, the perception of public trust, just
22 like he wants to make Albany more ethical.

23 And these are noble quests, don't get me
24 wrong, but, extremely difficult, always elusive,
25 and, do you ever get the result that you're hoping

1 to get in improved trust?

2 So I just -- it's like Don Quixote chasing
3 windmills.

4 But let me come back to the qualifications.

5 District attorneys, as I understand it, are
6 not allowed to talk about what the grand jury did.

7 ALFONSO DAVID: Correct.

8 SENATOR BONACIC: Okay.

9 So, do you think a step in the right
10 direction for transparency would be to allow a
11 district attorney to talk about the process?

12 ALFONSO DAVID: That's actually a part of the
13 Governor's proposal, exactly right.

14 SENATOR BONACIC: Well --

15 ALFONSO DAVID: Under the proposal, the
16 Governor is advising -- or, a part of the proposal
17 would be to allow a district attorney to release
18 relevant documentations, redacted, of course, in
19 appropriate places, relevant information to the
20 public, advising on a specific type of case.

21 And, again, these are only limited to
22 fatality cases, where there's a fatality and there
23 is no indictment or there's no presentment to the
24 grand jury.

25 The district attorney would have the

1 authority to issue a statement, or to issue actual
2 minutes or charges, to the public for review.

3 That currently does not exist, and that is
4 now going -- that is a part of the Governor's
5 proposal.

6 SENATOR BONACIC: Well, as I understand it,
7 the district attorneys may embrace that proposal, to
8 be able to talk, bringing more transparency to the
9 process.

10 What I always marveled at with the grand jury
11 system, was that it was the peers that made the
12 decision.

13 In those cases that were controversial, there
14 were minority people in the grand jury.

15 ALFONSO DAVID: Uh-huh.

16 SENATOR BONACIC: An assortment of
17 African-Americans, assortment of Hispanics, and
18 women, and Caucasians, from the community, judging,
19 you know, whether something should go forward or
20 not.

21 So, what this Governor is suggesting by this
22 proposal, is that he is giving an opportunity to
23 create a political situation -- respond to a
24 political situation, whether it's media hype, and
25 you know how the media is today, and whether it's

1 mob justice as a result of community activists that
2 get a lot of attention, trying to distort or get an
3 edge in the grand jury system.

4 But these are all of those emotions that are
5 in play by this proposal, and I'm concerned that it
6 doesn't have a good ending.

7 But let's say it got traction, let's talk out
8 loud a minute.

9 Why wouldn't the independent monitor, if it
10 ever got that far -- and I for one don't think it
11 should get that far -- why wouldn't it be another
12 DA?

13 ALFONSO DAVID: It could be.

14 SENATOR BONACIC: Well, why wouldn't it be
15 mandated, another DA?

16 ALFONSO DAVID: Why mandate --

17 SENATOR BONACIC: I mean, why don't we say a
18 district attorney from another county, if you had to
19 have an independent monitor, someone that knows the
20 business, that's not involved in politics?

21 ALFONSO DAVID: Absolutely.

22 That is exactly what the Governor is
23 considering.

24 The independent monitor is not outlined in
25 the Article 7, because we thought it may be a

1 retired judge, a criminal court judge. It may be a
2 district attorney who is retired. It could be
3 another district attorney who is actually active.

4 The concern with using an active district
5 attorney is you may, potentially, create a conflict
6 in the future if that district attorney ends up
7 serving as a special prosecutor in another case or
8 in a similar case.

9 But, there's no opposition to using a
10 district attorney as the independent monitor.

11 SENATOR BONACIC: Well, you're saying there's
12 no opposition, but the chances -- I mean, it's so
13 broad, anything can happen.

14 It could be, a community activist could be a
15 monitor, under the definition.

16 Am I right?

17 ALFONSO DAVID: It's not defined in the --

18 SENATOR BONACIC: Right, it's not defined.

19 ALFONSO DAVID: So we could, essentially,
20 define it to create parameters to address that
21 concern.

22 SENATOR BONACIC: One of the concerns that
23 I see happening at the national level and the state
24 level, is that political decisions are determining
25 public policy, when that shouldn't be such a strong

1 and overpowering factor, and that's where this
2 proposal is going.

3 So, I thank you.

4 You spoke very well, by the way, in the
5 proposal.

6 But for one that's watched this grand jury
7 system for almost 50 years, I think it works.

8 Nothing is perfect.

9 Nothing is perfect.

10 But, for the most part, it works very, very
11 well, and it's not politicized.

12 I like the idea of a DA being able to have
13 more transparency to talk about it, and -- but it's,
14 always, the decision is made by the peers of the
15 community, without the political process.

16 And whether the perception of trust or not
17 trust is out there, I think it will always be out
18 there, but I want the peers deciding whether someone
19 is guilty or not.

20 And I thank you very much.

21 ALFONSO DAVID: And thank you, Senator.

22 I'll just briefly postscript to that, I think
23 we agree.

24 There's no -- again, and I want to make sure
25 that we're being crystal clear about what this

1 Governor's -- what the Governor's proposal does.

2 You know, the attorney general will have the
3 proposal that he's advanced. The chief judge has
4 advanced a proposal as well.

5 And, objectively speaking, I think that the
6 Governor's proposal is well-balanced, because it
7 increases transparency and accountability; allows
8 the district attorneys to release information as
9 appropriate; and, also, informs the Governor's
10 process, without inflating the process, or without
11 providing additional powers to the Governor.

12 Otherwise what we have is, you know, in my
13 opinion, a much more politicized process, an
14 uninformed process as well.

15 SENATOR BONACIC: Thank you.

16 SENATOR NOZZOLIO: Any other questions,
17 members of the panel?

18 Hearing none, thank you very much for your
19 participation.

20 ALFONSO DAVID: Thank you.

21 SENATOR NOZZOLIO: Bruce McBride.

22 Thank you.

23 Good morning.

24 R. BRUCE MCBRIDE: Good morning.

25 SENATOR NOZZOLIO: It's still morning.

1 Please be so kind as to state your full
2 title, and name.

3 R. BRUCE MCBRIDE: Good morning.

4 My name is Bruce McBride.

5 I am the commissioner of police for
6 State University of New York, and in my capacity,
7 I coordinate law-enforcement operations for the
8 university, that consists of 28 departments of
9 police, and also our community colleges.

10 I'm also a serving member of the
11 Municipal Police Training Council, and a member of
12 the New York State Chiefs Association, as well as
13 many other law-enforcement agencies -- professional
14 groups.

15 My comments today, as outlined in the
16 testimony, will deal with the role of police, the
17 notion of community infrastructure and protection of
18 officers, relationships and bias, technology,
19 staffing, and, the need for what I call
20 "strategic funding."

21 I'm going to just simply capsulize the
22 salient points in the document, and then look
23 forward to questions.

24 Let me give, though, a very broad scope of
25 policing in New York State.

1 At this time we have 585 state, local, and
2 county departments of police, and they are augmented
3 by, roughly, 1,700 peace officer departments.

4 SUNY, as itself, consists of 587 sworn
5 personnel and they are dispersed at the various
6 28 campuses.

7 In the notion of community and my comments,
8 we -- I talk about the role of the police and the
9 notion of crime-fighter, the traditional role, also
10 versus the service provider.

11 And this is what police officers do in and
12 day out: they provide services 24 hours a day.

13 In terms of protection of officers and
14 infrastructure, I believe that, for officer
15 protection, departments have to be trained, they
16 have to be equipped, and they have to be staffed, to
17 do the job.

18 The measures for this are outlined in the
19 accreditation program that exists with the
20 Municipal Police Training Council, which is under
21 the Office of Public Safety, New York State Division
22 of Criminal Justice Services.

23 Departments that are accredited must meet
24 130 operational standards, and this includes use of
25 force, evidence collection, staffing, equipment,

1 et cetera.

2 Only 23 percent of our departments are
3 accredited.

4 The reason for this vary, but we believe, in
5 SUNY, that all university police departments will be
6 accredited.

7 At this time we have eight departments who
8 have achieved accreditation.

9 One is what we call "on the way," and
10 eleven others are on the listing.

11 We believe that within five years all of our
12 departments will be accredited.

13 With regards to community relationships and
14 bias, the police departments, no matter large or
15 small, as alluded to by the commissioner of
16 Nassau County, they have to assess their services
17 through both quantitative and qualitative ways; and
18 this includes citizen satisfaction, complaints,
19 trends, and review of the use-of-force incidents.

20 We are looking, at SUNY, with regards to
21 community relations, at two programs.

22 One is the idea of procedural justice that
23 was cited before, and also a program called
24 "Fair and Impartial Policing."

25 There is the question of bias that does

1 occur. And as outlined in some of the questions,
2 there is a need for data.

3 At the University of Albany, and some other
4 campuses, they have been collecting data on traffic
5 stops and arrests for the past 10 years.

6 We are also looking at our partnerships with
7 academic institutions, particularly the School of
8 Criminal Justice here in Albany.

9 With regards to technology, one of the issues
10 that has come up is the body-worn camera.

11 The college at Oneonta has been using cameras
12 for the past two years. We have five other
13 departments that are piloting the cameras.

14 I want to say that, basically, they have to
15 be used, viewed, as an important tool, but not a
16 panacea.

17 They are helpful, especially when you have
18 citizen complaints, but, there is a number of issues
19 that arise with regard to operational policies:
20 When they're turned on, when they're turned off.
21 Footage; storage of footage at the end of the shift
22 in the cloud, and the costs associated with that.

23 There are many expensive issues that arise
24 with these cameras.

25 The digital revolution that I allude to

1 continues.

2 Students today have apps that can summon
3 help.

4 Apple yesterday announced the new wristwatch.

5 So, I believe that we and the police have to
6 adapt to these new technologies.

7 We've seen also an explosion of social media.

8 We've had positive results with our own use
9 of social media, in getting information out with
10 regards to threats, with regard to personal safety,
11 but we've also had terrorist attacks -- not attacks,
12 but, threats at one campus, at the Canton Campus,
13 where people use a social media called "Yik Yak," to
14 say that they're going to commit serious crimes.

15 And I'm happy to report that, in several
16 cases, those persons have been apprehended.

17 Let me now switch to hiring and staffing.
18 I know there's been some questions that have been
19 raised already.

20 There's a general trend I see in
21 New York State for 60 college credit hours.

22 The general trend right now, the -- for most
23 municipal agencies is a high school degree. For
24 most state agencies, it's moving to the
25 60 credit hour.

1 Yet, in many communities, especially in
2 Upstate New York, we have very little diverse
3 representation in the departments.

4 The reasons for this are complex, but I will
5 say that the traditional civil-service model, with
6 regards to the written test, needs to be reviewed.

7 And in my comments I point out that, years
8 ago, there was an idea of the police cadet program,
9 whereby qualified persons were allowed to enter the
10 police service if they passed all the requisite
11 background, physical agility, psychological tests.

12 Related to this is staffing.

13 It takes, roughly, 5.5 people to staff one
14 patrol post 24 hours a day, 7 days a week.

15 This is an issue faced by many departments
16 because, if they don't have enough staff, they
17 cannot do community-policing programs. They're just
18 simply responding to patrol calls and basic duties.

19 It's the issue being faced by the
20 State University.

21 At this present time we are losing officers
22 because of an inequity to the pension program.

23 Right now our members are in the
24 New York State Employee Retirement System.

25 Newer members cannot retire until age 62.

1 And once they receive their police
2 certification, they are moving on to other
3 departments.

4 And we are asking for a 20- or 25-year
5 retirement plan.

6 And I want to thank Senator Golden and others
7 for the support of this.

8 But in the next 5 years, we think we'll -- we
9 estimate that we're going to lose about \$10 million
10 in terms of replacement.

11 So the bottom line is funding, as alluded to
12 earlier.

13 And what I would suggest, outside of
14 competitive grants, is strategic funding; and that
15 is, put money where it can serve police officers the
16 best, in both a statewide and regional basis.

17 We've seen that in many police academies
18 around New York State because, many departments,
19 especially smaller departments, cannot afford their
20 own police training.

21 And, we also have seen the need for new
22 delivery systems for training. It does not always
23 require that officers are in a classroom.

24 So funding is needed for those agencies,
25 state agencies, that can help the best.

1 I mention in my comments the Office of Public
2 Safety that has seen reductions over the last
3 10 years.

4 There are others that could help police
5 departments throughout the state.

6 I'll conclude my oral comments, and I look
7 forward to your questions.

8 SENATOR NOZZOLIO: Thank you, Commissioner.

9 Any questions from members of the panel?

10 Thank you very, very much for your testimony.

11 We appreciate your work, and to thank you for
12 your career in law enforcement.

13 R. BRUCE MCBRIDE: Thank you.

14 SENATOR NOZZOLIO: Thomas Mungeer, president,
15 the Police Benevolent Association of the
16 New York State Troopers.

17 President Mungeer, would you mind if --
18 I guess he just left the room.

19 Proceed, please.

20 THOMAS H. MUNGEER: Chairmen Golden,
21 Gallivan, Nozzolio, Marcellino, Senators Bonacic,
22 Lanza, it's an honor to be here.

23 My name is Thomas Mungeer. I'm president of
24 the New York State Troopers PBA.

25 I'm honored to represent over 6,000 active

1 and retired troopers.

2 I've spoken to many of you -- all of you in
3 the past.

4 Myself and my fellow president from the
5 investigators union have been extremely proactive
6 fighting for the rights and for our members.

7 I want to hit on a couple of things.

8 You have brought up numerous issues which are
9 relevant to the police community as a whole, for
10 both police and public protection. Also, some more
11 things that are more poignant to the New York State
12 Police.

13 You know, overall, the global issues, you
14 know, as police officers, you have mentioned about
15 the increased penalties for crimes against police;
16 assaulting police officers.

17 But, also, I want to add one thing: There
18 should probably be stiffer sentencing guidelines for
19 these crimes once they're committed, to possibly
20 make somebody think twice about committing crimes
21 against police.

22 The other thing, at length, you spoke to
23 Mr. David just before, about the two-tiered system
24 that's created under this new grand jury proposal.

25 We are against such a system as it was

1 proposed.

2 By creating a two-tier system, that police
3 officers have to go through a separate process than
4 everybody else, kind of, you know, goes against what
5 the system, how -- when it was created when our
6 country was created.

7 We are open to possibly more transparency, a
8 grand jury report, but, as far as singling out
9 police officers, only just based on their
10 occupation, that they'll have to go through this
11 monitor system, I think needs to be looked at again.

12 And we appreciate-- I heard the comments from
13 everybody up there, and I appreciate, that I believe
14 that it's a large issue for you also.

15 Thank you.

16 As far as New York State Police, it's -- we
17 are a large police agency.

18 But as commissioner of Nassau County,
19 Commissioner Krumpster, had said before, they have
20 2200 police officers.

21 We have a little over 2800 on the road
22 throughout the whole New York State.

23 We do need more people.

24 As the statistics that were just provided,
25 that it takes 5.5 officers to patrol a post within

1 these communities in New York State, we would need
2 at least over another 1,000 people.

3 We have a little over 450 posts, and we do
4 not have enough officers right now to man those
5 effectively, especially when you have special
6 details.

7 The Governor has tasked us with extra --
8 extra things that we have to take care of.

9 We are patrolling New York City now.

10 We have 50 officers down there in
11 Grand Central Station and Penn Station. And then,
12 soon, there will be 50 troopers permanently assigned
13 down there.

14 Also, with heroin-related investigations,
15 that's another duty that has been added to our
16 plate.

17 So, given that, we do need more manpower.

18 How do we ensure that we have that?

19 We went through a period of 3 1/2 years,
20 Governor Cuomo's predecessor didn't put any classes
21 into the state police academy, and we were in a
22 proverbial hole in regards to manpower. It was --
23 it created unsafe situations on the road for the
24 troopers and the public.

25 To remedy this --

1 And I will say, Governor Cuomo has been
2 pretty good about putting in classes, extremely
3 good. We have one in currently, right now.

4 -- is that there should be a minimum staffing
5 within the State Police.

6 There is no such thing right now.

7 A governor can go in, you know, somewhere in
8 the future, and not put a class in and we'll end up
9 in that again.

10 So somewhere within, if you put in that
11 there's a minimum staffing, possibly one trooper per
12 post, at least, we won't fall into that again.

13 There's many places within New York State, as
14 you all well know, that we do supplement the local
15 police departments and sheriffs' departments. But a
16 lot of places, we are the only law enforcement
17 within those areas.

18 Another thing is, is the proverbial tools of
19 the trade for police officers, and you hit on
20 numerous items, some of them the Governor is
21 proposing.

22 One is, you know, beside rifles and tasers
23 that, you know, a police officer will need in his
24 everyday duties, we do need, but, patrol vehicles.

25 I know Senator Gallivan spoke at length

1 before.

2 I also testified, as well as President Kaiser
3 of the investigators, that we -- right now,
4 currently, along with the -- as -- you know, not the
5 BCI cars, but the marked cars, 30 percent of our
6 cars are over 125,000 miles.

7 We have given a little ground, as a union.

8 We did want our cars to be, you know, changed
9 out at 100,000 miles, but, we gave a little ground,
10 and will accept the 125,000-mile mark, since we now
11 have a large number of cars over 150,000 miles, and
12 some, a select few, up over 180,000 miles.

13 And when you're going from --

14 SENATOR GALLIVAN: The younger guys don't
15 remember the 100,000 miles.

16 THOMAS H. MUNGEER: Yeah.

17 Yeah, I do. So when I did come on, it was
18 100,000 miles.

19 You are right. I'll back you up on that one.

20 But as far as vehicles, I do appreciate,
21 Superintendent D'Amico has a plan to switch that out
22 within the next two years.

23 I would like to see that accelerated, only
24 because, again, I do appreciate it, but, what cost
25 to safety, especially for my police officers, my

1 troopers, who are out there every day, I would like
2 to see that rectified this year instead of over a
3 two-year plan.

4 But, I do appreciate that they are addressing
5 that.

6 I'm open for any questions from the Panel.

7 SENATOR NOZZOLIO: President Mungeer, this
8 majority supports very much your concern and the
9 Governor's proposal to establish classes.

10 The additional deployment of police officers,
11 an additional class that the Governor put in his
12 30-day amendments, are something that we are
13 aggressively supporting.

14 And we certainly appreciate the need, and,
15 your comments.

16 During a budget hearing, we went through a
17 number of these issues.

18 But, for this matter, I would just like to
19 ask a question, to focus on, you heard the
20 Governor's counsel and the secretary discuss the
21 issues of an independent monitor.

22 You testified already that you have concerns
23 with that.

24 Could you be more specific?

25 THOMAS H. MUNGEER: Yeah, I believe the

1 monitor, the way it was proposed, only applies to
2 police officers, based in -- it's creating a
3 separate system based on our occupation.

4 If, in fact, if we are to come to some sort
5 of compromise, it was also put in there that a
6 grand jury report, or some more transparency.

7 But I believe just based on a -- creating a
8 system based on one's occupation, you know, will be
9 a constitutional issue.

10 SENATOR NOZZOLIO: Thank you very much.

11 Senator Marcellino.

12 SENATOR MARCELLINO: Thank you for coming
13 down, and appreciate your time, and your service.

14 THOMAS H. MUNGEER: Thank you, Senator.

15 SENATOR MARCELLINO: The -- you mentioned
16 that the Governor had assigned, or has requested, an
17 assignment of about 50 troopers to downstate in the
18 city of New York?

19 THOMAS H. MUNGEER: Yeah, that's correct.

20 We do have a -- we currently have a detail
21 right now, and it's terrorism-based.

22 SENATOR MARCELLINO: Is that what they're --
23 are they augmenting the City's activities on
24 terrorism, or are they doing something on their own?

25 THOMAS H. MUNGEER: No, no, it's augmenting.

1 They're working with the MTA. Also the NYPD.

2 We do have a very good relationship, you
3 know, with those agencies.

4 You know, my superintendent is a former
5 New York City police officer himself.

6 But we are -- currently have troopers
7 assigned down in New York City, within Penn Station
8 and Grand Central Station, and it's terrorism-based.

9 It started, I believe, right before
10 Thanksgiving, and is currently ongoing.

11 The Governor's plan is to permanently assign
12 50 troopers down there, and I believe in that sort
13 of capacity, and it's to supplement the New York
14 City MTA and other agencies down there.

15 SENATOR MARCELLINO: Are these requested by
16 the City, or this is just the Governor's thinking on
17 it?

18 THOMAS H. MUNGEER: I do not know that.

19 That would be better posed to my management.

20 SENATOR MARCELLINO: Thank you.

21 SENATOR NOZZOLIO: Thank you.

22 Senator Gallivan.

23 SENATOR GALLIVAN: Thank you, Chairman.

24 I only have one follow-up.

25 You did comment on the cars, and there was

1 some earlier testimony about replacement vests.

2 Do you have any comments?

3 THOMAS H. MUNGEER: I've got to say, with
4 the -- this administration, both with the Governor's
5 Office and the superintendent, has been very good
6 about replacing our vests.

7 So, I don't have that on my list of my
8 Chinese menu, if you may.

9 The vest situation has been changed every
10 five years. And if -- they have been very proactive
11 about this.

12 You know, if there are any cases that have
13 slipped through the cracks, if it's brought to their
14 attentions, it's quickly rectified.

15 SENATOR GALLIVAN: Thank you.

16 SENATOR NOZZOLIO: Senator Golden.

17 SENATOR GALLIVAN: Thank you, Mr. Chairman.

18 And thank you for being here today.

19 Obviously, we've spoken about the monitor.

20 The monitor is something that is -- that hits
21 a nerve in all of this Panel, and rightfully so.

22 You know, all of our families came from
23 different countries to this -- to form this great
24 nation over 200 years ago; specifically, England,
25 and because of their overreach in the government,

1 into the lives of the people that lived in that
2 country, and that's what we fled. That's what we
3 fought.

4 That's what the red, white, and blue is all
5 about.

6 And now we're looking to add more steps, and
7 infringement on the rights of individuals. And we
8 don't believe that that's correct, and we're trying
9 to do the best we can to make sure that this does
10 not become law.

11 But we are, obviously, in a negotiation with
12 the Assembly and with the Governor, and -- but we do
13 not want to impact the infringe -- or infringe upon
14 the grand jury, because the grand jury has done, and
15 worked, over 200 years.

16 And so putting a monitor in there, and
17 requiring the grand jury to release more information
18 than it has to, to correct something that doesn't
19 need to be corrected, is something that we're not
20 very fond of, or looking to do.

21 But I will tell you that, isn't the -- don't
22 you guys have the -- state troopers, aren't you on
23 the organized-crime task force, aren't you guys on
24 the terrorist task force, in the city and across the
25 state?

1 THOMAS H. MUNGEER: Absolutely, yes.

2 SENATOR GALLIVAN: You're on each one of
3 those task forces, correct, and other task forces as
4 well?

5 THOMAS H. MUNGEER: Absolutely.

6 SENATOR GOLDEN: I got a question for you.

7 There seems to be -- I don't know if you read
8 "The Post" the other day. There was an arrest of an
9 individual, and we see these arrests on a regular
10 basis.

11 He was [unintelligible] \$800,000, and he was
12 going into another nation in the Middle East and
13 delivering that money, we believe, to terrorism.

14 We see that on a regular basis.

15 Is there any task force within the state
16 troopers, when it comes to going after the illegal
17 cigarette contraband, which seems to be as
18 lucrative, if not more lucrative, than that of the
19 drug trade?

20 THOMAS H. MUNGEER: Yeah, we did have a
21 detail that -- manned by investigators, the other
22 union.

23 But, we did see, and I will comment, that it
24 was formed a number of years ago, due to the
25 trafficking of the cigarettes, what have you,

1 upstate, by the Canadian border especially.

2 So, they were quite active in that.

3 You know, the state police, over my career,
4 there's been numerous details created, based on, you
5 know, what society -- what is going on in society;
6 whether it's untaxed cigarettes, whether it's
7 terrorism.

8 Right now it's the heroin, a push on heroin.

9 And because there has been reactions, as
10 such, within the agency to throw manpower and
11 resources at those particular problems in society.

12 SENATOR GOLDEN: Well, I don't want to take
13 away from heroin. Obviously, heroin is killing our
14 kids, from Brooklyn to Buffalo, so we do need that
15 task force.

16 But we do need the task force, for those
17 supplying the drugs.

18 And we need the task force, that's bringing
19 money into terrorists' hands; and that's going after
20 the contraband of cigarettes, to the tune of
21 billions of dollars to the State and to City of
22 New York.

23 So, I would like to know if that task force,
24 or that group, is still active. And if you could
25 get back to me with some of that --

1 THOMAS H. MUNGEER: Yeah, absolutely.

2 And, again, my counterpart with the
3 investigators' union might be able to provide a
4 little more light on that -- shed more light.

5 I guess my push would be, you know, I think
6 we should have a bigger group, and they should be
7 manned by uniformed troopers -- no, I'm just
8 kidding -- instead of investigators.

9 But, no, the more manpower the better.

10 And I will get back to you after I speak to
11 my counterpart.

12 SENATOR GOLDEN: Well, the funny part about
13 this, these cigarettes are coming in in trucks --
14 truckloads, I-95, so it's uniform that's going to be
15 pulling these trucks over and these cars over.

16 And especially the cigarettes coming in, in
17 some of the places upstate, by barge, coming in from
18 China, these are -- that would be investigators.

19 But the guys in the uniforms would be the
20 guys getting the cigarettes off of the streets, or
21 off the I-95. That's the pipeline for guns, and
22 that's the pipeline for illegal cigarettes, and
23 illegal drugs.

24 THOMAS H. MUNGEER: Yeah, they're in the
25 Northway on 87, and that goes down to my argument

1 with more manpower.

2 My uniform troopers are out there proactively
3 looking, whether it's guns, you know, wanted people,
4 drugs, and other contraband such as cigarettes.

5 So, to adequately man the posts out there so
6 we have enough troopers that -- to -- because, when
7 you have a car pulled over, or a tractor-trailer,
8 how many more go by with -- if you don't have the
9 adequate manpower to man the roads?

10 So that argument goes back to, that we do
11 need more uniformed troopers out there.

12 SENATOR GOLDEN: We agree, and that's why
13 this Panel came together, is to formulate a thought
14 process on how we can get more resources to the
15 police departments and the district attorneys and
16 our correction institutions across the state of
17 New York, to make sure that we have a
18 twenty-first-century system here in the state, the
19 greatest state in the nation.

20 And we should.

21 The \$60 million is a good start with the
22 Governor. We would like to see, obviously, more.

23 Just listening to the conversation between
24 you and Senator Gallivan right now, I was right
25 before; Superintendent D'Amico could use that

1 \$60 million without even going outside of the state
2 troopers.

3 So it's a need.

4 I think it should be a five-year plan, and
5 I think it should be a plan that gets all of our
6 police departments across the state up to the
7 twenty-first century.

8 Thank you.

9 THOMAS H. MUNGEER: Thank you, Senator.

10 SENATOR NOZZOLIO: Thank you, Senator Golden.

11 Senator Lanza.

12 SENATOR LANZA: Thank you, Chairman.

13 Tom, it's great to see you.

14 THOMAS H. MUNGEER: Good to see you, Senator.

15 SENATOR LANZA: Tom, sadly, it seems to me
16 that it has becoming increasingly politically
17 incorrect to express gratitude and admiration toward
18 police, not only in our state, but across the
19 country.

20 And I have to tell you, I believe that the
21 people who advanced that sentiment are as dangerous
22 as any terrorist out there.

23 And so I simply want to say to you, that
24 I admire and commend, and thank, New York State
25 troopers for keeping all of us, my family, and

1 families across New York State, safe, and for the
2 sacrifices you make in order to make that happen.

3 I don't have a question; just a statement.

4 I want to speak, of course, about this
5 two-tiered system being proposed, which, to me, is
6 not only offensive, but very dangerous to public
7 safety.

8 The notion that constitutional protections
9 don't apply to police officers is disgusting and
10 obscene.

11 And I feel blessed that I'm in a position,
12 together with my colleagues here, to make sure that
13 that doesn't happen.

14 So, Tom, once again, thank you.

15 THOMAS H. MUNGEER: And we appreciate your
16 support, especially the support of everybody up on
17 this Panel. Again and again you're there for us.

18 And I want to thank you on behalf of the men
19 and women of the New York State Police.

20 Thank you.

21 SENATOR NOZZOLIO: Senator Bonacic.

22 SENATOR BONACIC: Tom, I happen to think the
23 state police in this state is the best state police
24 force anywhere in the country, from watching them
25 over my time --

1 THOMAS H. MUNGEER: And I have to say I'm
2 very biased also. I believe the same thing.

3 [Laughter.]

4 SENATOR BONACIC: I'm just curious, and
5 I don't know enough about it, the new concern is
6 cybersecurity and hackers.

7 Does the state police, as part of your
8 mission, involved in any of that? Or that's left --
9 or are you allowed to talk about it?

10 THOMAS H. MUNGEER: Well, I can talk about
11 it, but I'm not going to talk at length.

12 Again, we do have a computer-crimes unit.
13 They're very good at what they do. It's mostly
14 manned by investigators. There are some of my
15 people in there also.

16 I do not have the numbers, but I believe
17 they're undermanned also.

18 Just like anything else, it's -- the
19 twenty-first-century crimes are committed mostly on
20 computers now, or largely on computers. And, you
21 know, they could always use more manpower.

22 But we do have such a unit.

23 The state police, you know, has been in the
24 last -- especially in the last decade or so, been
25 very proactive instead of what we viewed as mostly

1 reactive. And, they are going after a lot of these
2 different things that are -- you know, that you
3 would never think two decades ago that you would
4 even have to worry about.

5 SENATOR BONACIC: Is this an area where you
6 could use more manpower?

7 THOMAS H. MUNGEER: I believe we could use
8 more manpower across the board.

9 Again, my chief -- being here, I'm, you know,
10 head of the uniformed troopers.

11 The men and women out there who, mostly by
12 themselves, are patrolling the roads, they need
13 adequate backup.

14 But I will say that they do need more, across
15 the board; whether it's in these details,
16 investigators.

17 But I guess my primary request is, first and
18 foremost, the men and women who out there patrolling
19 the roads. They're the first line of defense.

20 SENATOR BONACIC: Thank you for keeping us
21 safe.

22 Thank you for being here.

23 THOMAS H. MUNGEER: Thank you, Senator.

24 SENATOR NOZZOLIO: Thank you very much.

25 Any other questions of the panelists?

1 Hearing none, thank you very much.

2 THOMAS H. MUNGEER: Thank you. I appreciate
3 it.

4 UNKNOWN SPEAKER: [No camera pan.]
5 Likewise.

6 SENATOR NOZZOLIO: Kevin Mulverhill.
7 Sheriff, good afternoon.

8 SHERIFF KEVIN MULVERHILL: Good afternoon,
9 sir.

10 How are you?

11 I can draw a crowd.

12 I'm Kevin Mulverhill. I'm the
13 Franklin County Sheriff.

14 So, greetings from the Great White North.

15 It's a pleasure to say that the windchill's
16 30 today, and not referenced 30 below.

17 So, I'll give you a little history of myself.

18 I was a corrections officer in the
19 New York State Department of Corrections for
20 4 years. I was a New York State trooper for
21 23 years. I retired as a traffic supervisor in
22 Troop B.

23 And I've been the sheriff for Franklin County
24 for almost five years now. Just recently had a
25 reelection.

1 Obviously, I come from a rural county with a
2 number of budget issues, which I know the state is
3 going through as well.

4 Just to let you know, it costs us in the
5 county, roughly, \$6 million a year to operate the
6 county jail.

7 Franklin County, as I said, is a rural
8 county. It is one of only two or three counties in
9 the state that does not have an active road patrol,
10 so my primary duties in the country is the operation
11 of the county jail.

12 However, I'm here on behalf to speak, in
13 part, for the sheriffs across the state.

14 I would like to speak about some
15 jail-operation issues, and some 911 dispatch issues,
16 that are not particularly germane to the budget
17 issues that have been discussed here today, if you
18 would allow me to indulge you for a short time.
19 I promise I'll be short.

20 I was told a long time ago never to be the
21 speaker just before or just after lunch, so, like
22 I say, I'll keep this as short as I can.

23 Since becoming the sheriff, I think the big
24 difference between being a state trooper and a local
25 sheriff or the county sheriff is the ability to

1 affect your community, and to be able focus on
2 issues that are important to the county, and
3 I think, in turn, become important to the state.

4 One of the issues that has come to light
5 since I've been the sheriff, particularly with the
6 county jail, are mental-health issues.

7 We are -- the county jail, we're the end of
8 the line for all the systems, and in particular,
9 the mental-health system.

10 It's heartbreaking, to be honest with you, to
11 be a county sheriff, and have an individual end up
12 in the county jail that has obvious mental-health
13 issues, and not be able to get them help.

14 Those particular individuals, not only do
15 they need help, but being in the county jail where
16 my staff is not trained and we don't have the tools
17 available to treat this individual, you know, causes
18 a security risk to the staff and to fellow inmates.

19 And, you know, I will briefly give you a
20 couple of examples, and these happened just since
21 the first of the year.

22 A 76-year-old male, who was a U.S. veteran,
23 had a history of multiple psychiatric
24 hospitalizations, had been in resident placements,
25 has actually had signs of dementia, suffered from

1 what they refer to as "sunset syndrome," and just
2 about the time it gets dark, he has a number of
3 episodes, ends up in the county jail as a part of an
4 arrest, which I think was for petit larceny.

5 Actually, it was for entering the dwelling of
6 another.

7 We get him as much help as we can in the
8 county jail. We deal with him as best we can.

9 Like I say, at times he's violent, and not of
10 his -- it's not of his own nature.

11 It's not like, when he's in the jail, we can
12 issue him a ticket because -- you know, or issue him
13 a discipline because he is not following the rules.

14 I mean, the rules mean absolutely nothing to
15 him, only because he can't comprehend them.

16 A number of mental-health evaluations, he
17 gets disability and SSI. He has funds available to
18 him, but he doesn't have anybody to budget his
19 money.

20 You know, he falls in love with one of the
21 jail nurses and starts buying a whole bunch --
22 buying her a whole bunch of gifts, and whatnot.

23 I mean, obviously, we returned them to him,
24 but he has obvious mental-health issues.

25 He's released from jail, and he's found about

1 two weeks later on a rural road outside the village
2 of Malone, suffering from hypothermia.

3 And it was one of those, it was lucky he was
4 found alive. Another hour, he could very well have
5 been deceased.

6 Didn't know where he was. Didn't know where
7 he was going.

8 It just seems to me that we could develop
9 some sort of system, where the courts can make a
10 referral to a mental-health facility.

11 And the State recently, or appears to have
12 been, abandoning the mental-health facilities.

13 As a result of that, these people are ending
14 up in the county jail.

15 There again, one more -- one more.

16 An 18-year-old male, with a dual diagnosis of
17 mental retardation and mental illness, and multiple
18 inpatient psychiatric hospitalizations.

19 He becomes violent in a residence, and his
20 mother is forced to have him arrested and forced to
21 send him to jail, because there's an 11-year-old
22 child in the house as well.

23 And social services threatens to take away
24 the 11-year-old child if she continues to allow the
25 18-year-old male with mental-health issues to live

1 in the household.

2 He has no place to go.

3 He gets arrested for attempted assault in the
4 household and he comes to the county jail.

5 It takes us several weeks of evaluations to
6 finally get him moved out of the Franklin County
7 Jail into a psychiatric facility in Augsburg [ph.].

8 It's just -- and like I say, as the county
9 sheriff, that's frustrating. It's heartbreaking to
10 see that. There's nothing we can do for this
11 individual.

12 I mean, he gets up in the morning, he spreads
13 feces on the walls.

14 He just -- it's obvious that he has
15 mental-health issues.

16 And there, again, it's not something we can
17 correct on the discipline side of the house.

18 It's not something that is safe for my staff
19 or safe for fellow inmates or safe for the nurses.

20 It just seems to me that we could have a
21 better process to take care of this.

22 So that's my stuff, necessarily, on the
23 mental-health issues.

24 And I would appreciate it if you would
25 consider that in budget proposals that come up in

1 the future. It's an issue.

2 And I have a small county jail. I can house
3 127 inmates, you know. But at any given time,
4 there's always one, two, maybe even three, that have
5 obvious mental-health issues.

6 The second topic I would like to address is
7 911 dispatch.

8 And I think the general public is under the
9 impression that when you call 911 anywhere in the
10 state, that you talk to a dispatcher that has direct
11 access to a police agency.

12 And I am here to tell you that, in
13 Franklin County, and soon to be St. Lawrence County,
14 and in Clinton County, that is not the case.

15 If you call 911 dispatch -- if you call 911
16 in Franklin County right now, you get the emergency
17 services 911 dispatch located on 55 Bear Hill Road
18 in Malone, New York.

19 If you have a request for police, or you need
20 a police officer, the New York State Police are the
21 primary police agency for Franklin County.

22 Like I say, I don't have a road patrol.

23 There are three villages, Tupper --
24 Tupper Lake, Saranac Lake, and Malone, and also the
25 tribal PD, are the outlying police agencies.

1 So you need a trooper, if you're outside any
2 one of those villages, when you call 911 in
3 Franklin County, the dispatcher has to take that
4 information down, and then transfer your call, at
5 this point, to Plattsburgh, New York, so that that
6 dispatcher can then dispatch a state police vehicle.

7 And it's soon to be the state police are
8 abandoning the 911 in St. Lawrence County, and all
9 their state police dispatch is going to be in Lewis,
10 New York.

11 So there, again, you're in Franklin County,
12 you have an emergency, you need a police officer,
13 you call Franklin County, it rings in 911, 911 then
14 calls the state police in Lewis, New York, who takes
15 down that information, and then dispatches a car.

16 Gentlemen, there's got to be a better way.

17 There's got to be a better way.

18 Either we need to put state police dispatch
19 in our 911 centers so that we can dispatch those
20 cars directly, or, those dispatch centers need
21 access to the state police frequency so that they
22 can dispatch those cars in cases of emergency.

23 It's -- we're not servicing the public.

24 And I'm a firm believer, the government's
25 primary responsibility is the safety of our

1 citizens.

2 And I don't think we're doing -- we're not
3 doing the best job we can do in Upstate New York,
4 and I think we can do better.

5 And I think it's small changes. I don't
6 think it's necessarily big-budget items that are
7 going to change this.

8 It comes from policy from here in the state,
9 working with the counties, interoperability. And
10 we're ready to make that step forward.

11 We've been telling people for the last 10 or
12 15 years: If you need help, call 911.

13 But, yet, when we set up the 911 system, we
14 put a block between the 911 dispatcher and police
15 services.

16 And I think it's time to remove that.

17 So I appreciate you hearing me out on that.

18 And I apologize for not coming with written
19 testimony.

20 The Pony Express didn't arrive until just
21 recently.

22 [Laughter.]

23 SHERIFF KEVIN MULVERHILL: So I know a lot of
24 the discussion has been about the grand jury, and
25 whatnot, and I would be happy to answer your

1 questions on that.

2 We can talk a little bit about troop cars.

3 Like I say, you know, I'm 23 years there, and
4 I'll back you up on 100,000 miles as well, sir.

5 SENATOR NOZZOLIO: Thank you very much.

6 Any questions?

7 Senator Gallivan.

8 SENATOR GALLIVAN: Thank you, Sheriff.

9 A couple questions.

10 So let's stay in your county correctional
11 facility, the holding area, as well as -- the
12 sentenced inmates as well.

13 Do you have a use-of-force policy in the
14 correctional facility?

15 SHERIFF KEVIN MULVERHILL: No.

16 SENATOR GALLIVAN: You don't.

17 Do minimum standards address use of force?

18 SHERIFF KEVIN MULVERHILL: Yes. Yes, they
19 do.

20 SENATOR GALLIVAN: How so?

21 SHERIFF KEVIN MULVERHILL: Well, the
22 commissioner of corrections has -- as you say, in
23 the -- minimum standard addresses, you know, you can
24 only use forces equal to the force that is being
25 used against you.

1 You know, in the cell extrication, you know,
2 we have the ability to use pepper spray before we
3 use -- before it's actual physical hands-on
4 altercation. And those decisions are made by the
5 supervisor.

6 Pepper spray has been a real big help in
7 dealing with the inmates.

8 Some jails, not mine, also have gone to
9 tasers, and whatnot.

10 That's something we may look at in the
11 future.

12 SENATOR GALLIVAN: So the minimum standards,
13 then, in effect, are the policy --

14 SHERIFF KEVIN MULVERHILL: Yes.

15 SENATOR GALLIVAN: -- that you adhere to?

16 SHERIFF KEVIN MULVERHILL: Correct.

17 SENATOR GALLIVAN: You just don't have an
18 additional one of your own?

19 SHERIFF KEVIN MULVERHILL: Right.

20 SENATOR GALLIVAN: The 911, you talked about
21 Franklin County, I think you mentioned Clinton, but,
22 the one that struck me, "the soon to be," same
23 situation in St. Lawrence County, what is changing
24 there?

25 SHERIFF KEVIN MULVERHILL: Right, and I hate

1 to speak for St. Lawrence County. I think Kevin --
2 Sheriff Wells and I are pretty well acquainted.

3 St. Lawrence County currently has a dual
4 dispatch set up in Canton, where the
5 St. Lawrence County dispatchers sit side by side
6 with the state police dispatchers.

7 The state police is abandoning that 911 --
8 that post as a dispatch center and moving that
9 dispatch to Lewis, New York.

10 SENATOR GALLIVAN: Understood.

11 That's all.

12 Thank you.

13 SENATOR NOZZOLIO: One question, Sheriff.

14 You served in such a multitude of
15 law-enforcement roles, from your days as a
16 correction officer, to state police officer.

17 Put your officer hat on and tell us candidly
18 what you think of the establishment of an
19 independent monitor for those types of grand jury
20 proceedings that you may have heard presented
21 earlier today.

22 SHERIFF KEVIN MULVERHILL: Well, I can tell
23 you, on behalf of the sheriffs association, we are
24 opposed to this two-tiered grand jury system.

25 Myself, personally, I think here -- here are

1 the issues:

2 Okay, social media is an issue because,
3 during an investigation, the investigators have to
4 keep that information close to their vests.

5 And in the event of a police shooting, as
6 public -- as many people would like it to be, it has
7 to be kept close to the vest, to protect the rights
8 of the victim, and protect the rights of the police
9 officer.

10 Police officer -- just the fact that you're a
11 police officer for the state of New York does not
12 mean you have given up your rights, as far as I'm
13 concerned.

14 What has happened here, and the reason the
15 Governor has called for this two-tiered system, is
16 I think we have gone away from trust versus
17 knowledge.

18 You know, a police officer, when I grew up,
19 was somebody you could trust.

20 And, there's been a whole lot of, what
21 I believe, misinformation out there about how we
22 can't trust the police anymore.

23 And not just any police. I mean, it's
24 rolling out into small towns and villages.

25 How do we combat that?

1 We don't combat with it a two-tiered jury
2 system.

3 We combat that with educating the public on
4 what the jury system is, and how great it is.

5 And I've heard the Senators today comment on
6 how great our grand jury system is, and our jury
7 system as a whole; and I firmly believe that, and
8 I agree 100 percent.

9 But the problem isn't that we need to reform
10 the jury system. The problem is, we need to inform
11 the public what's being done with the grand jury
12 system.

13 And, you know, a couple of Senators made
14 comment about how it's a jury of your peers, and
15 that's the way it should be.

16 I mean, I sat on a grand jury. You know,
17 from the time I was retired to the time I was
18 elected sheriff, I was appointed to a grand jury.

19 Grand juries are fantastic.

20 I don't think people realize that the
21 grand jury has the opportunity to ask questions, and
22 they have the opportunity, when somebody comes in
23 and testifies, to dig into it a little bit deeper.

24 And the grand jury I was part of, the people
25 were happy to do that.

1 You know, it's the one jury where you can
2 actually take your personal curiosity and ask those
3 questions of the witnesses that come before you.

4 There is no need for a two-tiered system in
5 this state, or any other state.

6 The grand jury system has served us for
7 hundreds of years, and will continue to serve us for
8 hundreds of more.

9 SENATOR NOZZOLIO: Thank you very much.

10 Appreciate your testimony, and best wishes in
11 your endeavors.

12 SHERIFF KEVIN MULVERHILL: Okay. Thank you.

13 SENATOR NOZZOLIO: Thomas Czyz.

14 Good afternoon -- or, afternoon.

15 I apologize.

16 THOMAS CZYZ: Good afternoon, Senator.

17 SENATOR NOZZOLIO: Thank you very much.

18 We have your written testimony.

19 And could you, for the record, though,
20 indicate your name, where you're from, and -- and
21 that would be very helpful.

22 THOMAS CZYZ: Okay.

23 I'm Tom Czyz. I'm from Syracuse, New York.

24 I'm currently a detective with the
25 Onondaga County Sheriff's Department.

1 SENATOR NOZZOLIO: Would you pull the mic
2 just a little closer to you, if you can.

3 THOMAS CZYZ: Closer?

4 Is that better?

5 SENATOR NOZZOLIO: Yes.

6 THOMAS CZYZ: I'm a detective with the
7 Onondaga County Sheriff's Department, and, I own a
8 business called "Armoured One."

9 We do school security now across the nation,
10 mainly New York, where we harden glass to make it
11 bullet-resistant to slow down attackers.

12 SENATOR NOZZOLIO: Thank you.

13 THOMAS CZYZ: Yep.

14 Why I'm here today?

15 I'm here, we have a product, it's a security
16 laminate that goes on glass that makes it
17 bullet-resistant.

18 This application has been done now in schools
19 for 2 1/2 years, that we created, and what it does,
20 it takes glass to a Level 2 bullet-resistance.

21 So police officers, their vests, are Level 2
22 bullet-resistance; means it stops the majority of
23 handguns, minus the .44 Magnum, and that's 3 rounds
24 tested in about a 5-inch pattern, that it will stop
25 the bullets.

1 And our glass stops it at a half-inch thick.

2 So after the shooting on December 20th in
3 New York City, we began to apply laminate to car
4 glass, and we've been in the testing phases for
5 that, to make windows bullet-resistant in cop cars
6 without really changing the functionality of the
7 police car.

8 So I brought -- I did bring some samples for
9 you guys, too, to feel -- to see, feel the weight of
10 it.

11 I know that there were tests done in NYPD,
12 where they did heavily-armored police cars, and had
13 officers -- patrol officers test those, and it came
14 back with a very negative rating because of officer
15 safety; everything that you're taking away by making
16 the vehicle bullet-resistant.

17 SENATOR NOZZOLIO: Thank you.

18 Senator Golden.

19 SENATOR GOLDEN: Thank you, Mr. Chairman.

20 The -- I want to thank you for being here.

21 Obviously, there is a perception out there
22 that the only way to armor a vehicle is by putting
23 in bullet-resistant or bulletproof glass, which,
24 obviously, would weigh the vehicle down, would make
25 it more difficult and heavier, and would avoid your

1 being able to hear outside conversations going on.

2 This particular science that you have there,
3 would not put any weight on these windows, would not
4 shadow the windows, and would allow for the
5 conversations to be heard outside of the vehicle; am
6 I correct?

7 THOMAS CZYZ: Yes, sir.

8 SENATOR GOLDEN: And how far are you into
9 testing? And how far is this --

10 THOMAS CZYZ: I believe we're about two to
11 three months out.

12 Our testing phase right now is to make sure
13 that the mechanisms of the door work the same.

14 So my suggestion, 12 years on patrol as a
15 patrol guy before becoming a detective, a majority
16 of cars that do have cages, I know state trooper
17 cars, a lot of them don't, but if you put a cage
18 behind the police officer, that you would make it
19 bulletproof, so that the officer's 100 percent
20 protected from behind if somebody was to open fire
21 on them from behind.

22 The front windshield, as a company owner with
23 liability insurance, my insurance has told me, no,
24 that if we laminate the front windshield it's going
25 to harden it. There's way more accidents in a

1 police car than there are attacks on police officers
2 and police cars.

3 So, you could up the death rate by making the
4 windshield.

5 It's a one-way laminate.

6 So, to understand our product, if you hit a
7 deer and the deer hits the windshield, it doesn't --
8 the majority of the time it doesn't come in.

9 It has, I've seen it, but, the majority of
10 the time it will bounce off and go off.

11 SENATOR GOLDEN: And not land on your lap?

12 THOMAS CZYZ: Yep.

13 So, if you get in an accident, you know,
14 people get ejected out of the front windshield.

15 And I've been on many accidents where people
16 lived through being ejected.

17 That glass is made to go one way, out, and
18 not in.

19 So our bullet-resistant glass is made that
20 same way.

21 We would take the existing glass, and the
22 officer could return fire at the bad guy.

23 If he's outside the car, shooting at them, he
24 can shoot out of the car at him and still be
25 protected, to have that protection, because it's

1 made to go out, not to come in. All the laminate is
2 placed on the inside.

3 So if we laminate the front windshield,
4 liability insurance says, no, because if the
5 officer's head and neck hit, it could kill more
6 officers than do help.

7 So the thought process was, with the company
8 and doing our research, is to get the passenger --
9 driver's side and passenger door.

10 So, the officers that were attacked in
11 New York City were attacked from the passenger side.

12 And the idea would be to laminate both driver
13 side, passenger side, and have bulletproof cage
14 behind them.

15 SENATOR GOLDEN: So this would have a
16 twofold; not only just for bullet-resistance, but
17 also have, in case of an accident, it would allow
18 for the -- either protruding object coming into the
19 car to be deflected, and, vice versa, the individual
20 in the vehicle from being tossed out of the vehicle?

21 THOMAS CZYZ: Correct.

22 SENATOR GOLDEN: The -- and have you worked a
23 cost analysis on this yet?

24 THOMAS CZYZ: We're in the process of working
25 that now.

1 We've done test-fires.

2 We've done five test-fires on our product,
3 and it stopped 9-millimeters, .40-cal, and .45-cal
4 guns. Stopped at least three rounds.

5 SENATOR GOLDEN: But the -- the continued
6 analysis, obviously, would be much cheaper than that
7 of putting a bulletproof glass into a vehicle, and
8 would reduce, obviously, the ability to -- for the
9 officers to do their work, because the car is too
10 heavy, and the windows are now tinted, the vehicle
11 becomes -- you can't hear the conversations going on
12 outside, you have people sneaking up on top of you.

13 This gives you the ability to do all of that?

14 THOMAS CZYZ: Yes, sir.

15 SENATOR GOLDEN: And the panels on the side
16 of the door, you said you were doing, what, with the
17 panels?

18 THOMAS CZYZ: We have been testing those.

19 But we are also familiar that, Ford, the
20 police-interceptor models of the Ford police cars,
21 state police have some in D Troop that are
22 bullet-resistant doors that are built in, and the
23 agencies are able to purchase those.

24 SENATOR GOLDEN: And that gives us an extra
25 tool -- or, the police officers an extra tool, to be

1 able to -- if engaging in a battle -- a gun battle,
2 to have the -- that door as a -- something to go
3 behind when you're in a gun battle.

4 Obviously, you want anything that can help
5 you, and --

6 THOMAS CZYZ: Absolutely, sir.

7 And I'm sure you know, from your years at
8 NYPD, that what you're observing in front of you is
9 a lot more obvious than attacks from the sides.

10 So getting the protection on both sides, the
11 officer at least is aware of what's going on in
12 front of him, can duck behind the engine compartment
13 and get down, if he had to, from a front attack.

14 SENATOR GOLDEN: There are other companies
15 out there as well that are trying and have some
16 similar scientific studies and scientific products
17 that are equal to yours and/or working at the same
18 level as yours?

19 THOMAS CZYZ: As far as I know, there's no
20 other companies in the U.S. that are manufacturing
21 bullet-resistant laminate that you can shoot back at
22 the suspect.

23 So there are companies that will make your
24 car, they call it "bulletproof," but just like a
25 bulletproof vest, they're bullet-resistant to a

1 Level 2 bullet-resistance. So, that's stopping
2 handguns.

3 So, as far as I know, I'm not -- I have not
4 heard of any other companies making this product
5 yet.

6 SENATOR GOLDEN: The -- if you could, we --
7 this Panel would be very interested in getting the
8 science on this, the cost on this, and, obviously,
9 the data to the tests, as soon as you can give that
10 to us, so that we can give this and work with the
11 Governor and the Assembly, and making sure we
12 allocate funding for the police departments across
13 the state, that if this is -- the product proves to
14 be what it's, and we believe it will, or from what I
15 have read and studied so far on it, the -- it looks
16 like it will be a successful product.

17 We would like to, obviously, take more of a
18 deep analysis of it so that we understand it
19 completely.

20 THOMAS CZYZ: Yes, sir.

21 We are -- we're sending our product out next
22 month to Intertek. It's an international testing
23 company. They test everything, from iPhones, to
24 bullet-resistance, they do everything.
25 Hurricane-resistant glass, all that stuff.

1 So we are sending it off to them to get an
2 independent testing.

3 That's what we've done with our school glass
4 that we sell.

5 So, we're going to be doing the same with the
6 car windows, the eighth-inch windows that are in
7 police cars.

8 SENATOR GOLDEN: Who did -- so the same thing
9 as a deer -- the same thing as a tree limb that
10 falls and hits the car, or something along those
11 lines, it would help that -- that windshield would
12 do the same thing?

13 THOMAS CZYZ: Yeah, they're protected.

14 SENATOR GOLDEN: Well, I want to thank you
15 for coming here, and thank you for your testimony.

16 And as soon as you can get that to us it, we
17 would greatly appreciated it.

18 THOMAS CZYZ: Certainly.

19 And I'll leave these with you guys, too, the
20 samples, so that you can see them.

21 SENATOR NOZZOLIO: Thank you very much.

22 SENATOR GALLIVAN: Can you bring them up?

23 THOMAS CZYZ: Sure.

24 SENATOR NOZZOLIO: Jeffrey Kayser.

25 Jeff, we talked about many issues during the

1 budget-hearing process.

2 And Senator Gallivan you may have heard
3 earlier today talked about the fact that vehicles
4 may be antique, and that he is an antique too.

5 So, appreciate, as always, your input, and
6 thank you for being here today.

7 JEFFREY KAYSER: Thank you,
8 Chairman Nozzolio, Senator Gallivan, Senator Golden.

9 As you know, my name is Jeffrey Kayser. I'm
10 president of the State Police Investigators
11 Association. It's a union that represents the
12 1100 investigators and senior investigators of the
13 New York State Police Bureau of Criminal
14 Investigation, more commonly referred to as the
15 "BCI."

16 I'm also a regional vice president of the
17 International Union of Police Associations, an
18 international union that represents over
19 40,000 active law-enforcement officers in this
20 country.

21 It's an honor for me to speak today on behalf
22 of the men and women of the BCI, and I would like to
23 thank you gentlemen for affording me the opportunity
24 to testify here today.

25 The New York State Legislature has always

1 been supportive of the State Police Investigators
2 Association and the work that our men and women do
3 each and every day.

4 On behalf of our members, I'd like to thank
5 you for your support.

6 Being a police officer is a dangerous
7 profession without any guarantee that an officer
8 will come home safely at the end of his or her
9 shift.

10 Our goal is to identify areas where there are
11 problems and advocate to improve them in order to
12 make this job as safe as possible.

13 There are four core areas, if addressed, will
14 enhance officer safety, and those four core areas
15 are: adequate staffing levels, availability of
16 up-to-date technology, proper safety equipment, and
17 having the safest police vehicles available.

18 Most governing bodies recognize the
19 importance of these core issues for their
20 law-enforcement agencies, but they sometimes fail to
21 provide enough attention to or provide the proper
22 level of funding for these core issues.

23 Most often, funding is the root of the
24 deficiencies in these areas.

25 I have 28 1/2 years with the state police,

1 and I cannot recall a time in my career where the
2 state police was afforded an annual budget that was
3 adequate enough to provide for the proper equipment
4 and vehicles necessary to equip our members in the
5 field.

6 The State Office of Budget simply does not
7 recognize the importance of the state police budget,
8 and how leaving the state police with a no-increase
9 budget year after year simply does not cut the
10 mustard.

11 The state police vehicle fleet is in
12 deplorable condition.

13 And some of you here today have heard my
14 testimony for the past two years at your joint
15 budget hearings on the need for more staffing,
16 better equipment, and the gross shortcomings of our
17 vehicle fleet in the state police.

18 Over 50 percent of the BCI vehicle fleet has
19 over 125,000 miles. They have up to 211,000 miles.

20 In addition to these core issues that I've
21 just mentioned, I'm deeply disturbed over the
22 anti-law-enforcement sentiment that seems to be on
23 the increase.

24 Most alarming is the increase in fatal ambush
25 attacks on police officers across this country.

1 There are some members of society that have a
2 misplaced belief that all police officers are rogue
3 or racist, and that these unprovoked attacks upon
4 police officers are of great concern to all members
5 of the law-enforcement community.

6 In 2014 there were 124 law-enforcement
7 officers killed in the United States in the line of
8 duty, and that's a 24 percent increase from the
9 preceding year.

10 In the United States last year, 15 police
11 officers were shot and killed in ambush attacked.

12 And we all remember the most recent
13 assassinations of the New York City Police Officers
14 Liu and Ramos in December of last while they sat in
15 their patrol car parked along the street in a
16 high-crime area in Brooklyn.

17 We should not forget the assassination of
18 Las Vegas Metro Police Officers Beck and Soldo back
19 on June 9th of last year.

20 Nor should we forget that, on November 29th
21 in 2009, four officers with the Lakewood,
22 Washington, Police Department were ambushed and
23 killed.

24 There have been many other less-publicized
25 attacks on police officers across this country, but

1 those three ambush killings seem to get the most
2 media attention.

3 Another troubling issue for me is the media
4 coverage of police-involved shootings, or the use of
5 force against criminals who have disobeyed lawful
6 orders of a police officer or resisted arrest, and
7 that have resulted in the suspect's death.

8 When these incidents are very often
9 sensationalized and unjustly magnified by media
10 outlets, that, obviously, has a very negative effect
11 on the public's perception of law enforcement in
12 general.

13 The public seems to feed off of
14 sensationalized media reports, and, quite frankly,
15 for some people, perception becomes reality.

16 There are so many sources of media today
17 that, very often, less-reputable media sources
18 unfairly represent the facts to further
19 sensationalize an event or antagonize their viewers
20 and improve their ratings.

21 Unfortunately, many of the media's on-scene
22 interviews with eyewitnesses have no mandate to be
23 completely truthful or support their version of the
24 event with anything other than their own opinion of
25 what may have occurred at that incident.

1 There are, too often, instances of media
2 outlets reporting a story in a manner that presents
3 unsupported facts, conjecture, or even outright lies
4 from public eyewitness sources, and those stories
5 just stoke the fuels of anti-law-enforcement
6 sentiment.

7 No law-enforcement professional comes to work
8 on any given day hoping to use deadly physical
9 force.

10 The use of deadly physical force is a
11 life-altering event for the police officer involved
12 in any such instance, and the mental and physical
13 demands placed on police officers and service to
14 their respective communities are monumental.

15 The primary mission for a police officer is
16 to protect and save life, and no officer ever wants
17 to take a life.

18 Police officers are forced to make
19 life-altering decisions in split seconds that the
20 rest of the world can take months and years to
21 dissect and pronounce judgment on.

22 I suspect that any of you here today would
23 agree there seems to be an increasing level of
24 public distrust towards law enforcement.

25 And, now, I would suggest consideration be

1 given to some sort of public-relations platform that
2 positively promotes law enforcement, illuminates the
3 dangers that police officers face; while at the same
4 time, educates the public on the dangers of
5 noncompliance to a lawful order of a police officer
6 or physically resisting arrest.

7 I believe that this media campaign should be
8 done at the state level on behalf of all law
9 enforcement in general.

10 And to go one step further, New York State
11 should be the first state in this nation to embrace
12 such a platform, so that other states, and even our
13 national government, can follow our lead.

14 The need for up-to-date technology and proper
15 safety equipment is paramount to the needs of every
16 police officer.

17 And I believe that each of you understands
18 these basic law-enforcement needs.

19 I'm looking at two past police officers,
20 I know you understand.

21 The need for the safest police vehicles that
22 are well-maintained to police-fleet standards is a
23 matter that the safety of the public, as well as the
24 safety of the police officers operating this
25 vehicle, demands.

1 And, finally, the need for a statewide
2 government-funded public-relations campaign aimed at
3 educating the public on the dangers of noncompliance
4 to a lawful order of a police officer or physically
5 resisting arrest; at the same time, promoting a
6 positive image of law enforcement, would be a
7 thoughtful approach to fostering a better
8 relationship between the citizens of New York and
9 law enforcement in general.

10 The New York State Police Investigators
11 Association has always enjoyed a positive and
12 cooperative relationship with both Houses of the
13 Legislature, and we look forward to cooperating with
14 you in any arenas in the future.

15 Thank you again for affording me the
16 opportunity today to testify, and I'll take any
17 questions that you may have.

18 SENATOR GALLIVAN: Go ahead.

19 SENATOR GOLDEN: Thank you, Mr. Chairman.

20 And thank you, Jeffrey, for being here.

21 The -- your testimony is similar to the
22 previous testimony, that we need more manpower, we
23 need better equipment, we need more equipment.

24 The Governor has announced he is going put
25 \$60 million towards vests, and -- what were the

1 other two? -- vests, cameras, and bulletproof glass
2 and paneled cars.

3 We believe that is good first step in moving
4 towards making and giving opportunities to our
5 police departments across the state, and making them
6 safer, and giving the communities what they need to
7 get done to get -- and do the job that they've been
8 paid for to do.

9 It's becoming more and more difficult,
10 obviously, because, in certain cities, states, there
11 is a -- I guess, a tendency to -- for the press to
12 emphasize what may be a -- high-profile situations.

13 And we see a number of high-profile
14 situations across this nation over the past
15 several -- past year, year and a half, and more so
16 over the last several months, where the profile of
17 these incidents have, you know, driven distrust for
18 police officers to a -- in certain areas, to a
19 higher level, which is completely wrong.

20 And, it's up to the media to -- obviously, to
21 point out that, but they don't. They go for the
22 high-profile cases, and they have, you know,
23 demeaned police officers and their police forces
24 across this country by doing that.

25 This is the greatest country in the world,

1 the greatest nation in the world.

2 There are millions of encounters by police
3 officers each and every day with civilians, and we
4 see a very, very, very small percent of -- 1 percent
5 that are engaged where you see an outcome of deadly
6 physical force, and you see the deadly physical
7 force questionable as to whether it was done legally
8 or beyond the legality of what that police officer
9 or policewoman should have done.

10 So we understand here -- this Panel
11 understands, and that's why we've been formed, is to
12 be able to put dollars into our police departments,
13 increase our police departments, give them the
14 proper tools and the technology that they need to be
15 able to do the job.

16 We are still in the twentieth century when it
17 comes to technology and equipment.

18 We need to get into the twenty-first century.

19 And we're urging the Governor and the state
20 legislators to come together on a five-year plan
21 that brings us into the twenty-first century and
22 gives us the ability to move forward.

23 Having said that, you brought in a very
24 interesting comment, and it's something that we
25 should really focus on, this Panel and the Governor

1 and the state, and that's similar to what you would
2 see in the commercials of a tax-free New York, and
3 how we're doing economic development in this great
4 state, and creating jobs, and giving opportunity for
5 people to get jobs.

6 We should have that similar program on
7 policing in the state of New York, and how the
8 police departments across this state are keeping us
9 safe, and keeping us the greatest, safest state in
10 the nation, with 19 1/2 million people.

11 I think that's a focus that, not only the
12 PR program, but other programs where -- you know,
13 there's nobody that doesn't like a fireman. Right?

14 Everybody loves a fireman. Right?

15 A fireman doesn't do anything wrong. That
16 fireman's there to help and to protect.

17 But a police officer is there to help and
18 protect as well, but doesn't have the same kudos
19 that a fireman would have.

20 We need to change that. We need to -- and we
21 don't have the access.

22 We don't go into these schools anymore.

23 We had the DARE program years ago, where
24 police departments across the state would go into
25 the schools and work with the kids.

1 Instead, we've cut back on and cut these
2 programs out, and we've done away with programs that
3 could put police and kids together, and police and
4 families together, in a positive role.

5 The YMCAs, the Big Brother, you don't see
6 enough of them out there helping and getting
7 involved in community with policing and with the
8 kids.

9 So I think we need to take a further
10 approach.

11 And some of the testimony that you've given
12 here this morning, in trying to attempt to do that.

13 And anything you can do to help us, Jeffrey,
14 would -- any ideas that you can come up with, we
15 would, you know, take them strongly, and try to move
16 on them, to put a positive face and a positive spin
17 on public safety here in the state of New York.

18 Thank you.

19 THOMAS CZYZ: Thank you, Senator.

20 SENATOR GALLIVAN: Thanks, Jeffrey, for your
21 testimony.

22 I wanted to follow up on the point about the
23 public distrust and the negative things that we've
24 seen in the news.

25 Are your members -- are your members seeing a

1 difference in the public, in their daily
2 interactions with citizens?

3 I mean, has it changed over the years, as
4 reported to you?

5 THOMAS CZYZ: I believe that, overall, most
6 people -- there's -- like I said earlier in my
7 testimony, I think there's an increased level of
8 distrust of law enforcement, back from 15 years ago,
9 or 20 years ago, or 30 years ago.

10 I believe a lot of that has to do with the
11 media, and, you know, Facebook, and those outlets.

12 And I just believe that law enforcement, as a
13 whole, hasn't been afforded a good face by public
14 relations.

15 And I just think it's something,
16 unfortunately, when we have to fight for equipment
17 and vehicles and staffing, public relations falls by
18 the wayside.

19 But, yes, I believe, and I think any police
20 officer would tell you that's been on long enough,
21 that there's a greater sense of anti-law-enforcement
22 sentiment than there has been in the past.

23 SENATOR GALLIVAN: Which -- maybe not exactly
24 this minute, but it would logically follow that that
25 ultimately become a police-safety issue.

1 THOMAS CZYZ: Oh, absolutely.

2 Absolutely.

3 SENATOR GALLIVAN: All right. Thank you.

4 Mr. Chairman.

5 SENATOR NOZZOLIO: Thank you.

6 I only have a comment, not a question, Jeff.

7 My comment is, that we certainly have
8 benefited from your advocacy on behalf of the brave
9 men and women who are in the state police force, and
10 thank you for your tenure during that.

11 I know you have a variety of dynamic steps
12 you're going to be taking in the future, and that we
13 definitely wish you all the best.

14 Thank you very much.

15 It's been an honor to work with you.

16 THOMAS CZYZ: Thank you, Senator, and
17 I appreciate that a great deal.

18 SENATOR GALLIVAN: Thanks, Jeff.

19 THOMAS CZYZ: Thank you, gentlemen.

20 SENATOR NOZZOLIO: The Honorable
21 Frank Sedita.

22 Good afternoon, Mr. District Attorney.

23 DA FRANK SEDITA III: Good afternoon, sir.

24 SENATOR NOZZOLIO: Thank you very much for
25 your participation.

1 And if you may, when you're settled, for the
2 record, indicate who you are and where you're from.

3 DA FRANK SEDITA III: Yes, sir.

4 I just need one second to set up here.

5 My name is Frank Sedita III. I'm a
6 professional career prosecutor, and currently the
7 Erie County District Attorney.

8 Over the course of the past 25 years, I've
9 represented the People of the State of New York.

10 I have taught extensively, having been a
11 member of the State University of New York at
12 Buffalo Law School, a faculty member at the U.S. --
13 the United States Naval Justice School, the National
14 Prosecutors School, and the State Prosecutors
15 School.

16 And, I have received some awards, including
17 being named by my colleagues as the top trial
18 prosecutor in New York State; and as recently as
19 2014, having been named the outstanding prosecutor
20 in New York State by the New York State Bar
21 Association.

22 Of course, it's a distinct honor and a
23 privilege to appear before this body today, and
24 I gratefully appear before you in my capacity as
25 president of the District Attorneys Association of

1 the State of New York.

2 And in response to your invitation to address
3 two questions; namely, one: What state or local
4 actions must be taken to improve the safety of local
5 and state law-enforcement agencies?

6 And, two: How the criminal justice system
7 can better protect public safety?

8 With your indulgence, Senator, I would like
9 to make some preliminary remarks in an effort to
10 more thoughtfully address the two matters for which
11 you have asked me to testify, and, I would add,
12 parenthetically, I think it will really add and
13 piggyback to many of the comments that I've heard
14 from so many members of law enforcement today that
15 have testified before you.

16 To borrow a phrase from the medical
17 profession, the most important thing, in my opinion,
18 our elected leaders can do for the criminal justice
19 system right now is to do no harm.

20 The desire for dramatic change is largely
21 premised upon the notion that something is
22 fundamentally amiss in the criminal justice system,
23 and that two of its most important servants, police
24 officers and prosecutors, cannot be trusted to
25 perform their lawful duties.

1 Nearly every day the national media, and
2 especially some elements in the New York City media,
3 portray police officers and prosecutors as routinely
4 abusing our powers and violating the rights of our
5 fellow citizens.

6 According to this narrative, the criminal
7 justice system is broken and society is in desperate
8 need of reforms that will make it fair.

9 In my view, this narrative is wildly
10 misleading, and is offered as the basis to advance
11 an agenda that, if enacted, will jeopardize public
12 safety and will undermine public confidence in the
13 integrity of the criminal justice system.

14 To be sure, there have been failures in the
15 history of our jurisprudence.

16 Wrongful convictions, for example, have
17 occurred and citizens have been wrongly imprisoned
18 for crimes which they did not commit.

19 Wrongful convictions are to the criminal
20 justice system what plane crashes are to the
21 aviation system: they are disastrous, which grab the
22 public's attention, and rightly so.

23 They are also, however, exceedingly rare.

24 What is much more common, in fact, is that
25 criminals get away with crimes, and they get away

1 with them all the time under the criminal justice
2 system.

3 This is so for a number of reasons, including
4 witness non-cooperation, witness intimidation,
5 interpretation of statutes that almost require
6 impossible degree of proof, procedural rules
7 designed to perfect -- protect the defendant and the
8 accused, and even more rigorous rules of evidence
9 which frequently result in the suppression of the
10 prosecutor's evidence.

11 To put this in perspective, I will quote a
12 man much smarter than I.

13 The Honorable Robert Smith, recently retired
14 from the New York Court of Appeals, recently
15 observed in a speech, and I quote, "Although
16 wrongful convictions are 100 times worse than
17 wrongful acquittals, wrongful acquittals are
18 100 times more common than wrongful convictions."

19 I'm not making this point to whine or in
20 defense of wrongful convictions.

21 And, indeed, I agree with the sentiment
22 expressed by the eighteenth-century legal scholar,
23 William Blackstone, and often repeated by our
24 Founding Fathers: It's better that ten guilty
25 persons escape than one innocent person suffer.

1 I am making this point, because the
2 misinformation about wrongful convictions is so
3 illustrative of how some have taken rare and
4 isolated injustices out of context, and have
5 conducted -- or, constructed a misleading narrative
6 about what actually occurs on a day-to-day practice
7 of law in our criminal courts.

8 To borrow from the medical profession once
9 more: We are routinely curing diseases today that
10 were routinely fatal 25 years ago.

11 Consequently, it would be unfair and unwise
12 to judge the current day-to-day practice of medicine
13 with what we know the mistakes to be of 25 years
14 ago.

15 The metaphor holds true, I think, for the
16 legal profession, and especially the prosecutorial
17 vocation.

18 We are routinely doing it better today than
19 we did it 25 years ago; and, thus, it would be
20 unfair and too unwise to evaluate us on what was
21 occurring 25 years ago.

22 I've had a front-row seat to it all, Senator.

23 Okay?

24 I've been at my office for 26 1/2 years, the
25 last 6 1/2 as the district attorney.

1 For example, knowing that misidentifications
2 are the chief reason for wrongful convictions,
3 New York prosecutors have taken it upon themselves
4 to develop identification-procedure guidelines to
5 prevent misidentifications, convincing most police
6 agencies -- there's 550 of them in New York -- to
7 adopt them.

8 We've taken similar initiatives with respect
9 to videotaped interrogations.

10 DASNY is the first, if not one of the first,
11 if not the first, to form the Committee for the Fair
12 and Ethical Administration of Justice and our
13 subcommittee for best practices.

14 These committees not only develop the
15 identification and videotaped-interrogation
16 protocols that I talked about, but we've also
17 developed written ethical guidelines for prosecutors
18 that are more rigorous and more detailed than what
19 is required by the Code of Professional
20 Responsibility that governs all lawyers who
21 practice.

22 Our ethics manual has been adopted by all
23 62 district attorneys' offices in this state. It
24 has also been adopted, right now, by 37 other states
25 in this nation, and county. And our work has been

1 recognized by the United States Department of
2 Justice as the state-of-the-art when it comes to
3 best practices in modern prosecution.

4 You know, there are those who would wish
5 others to believe that prosecutors are in bed with
6 the police, that we thoughtlessly prosecute based
7 upon accusation and summary arrest, and we routinely
8 pump out so called "ham sandwich" indictments.

9 These two are myths.

10 The truth is, that modern-day New York
11 prosecutors believe the exoneration of the innocent
12 is as important as the conviction of the guilty.

13 Although prosecutors rely upon police
14 agencies to do underlying investigations, the truth,
15 is that the modern-day New York prosecutors
16 independently and critically review the evidence for
17 both its legal and factual sufficiency before we
18 agree to prosecute.

19 And perhaps the most underreported truth, is
20 that modern-day New York prosecutors -- not defense
21 attorneys, not advocacy groups, not social
22 activists, not editorial boards -- but, prosecutors
23 exonerate more citizens than anyone.

24 Even more important, is that nearly every one
25 of these exonerations occurs before trial, before

1 there is an innocent person convicted, and before an
2 innocent person languishes in prison; and we do it
3 all without fanfare and without publicity.

4 This, Senators, is what is currently
5 occurring in the field of criminal prosecution, but
6 it doesn't tell the whole story, especially when it
7 comes to the specific subject matter of what this
8 body is considering today; that being public safety.

9 New York is the fourth-safest state in the
10 nation, behind Idaho and the two Dakotas, and the
11 safest large state in the nation.

12 Are we doing this by engaging in mass
13 incarceration of our citizenry?

14 There are those who wish to perpetuate that
15 fiction, but it's really quite different.

16 In New York the incarceration rate is
17 plummeting, and we have, amongst large states, the
18 lowest rate of incarceration in the United States of
19 America.

20 In New York drug offenders and non-violent
21 felons are much more likely to get diversion and
22 probation than jail sentences.

23 In New York, 95 percent of 16- and
24 17-year-olds who commit crimes not only avoid a jail
25 sentence, they have their arrest records permanently

1 sealed.

2 This is the reality.

3 Not the myth, not the spin, not the story,
4 not the fallacy; this is the reality of the current
5 criminal justice system in New York State, the
6 safest large state in the nation:

7 Low and decreasing incarceration rates;

8 Prosecutors taking it upon themselves to
9 develop the highest ethical standards;

10 Prosecutors taking a hard look at cases and
11 making sure, without publicity or
12 self-congratulatory fanfare, that injustices do not
13 occur.

14 Despite these realities, we hear a far
15 different narrative designed to justify solutions to
16 problems that either do not exist or that have been
17 grossly exaggerated.

18 Despite the enviable successes of the
19 modern-day New York criminal justice system, we have
20 those who wish to put witnesses lives in danger;
21 while at the same time, reducing accountability for
22 violent offenders.

23 This is why I say to you, the most important
24 thing we can do is no harm.

25 I would now, with your permission, like to

1 address your two questions:

2 What state or local actions must be taken to
3 improve the safety of law -- of local and state
4 law-enforcement agencies?

5 And, two: How can the system can better
6 protect public safety?

7 Regarding the safety of law enforcement,
8 I think the first issue is best addressed by the
9 police chiefs, the sheriffs association, the state
10 police, the NYPD, among other professionals.

11 But from a prosecutor's perspective, and
12 especially in light of the false narrative we hear
13 about police officers, both I and most of my fellow
14 prosecutors are advocates of body-worn cameras.

15 Many police agencies around the state have
16 been working hard to get the funding and the
17 technology so that body-worn cameras can be part of
18 everyday policing.

19 And although they aren't the solution to
20 police safety, cameras have the potential to,
21 I think, address a multitude of issues.

22 First, they have the potential to deescalate
23 tense citizen-police encounters.

24 Secondly, body-worn cameras will enable the
25 police to accurately capture events and evidence,

1 both incriminating and exonerating, in real-time;
2 thus, providing critical corroboration or
3 contradiction to eyewitness claims.

4 You can look at the last two officer-involved
5 fatal shootings that have been in the national news.

6 They -- you saw it was on the body-worn
7 camera, the cameras of the officers, and there's no
8 controversy.

9 And, third, and from my -- this is my
10 philosophy, and, perhaps most importantly, is public
11 education.

12 Every day officers encounter situations that
13 are viewed on a TV show would be ridiculed as
14 unbelievable.

15 Prosecutors want the public to see this.

16 We want the public to see the often
17 disrespectful and bellicose behavior of citizens, as
18 well as the often measured and respectful conduct of
19 the police in response.

20 Prosecutors, in short, want the public to see
21 what prosecutors see, that the vast majority of
22 police officers, even in the face of extraordinarily
23 stressful and volatile encounters, comport
24 themselves with professionalism and with integrity.

25 The second question is: How can the criminal

1 justice system better protect public safety?

2 As I said in my earlier remarks, overall,
3 I think the best thing to do, especially in today's
4 current environment, is to do no harm.

5 But given my limited time, I would like to
6 discuss two current -- or, I think soon-to-be
7 current, legislative proposals: One, raising the
8 age of criminal responsibility; and, two, witness
9 intimidation.

10 With respect to Raising The Age:

11 Current New York law is relatively clean and
12 it's transparent when it comes to prosecuting
13 teenage offenders.

14 The age of criminal responsibility is 16,
15 which means a 16-year-old can be prosecuted an
16 adult -- can be prosecuted in adult criminal court
17 for misdemeanors, non-violent felonies, and violent
18 felonies.

19 Younger defendants have their cases
20 adjudicated in family court unless they commit
21 certain designated felony offenses, like murder and
22 rape.

23 In that event, they can be prosecuted as an
24 adult in criminal court or adjudicated as a juvenile
25 offender, in the DA's discretion.

1 In short, New York follows a straightforward,
2 comprehensible, and balanced scheme where there are
3 categorical exclusions from family court
4 jurisdictions.

5 There's just some crimes that are not going
6 over there.

7 Or, if they're eligible to go over there,
8 they need prosecutorial consent to go over there.

9 The Juvenile Justice Act appended to the
10 Governor's proposed budget is an enormously complex
11 and experimental piece of legislation, which is
12 based upon a report from the Governor's hand-picked
13 commission, setting forth 38 major proposals,
14 including raising the age of criminal responsibility
15 to 18.

16 The chief justification for the proposed
17 legislation is the claim that New York's teenage
18 criminals are victims of an embarrassingly
19 regressive juvenile system that victimizes them.

20 Proponents of this narrative repeatedly
21 emphasize that New York is one of only two states
22 that prosecute 16- and 17-year-old defendants as
23 adults.

24 This narrative, like so many others, is
25 extremely misleading.

1 First, every state in our nation has laws
2 that mandate and regulate the adult criminal
3 prosecution of 16-year-olds and 17-year-olds, as
4 well as those even younger, in adult criminal
5 courtrooms. Every one.

6 Second, 16- and 17-year-old defendants in
7 New York are rarely prosecuted to the fullest extent
8 of the law, incarcerated, and saddled with a
9 criminal record.

10 In reality, 95 percent of 16- and 17-year-old
11 defendants have their cases sealed.

12 In other words, 95 out of every 100 cases
13 results in an outright dismissal; an adjournment in
14 contemplation of a dismissal, commonly known as an
15 "ADC"; a plea to a non-criminal violation or
16 offense, usually a "DISCON," that's short for
17 disorderly conduct; or a youthful-offender
18 adjudication, or, a "YO."

19 In New York, prison is usually the last
20 resort reserved for the worst of the worst.

21 Third, some of the most dangerous and
22 sociopathic criminals we prosecute are under the age
23 of 18.

24 To cite one of many examples, my office is
25 currently prosecuting a 14-year-old defendant for

1 anally sodomizing a 13-year-old as he strangled him
2 to death.

3 The complex legislation proposed not only
4 seeks to fix a problem that doesn't really exist, it
5 also relies upon esoteric ideas that will have very
6 non-esoteric and practical effects, like
7 overwhelming an already overwhelmed -- overburdened
8 family court system, dramatically reducing offender
9 accountability, and endangering public safety.

10 For example, 16- and 17-year-old offenders
11 who have committed violent felonies can have their
12 cases transferred to family court over a
13 prosecutor's objection.

14 This is critical for public safety because,
15 in criminal court, a judge is called to -- on to
16 evaluate a number of factors, including the nature
17 of the crime, the concerns of the victim, and the
18 impact upon the community and public safety.

19 When a violent felony case is transferred to
20 family court, the sole focus becomes, and I quote,
21 the best interest of the child, with little regard
22 for the victim or public safety.

23 Another example is 16- or 17-year-old
24 offenders would have their potential sentences
25 dramatically reduced regardless of whether they were

1 adjudicated in family court or prosecuted in
2 criminal court.

3 In Buffalo we recently prosecuted a
4 16-year-old serial rapist who abducted and sexually
5 assaulted three women in the Allentown neighborhood
6 in Buffalo.

7 Under the Juvenile Justice Act, this serial
8 rapist could have received as little as one year
9 local time in county jail.

10 As another example, it is completely unclear
11 whether 16- and 17-year-old offenders, including
12 murderers, rapists, gang members, where they're
13 going to be housed. What are we doing with them?

14 Given current trends, incredibly dangerous
15 criminals would likely be placed in non-secure group
16 homes, like pens.

17 Contrary to the current narrative, New York
18 does not routinely prosecute and incarcerate 16- and
19 17-year-old kids and throw away the key. In fact,
20 the opposite is true.

21 So the record is clear, I'm not saying the
22 Legislature should reform from carefully examining
23 and carefully debating whether 16- and 17-year-olds
24 who commit relatively minor offenses should be
25 prosecuted differently than they are now.

1 And my association actually has a lot of
2 ideas regarding how that can be accomplished without
3 posing significant risk to public safety.

4 But what I am saying is this: Because
5 New York's current laws and prosecution practices
6 routinely differentiate between those who engage in
7 youthful indiscretions and those who commit violent
8 felonies, there's no pressing and immediate need to
9 raise the age of criminal responsibility to 18 in a
10 budget bill, despite propaganda to the contrary.

11 I'm also saying this: If we are to come up
12 with new rules for prosecuting teenage criminals,
13 and if we are going to raise the age to 18,
14 prosecutorial consent for the transfer of any
15 violent felony offense from criminal court to family
16 court or categorical exclusions from the family
17 court jurisdiction are the only ways to ensure that
18 the rights of victims and public safety are not
19 sacrificed at the altar of ideology and sociological
20 experimentation.

21 Witness intimidation:

22 We believe that some of the so-called
23 "discovery reform" proposals out there that are
24 floating around will grant license for defendants to
25 tamper with and intimidate witnesses.

1 If one is to believe the proponents of
2 so-called "discovery reform," New York prosecutors
3 are allowed to play hide-the-ball, routinely bury
4 exculpatory evidence, and keep defendants in the
5 dark until the last possible second.

6 In reality, prosecutors do not behave in this
7 manner, and we perform our duties pursuant to a fair
8 and balanced system of criminal discovery.

9 In order to prosecute somebody for a felony
10 in New York, the prosecutor must first present her
11 evidence to a grand jury. The grand jury minutes
12 will then be reviewed by a judge for both legal
13 sufficiency and factual sufficiency. And if the
14 case is both legally sufficient and factually
15 sufficient with non-hearsay evidence --

16 We differ from a lot of states and the
17 federal system with how rigorous the grand jury
18 standard is in New York.

19 -- it's set for trial.

20 Well before a trial, the defendant is
21 entitled to a bill of particulars, compelling the
22 prosecution to outline its case; pretrial hearings
23 where the defendant can challenge the admissibility
24 of evidence; and a wealth of discovery, including
25 physical evidence and forensic evidence.

1 Additionally, prosecutors are under an
2 affirmative ethical obligation, it's called "Brady,"
3 to supply the defense, upon discovery, with any
4 evidence, including witness statements or testimony
5 that would tend to exculpate, or, exonerate, the
6 defendant.

7 Remarkably, the defense, with very limited
8 exceptions, has no such reciprocal obligations.

9 The one area of discovery that waits until
10 the time of trial is information, including
11 statements, concerning civilian witnesses who will
12 actually take the witness stand and provide
13 testimony that incriminates the defendant.

14 In practice, most prosecutors turn over such
15 material earlier when there's no prospect of witness
16 tampering. And even when we don't, defense counsel
17 is given incredibly wide latitude to confront the
18 witness with any prior inconsistent statements the
19 witness may have made, at time of trial.

20 I know this because I've tried hundreds and
21 hundreds of --

22 SENATOR NOZZOLIO: I apologize for
23 interrupting, Mr. District Attorney.

24 We want to ask you a lot of questions.

25 So, we've been at this, we've heard your

1 testimony, for about 20 minutes.

2 Could you summarize and list the other issues
3 that you're interested in discussing, and, then,
4 let's engage in a dialogue.

5 DA FRANK SEDITA III: I'll just say one more
6 thing on witness intimidation, take 20 seconds, and
7 I'm done, and I'll answer all your questions,
8 Senator.

9 SENATOR NOZZOLIO: Great.

10 DA FRANK SEDITA III: Police and prosecutors
11 have to deal with the harsh reality, witnesses, with
12 increasing frequency, are reluctant to speak to us,
13 let alone to testify, especially if they reside in
14 the same communities as the defendant.

15 And, often, the only way to guarantee their
16 cooperation is to guarantee their non-exposure until
17 it's absolutely necessary at time of trial.

18 And that's the principal reason why
19 grand jury secrecy is so important to the criminal
20 justice system.

21 If these so-called "reforms" are passed, all
22 that's jeopardized, and, we won't have the kind of
23 cooperation. We have limited -- it's limited right
24 now. It will get ten times worse.

25 And that's the big point I'm trying to make.

1 I'm sorry I took so much time, Senator.

2 I'm certainly here to answer all your
3 questions.

4 SENATOR NOZZOLIO: Excellent testimony.

5 SENATOR GOLDEN: It was excellent. Thank
6 you.

7 SENATOR NOZZOLIO: Questions from the Panel?
8 Go ahead, Senator Golden.

9 SENATOR GOLDEN: The -- thank you very much
10 for being here today.

11 We have similar concerns, this Panel, when it
12 comes to Raise The Age.

13 There are, obviously, issues with Raise The
14 Age.

15 I am from New York City.

16 I have no idea where this money comes from
17 that allows you to do this in setting up this
18 process.

19 What was it, Massachusetts, or Connecticut,
20 or something, it took like seven years for this to
21 take place, in raising the age?

22 It took them a seven-year period to get to
23 where they are.

24 We're trying to do it overnight.

25 First of all, I don't believe it should be

1 done, never mind take seven years to get it done,
2 but we are leaving out here, the victim.

3 What is the feeling of the district attorneys
4 across the state of New York?

5 They're very similar to yours, I -- because
6 you represent the association.

7 There's got to be very few, if any, naysayers
8 in this organization.

9 DA FRANK SEDITA III: What I -- what I do
10 know is, that when the panel was put together, that
11 were -- that did the report, there were two
12 members -- there were two district attorneys from
13 throughout New York State that were on the panel.

14 And proponents of Raise The Age have misled
15 some people to say that, therefore, the
16 District Attorneys Association supports this.

17 The District Attorneys Association has not
18 had a debate on this yet, because it was proposed
19 after we had our last board-of-directors meeting
20 which was in January.

21 I can say this:

22 I have spoken to many district attorneys
23 throughout the state. They do not like this, not
24 only because of its substance, but I think the --
25 even the larger looming issue here is the incredible

1 complexity of the statute.

2 Right now, my association has assigned
3 12 assistant district attorneys to go through this
4 statute. That's how complicated it is to figure out
5 what it means; what are the consequences?

6 What we've been able to figure out so far, is
7 there's some pretty negative stuff in there, such
8 as, as we've been talking about, violent criminals
9 can have their cases sent over to family court, and
10 other issues like that which I've identify.

11 So we're in that process right now.

12 I've written a letter to Senator Nozzolio,
13 under my own signature, only because, given our own
14 internal ways of doing things in the
15 DA's Association, I don't think it's appropriate for
16 me to yet represent the whole DA's Association, but
17 we're in that process right now.

18 My sense is, most, if not all, of the members
19 of the association are against it.

20 SENATOR GOLDEN: My concern, and, of course,
21 the concern of the Panel, would be, I can't -- if we
22 were to do this, I would imagine, the day it was
23 done, the very next day, when that 16-year-old
24 assaults a senior citizen in my community, I would
25 have to, obviously, respond to that senior citizen

1 and their family as to why we've moved this out of
2 the jurisdiction where it should be; and why is this
3 person getting a pass for assaulting a senior?

4 So I got to tell you right now, I am dead-set
5 against this Raise The Age.

6 I cannot speak for my colleagues, but my
7 colleagues, I'm pretty sure, are with me on this.

8 There is a negotiation going on. We'll see
9 how that negotiation finishes up with the Assembly
10 and with the Senate.

11 DA FRANK SEDITA III: I agree with you,
12 Senator.

13 SENATOR GOLDEN: I thought you would.

14 And my two colleagues, I'm sure, agree as
15 well.

16 The -- I want to run over -- because I have
17 to leave, and I want to give opportunity for my
18 colleagues to ask questions, and they have a number
19 of questions, I'm sure.

20 The other one is funding.

21 The indigent fund, obviously, gets a
22 tremendous amount of money on fee -- on the -- for
23 the appeal process.

24 You guys are getting, what? What is the
25 funding coming to the DAs for this?

1 And how are you managing your offices to be
2 able to deal with this?

3 DA FRANK SEDITA III: I'll tell you a story
4 that illustrates it.

5 I -- we have a lot of specialty courts in
6 New York State. OCA calls them "problem-solving
7 courts."

8 And I -- there was one that I thought was
9 particularly useless and redundant in my county, so
10 I asked -- because I have a county budget, I asked
11 OCA to help me fund the position.

12 They said, No, we can't give any money to one
13 side or the other.

14 That's when I started to research the OCA
15 budget, and saw that they get 25 -- OCA gets
16 \$25 million a year to give to defenders of indigent
17 defendants.

18 Okay?

19 Chief Judge Lippman wants another \$28 million
20 on top of that to effectuate Hurrell hearing,
21 statewide, without giving one single penny to
22 prosecutors.

23 I think that's grossly unfair, because if
24 there's going to be money provided to defense
25 attorneys, whether in the form of assigned counsel

1 or public defenders, to go to all these town and
2 village courts, and there's hundreds, if not
3 thousands of them, throughout New York State, we
4 should be able to appear in those courts too.

5 We don't right now. We just don't have --
6 I have the Buffalo City Court, plus 37 other town
7 and village courts, in my county.

8 The only way I could cover arraignments in
9 those courts, is I'd have to have my prosecution --
10 my justice-court-bureau staff at least double.

11 So, if there's going to be money given to the
12 defense side for this, I think it's only fair and
13 just the prosecutors get the same amount of money,
14 because we'd like to be able to appear in court,
15 too, to be able to say to this judge, why this
16 defendant, for example, shouldn't be released on
17 bail; or why this victim, for example, should have
18 an order of protection so he doesn't come back next
19 week and kill her. Those kinds of things.

20 SENATOR GOLDEN: I have to go to another
21 meeting.

22 I'm sure that my colleagues are going to ask
23 you questions on the monitor and the grand jury.

24 I personally believe that that should not be
25 touched either.

1 I believe most of my colleagues believe the
2 same.

3 But, again, it's negotiation with the
4 Assembly, and with the Governor.

5 And I know that you have had your own meeting
6 on this issue, and I believe it's -- I don't know if
7 you went willingly, or unwillingly, into this area
8 of monitor, but, we think a monitor -- I think a
9 monitor is beyond the threshold of the whole process
10 of -- grand jury process.

11 So, the Governor has the right to put in a
12 special prosecutor if he believes something is
13 wrong, well, let him do that; but not change the
14 system that has worked here for so many -- over
15 100 years -- almost 200 years.

16 So I'm going to leave the rest of the
17 questions to my colleagues.

18 And I want to thank you, and the other
19 district attorneys, for being here today.

20 Make sure you get your message out to us
21 before this budget is closed down, so that we don't
22 make mistakes and put bad people back on the street,
23 and -- because we want to do a budget on time.

24 Thank you, sir.

25 DA FRANK SEDITA III: Thank you, Senator.

1 SENATOR NOZZOLIO: Senator Gallivan.

2 SENATOR GALLIVAN: Thank you, Chairman.

3 Thanks, Frank, for being here.

4 And I will note that you are my
5 district attorney, and have served the county
6 extremely well for many, many years.

7 DA FRANK SEDITA III: And you were my sheriff
8 for many years.

9 SENATOR GALLIVAN: I'm now your Senator.

10 I actually share Senator Golden's thoughts,
11 and we, essentially, are of a common mind up here
12 with concerns raised and already articulated.

13 I just want to focus on one area, and then
14 I'll defer the rest of the time to Senator Nozzolio
15 who will address a couple different areas; but, the
16 grand jury report, and seen some of your
17 correspondence, and some public accounts of your
18 comments.

19 And, certainly, we agree about any change in
20 the grand jury process, ensuring the confidentiality
21 of witnesses, because of the significant problem of
22 the reluctant witness.

23 But there is -- there was one public account,
24 where you were interviewed, and talked about the
25 potential for a report that could be issued

1 revealing credible evidence that was considered.

2 Obviously, while respecting the
3 confidentiality, could you talk about that a little
4 bit?

5 DA FRANK SEDITA III: Sure.

6 We -- DASNY had a -- my association has been
7 going forth -- back and forth a little bit with the
8 Governor's Office.

9 Our first proposal had that
10 grand jury-transparency component to it, in that we
11 could -- a prosecutor could have the grand jury
12 issue a report.

13 The independent-monitor segment also did as
14 well.

15 And DASNY has voted to support the Governor's
16 independent-monitor scheme, except for one big
17 exception: We never -- it never -- part -- it never
18 was part of that scheme, was releasing of the grand
19 jury minutes.

20 That is, apparently, in that right now.

21 And if the grand jury minutes are going to be
22 released, if that's part of the legislation, DASNY
23 won't -- can't support.

24 But I understand that that's going to be
25 removed from the legislation, release of the grand

1 jury minutes.

2 Right now, under the criminal-procedure law,
3 the grand jury can issue a report of what happened
4 before the grand jury, under very specific and
5 limited circumstances; otherwise, it will be a
6 felony to discuss what happened in the grand jury.

7 And it basically has to do with grand jury
8 presentments into, like, agencies, and
9 recommendations for public entities, or public
10 agencies, to do better.

11 There's no provision in the
12 criminal-procedure law to allow the grand jury to
13 report what went on in a fatal police-citizen
14 encounter.

15 How a grand jury report would work in that
16 situation would be like it works in other
17 situations, would be an addition to the statute, and
18 it would permit the grand jury to report the
19 evidence that was before it in a way similar to what
20 the -- I guess, the DA did in Missouri.

21 The report would talk about -- would give a
22 synopsis of the evidence, give a synopsis of the
23 law, explain the reason for the grand jury's
24 decision.

25 That report before it would have to become a

1 report would then have to be voted on by the grand
2 jury and approved by the grand jury, and then it
3 would have to go to a judge for his approval and
4 release.

5 So, that whole grand jury-reporting mechanism
6 has a number of legal steps in it that really gives
7 added legitimacy to the grand jury report.

8 In other words, it's not just the prosecutor
9 sitting there and writing out an essay about what
10 happened in the grand jury.

11 What we're proposing would be consistent with
12 what's in law now; which is:

13 The report is drafted, usually by the
14 prosecutor, because I don't think any of the grand
15 jurors are going to want to write the thing.

16 The report is drafted, and then it goes to
17 the grand jury for review and comment and approval.

18 Then the report is put together. Then the
19 report is taken -- voted on.

20 Taken, then, to the Court for its approval,
21 especially for dissemination.

22 So there's a lot of steps in the process.
23 There's -- it's not just the prosecutor; it's also
24 the citizens, and it's also the judiciary.

25 SENATOR GALLIVAN: Is that something --

1 I mean, would that in any way, in your opinion,
2 enhance public safety, hurt public safety, as it
3 relates to the so-called "witness" --

4 DA FRANK SEDITA III: It would --

5 SENATOR GALLIVAN: -- [unintelligible] --

6 DA FRANK SEDITA III: It would enhance --
7 here's -- I think a couple of the witnesses
8 testified to this in response to some of your
9 questions.

10 Here's one of the things that I see going on
11 right now, and I think we had the most extreme
12 example of it, but maybe the most illustrative
13 example of it, with the two officers who were
14 assassinated in New York City:

15 When the public invective is what it was just
16 before that, because of the Garner case, becomes --
17 then it becomes more palatable for certain "nuts" to
18 shoot cops.

19 Okay?

20 So the narrative that's out there is
21 important.

22 I think, for example, if Dan Donovan in
23 Staten Island had had this option, that would have
24 really helped, because it would have gotten the
25 facts out to the public and there could have been a

1 more measured and rational debate.

2 There was a pretty one-sided debate in this
3 thing, and it was all about how terrible this
4 decision was, how awful it was, how a cop got away
5 with murder, et cetera, et cetera, et cetera.

6 The district attorney in Richmond County
7 couldn't report all the evidence that was before
8 those 23 grand jurors.

9 I don't know what that evidence was, but
10 I think it would have been very important for the
11 public to know what it was.

12 You could see -- you could -- I would
13 analogize it a little bit to what happened in St. --
14 or, in Ferguson, because if you read the
15 Department of Justice account of what happened,
16 those witnesses, once they were compelled to testify
17 in a grand jury, gave versions, gave testimony, that
18 was consistent with both the forensic evidence, the
19 physical evidence, and the officer's account of what
20 happened.

21 I think it's important for a prosecutor,
22 particularly in a controversial case, to have the
23 ability to transmit that information to the public.

24 You know, I guess the word to use is
25 "transparency."

1 And I think that's the best method by which
2 you can achieve transparency.

3 I think releasing the grand jury minutes
4 would be a horrible, horrible mistake.

5 I think it's the worst method to do it.

6 SENATOR GALLIVAN: So if we just follow on
7 the report the way that you've articulated, where
8 should a line be drawn?

9 Should it just be -- you talk about
10 controversial cases, but, certainly, there could be
11 other areas where it might serve a useful purpose.

12 DA FRANK SEDITA III: Well, the impetus right
13 now is in the fatal police-citizen encounters.

14 Should it be extended to cases beyond that?
15 I don't know.

16 I mean, I haven't thought that one through,
17 and it hasn't been debated by my association.

18 SENATOR GALLIVAN: Okay, for the sake of
19 time, I -- for the sake of time, I will defer to the
20 Senator, but I do thank you for your testimony.

21 And if the association did have anything in
22 writing, just regarding the grand jury report, would
23 you be able to provide it as a follow-up?

24 DA FRANK SEDITA III: Sure.

25 SENATOR GALLIVAN: Thanks, Frank.

1 SENATOR NOZZOLIO: Thank you.

2 Mr. District Attorney, thank you very much
3 for your letter to me of March 6th of this year.

4 I read it, reread it, reread it again, and
5 your testimony, which reflected a lot of that
6 letter, let's focus on Raise The Age and your
7 immediate concerns.

8 Eliminating all district attorney discretion
9 is my biggest concern of the proposal, that you
10 outlined -- which I'm going to make part of the
11 record, of this group, this hearing -- you outlined
12 the perils of eliminating that discretion.

13 Would district attorneys sign off -- let's --
14 sign off to -- removal to the jurisdiction of
15 family court?

16 Would that satisfy some, or many, of your
17 concerns, bringing back the district attorney
18 discretion, and giving it complete, so that the DA
19 would be required to sign off before a transfer of
20 the case could be made?

21 DA FRANK SEDITA III: I think so, yes,
22 especially with respect to violent felonies, and
23 several other felonies that probably should be
24 violent but are not; for example, manslaughter.

25 You know, before those cases would go to the

1 adjudicative process, where the sole focus is the
2 best interests of the child in family court, I think
3 prosecutors should have that option to present that
4 case in a real criminal court.

5 SENATOR NOZZOLIO: It -- the second-largest
6 county in the state, largest upstate county, that
7 you represent, what would the proposal that the
8 Governor put forward do?

9 And in order to do the job, let's assume it
10 was put into effect, tell me of its impact to
11 Erie County, and the court system, and other dynamic
12 systems in the criminal justice process.

13 DA FRANK SEDITA III: One of the things that
14 we're seeing in my county, and I'm sure they're seen
15 in other counties, is younger and younger and more
16 violent and violent defendants.

17 There's always been young offenders.

18 What I've seen in the 26 1/2 years of me
19 being a prosecutor is not necessarily a quantitative
20 difference in teenage offenders.

21 What I've seen is a remarkable difference in
22 the quality of crimes.

23 We see younger and younger defendants
24 committing more and more violent felonies.

25 Criminal possession of a weapon in the second

1 degree; in other words, carrying an unlicensed and
2 concealed handgun, we're seeing that all the time.

3 We're seeing armed robberies all the time.

4 We're seeing gang assaults.

5 And we're seeing more and more and more
6 murders and sexual assaults.

7 I think one of the consequences -- I'm
8 already seeing 14-, 15-, and 16-year-olds murder.

9 I've got a 14-year-old right on right now.

10 We convicted somebody last year, a
11 14-year-old, of committing a murder.

12 We committed, I think, two more cases of
13 16-year-olds. One was a particularly vicious rape
14 and murder last year.

15 We're seeing that more and more.

16 And I think if you -- if word gets out into
17 the criminal element that 16- and 17-year-olds, or
18 15-year-olds, are getting a pass in family court for
19 these kinds of crimes, I think these offenders,
20 particularly the gangs, will hand the gun to the
21 youngest member of the gang to do the job.

22 We saw that -- we saw that a couple years ago
23 in a case in Erie County, where the ring leader, we
24 don't have enough evidence to go after him, although
25 we're prosecuting him for something else, got a

1 couple teenage offenders, teenage associates, they
2 were members of a gang, not like the Crips or
3 Bloods, but these neighborhood gangs, and they took
4 another would-be gang member, a teenage kid, to some
5 isolated railroad tracks in north Buffalo and they
6 stabbed him to death and they set him on fire.

7 That's the kind of stuff that we're seeing,
8 and that is precisely the kind of conduct that we
9 don't want to see going over to family court.

10 SENATOR NOZZOLIO: Are our family courts --
11 and speak to Erie County, are Erie County's family
12 courts in any way equipped to handle these --

13 DA FRANK SEDITA III: Absolutely not.

14 SENATOR NOZZOLIO: -- types of kids --

15 DA FRANK SEDITA III: Absolutely not.

16 They are tremendously overwhelmed as it is.

17 I mean, one of the problems in family court
18 is there's no filing fees.

19 So everybody with a gripe, and everybody --
20 well, I shouldn't be so trite about it.

21 The amount of filings over there are just out
22 of sight. The caseloads are incredible.

23 I've talked to family court judges about
24 this.

25 My dad was a family court judge for many

1 years.

2 Putting these cases in family court I think
3 would be a disaster, for a number of reasons.

4 Just the quantity of them, the overburdening,
5 but, also, it's the focus.

6 And also, family court's, essentially, a
7 secret court.

8 And these are the kinds of -- criminal court
9 judges already have the tools to differentiate
10 between offenders who really need the rehabilitative
11 process and really need programs, and those kinds of
12 remedies, and those who don't.

13 The most important one is YO (youthful
14 offender) treatment.

15 And youthful-offender treatment is given out
16 all the time, but it's given out by criminal court
17 judges and it's supervised by criminal court.

18 And if you violate your youthful-offender
19 treatment, you could be resentenced to either local
20 or county time -- or, county or state time.

21 So that's a tremendous tool for criminal
22 court judges.

23 I mean, one of the things I think should
24 happen, if I was going to write the law, is there
25 should be a diversion system that lets criminal

1 court judges keep control of the cases.

2 But for misdemeanors and non-violent
3 felonies, for example, we could divert -- you know,
4 the person pleads guilty, and we divert that person
5 to a program; and if they succeed in their program,
6 then we do something more lenient and rehabilitative
7 with that person.

8 But I think the best person to make those
9 decisions, and I don't want to be in any way
10 disrespectful to family court, are criminal court
11 judges, because they balance a whole number of
12 factors, not just the best interests of the child.

13 SENATOR NOZZOLIO: You mentioned
14 incarceration a bit.

15 Let me explore some more.

16 It -- the proposal's really absent in
17 discussing, necessarily, the modality of
18 incarceration, and who will be governing it.

19 Have you had, in your professional
20 experience, experience with the Office of Children
21 and Family Services in the state of New York?

22 DA FRANK SEDITA III: Yes.

23 After -- for example, after 17 years of
24 giving us a domestic-violence grant, they,
25 essentially, cut it without giving us, in my mind, a

1 sufficient justification for it.

2 So, it has not been positive.

3 SENATOR NOZZOLIO: In your opinion, would
4 that agency be someone that you would entrust to
5 incarcerate those offenders, particularly the
6 violent offenders?

7 DA FRANK SEDITA III: No.

8 SENATOR NOZZOLIO: It -- let's move to the
9 issue of, and we can spend all day on this --

10 I appreciate your leadership.

11 I appreciate your memo.

12 -- the violent offender at a youthful age is
13 someone that I think is someone that has yet to be
14 dealt with appropriately.

15 What you didn't mention today, but you
16 mentioned very graphically in your letter, about the
17 reduction -- automatic reduction in penalties for
18 violent crime. Even though the criminality is
19 there, the -- just the simple transfer of the case.

20 Would you explore that for the record?

21 DA FRANK SEDITA III: Well, I think I gave
22 one example of the rape case.

23 Under -- if this law were to pass, this
24 rapist who abducted and sexually assaulted
25 three women, he got -- he could have got up to

1 50 years.

2 He got 22 years.

3 He could get as little as one year under this
4 system.

5 We have -- whether the case would be
6 adjudicated in family court or prosecuted in
7 criminal court, it's just these across-the-board
8 reductions in criminal sentences.

9 And, also -- and we haven't -- we haven't
10 completed our study of the statute.

11 But also, on the bottom end, a lot of
12 people -- a lot of kids right now that are younger
13 offenders that would be eligible for
14 juvenile-delinquent treatment in family court, are
15 locked up.

16 So, you know, they're also lowering the
17 age -- they're also raising the age to be treated as
18 a juvenile delinquent.

19 SENATOR NOZZOLIO: Well, I wanted to add that
20 footnote.

21 It's kind of glossed over in the whole
22 process, but you get a one-strike opportunity for
23 YO status from 18 and 19, I believe.

24 DA FRANK SEDITA III: Well, that's another
25 one.

1 I mean, they want to extend youthful-offender
2 status to 20 years old.

3 So, you know, my question is: How many bites
4 does the criminal have at the apple?

5 You don't -- you're not eligible to be
6 prosecuted in a real court until you're
7 18 years old. It's all family court adjudications.

8 And then once you turn 18, you got another
9 2 years of eligibility to get YO.

10 When do we start holding people accountable
11 for their crimes?

12 I mean, Senator, don't get me wrong, I'm not
13 all for incarcerating 18-year-olds.

14 I mean, my son is 18 years old.

15 You know, I think most teenage kids that have
16 contact with the criminal justice system don't
17 deserve to go to jail. Most of the offenses are
18 relatively minor. You know, they usually have to do
19 with drugs or petty theft, or things like that.

20 But when you're talking about, you know,
21 shooting people, and gang assault, and rape, and
22 murder, and -- you know, and we see the armed
23 robberies, where they surround another weaker kid at
24 a bus stop and they beat the heck out of him, to
25 steal his -- you know, to steal his cell phone,

1 I mean, to my mind, that's a different kind of --
2 that's a different kind of classification of
3 offender that needs to be dealt with differently.

4 SENATOR NOZZOLIO: Let me shift very quickly
5 to the issue of independent monitor.

6 Should we require prosecutors to serve as
7 independent monitors?

8 DA FRANK SEDITA III: That never came up in
9 the discussions with the Governor, but, I wouldn't
10 have a problem with that at all.

11 SENATOR NOZZOLIO: What would we have to do
12 to ensure prosecutorial -- or, independent-monitor
13 independence if it was to be a prosecutor? Anything
14 special?

15 Or, let me ask the broader question: What
16 should we insist on to secure genuine independence
17 of the independent monitor?

18 DA FRANK SEDITA III: I think you want -- if
19 somebody's going to hold that kind of position of
20 power, and that kind of -- that's going to be called
21 upon on to review grand jury minutes, and look at
22 the whole case fairly, I think you want to put
23 somebody in there, number one, who has experience in
24 doing that, who has reviewed a lot of grand jury
25 minutes in their career.

1 And I also think you want to, two, put
2 somebody in there who is not going to be swayed by
3 public pressure and social activism and the feelings
4 of the mob.

5 And I think the two groups that would come
6 together -- or, come to my mind, are either -- would
7 be either a prosecutor or a retired prosecutor or a
8 judge of tremendous reputation.

9 I think those would be the persons -- or
10 somebody with both, for example, both kinds of
11 experience, I think that would be the kind of person
12 best suited to be the special monitor.

13 SENATOR NOZZOLIO: Do you believe -- you
14 articulated earlier your concern about establishing
15 the process in the first place, and those concerns
16 are well-taken.

17 From the police officer perspective, does
18 that concern you in terms of, if an independent
19 monitor was established, how do you have finality in
20 this process?

21 DA FRANK SEDITA III: I think there hasn't
22 been enough of a reach-out.

23 I've talked to a couple of police groups
24 about this.

25 That there hasn't been enough of a dialogue

1 between police agencies or those who represent
2 police agencies and the folks who have had a hand in
3 the drafting of this, including me, this
4 independent-monitor scheme, because there are
5 safeguards in the independent-monitor scheme,
6 including the very, very strict standard of review.

7 It's not a de novo review at all. It's a
8 strict legal standard.

9 And the interplay of CPL 190.25, sub 5, which
10 the independent monitor would have to be bound by:
11 the factual determinations of the grand jury.

12 That's why the grand jury report would be so
13 important, because there would be the factual
14 findings of the grand jury, and the monitor would
15 have to be bound by that.

16 So, for example, if there were four witnesses
17 to an event, and two witnesses said the police
18 officer acted justifiably, and two witnesses said
19 the police officer did not act justifiably, and the
20 grand jury credited the testimony of the first two,
21 and the report set that forth, well, that's it; that
22 was the credible testimony.

23 You can't -- an independent monitor could not
24 go in de novo and make his own credibility
25 assessments. That would be precluded from the

1 statute.

2 That's a very important safeguard that --
3 when we were talking about with the Governor's
4 Office, that we insisted upon.

5 I don't know if that's been communicated to
6 many police officers.

7 I mean, there's a lot of thought that's gone
8 into the statutory scheme.

9 Our problem with it right now, which I'm --
10 it's been represented to me which will be fixed, is
11 the release of the grand jury minutes, because my
12 association will not agree to that.

13 SENATOR NOZZOLIO: Will the
14 District Attorneys Association be taking a formal
15 position on both of those issues: the Raise The Age,
16 and the independent monitor?

17 DA FRANK SEDITA III: We have taken -- we are
18 in support of the -- what we agreed to with the
19 Governor on the independent monitor, which was,
20 essentially, his proposal to you, but he went one
21 step farther, which we did not agree to, which is
22 release of the grand jury minutes.

23 I have been assured that that's going to be
24 amended, that's going to be taken out of his
25 proposal.

1 If that happens, my association is in support
2 of the independent-monitor legislation.

3 If it's not taken out, we are not.

4 With respect to Raise The Age, the
5 DA's Association has not yet taken a position on it.

6 My sense is, that we will take a position
7 against it, but I cannot represent that to this body
8 at this point because we haven't had a chance to
9 debate it internally as an association.

10 What I can assure you, Senator, is that the
11 people who are representing to you that the
12 DA's Association is in favor of the Raise The Age
13 legislation, are either being inaccurate or
14 untruthful with you.

15 SENATOR NOZZOLIO: You have been very helpful
16 in your submissions and testimony, and, thank you
17 very, very much.

18 DA FRANK SEDITA III: Thank you, Senator.

19 And any follow-up, I'm more than happy to
20 come down again, or buy you a cup of coffee, or,
21 whatever.

22 SENATOR NOZZOLIO: Thank you.

23 DA FRANK SEDITA III: Thank you.

24 SENATOR NOZZOLIO: Mike Powers, president,
25 New York State Correctional Officers Association.

1 SENATOR GALLIVAN: Good afternoon,
2 President Powers. Thanks for being here.

3 Could you introduce everybody that you have
4 with you, and, then, when you're ready to proceed.

5 MICHAEL B. POWERS: Absolutely.

6 To my left is executive vice president,
7 Tammy Sawchuk; and to my right is the treasurer,
8 John Terlesky; both statewide elected officials for
9 NYSCOPBA.

10 SENATOR NOZZOLIO: Nice to see you guys
11 again.

12 MICHAEL B. POWERS: Chairman Gallivan, thank
13 you for providing me the opportunity to share the
14 views of the New York State Correctional Officers &
15 Police Benevolent Association, Inc., commonly known
16 as "NYSCOPBA," on the critical issues relating to
17 the police safety and public protection in
18 New York State.

19 My name is Michael B. Powers, and I have the
20 privilege of serving as the president of NYSCOPBA.

21 In that capacity, I represent over 26,000 of
22 the bravest and most dedicated public servants in
23 New York State.

24 The two questions that we gather here today
25 to reflect upon, improving the safety of the local

1 and state law-enforcement agencies, and changing the
2 criminal justice system to better protect the
3 public, are very important to NYSCOPBA and its
4 members.

5 In our budget testimony a couple weeks ago,
6 I began by stating the obvious: Correctional
7 facilities are extremely dangerous places to work
8 and live, and are becoming even more dangerous.

9 Regrettably, actions taken by the State have
10 not slowed down, let alone reversed, this disturbing
11 trend.

12 Senator Nozzolio and Senator Gallivan asked
13 thoughtful questions of me at that hearing.

14 They asked if I had had ideas on why assaults
15 on staff and assaults on inmates are increasing at a
16 time when the inmate population is decreasing.

17 They also asked whether staffing increases
18 agreed to as part of the 2014-2015 budget have
19 materialized.

20 I will try to shed some additional light on
21 those questions today.

22 As was the case two weeks ago, we created the
23 following charts with data collected and made
24 publicly available by the Department of Corrections
25 and Community Supervision from their website.

1 The first two charts illustrate the rise in
2 the rate at which inmates assault staff, and inmates
3 assaults other inmates, during 2007 through 2014.

4 Regrettably, this disturbing trend shows no
5 sign of abating. In fact, it is getting worse with
6 respect to assaults on staff.

7 As the next chart illustrates, through
8 60 days in 2015, the Department of Corrections and
9 Community Supervision report 168 inmate-on-staff
10 assaults.

11 If this trend continues, there will be close
12 to 1,000 assaults on staff in 2015, an increase of
13 nearly 28 percent from just one year ago, and an
14 astonishing increase of more than 83 percent from
15 the low watermark in 2012.

16 Let me now turn to the questions posed to me
17 two weeks ago.

18 First, why is this happening?

19 The short answer is, the data does not
20 provide us a definitive answer.

21 It does show that this rise in assaults on
22 staff is not uniform across the entire system.

23 At six maximum-security prisons, the assault
24 rate actually declined between 2006 and 2013.

25 At the remaining maximum-security facilities

1 and the medium- and minimum-security facilities,
2 looked at as a whole, the assault rate increased.

3 We asked ourselves if there's been a
4 significant change in the composition of the inmate
5 population, as it has declined.

6 Here we observed, the number of male inmates
7 serving long minimum sentences grew by nearly
8 3 percent, while the overall male-inmate population
9 declined by nearly 11 percent.

10 The relative share of those serving long
11 sentences increased, from 14.9 percent, to
12 17.3 percent, between the years 2009 and 2014.

13 Unfortunately, the data the Department of
14 Corrections and Community Supervision makes
15 available do not allow us to know whether assaults
16 on staff are committed by those serving longer
17 sentences.

18 That may be an interesting question for the
19 acting commissioner.

20 We also asked ourselves if there was a clear
21 relationship between the number of correction
22 officers and sergeant plot-plan posts at each
23 facility and a change in rate at which inmates
24 assaulted staff.

25 Between 2009 and 2013, two years for which

1 plot-plan data are readily available, we did not see
2 a clear relationship.

3 At Southport, for example, a number of plot
4 plan-posts increased and the assault rate dropped,
5 as we would expect it to.

6 At Sing Sing, the assault rate dropped, but
7 so did the number of plot-plan posts.

8 NYSCOPBA will continue to analyze the
9 available data to better understand why the assault
10 rise -- rate is rising.

11 Now, let me turn my attention to the second
12 question posed at the budget hearing, the one
13 related to staffing.

14 As you know, staffing in New York's
15 correctional facilities changes every day.

16 The situation gets further complicated
17 because the State has at least three different ways
18 to count the number of staff in our correctional
19 system.

20 The management of each correctional facility
21 develops a staffing plan to identify the security
22 staff necessary to safely run the facility.

23 These "plot plans," as they are called, when
24 added together, represent one way to count the
25 number of correction officers and sergeants across

1 the entire system.

2 A second view of staffing is the number of
3 positions that are funded in the budget. The term
4 of -- the term of art used to calculate this number
5 of positions is the "budgeted fill level," known by
6 us as the "BFL."

7 If the number budgeted is less than the
8 number called for in the plot plan, it means that
9 the State has underfunded its own plan and -- for
10 securing correctional facilities.

11 This is currently the case.

12 Even though each facility has a plot plan,
13 and most of the plot-plan positions have been
14 funded, there are still vacancies and turnover at
15 each facility.

16 So the number of positions actually filled by
17 a human being represents the third way of counting
18 staff. The State refers to this count as the number
19 of items or positions filled.

20 When we last looked at this data in February,
21 the number of correction officers in sergeants'
22 position filled was less than the number funded.

23 I torture you with all this jargon because
24 how you can count -- how you count, and the dates
25 on which you count, matter in determining whether

1 last year's reinvestment from the closure of
2 four facilities ever took place.

3 Once again, using data from the Department of
4 Corrections and Community Supervision, we having
5 looked at these three categories on five different
6 dates over the last two years.

7 No matter how we count, we cannot see how
8 275 additional correction officers and sergeants,
9 above and beyond those affected by the closures, are
10 on duty today.

11 In fact, NYSCOPBA believes that the plot
12 plans were understaffed by more than 500 correction
13 officers and sergeants, as of last month.

14 There is no doubt that the Department of
15 Corrections and Community Supervision is running
16 training classes.

17 It is obvious that the number of training
18 classes held by DOCS is, at best, keeping up with
19 the increase in attrition, as large numbers of
20 correction officers hired in the late '80s and
21 early '90s opt for retirement.

22 Correctional systems in other states appear
23 to be facing similar challenges.

24 NYSCOPBA believes that the hiring, training,
25 and equipping of the 475 correction officers agreed

1 to in last year's budget process would lead to an
2 improvement in the safety of one state
3 law-enforcement agency; and that being, the
4 Department of Corrections and Community Supervision.

5 In doing so, we also believe it will lead to
6 better protection of the public.

7 I will leave you with an updated version of
8 the final chart NYSCOPBA shared two weeks ago. It
9 shows that the inmate population and staff are
10 declining, and violence against inmates and staff is
11 rising.

12 This cannot and should not continue.

13 Thank you, once again, for the opportunity to
14 share the views of NYSCOPBA on this critical policy
15 and budget issue.

16 The men and women of NYSCOPBA are the finest
17 correction officers in the nation.

18 With continued improved communication and
19 cooperation between the administration and the
20 union, we can continue to be seen as such.

21 And with that, we'd be happy to answer any
22 questions.

23 SENATOR NOZZOLIO: You want to go first?

24 SENATOR GALLIVAN: Yeah.

25 Thank you for your very frank testimony.

1 And I know that we went through an extensive
2 line of questioning at the budget hearing as well,
3 and I will repeat what I said then: The increased
4 assaults are disturbing.

5 Staffing, certainly, appears to be -- well,
6 certainly appears to be one area to address it.

7 We've talked about that at length.

8 And I think the two of us, of course, have an
9 understanding of the problems therein. We'll work
10 to try to address them, separately.

11 Do you have any opinions, though -- when we
12 move away from staffing, we still have problems. We
13 don't isolate that out as the single problem.

14 What else has contributed, in your opinion,
15 to the increased violence in the facilities?

16 MICHAEL B. POWERS: We have a more-violent
17 felon coming into the system now.

18 As was -- as the previous speaker, of the
19 district attorneys, you know, made it very clear
20 that, you know, we have a more violent, younger
21 offender coming into our system today.

22 You know, there was talk of heroin.

23 You know, heroin and synthetic drugs are a
24 big factor in our jails, along with gang activity;
25 and with that comes the increase in violence in our

1 facilities.

2 There's multitudes of factors that play into
3 this in our facilities, as far as, you know, the
4 gang activity, the control over certain aspects of
5 the drug trade, or whatever the case may be, you
6 know, positions of power, whatever the case may be.
7 That promotes a violent workplace.

8 SENATOR GALLIVAN: All right, the heroin, and
9 other drugs, in facilities --

10 MICHAEL B. POWERS: The heroin -- the
11 reintroduction of heroin into our systems.

12 The introduction of synthetic drugs, such as
13 the synthetic marijuanas, that continue -- the
14 molecular structure continually changes, it's tough
15 for us to keep up with, to test for, in our
16 population.

17 Suboxone, an over-the-counter -- or, not an
18 over-the-counter, but, a prescription drug that's
19 used to combat heroin use, and that's more than
20 prevalent in our jails and our facilities.

21 Coupled with the gang activity, and the
22 control of the trade, in the facilities is very
23 large.

24 And a majority of it has to do with our
25 reclassification in our department system as well.

1 We're seeing a large amount of
2 maximum-security inmates being reclassified into the
3 medium setting, and they're being put into a system
4 that they're not accustomed to.

5 You know, I don't want to say that they were
6 institutionalized, but they have a certain -- you
7 know, when an individual's in a maximum-security
8 prison, and he's in a 6-by-9 cell, and now we put
9 him in a 4-by-8 cubicle in a medium setting,
10 without -- and possibly in a double-bunk situation
11 with a younger, more violent felon coming into the
12 system, just creates a lot of work.

13 SENATOR GALLIVAN: Is that because the
14 maximum facilities are filled?

15 MICHAEL B. POWERS: I'm sorry?

16 SENATOR GALLIVAN: The maximum-security
17 facilities are filled.

18 MICHAEL B. POWERS: We're at 100 percent
19 capacity.

20 SENATOR GALLIVAN: And then, of course --

21 MICHAEL B. POWERS: Yeah, I mean --

22 SENATOR GALLIVAN: -- you've got people that,
23 otherwise, would meet the criteria to be classified
24 maximum, but no place to go?

25 MICHAEL B. POWERS: Correct.

1 And, you know, it's -- and it's a good
2 comment.

3 Three short years ago we were at 120 percent
4 capacity in our maximum-security prisons. And, you
5 know, they, basically, reclassified the
6 maximum-security inmate, in our opinion, and it
7 shuffled it into our medium facilities, creating a
8 hostile work environment.

9 SENATOR GALLIVAN: Let's go back to the
10 drugs.

11 Whether it's heroin or the synthetics, what
12 recommendations do you have, as far as trying to
13 keep them out of the facilities?

14 How can we do a better job of preventing them
15 from getting in there in the first place?

16 And what would it take?

17 MICHAEL B. POWERS: It would take resources,
18 obviously.

19 K-9's. You know, you planted a K-9 out in
20 front of every facility, and a lot it comes in from
21 out the streets.

22 I'm not going to suggest that it comes from
23 families visiting, but, we get our fair share of
24 problems coming into the facility.

25 On weekends, through visits.

1 It comes in through packages.

2 You know, the department, at one time, talked
3 about doing a centralized package location, much
4 like they do with cook-chill. And they were looking
5 to kind of do that aspect of it, the 30 pounds a
6 package each offender's afforded monthly, and would
7 have been -- it would be heavily scrutinized and
8 packed by security, and sent in, without it coming
9 from the street.

10 And, you know, with proper training, and the
11 dogs.

12 And, you know, if we had a K-9 in every
13 facility, and it's just a thought that we bounced
14 around, you know, camped out in front of every
15 facility, are sniffing out every package, would
16 probably help to reduce a lot.

17 But, a lot of it -- you know, it comes right
18 from policy, you know.

19 JOHN TERLESKY: Hey, Senator, could I comment
20 on that piece?

21 SENATOR GALLIVAN: Absolutely.

22 JOHN TERLESKY: If you relied heavily on an
23 internal, like a -- where they can buy their
24 packages internally, and took away the external,
25 like the packaging coming in from the street.

1 So you have the same situation, where the
2 visitors or the relatives could send money, and they
3 could buy it internally, where it would be directed
4 through one source.

5 What we have in every facility, we have
6 package room. We also have where they can buy stuff
7 directly inside the facility if they have money.

8 If you relied on that one source, and had
9 everything available that they could receive through
10 a package, hence not letting anything come in
11 through the package room, you would have them buying
12 it directly from vendors, as opposed to having it
13 directly come in through families.

14 The vendors that you had on an approved list,
15 say, whatever the item was, would be less likely to
16 be involved in the drug trade because they would be
17 relying on a profit margin.

18 When you have other people bringing the stuff
19 into the facilities, hence packages, you know, there
20 is -- that's against the law, bringing --
21 introducing contraband in the facility, but, you
22 have lesser control, so you're opening the doors to
23 a maximum-security prison to allow packages come in
24 by multiple sources.

25 If you controlled and had only one source,

1 and relied on that one source, to let them buy items
2 through the "facility commissary," it's called, then
3 you would have a less likely event of drugs being
4 packed into that, or weapons, or whatever we were
5 talking about.

6 SENATOR GALLIVAN: Got it. Thanks.

7 JOHN TERLESKY: More control.

8 SENATOR GALLIVAN: Yep, understood.

9 Thank you.

10 One other area I wanted to just ask you
11 about, and I know that you're not prepared with data
12 for this, and I won't even ask you to comment on the
13 proposals, but, the Raise the Age proposal, among
14 the things that it talks about, is the housing of
15 16- and 17-year-olds, and moving them out of state
16 prisons, and local facilities, housing them
17 separately.

18 There's approximately one hundred 16- and
19 17-year-olds in state prisons, scattered at
20 different facilities across the state.

21 Are you able to comment on the type of
22 prisoner they are?

23 Not how they're housed, or anything, but what
24 types of crimes have they committed?

25 I mean, do you see them as different than

1 other populations, as far as the serious nature of
2 their crime, and whether they're, potentially,
3 dangerous to the community, if released, or
4 dangerous if -- in a different setting?

5 JOHN TERLESKY: I think you have to piggyback
6 on what the district attorney said, because that's
7 what we're getting into our institutions.

8 When they graduate, as we say, to state
9 level, and come to our institutions, we're not
10 talking about the petit larceny, we're not talking
11 about the DWIs...we're not talking any of those
12 groups. We're talking about the severely violent
13 felon.

14 And this person's not coming in with one
15 arrest, and one conviction, unless they commit a
16 murder or an armed robbery.

17 They're graduating to us. They're getting --
18 you know, they're starting off with lesser-included
19 offenses. And then when they come through our
20 doors, you're talking about serious violent
21 felonies, like rape.

22 Like, breaking into a house, it's a burglary.
23 While they're in the house committing that crime, a
24 burglary, they do some other offense, like assault,
25 or something like that.

1 That's the people we're talking about.
2 That's the individuals coming into our system;
3 coming into the state system.

4 So for them to downplay it and say, you know,
5 it's a public outcry of 16- and 17-year-olds,
6 I don't believe anybody would want those 16- and
7 17-year-olds around them with the crimes they've
8 committed.

9 And to make it a lesser, to not categorize it
10 a crime, because it really is a crime, you know,
11 I think the district attorney hit it right on the
12 head: There's severe victimization here, and you're
13 losing track of the victims here that these people
14 victimized to get to where -- to graduate to our
15 level.

16 And this is not just one offense. This is --

17 SENATOR GALLIVAN: Again, understanding that
18 you're not the policymakers --

19 JOHN TERLESKY: Correct.

20 SENATOR GALLIVAN: -- in DOCS, and you may be
21 able to answer, and you may not, are there programs
22 available to those 16- and 17-year-olds?

23 And if so, what do they address?

24 MICHAEL B. POWERS: There are currently
25 two programs available now, I believe, at

1 Green Correctional and in Woodbourne Correctional
2 for minors, if you will, depending on the crime that
3 they commit. I believe it's for a non-violent crime
4 for a 15-, 16-, 17-year-old.

5 Those programs are established inside the
6 facility, and it's basically a -- you know, if you
7 can picture it, and it's like a facility within a
8 facility.

9 There's -- currently, at Green Correctional
10 Facility, there's two housing units, and those
11 two housing units are within the confines of the
12 whole correctional facility.

13 SENATOR GALLIVAN: And so -- if I may, and
14 that's in response to the Prison-Rape Elimination
15 Act, so they --

16 MICHAEL B. POWERS: Yes, sir, it is.

17 That's the --

18 SENATOR GALLIVAN: -- are now
19 [unintelligible] and fully implemented, they will be
20 isolated from anybody 18 and old -- over?

21 MICHAEL B. POWERS: I don't know how --
22 again, we'll leave the policy in -- up to your
23 hands --

24 SENATOR GALLIVAN: Understood.

25 MICHAEL B. POWERS: -- we'll leave it in your

1 hands.

2 But, as far as the Raise The Age, I don't
3 know if that's a different component to the PREA
4 aspect, but it's targeting the younger offender at
5 this time.

6 SENATOR GALLIVAN: Yeah, the Raise The Age
7 is -- it's a complete different proposal.

8 But those other facilities, you described a
9 facility within a facility, they're intended to
10 isolate the 16- and 17-year-olds from --

11 MICHAEL B. POWERS: They are isolated from
12 the general population, if you will, in the current
13 facility.

14 SENATOR GALLIVAN: Okay, thank you.

15 SENATOR NOZZOLIO: Thank you, Senator.

16 I have just a couple of questions.

17 The -- what's the billboard number up to now?

18 MICHAEL B. POWERS: 747, plus 168, as of
19 yesterday. So, we're up -- we're pushing -- we're
20 up there pretty good.

21 We're over 900. Well over 900.

22 SENATOR NOZZOLIO: And that -- it's not --
23 we're not taking light of it. It's just something
24 that people should notice.

25 I mean, just in the -- the last time that you

1 testified, about 10 days ago, we've seen a
2 significant number --

3 MICHAEL B. POWERS: 34 since our last
4 testimony.

5 SENATOR NOZZOLIO: 3 1/2 a day, and that --
6 every day.

7 And that's not lost on this Panel that
8 staffing levels have a great deal to do with the
9 incidence of violence against staff, and that it's a
10 pretty simple mathematical equation that you put
11 forward.

12 And I guess the biggest frustration I know
13 you have, is that you can't see those 275 correction
14 officers anywhere that were supposed to be deployed.

15 I know that's an item of significant
16 frustration.

17 We're doing all we can to budget, and support
18 efforts in the budget, to do the objective that we
19 share.

20 Reclassification, Senator Gallivan mentioned
21 it.

22 And I had -- in effect, it's almost
23 unbelievable that we always have the exact number of
24 maximum-security inmates in maximum-security
25 facilities. The number never ceases to change.

1 The number of seats, and cell space, in the
2 maximum-security facilities is the number of
3 maximum-security inmates we have.

4 I guess the other -- which, obviously --
5 well, we know that that's not the case. There are
6 many more maximum-security inmates that are being
7 held in medium-security facilities today.

8 Are there any -- I guess that puts pressure
9 on the mediums, to the minimums, even.

10 But we've have all known for years that
11 mediums are our tinderboxes. Those are the places
12 that are most dangerous and most difficult for you.

13 I was interested in your story about
14 contraband.

15 We have had, and pro-offered, every year, for
16 the last few years, Senator Gallivan, myself, others
17 who are concerned about these issues, to raise the
18 penalties for contraband in our prison facilities.

19 We always pass them in the Senate. We never
20 pass them -- we never see them enacted in the
21 Assembly.

22 That all the time, effort, energy, going into
23 contraband, the staffing that you have to put into
24 those package rooms, the kinds of things that you
25 had mentioned.

1 And I know, probably, the uninitiated didn't
2 recognize what you were saying, Mike, I don't think,
3 when you're saying that we need K-9s.

4 The fact is, those dogs that are deployed do
5 a great service, and end up helping solve the
6 problem of contraband.

7 Any other thoughts on how we -- we're trying
8 to raise the penalties. That's one point.

9 What other things would you recommend being
10 done?

11 MICHAEL B. POWERS: As far as the contraband
12 coming in through the package room, our x-ray
13 machines are ancient. You know, I mean, some of our
14 equipment.

15 With the newer technology today, you know,
16 I think -- especially coming from the outside,
17 coming through a package room, is -- you know, with
18 newer, better equipment and technology, I think it
19 would help as well, you know, minus even the K-9.

20 You know, but other aspects of it is
21 training.

22 You know, it's training, and, you know, it's
23 being able to accurately report and educate our
24 front line as to how these things come in sometimes.

25 A lot of times when contraband is found, say,

1 in a package room, that information doesn't get
2 readily shared with the entire facility and the
3 entire staff.

4 You know, knowledge is power.

5 And the more knowledge that we have regarding
6 the innovative ways in which it comes in, is -- you
7 know, is paramount for us to be able to understand
8 and to be able to look directly.

9 I mean, you would be surprised, to see a
10 sealed bag of potato chips come into your facility,
11 you'd think nothing of it. But it's got a pound and
12 a half of marijuana in it, or heroin, or, you know,
13 Suboxone.

14 We've had instances, where a released felon
15 in Franklin County, not too long ago, was released
16 on a Tuesday.

17 On a Saturday night, he lived locally, he
18 showed up with a large wrapped ball in Saran Wrap,
19 with, I believe, 80 grams of marijuana, 120 pills of
20 Suboxone, and he put a butter knife in it for
21 weight, and threw it over the fenced yard and into
22 the yard.

23 It was a planned drop, if you will.

24 I mean, the many innovative ways that it
25 comes in, we need to know, and we need to

1 continually know.

2 Information that gets to the front line at
3 the facility level, the administrative level,
4 sometimes doesn't get back to us.

5 That would be a start.

6 You know, but -- I could sit here all day and
7 tell you the innovative ways in which contraband
8 enters our facilities.

9 TAMMY SAWCHUK: I think it also has to start
10 also with visitation, because not every visitor
11 comes in with good intentions; they're there for a
12 reason.

13 And, obviously, we know that when you walk
14 through the front entry of the prison, as a visitor,
15 you go through a metal detector.

16 Metal detectors do not detect drugs, and they
17 can be on and concealed on your person.

18 And that's another issue that we need to
19 revisit, as far as technology.

20 We're inundated with low staffing levels,
21 people on our front lines, and these drugs coming
22 in. And then we have these tremendous amount of
23 assaults that are a product of that.

24 SENATOR NOZZOLIO: Thank you very much.

25 SENATOR GALLIVAN: Can I follow up on that,

1 on that point?

2 So how do you suggest, then, what else do you
3 do at the entrance?

4 TAMMY SAWCHUK: I believe that you should
5 have something along the lines that the airports
6 have, that you go through. That's a body scan. It
7 shows if you have something concealed.

8 SENATOR GALLIVAN: Okay, thanks.

9 SENATOR NOZZOLIO: Thank you.

10 And thank you very much for the hard and
11 courageous work you do.

12 MICHAEL B. POWERS: Thank you,
13 Senator Nozzolio, Senator Gallivan.

14 Thank you for your continued support.

15 SENATOR NOZZOLIO: The last -- the final six
16 testifiers have agreed to team up in pairs.

17 Drew Cavanagh and Bernard Rivers;

18 And then following them will be,

19 Margaret Ryan and David Zack;

20 And our last team will be Dr. Robert Worden
21 and Dr. Sarah McLean.

22 And, gentlemen, before you testify, we
23 understand that Richard Wells also wishes to give
24 testimony.

25 And, would you please come into the next

1 group, with Margaret Ryan and David Zack.

2 Thank you very much for being here.

3 For the record, would you state who you are,
4 who you represent, and, go to it.

5 Thank you.

6 DREW CAVANAGH: Thank you.

7 And thank you, Chairs, Senator Gallivan and
8 Senator Nozzolio.

9 We're happy to be here, and we're happy for
10 the opportunity to assist you in your efforts to,
11 you know, better protect the public and police
12 officers around the state.

13 My name is Drew Cavanagh, and I'm a captain
14 with the Department of Environmental Conservation,
15 Division of Forest Protection. I've been a forest
16 ranger for 22 years.

17 And, I'm the secretary of the Police
18 Benevolent Association of New York State.

19 To my right is Captain Bernie Rivers.

20 Captain Rivers has 33 years of state service.
21 23 of those years have been as an environmental
22 conservation officer with the DEC's Division of Law
23 Enforcement.

24 And he serves as the director of the
25 Environmental Conservation Superior Officers

1 Association.

2 We as a union also represent the
3 State University Police and the State Park Police,
4 and we're here today to discuss the PBA's three main
5 concerns.

6 First and foremost, the staffing deficits
7 impact each unit of the PBA and their ability to
8 meet the needs of the general public and their
9 fellow officers.

10 We've been banging the drum for several years
11 now, and we've made some headway at DEC, and we've
12 made some headway at the Office of Parks,
13 Recreation, and Historic Preservation, on our
14 officer issues, but nowhere is the need more evident
15 than the staffing crisis that confronts the
16 State University Police today.

17 For those of you who heard or were at our
18 budget testimony, the union has requested that the
19 Legislature include S-3221 (Robach),
20 A-4519 (Abbate), and the appropriate funding in the
21 of 2015-2016 budget.

22 This legislation would allow State University
23 police officers the option of transferring into the
24 New York State Police and Fire Retirement System
25 from the New York State Public Employees Retirement

1 System.

2 Today there are 564 police departments in
3 New York State. 563 of them are in the police and
4 fire system.

5 There is one department, the University
6 Police Department, that's not in the Police and Fire
7 Retirement System.

8 Pension disparity between the University
9 Police and other police agencies has created a
10 serious turnover and stability issue for the
11 state-university system.

12 It is a simple fact that campuses are much
13 safer with a stable police force.

14 SUNY officers are highly and uniquely trained
15 for their environment.

16 Tier 6 changed the parameters for the
17 University Police Department, requiring officers to
18 work at least twice as long as officers in all other
19 police departments across the state.

20 Tier 6 also changed death and disability
21 benefits for SUNY police officers, and created an
22 indefensible and highly offensive structure of
23 vastly inferior benefits for one department of
24 police officers in New York State.

25 The State has been clear. You know, clearly,

1 they believe in the abilities of the men and women
2 in the University Police. And in recent years,
3 they've been adding new responsibilities.

4 A lot of them come with the Start-Up
5 New York.

6 They're doing a lot with -- we spoke earlier
7 in the hearings, people spoke about the heroin
8 epidemic.

9 They've been front and center on combating
10 the heroin epidemic that occurs on -- when -- where
11 it occurs on our college campuses.

12 They're involved in new sexual-assault
13 reporting measures and rules.

14 They've taken mandatory active-shooter
15 training.

16 And University Police are being dispatched to
17 the natural disasters that are occurring across our
18 state.

19 They're the ones who are out there on the
20 front lines with the rest of us.

21 We are so appreciative that both the Assembly
22 and the Senate have included funding for this
23 legislation in their one-House bills, and we thank
24 the Legislature for its leadership on this crucial
25 issue.

1 And the fight's not over.

2 We urge all parties to fund the University
3 Police retirement in the enacted state budget.

4 As you know, we strive for diversity in our
5 ranks so our force reflects the population that we
6 serve.

7 However, young State University police
8 officers are receiving training and experience at
9 SUNY, only to leave those departments for a
10 different state or local police agency that offer a
11 police and fire retirement plan.

12 The fact is, many police departments are
13 seeking qualified women and minority officers, and
14 SUNY police officers are being targeted by these
15 municipalities because they're well-trained officers
16 who just don't have the same retirement benefits,
17 and they can do better in other departments.

18 University Police Department has become a
19 training ground for other departments, and SUNY is
20 eating the cost.

21 It's a ridiculous waste of resources.

22 And as the economy improves in
23 municipalities, their hiring budgets are getting
24 greater.

25 The SUNY police chiefs are recognizing that

1 they're expecting more resignations of SUNY police
2 officers in the coming years.

3 Attrition rates on some campuses are over
4 100 percent.

5 Here at SUNY Albany, I believe the attrition
6 rate for university police officers is over
7 100 percent.

8 The situation has gotten so bad that the SUNY
9 administration is using the term "critical" to
10 describe their staffing.

11 It's costing between eighty-five and a
12 hundred thousand dollars a year to properly recruit
13 and train a police officer for duty, and that
14 doesn't even come into how much we lose when we lose
15 an officer, and we lose all that continuity, that
16 experience and that training.

17 According to SUNY, they have lost \$5 million
18 since 2008, and they're projecting to lose another
19 \$10 million in the next 5 years because of this
20 problem.

21 It's a significant issue, and it's
22 long-received the support of both labor and
23 management.

24 Both sides recognize the problems the SUNY
25 pension disparity causes for police morale and

1 campus safety, and that the ultimate fiscal
2 implications caused by turnover need to be dealt
3 with immediately.

4 After this time, I wish to turn over the
5 floor to Bernie Rivers, who will deliver the rest of
6 our testimony.

7 BERNARD RIVERS: Good afternoon.

8 SUNY is not only an agency dealing with
9 staffing inadequacies. High attrition rates,
10 coupled with increased responsibilities and flat
11 budgets, is a problem across the board for all of
12 our members in all four unions.

13 To get an idea of the attrition level and the
14 additional responsibilities we are facing, let's
15 look at the numbers.

16 The number of forest rangers serving the
17 public has dipped below 100 in 2014, while the
18 territory that they are tasked to protect has grown,
19 from 3.5 million acres in 1971, to 5 million acres
20 of public land today.

21 And in 1971, there were nearly 20 percent
22 more forest rangers in the field.

23 Their unit was once primarily concerned with
24 fire protection on the forest preserve.

25 Today, forest rangers are certified police

1 officers assigned as primary law-enforcement force
2 for one-sixth of the state.

3 The DEC Division of Law Enforcement, we're
4 down to approximately 263 officers, from where we
5 used to have up to 345 officers.

6 We've lost nearly a quarter of our workforce
7 at a time when environmental-conservation officers
8 are consistently tasked with additional
9 environmental-quality-enforcement mandates,
10 investigative requirements, and homeland-security
11 duties.

12 There is no point in strengthening our
13 environmental-protection laws if there is no one
14 available to enforce them.

15 We have not made any gains in our staffing
16 levels since the 1970s.

17 And, currently, we have a shift of officers
18 to cover three shifts; to cover 24 hours a day,
19 7 days a week, 365 days a year.

20 I would like to point out, of the 365 -- or,
21 it's 345 officers when we were at our hay-day, when
22 we created our bureau of investigators, actual
23 investigators, those original investigators were
24 pulled from that "345" number, so we never replaced
25 those 40-or-so investigators to the uniformed force.

1 So every time we have been tasked to do
2 something, we have always done it with the
3 "345" number.

4 So as we have been tasked to do more things,
5 we don't get extra items for those.

6 The New York State Comptroller recently
7 released a report that concluded the following:
8 Over the period examined in the report, DEC's
9 responsibility has grown, while its staffing has
10 been cut by more than 10 percent, and that's
11 agency-wide.

12 New Yorkers have a vital interest in the
13 protection and management of our environment.
14 Intensifying fiscal pressures and expanding mission
15 placed a premium on the effective and use of DEC
16 resources.

17 In this context, the report suggested
18 consideration by policymakers and the public of
19 whether DEC has the resources necessary to carry out
20 its critical, important functions.

21 When we look at our fellow officers with the
22 New York State Park Police, they're not immune from
23 staffing issues either.

24 They once had 317 sworn officers. And,
25 today, are down to 265, including recruits who have

1 just graduated from the academy.

2 Since 1980, an additional 25 state parks have
3 established and attendance has risen to over
4 61 million visitors a year; yet park-police staff
5 continues to struggle to maintain minimal staffing
6 levels.

7 Just last week, the Governor announced
8 further plans to add recreational facilities and
9 nature centers under their purview -- purview.

10 We are heartened by the fact that the DEC has
11 committed to holding an academy this fiscal year,
12 and Parks has indicated plans to host an academy as
13 well.

14 Unfortunately, these efforts will only hold
15 steady at our current numbers due to the attrition
16 and retirements.

17 We urge the Legislature to do what it can do
18 to encourage larger annual academies until our ranks
19 are replenished to our -- to reasonable and
20 responsible levels.

21 When agencies make decisions to cut their
22 law-enforcement units at the same or greater rates
23 than their civilian units, it jeopardizes the men
24 and women in law enforcement.

25 The same holds true when examining in

1 transportation and equipment budgets across multiple
2 state agencies, a lack of significant resources in
3 law enforcement.

4 Transportation means vehicles for police
5 officers that are driving are increasingly
6 unreliable and dangerous.

7 And we have a few examples, and I will let
8 Drew talk about the forest-ranger example.

9 DREW CAVANAGH: Last fall we had a forest
10 ranger who was asked to assist with the Office of
11 Emergency Management's response during the
12 snowstorms in Western New York.

13 During the trip, his assigned patrol vehicle,
14 of which I believe was 11 years old, broke down.

15 He was assigned another vehicle. It also
16 broke down.

17 Finally, the Office of Emergency Management
18 who needed this officer, because he's a planned
19 section chief and was really needed on the incident,
20 they sent a vehicle to carpool out and pick him up
21 and bring him to the command post.

22 All this while the emergency is going on,
23 that's the effort that was needed to get an officer
24 to the scene.

25 BERNARD RIVERS: Okay, and then the example

1 we have for the environmental-conservation officers:

2 On December 10th of 2014, I was driving my
3 assigned vehicle, which had 145 miles on it.

4 While I was crossing the Mid-Hudson Bridge,
5 the front left tire -- wheel -- rim, tire, and
6 all -- separated from the vehicle, striking a school
7 bus, and then striking another vehicle.

8 And I was the cause of closing down the
9 bridge while we waited to get the car towed.

10 Fortunately, nobody was hurt in that
11 incident.

12 But those are just two small examples of the
13 issues we've been having with vehicles over the last
14 few years.

15 Over the past few years, the park-police
16 fleet has suffered from numerous vehicle breakdowns
17 also.

18 In a drastic turn of events, one of their
19 vehicles caught fire one summer day as officers were
20 responding to a large brawl at Jones Beach.

21 Again, we must acknowledge that DEC and Parks
22 have committed to purchasing new vehicles this year,
23 as they did last fiscal year; however, the funding
24 they're authorized to spend is inadequate, and still
25 leaves our vehicles in dire need of repair or

1 replacement.

2 The final topic we'd like to broach with you
3 today is the lack of adequate funding for the very
4 basic and necessary equipment we rely on each day
5 for our jobs.

6 The issue is particularly acute in DEC and
7 Parks.

8 When our last class of forest rangers and
9 environmental-conservation officers graduated from
10 the academy, they were given their dress uniforms to
11 look nice on stage, but it took more than a year for
12 these men and women to receive basics, such as
13 flashlights, winter coats, gloves, rain gear, rescue
14 ropes, and helmets, just to name some of that
15 equipment.

16 And I can attest firsthand to that, because
17 I was the officer in charge of our last academy.

18 And throughout the academy, yes, the funding
19 was there to get us through, but there was just
20 basic equipment that we just didn't have, and had to
21 substitute during training periods.

22 Our state park police are running out of
23 ammunition across the state, raised concerns that
24 they will not be able to qualify with their weapons
25 for duty.

1 The bottom line is, is that we are here to
2 serve the public and keep the public safe.

3 We simply cannot do that without adequate
4 stamping -- staffing, transportation, equipment.

5 Flat budgets are devastating in our ability
6 to protect you, your families, and the public lands
7 and natural resources.

8 We ask that you can ensure a better -- we ask
9 that you do what you can to ensure a better future
10 for our men and women in uniform.

11 Thank you.

12 SENATOR NOZZOLIO: Thank you both.

13 SENATOR GALLIVAN: Yeah, thank you for your
14 testimony.

15 Some information -- I mean, as you had
16 mentioned in your testimony, we were already aware
17 of some new information, but very -- we hear you
18 loud and clear about resources.

19 I don't think we it's necessary to have any
20 follow-up questions for that.

21 Only one question, and it has to do with, and
22 you didn't testify to it, but the Governor's
23 criminal justice proposals; specifically, the
24 independent monitor in the police-fatality cases;
25 police fatality, the person at the other hand not

1 having a weapon, do your thoughts on that?

2 If you're not able to say, understood.

3 If you would rather not say, I mean,

4 I understand that you work for the Executive.

5 If you're in a position to comment, fine.

6 If not just, say so, and that's all right.

7 DREW CAVANAGH: I don't feel we're in a

8 position to comment at this time.

9 SENATOR GALLIVAN: Understood.

10 Thank you.

11 Only question I had is, Mr. Cavanagh, you
12 indicated, that you spoke in your testimony, a lot
13 about those SUNY-campus police officers.

14 Are they in your unit?

15 DREW CAVANAGH: Yes, we represent them as
16 well.

17 SENATOR NOZZOLIO: The entire SUNY system?

18 DREW CAVANAGH: Yeah, all the university
19 police officers, yes.

20 SENATOR NOZZOLIO: But are any of the -- more
21 than anecdotal, are they reporting training
22 accommodation and abilities relative to sexual
23 assaults, that, in terms of their management and the
24 criminal justice issues, that all those issues
25 entail?

1 DREW CAVANAGH: Yeah, they're -- they're it.
2 They're on the campuses, they're central to it, yes.

3 SENATOR NOZZOLIO: And they are the police
4 officers on campus --

5 DREW CAVANAGH: They're the police officers
6 on college campuses, and they're central to that
7 program that's being set up.

8 SENATOR NOZZOLIO: Are they given special
9 training, to your knowledge, about the types of
10 crimes?

11 BERNARD RIVERS: If I can answer that, based
12 on, you know, talking to the SUNY police officers,
13 they're in the union with us, and sit on the board,
14 one of the biggest issues that SUNY faces is each
15 campus is its own hiring authority.

16 So even though they're New York State
17 University Police, they -- each campus works
18 independently.

19 So some campuses are further along with some
20 of that training, versus others.

21 You know, the testimony, we talk a lot about
22 the disparity with their retirement system, but one
23 of the things that would help them immensely, is if
24 they were a unified police unit across the state,
25 rather than individual -- basically, individual

1 jurisdictions within that campus.

2 SENATOR NOZZOLIO: That's an excellent point,
3 and we will follow up on that.

4 And thank you both for your participation
5 today.

6 DREW CAVANAGH: Thank you.

7 BERNARD RIVERS: Thank you.

8 SENATOR NOZZOLIO: Margaret Ryan,
9 Richard Wells, and David Zack.

10 Thank you for waiting, and thank you for
11 being here, and, we welcome your testimony and
12 input.

13 And just as you speak, for the record, just
14 please indicate who you are, and who you represent.

15 CHIEF DAVID ZACK: My name is David Zack.
16 I'm the Town of Cheektowaga, New York, Police Chief.

17 I'm also vice president of the New York State
18 Association of Chiefs of Police.

19 SENATOR NOZZOLIO: And let's have everyone do
20 the same, for the record.

21 RICHARD WELLS: Richard Wells, president of
22 the Police Conference of New York.

23 SENATOR NOZZOLIO: Good to see you again.

24 Thank you.

25 PETER PATTERSON: Pete Patterson. I'm the

1 vice president of Nassau County PBA. And, also,
2 legislative chairman for the State Association of
3 PBAs.

4 SENATOR NOZZOLIO: Thank you very much.
5 Mr. Zack.

6 CHIEF DAVID ZACK: On behalf of the state
7 chiefs, we'd like to thank you for the opportunity
8 to speak before your Committee.

9 Before we address criminal justice reforms
10 specifically, the state chiefs of police would like
11 the following statistics presented for the record:

12 Since the first recorded police death in
13 1791, there have been over 20,000 law-enforcement
14 officers killed in the line of duty.

15 Currently, there are 20,267 names engraved on
16 the walls of the National Law Enforcement Officers
17 Memorial.

18 In 2014, there were 126 law-enforcement
19 fatalities, an increase of 24 percent from 2013.

20 Firearms-related incidents were the
21 number-one cause of officer deaths in 2014, with 50.
22 This was a 56 percent increase over the 32 officers
23 shot and killed in 2013.

24 Ambush attacks resulted in 15 officer deaths,
25 the leading felonious cause of deaths among officers

1 in 2014, for the fifth straight year.

2 From 2004 through 2014, there were
3 573,456 assaults on police officers, with 80 percent
4 of the officers attacked by the perpetrators'
5 personal weapons; meaning hands, fists, or feet,
6 resulting in 29 percent being injured.

7 In that same period, 33 officers were killed
8 by perpetrators with their own service weapon after
9 it was taken from them.

10 An additional 35 officers had their weapons
11 stolen after they were killed with other firearms.

12 Attempting to place a person in custody can
13 be difficult, and 120 police officers over the last
14 10 years have died, and over 15,000 injured, while
15 attempting to effect an arrest or handle a prisoner.

16 The State Chiefs Association wish to commend
17 the more than 900,000 sworn law-enforcement officers
18 now serving in the United States with their selfless
19 dedication, tireless effort, and indisputable
20 courage.

21 We are in agreement that recent events have
22 raised concerns and shaken the public confidence of
23 both communities and law enforcement.

24 An address to the President's Task Force on
25 Twenty-First-Century Policing, City of Milwaukee

1 Police Chief Edward Flynn accurately stated the
2 following:

3 "We are the most violent and most heavily
4 armed Western society.

5 "Police uses of force are the most
6 publicly-scrutinized government action, and they
7 should be.

8 "Uses of force against human beings, no
9 matter how righteous and justified, are never easy
10 to watch, they are never pleasant, they are also not
11 entirely avoidable."

12 The question we are all asking is: How the
13 criminal justice system can better protect the
14 public while simultaneously improving the safety of
15 the law-enforcement officers?

16 The question is straightforward, but the
17 answer will take time, cooperation, and
18 collaboration.

19 We all desire the same things: a fair system
20 of justice, safe communities to reside in, and a
21 mutual respect between citizen and law enforcement.

22 Let's begin with fairness in the system.

23 For those of us in law enforcement, it seems
24 that there is an overwhelming amount of negative
25 attention focused on the police and how we discharge

1 our duties.

2 Feelings of perceived unfairness in the
3 system are often rooted in what some consider the
4 creation of unfair and overreaching laws, selective
5 or overly-aggressive prosecution, inadequate
6 representation, and disparate sentencing based on
7 race, social status, or economic advantage; yet,
8 time and again, the police become the central focus
9 of scorn.

10 Perhaps we are paranoid; or perhaps it is
11 because we are seeing police officers executed in
12 broad daylight on city streets after opinionated
13 news reports, inflammatory remarks, and YouTube!
14 videos that go viral.

15 Consider, as well, the grand jury process.

16 Debates have surfaced surrounding the process
17 and the release of information, but the picked face
18 of any perceived unfairness still remains that of
19 the police.

20 Even when it seems clear that unpopular grand
21 jury decisions were, indeed, rational and
22 fact-based, those who disagree with the final
23 decision often target police in their reactions.

24 The conflict between law, expectation, and
25 reality on police use-of-force cases in particular,

1 tends to lead to accusations of unfairness, and even
2 demands for monitors of the process.

3 The blame is often placed squarely on police
4 even after the process has determined that police
5 action did not violate any law.

6 Rather than focus on calls for monitoring,
7 the emphasis, instead, could be placed on resolving
8 the conflict between expectations of society and the
9 reality of action and law.

10 The police officer does not create law,
11 decide if enough evidence is present to proceed with
12 a trial, arrange a defense for the accused, or
13 decide punish.

14 We are only one spoke in a very large wheel,
15 yet the vitriol is almost exclusively directed
16 towards us.

17 As we discuss reform in American policing for
18 the twenty-first century, it is our hope that other
19 components of our criminal justice system demand and
20 consider their own reforms.

21 We ask this because we are the face of our
22 criminal justice system. We encounter the hostility
23 of the perceived unfairness. It is our lives at
24 risk when the system is deemed unfair.

25 This is not to imply that the police are

1 blameless, or not responsible to some degree for
2 feelings of injustice to some in our society,
3 particularly people of color.

4 Can we improve our delivery of service? The
5 answer is, unequivocally, yes.

6 In the words of the immortal Sir Robert Peel,
7 founder of the modern police force:

8 "We must remember and strive for the
9 principle that the police, at all times, should
10 maintain a relationship with the public that gives
11 reality to the historic tradition that the police
12 are the public and the public are the police; the
13 police being only members of the public who are paid
14 to give full-time attention to duties which are
15 incumbent on every citizen in the interests of
16 community welfare and existence.

17 "The test of police efficiency is the absence
18 of crime and disorder, not the visible evidence of
19 police action in dealing with it."

20 When a police officer's actions go beyond
21 perceived unfairness and are factually proven to be
22 a reality, we need to examine it and correct it,
23 department by department, officer by officer, until
24 the unfairness is eliminated.

25 Perennial critics, however, must avoid the

1 urge to paint an entire profession and those who
2 courageously and proudly serve with a broad-stroked
3 brush.

4 Safe communities are next.

5 Our democracy enables us all to pursue our
6 own version of the American dream within the scope
7 of the laws that govern us. That pursuit can be
8 severely interrupted, or even permanently
9 eliminated, if we live, work, and play in dangerous
10 communities.

11 Plato's version of the perfect society
12 envisioned guardians to protect the community.

13 In our American society, police officers are
14 those guardians.

15 Plato also concluded, "It does not matter if
16 the cobblers and the masons fail to do their jobs,
17 but if the guardians fail, the democracy will
18 crumble."

19 Our nation's police officers will not fail,
20 provided they are given the tools and resources to
21 succeed.

22 Members of our military train full-time to
23 ensure they are fit for their respective duties.
24 Part of that training is designed to overcome the
25 debilitating effects of acute stress.

1 During high-stress incidents, heart rate
2 increases, and cognitive, motor, and perception
3 abilities become, to varying degrees, compromised.

4 Police officers must make split-second
5 judgments, decide how to react, and then perform the
6 response perfectly, all while their abilities are
7 compromised.

8 The reality, is that police officers do not
9 receive even a fraction of the training they need to
10 perform at the level expected of them by many
11 people.

12 In 2014, nearly \$800 billion was spent on
13 defense, 23 percent of our federal budget.

14 Surely, if we feel our system of justice has
15 a portion of our citizenry questioning our
16 legitimacy, we can manage whatever funding is
17 necessary to address real or perceived inequities.

18 Any serious talk of reform must acknowledge
19 that the funding of better training for line staff,
20 mid-level, and senior management is imperative to
21 success.

22 Support is also needed.

23 We must remember police officers are human
24 beings, and as such, are fallible.

25 Things will go wrong, mistakes will be made,

1 especially when operating during high-stress
2 encounters.

3 As we discuss reform, it is vital that we
4 bring reasonable people to the table; not idealogues
5 or propogandists whose sole purpose is to draw
6 attention to themselves by exploiting the fears of
7 others and ignoring facts that may be inconvenient
8 to their preconceived narrative.

9 We know who these people are, and they need
10 to be marginalized during the discuss, not leading
11 it.

12 We need answers, not inflammatory rhetoric.

13 Reform will not succeed if the reformers are
14 themselves considered legitimate.

15 Finally, in order to maintain a civil
16 society, there must be respect; mutual respect
17 between citizens and law enforcement.

18 As chiefs of police, we know our officers are
19 more likely to respect and accept our authority if
20 our actions are perceived as legitimate.

21 Likewise, if our citizens perceive our
22 officers' actions as legitimate, it will be logical
23 to conclude that their level of cooperation would
24 increase.

25 That is why, today, police agencies are

1 working harder than ever to attract the best
2 possible persons to become law-enforcement officers.

3 We must recruit, hire, and train only those
4 who understand the nobility and responsibility that
5 comes with being a police officer.

6 I would just like to share one finding from
7 the President's Task Force on Twenty-First-Century
8 Policing.

9 As our nation becomes more pluralistic and
10 the scope of law-enforcement abilities expand, the
11 need for more and better training has become
12 critical.

13 Today's line officers and leaders must meet a
14 wide variety of challenges, including international
15 terrorism, evolving technologies, rising
16 immigration, changing laws, new cultural mores, and
17 a growing mental-health crisis.

18 All states, territories, and the District of
19 Columbia should establish standards for hiring,
20 training, and education.

21 But respect is a two-way street.

22 What is a police officer supposed to do when
23 confronted with an uncooperative citizen when
24 attempting to enforce the law?

25 Our laws, and the mores behind them, must be

1 reinforced by the words and actions of our elected
2 leaders.

3 Aside from what is perceived as fair versus
4 unfair, we must remember that our laws define us and
5 set forth our standards of acceptable and
6 unacceptable behavior.

7 Without clear and decisive messages being
8 sent, both directly and indirectly, there are many
9 who will feel empowered to challenge and disobey the
10 lawful requests of police officers.

11 The predictable consequence of this is that
12 violence will occur.

13 Any changes to the criminal justice system,
14 at any level and degree, will have limited effect
15 without a corresponding strong message stressing
16 personal responsibility.

17 Somehow, the public must be made to
18 appreciate the fact that, in customary and routine
19 encounters, such as the traffic stop, or questioning
20 a suspicious person, police officers get hurt, or
21 worse, killed.

22 Needless to say, our guard has become
23 increasingly and justifiably heightened.

24 We need to strengthen our laws to punish
25 those that refuse to respond to the lawful commands

1 of police officers.

2 Challenging an officer's authority on the
3 street is inappropriate and can lead to tragedy.

4 Such behavior must be condemned and not
5 defended.

6 The New York State Association of Chiefs of
7 Police wish to participate in constructive dialogue
8 to improve trust between law-enforcement agencies
9 and the communities we serve.

10 By so doing, we will be improving the safety
11 of those who have honored the call into such a noble
12 profession of police officer.

13 We welcome the opportunity to work with the
14 Legislature and the Division of Criminal Justice
15 Services on the many issues related to law
16 enforcement.

17 We would like to thank you for your time and
18 willingness to include our voice in these important
19 issues.

20 SENATOR NOZZOLIO: Thank you, Chief.

21 We're -- I assume that you're Margaret Ryan?

22 I hope your car is safe, and that you enjoyed
23 your traffic jam.

24 We need a few more police officers, I guess,
25 on the beat.

1 CHIEF DAVID ZACK: We tried to get her an
2 escort.

3 SENATOR NOZZOLIO: Mr. Wells.

4 RICHARD WELLS: Good afternoon.

5 During the budget hearings two weeks ago,
6 Pete and I testified on the grand jury reform.

7 Today we would like to concentrate on
8 police-safety issues.

9 Again, we've submitted written testimony,
10 which I will not read in the interest of saving some
11 time.

12 Just a few brief remarks, and then we'll take
13 whatever questions you gentlemen may have.

14 The first thing is on the vests.

15 There's been a lot of discussion today on
16 vests.

17 We will simply say that we advocate for
18 legislation that will mandate all vests being
19 replaced after a five-year time.

20 Five years is the warranty on most of these
21 vests, and we feel that that would be a fair way to
22 go about it.

23 The issue of body cameras:

24 Body cameras, while a useful tool, do not
25 tell the whole story of any encounter with a

1 citizen.

2 They don't always tell what the police
3 officer is experiencing, seeing, and dealing with,
4 in its entirety.

5 They need more study before we rush into
6 equipping every police officer and every police
7 department in this state with body cameras.

8 Another issue that's come to the forefront on
9 that topic recently, is the storage costs that
10 police departments are incurring with these things.

11 In some departments, it's running into the
12 hundreds of thousands of dollars per year to store
13 the video images.

14 And, smaller departments really do not have,
15 and larger departments also, but especially the
16 small ones, just do not have the budgets to take
17 care of this type of thing.

18 Some departments have been reporting that
19 they're telling their officers, "only turn them on
20 when it's absolutely necessary," to save on the cost
21 of storage.

22 Now, that's going to cause a problem, because
23 now we're going to be accused of white-washes and
24 cover-ups, because why didn't the camera get on
25 here? You're only turning it on when you see what

1 you want it to see.

2 So there's a lot more that should be done on
3 body cameras before we go pal-mal [ph.] into
4 equipping everybody with them.

5 On issues, such as training, hiring
6 standards, criminal history, on applicants, agility,
7 and age requirements should all be revisited, as to
8 make sure they're in line with what police officers
9 must encounter in the street every day, and be
10 properly equipped to handle these types of
11 situations.

12 We strongly advocate for increasing penalties
13 for resisting arrest.

14 Senator Golden has sponsored a bill to make
15 it a felony. We support that 1,000 percent.

16 The public must be made aware that resisting
17 arrest is a serious crime.

18 We also would strongly encourage the
19 district attorneys not to plea-bargain these cases
20 down when they're brought before them, or, even in
21 worse cases, they're entirely dismissed, leading the
22 public to think that it's not a serious crime to
23 resist arrest. It encourages more people to resist
24 arrest, and we have more violent encounters that are
25 totally unnecessary if people just learned to obey.

1 Police officers are not going to, and cannot,
2 lose these arguments in the street, and they can't
3 debate these issues forever.

4 When a police officer determines that an
5 arrest is justified, it is incumbent upon the person
6 being arrested to comply.

7 Okay, Pete, you want to take the rest it?

8 PETER PATTERSON: Yeah, I just got one.

9 Obviously, we testified --

10 SENATOR NOZZOLIO: Before you go, could
11 I just -- Richard, did you skip over hiring
12 standards?

13 Because I know Senator Gallivan was hoping
14 that you would support raising the age of police
15 officers, since he himself [unintelligible] is a
16 police officer currently --

17 [Laughter.]

18 RICHARD WELLS: You know, that was quite
19 intentional, yes.

20 [Laughter.]

21 PETER PATTERSON: We weren't going to go that
22 [unintelligible].

23 [Laughter.]

24 SENATOR NOZZOLIO: Thank you.

25 PETER PATTERSON: [Microphone not working.]

1 You have our written testimony also from the
2 State Association of PBAs. Mike Paladino testified
3 [unintelligible] down in Manhattan before this
4 Committee.

5 I'd like to just briefly touch back on the
6 use-of-force policy that I testified in front of you
7 before.

8 It was discussed earlier that the use of
9 policy introduced in the state legislation --
10 proposed state legislation is, basically, going to
11 be a policy that the Governor's staff -- not the
12 staff, but the police are going to set a statewide
13 policy that we can adopt or not adopt.

14 My commissioner testified earlier, from
15 Nassau County, that we have, you know, a very
16 vigorous use-of-force policy that our officers are
17 trained in.

18 Our concern is not a use-of-force policy.

19 Both our associations support a use-of-force
20 policy.

21 We want our men and women to know what they
22 have to do, especially when they're faced in
23 deadly-physical-force confrontations.

24 Our issue was, in the legislation, it
25 addressed that they may or may not prohibit or

1 address techniques when using the use of force,
2 particularly in deadly physical force.

3 I gave the example last time, and you both
4 were there, but -- and, Senator Gallivan, you were a
5 police officer.

6 You remember when the proverbial (head nod)
7 hits the fan, you know what happens within seconds,
8 and, usually, you're trying to save your life.

9 You're effecting arrest, but, in reality,
10 you're trying to save your life, and you don't need
11 to second-guess on, Can I use this technique? Can
12 I use that technique?

13 Article 35 is very broad for that reason.

14 They want police officers to go home.

15 They want them to -- they have to -- we have
16 to justify what we did, and that's rightfully so.

17 We have to justify every action we take under
18 Article 35, but we also got to go home.

19 No different than a civilian walks into the
20 house and one of their loved one's getting killed,
21 as an example. They shouldn't have to sit back and
22 think, Should this technique be prohibited or not?

23 It should be reasonable, and very
24 necessary -- necessary, but it should be very
25 reasonable.

1 But that's where the issue of our
2 associations were with the use-of-force policy.

3 It's not the concept of having a use-of-force
4 policy, which we support.

5 And like I said, my commissioner -- we --
6 I've -- my commissioner would be glad to provide, we
7 have a very comprehensive one with our department,
8 and we would be glad to put it before the Committee.

9 And the last thing I -- actually, at the risk
10 of time, I'll just go over the one other thing here.

11 The CCRB, I know, Senator Marcellino, I can
12 speak to him later, but he brought up a question
13 about this statewide CCRB.

14 I just want this Committee to take this -- if
15 you think about this while you're, you know, having
16 the discussions about this, and I'm not saying you
17 guys are advocates of it, but it has come up:

18 Our associations have put forth legislation,
19 and both House have passed it, over the last seven
20 or eight years, that, basically, give us the right
21 to have an outside arbitrator, just like certain
22 discipline procedures.

23 Not look -- we're not looking to take away
24 from the commission, but we're looking for fairness
25 like other public employees.

1 Now the media is all over this, saying that
2 we should not have that right. We as police
3 officers should be disciplined.

4 And our counterparts over there, they might
5 not feel the same way, which I respect, but, we
6 should be disciplined, and the commissioner or chief
7 should be accountable for his men, because we're
8 paramilitary.

9 The media loves that concept, and they don't
10 want us to go to independent arbitrator.

11 However, when it comes to CCRB, they want
12 civilians to come in and make comment about police
13 discipline.

14 It's like the old thing, you can't have your
15 cake and eat it too.

16 If you want a CCRB, maybe we'll discuss that,
17 along with the independent arbitrator, which I don't
18 thing that's going to happen.

19 But -- that thing.

20 And the last thing I want to do, I don't know
21 if this is an appropriate venue, and by all means,
22 stop me if you don't think it is:

23 My association, we represent four out of the
24 five NYPD groups: the sergeants, lieutenants,
25 captains, detectives.

1 I've seen a budget, that the Senate is
2 actually addressing the issue of the three-quarters
3 disability for them.

4 I -- on behalf of my membership, we thank
5 you.

6 And we also -- myself and Richie Wells, we
7 were there when Tier 2 was vetoed by
8 then-Governor Patterson. We were there during the
9 negotiations.

10 The disability was a by-product of what
11 happened.

12 It was never in the intention of the governor
13 or the Legislature to take away disability from
14 cops. That was an unintended result.

15 And, I can prove that, by, when we went into
16 Tier 5 negotiations with the governor's staff, we
17 were able to come to somewhat of an agreement. The
18 disability was put in, without question.

19 Because, to give the benefit to the
20 Legislature and the governor at the time, that's not
21 what they were looking to do.

22 This was an unintended result.

23 And, now, our counterparts in the city are
24 left with this by-product for the last five,
25 six years.

1 It should have been addressed a while ago.

2 And I thank you, on behalf of our
3 associations, that you're addressing this important
4 issue.

5 SENATOR NOZZOLIO: Thank you for raising it.

6 I can assure you Senator Golden has educated
7 every member in the conference, as you have.

8 And I fought hard for three-quarter
9 disability for our correction officers a number of
10 years ago.

11 And, certainly, parity within all
12 law-enforcement makes all the sense in the world,
13 and, hopefully, this issue will be resolved in the
14 near future.

15 Ms. Ryan, did you have a comment you'd like
16 to make?

17 MARGARET RYAN: [Microphone not working.]

18 I apologize for being a little bit late.

19 I, as you know, sit with you on the justice
20 task force in New York City, where I just came from.

21 And, knowing my time frame was going to be
22 close, I deferred to Chief Zack to make sure that
23 our association was able to present in front of you
24 today.

25 So, I'll, in the interest of time, again,

1 wait. And if you have more questions, I'll be happy
2 to answer them.

3 SENATOR NOZZOLIO: Well, thank you very much.

4 And, yes, we have some questions.

5 Senator Gallivan.

6 SENATOR GALLIVAN: Thanks, Chairman.

7 I appreciate everybody being here, your
8 testimony, and your patience, being late in our
9 program.

10 I wanted to ask each of you, and it can be
11 individually or just speaking on behalf of the
12 groups that you're representing, about some of the
13 Governor's -- your positions on some of the
14 Governor's criminal justice policies.

15 The first are proposed changes in the
16 criminal justice policies, the first one having to
17 do with an independent monitor -- the proposed
18 independent monitor.

19 In the cases of police-involved fatalities,
20 where the civilian does not survive, as opposed to a
21 police fatality, do you have thoughts on that?

22 RICHARD WELLS: Well, as Pete and I testified
23 at the budget hearing, we oppose the independent
24 monitor, number one, because it strictly, in the
25 case of police officers using deadly physical force,

1 is the only time it gets implemented.

2 That is treating police officers like
3 second-class citizens --

4 SENATOR NOZZOLIO: Richard, would you please
5 just kind of pull that closer?

6 RICHARD WELLS: Yes.

7 That's treating police officers like
8 second-class citizens. It's blatantly unfair and
9 unjustified.

10 Again, there will be no second-guessing or
11 monitor looking at it.

12 If a police officer is killed, if deadly
13 physical force is used against a police officer, no
14 monitor is triggered.

15 It's strictly when the police officer, doing
16 their job, has to make that terrible decision to use
17 deadly physical force.

18 And just the mere fact that we're the only
19 ones that are going to fit under that scrutiny, it's
20 just highly offensive and completely wrong.

21 SENATOR GALLIVAN: Chief?

22 CHIEF DAVID ZACK: Our association opposes
23 the monitor as well.

24 Obviously, if the Governor feels that there
25 is a problem with a case, he has the ability already

1 to appoint a special prosecutor.

2 It seems like an unnecessary layer.

3 Also, you know, we are concerned that public
4 opinion, media reports, would influence whoever this
5 monitor may be.

6 If the Governor feels that something's wrong,
7 he has the ability to appoint a special prosecutor,
8 and should.

9 The monitor seems unnecessary.

10 SENATOR GALLIVAN: Okay, thanks.

11 Earlier, the Governor's representatives spoke
12 about -- we asked them about the statewide use of
13 force, but, they testified that it was their thought
14 that not all police departments in the state had a
15 specific use-of-force policy.

16 Do you have any knowledge about that?

17 I mean, certainly, everybody is bound by the
18 CPL, Article 35, but, as specific beyond that, is
19 there any agencies, that you're aware of, that do
20 not have a use-of-force policy?

21 RICHARD WELLS: None that I'm am aware of.

22 And I believe it's -- I think you brought it
23 up earlier, Senator Nozzolio, that there are
24 model -- no, maybe it was you, Senator Gallivan,
25 brought up model policies, that the smaller ones

1 have adopted, that don't have the time or the
2 expertise to develop their own.

3 But I know of none that don't have a
4 use-of-force policy.

5 SENATOR GALLIVAN: In general terms, and
6 I know it was part of PCNY's testimony, so, chiefs,
7 regarding the state adopting a policy, and then, in
8 this case, a use-of-force policy, and then mandating
9 that all departments follow. Of course, you can go
10 beyond that, but your minimum standard would be what
11 they follow.

12 Do you have any thoughts on that; whether
13 it's the State adopting and insisting on everybody
14 following a policy, as opposed to following the law,
15 whether it's the use of force, or anything that's
16 involved in policing and the running of a
17 department?

18 CHIEF DAVID ZACK: I mean, again, I guess we
19 would -- it would almost be, you'd have to see what
20 the policy was.

21 Certainly, we would want to be at the table
22 when that policy is being formulated.

23 If that were the case, there would probably
24 be less resistance to it.

25 We really haven't formulated a position on

1 that at this time.

2 SENATOR GALLIVAN: Two --

3 PETER PATTERSON: Excuse me --

4 SENATOR GALLIVAN: Oh, go ahead.

5 PETER PATTERSON: [Microphone not working.]

6 -- Senator, I don't mean to interrupt, but
7 that was one of the biggest issues we had with it:
8 we wouldn't be there.

9 Basically, if we supported this law and the
10 law was enacted, we're basically adopting a blind
11 policy. We don't even know what the policy's going
12 to be once the law's enacted.

13 I mean, I'm not suggesting that the policy
14 should be enacted within a statute, but, if this was
15 done, basically, that the law would to be enacted,
16 they would submit to a policy, and we would have to
17 adhere to it.

18 We could go stricter, but we would have to
19 adhere to it.

20 And, like, our chiefs, our commissioners,
21 like my commissioner, he represents 3,000 employees,
22 he wouldn't have a say in it? And our policy might
23 be even better, but we'd have to adopt the State
24 one.

25 SENATOR GALLIVAN: Okay, understood.

1 Thank you.

2 Two other areas:

3 The additional reporting to DCJS of the
4 so-called "pedigree policy," race, ethnicity, things
5 of that nature, of course, now that's done on
6 misdemeanors and felonies on the arrest report.

7 But what about the Governor's proposal to
8 extend that to pretty much everything; everything,
9 where you're encountering somebody, or taking
10 somebody into custody, issuing them a summons?

11 Is it a good proposal? bad proposal? present
12 problems for agencies? is the data useful?

13 CHIEF DAVID ZACK: Where I would see a big
14 problem coming in, is, you know, an officer
15 performing, you know, just a routine traffic stop
16 and having to issue a summons, where he's now got to
17 start asking people their race, their sex, perhaps.

18 Anything that could potentially make that
19 traffic stop more contentious is a concern.

20 And, until you're out on the road and you're
21 making these stops and asking these questions, they
22 could be considered by some to be very, very
23 inflammatory, and create a situation where that
24 becomes a volatile encounter.

25 So that would be problematic, I can see, for

1 the line officer on the street.

2 It's a great thing for us to discuss, but,
3 for that officer who's issuing that summons, it's a
4 very, very uncomfortable position to be in.

5 SENATOR GALLIVAN: All right, thanks.

6 RICHARD WELLS: And if the officer then
7 doesn't ask, and guesses, which is also part of the
8 statute, that they can make an estimate, now we're
9 not going to have accurate information. It's going
10 to be somebody's opinion of what somebody's race or
11 ethnicity was.

12 So you have inaccurate info, and it's not
13 going to help the situation.

14 SENATOR GALLIVAN: Okay, thanks.

15 PETER PATTERSON: [Microphone not working.]

16 And the ironic thing with that is, if we
17 weren't discussing it here now, and it wasn't a
18 proposed law, if, like a year ago, if I did that,
19 I'd have a complaint --

20 [Laughter.]

21 PETER PATTERSON: -- and it would be
22 investigated, and I'd probably get burnt over it.

23 SENATOR GALLIVAN: I think that's a point
24 very well-taken.

25 And, finally, we saw a lot of this discussion

1 started by things that happened in other place in
2 the country, and then, of course, a case in
3 New York City, and we saw some very irresponsible
4 outcry.

5 On the other hand, when we talk about
6 police-citizen interaction, police-community
7 relations, as you all know, I live out in
8 Western New York. I thought the community activists
9 out in Erie County were much more responsible. And
10 I thought the police community was extremely
11 responsible, and I think they took some productive
12 steps to enhance that -- the police-community
13 relations.

14 And, Chief, I know you were a part of it, and
15 I commend you for that, and thank you for it, but
16 could you just comment on some of that reaction, and
17 some of the successes that have come about as a
18 result of people talking responsibly and trying to
19 move the ball forward together?

20 I mean, as, perhaps, something that we could
21 be advocating for in other parts of the state.

22 CHIEF DAVID ZACK: As you know, I mean,
23 our -- in Western New York, we haven't been immune
24 from diversity-related issues and friction between
25 police and private citizens.

1 We've had that, certainly, in Cheektowaga.
2 We've had that -- we've been able to overcome a lot
3 of those issues through good dialogue.

4 But really what the difference is in
5 Western New York, is, quite frankly, and I said this
6 during a recent television interview, our elected
7 leaders are not flame-throwers.

8 When there is an issue that comes up, there
9 is productive dialogue immediately.

10 The relationships are there, there's a level
11 of respect there.

12 There doesn't seem to be the people who want
13 to be out front, leading the charge before all the
14 facts are known.

15 So, in our community, at this particular
16 snapshot in time, we've got people in high places
17 who are very, very responsible and productive in
18 keeping the narrative or the discussion on track.

19 So that's been very, very successful.

20 But, again, it's been, over time, and in
21 years and years of community outreach work, that
22 we're now seeing the benefits of that.

23 So when you do have something like what
24 happened in Ferguson and in New York City, you know,
25 there's a lot of communication there.

1 But a lot of this goes to training as well.

2 When you talk about dealing with
3 crowd-control issues, for example, and I've heard
4 that discussed, you know, especially over on the
5 Assembly side, police officers, police agencies, get
6 little or no training in issues like crowd control.

7 There's no senior-level-management training
8 in New York State.

9 I personally will be attending in June the
10 Senior Management Institute for Police. I have to
11 go to Boston College for that. The tuition's
12 \$10,000 to get training on how to lead my agency
13 properly.

14 Where is that institute in New York State?

15 We're certainly big enough, we certainly have
16 enough police officers, police agencies, and we
17 certainly have the issues, but there is no
18 senior-management training on how to run these
19 organizations, and what is successful, what programs
20 have worked, what programs haven't.

21 And the fact New York State has nothing like
22 that, that I have to go travel to Massachusetts for
23 that training, or I have to go to Quantico, to the
24 FBI academy, to learn how to lead my organization,
25 where is that institute in New York State for higher

1 education, higher training, to teach police
2 executives, mid- and senior-level management, how to
3 run these departments?

4 It doesn't exist.

5 SENATOR GALLIVAN: The very last question is
6 a follow-up.

7 Point well-taken about the training.

8 But as a follow-up to the police-community
9 relations built up over the years, is it your
10 thought that our criminal justice system needs to
11 change? Or were your successes within the existing
12 criminal justice system?

13 CHIEF DAVID ZACK: I think what -- you know,
14 there's a saying that I really like in policing, and
15 it's that, "agency culture eats policy for lunch."

16 So we can come up with rules, we can come up
17 with model policies.

18 A lot of the problems that we see in policing
19 today in twenty-first-century policing are
20 agency-specific. It's certain agencies that need
21 reform, not necessarily the system.

22 And, there seems to be a knee-jerk reaction,
23 when these things like Ferguson and New York City,
24 that everyone feels the entire system must change,
25 when, in fact, perhaps, in many instances, it's just

1 agency culture.

2 And, again, that goes back to leadership
3 training on how to run these organizations.

4 When you have the people in place who
5 understand the principles, who understand what
6 important culture of your agency is, you're going to
7 have better police departments, they're going to be
8 better run, and they're going to be more legitimate
9 in the eyes of the community.

10 And we don't have that type of training in
11 New York State.

12 SENATOR GALLIVAN: Thank you, all.

13 SENATOR NOZZOLIO: And I'm -- before we
14 leave, I want to thank our police officers and their
15 associations for the input.

16 Richard, your comments certainly will be --
17 all your comments, but, your suggestions relative to
18 equipment and policing, we're certainly going to be
19 looking favorably to include that in the record of
20 our Committee report.

21 I want to probe on the issues of this
22 monitor, because that's right in front of us right
23 now.

24 Have all -- from the chiefs, to the
25 officers -- line officers, have you done formal

1 resolutions in opposition to the Governor's
2 proposal?

3 RICHARD WELLS: Yes.

4 MARGARET RYAN: [Microphone not working.]

5 [Inaudible] I've been here a week so far in
6 my new position, so, that is being formulated, and
7 it will be forwarded to you, Senator.

8 SENATOR NOZZOLIO: There is a -- well,
9 earlier today you may have heard the Governor's
10 counsel, who has to come to the hearing, and he
11 promoted the issue of the monitor, discussed it.

12 I assumed it hasn't changed any of your
13 minds.

14 But the fact is, it's very timely, and that
15 it's in front of us now.

16 So, any input that you have additionally
17 would be -- I recommend it become sooner than later.

18 In terms of the monitor itself, we heard from
19 our district attorneys who have said that there's
20 serious jeopardy and concerns with grand jury
21 testimony being admitted, about the -- I think,
22 frankly, the neutrality of the so-called
23 "independent monitor."

24 But all said and done, in my conversations
25 with those police officers who are on the line, who

1 are out there each and every day on the beat, what
2 they're mostly concerned about, something like this,
3 is there's just an unlimited amount of time that
4 this process holds over somebody's head.

5 It -- did you see anything in the proposal
6 that has a limitation on time, or giving finality to
7 the process, of a police officer engagement in some,
8 as you indicated, Chief, making difficult decisions
9 under very stressful conditions?

10 Would -- I did not see a timeline.

11 Did you?

12 RICHARD WELLS: No, there is none.

13 CHIEF DAVID ZACK: No.

14 SENATOR NOZZOLIO: Would that -- if there was
15 a timeline established, would that make this anymore
16 palatable?

17 RICHARD WELLS: No.

18 CHIEF DAVID ZACK: No, I don't believe so.

19 SENATOR NOZZOLIO: Well, I appreciate your
20 candor, and your direct response.

21 More importantly, I appreciate the work you
22 do, and thank those who you represent.

23 And your input is greatly appreciated.

24 Thank you.

25 CHIEF DAVID ZACK: Thank you.

1 SENATOR NOZZOLIO: Our last panel, our
2 final panel: Dr. Robert Worden, and
3 Dr. Sarah McLean.

4 Good afternoon.

5 Welcome.

6 Thank you for your patience, and --

7 DR. ROBERT WORDEN: Thank you for having us.

8 SENATOR NOZZOLIO: -- and we appreciate your
9 input.

10 The only thing we ask, is you summarize your
11 comments, so that we can get into a dialogue.

12 DR. ROBERT WORDEN: All right.

13 Thank you, Mr. Chairman, and Senators.

14 We tried to -- in preparing our testimony, we
15 tried to, as academics, be uncharacteristically
16 concise.

17 SENATOR NOZZOLIO: Would you pull that
18 microphone to you, Dr. Worden, as close as you can.

19 Thank you.

20 DR. ROBERT WORDEN: Sure.

21 Oh, yeah, that's different, isn't it?

22 And we also tried to anticipate what other
23 presenters might share with you, and to, as little
24 as possible, duplicate that kind of testimony that
25 you would hear.

1 So we probably omitted some topics that are
2 very important --

3 SENATOR NOZZOLIO: For the record, excuse
4 me --

5 DR. ROBERT WORDEN: Oh, I'm sorry.

6 SENATOR NOZZOLIO: -- would you indicate who
7 you are, and what is the Finn Institute for Public
8 Safety?

9 DR. ROBERT WORDEN: Sure.

10 I'm Robert Worden. I'm the director of the
11 John Finn Institute. And I'm also an associate
12 professor of criminal justice at the University at
13 Albany.

14 SENATOR NOZZOLIO: And the Finn Institute is,
15 what?

16 DR. ROBERT WORDEN: The Finn Institute is an
17 independent not-for-profit research organization.

18 We focus on research on crime and justice.

19 We work mostly collaboratively with criminal
20 justice agencies, to apply social science, evidence,
21 and methods to the development of programs and
22 practices that are effective and fair.

23 DR. SARAH J. MCLEAN: I'm Sarah McLean, the
24 associate director of the Finn Institute.

25 DR. ROBERT WORDEN: Okay, so, as social

1 scientists, we've based our remarks today mainly on
2 our understanding of the findings of scientific
3 research.

4 The research, we would note, is informative
5 but not conclusive, and so our remarks reflect both
6 our interpretations of the findings and our
7 judgments about their implications for police safety
8 and public protection.

9 You may already be familiar with the concepts
10 of police legitimacy and procedural justice.
11 I suspect you've heard some about that already.

12 We would note that, "legitimacy," as we use
13 that term here, is a subjective judgment about the
14 propriety with which an authority, such as the
15 police, is organized and operates.

16 A legitimate authority is one in whose
17 decisions the public places its trust and
18 confidence, and it is one whose directives the
19 public is inclined to obey.

20 And for police, legitimacy turns on what has
21 been called "rightful policing," which encompasses,
22 among other things, procedural justice.

23 And procedural justice refers, not to
24 whether, but how authority is exercised.

25 An authority that acts with procedural

1 justice treats people with dignity and respect,
2 exhibits neutrality and fairness by explaining the
3 basis for its decisions, demonstrates
4 trustworthiness through expressions of concern about
5 individuals' needs and well-being, and affords the
6 people an opportunity to participate in
7 decision-making by telling their side of the story.

8 Procedural justice is not unique to police
9 work, although that's the context in which it has
10 been most often invoked in the last several months.
11 It is a criterion that people use to evaluate their
12 experiences with any authority, such as a boss at
13 work or a judge in a courtroom.

14 Now, legitimacy is important and relevant to
15 your deliberations about police safety, insofar as
16 it is associated with citizens' compliance.

17 Some research indicates that people who have
18 greater trust and confidence in the police are,
19 other things being equal, less likely to violate the
20 law.

21 But more importantly, perhaps, for you; all,
22 research indicates, also, that people who perceive
23 the police as legitimate, and who are treated, as
24 they see it, with greater procedural justice, are
25 less likely to resist the application of police

1 authority; and, thus, to threaten the safety of
2 officers, as well as themselves.

3 Now, in general, we would like to emphasize
4 that the police enjoy fairly high levels of public
5 trust compared with other social institutions.

6 In recent polls, only the military and small
7 business enjoy higher levels of trust than the
8 police.

9 But trust and confidence, or legitimacy,
10 exhibits a persistent and substantial disparity
11 across social groups, and is much lower in minority
12 communities.

13 Now, little is known about how police can
14 enhance legitimacy, and we can point to no
15 evidence-based practices; and, moreover, much of
16 what might be done to enhance police legitimacy, and
17 thereby improve officer and citizen safety, would be
18 done by local officials at the local level, begging
19 the question about what the State can do to support
20 such efforts?

21 We offer for your consideration three
22 initiatives that the State could take to enhance
23 police legitimacy and to promote police safety.

24 One I'm sure you've heard about and are
25 familiar with: Community policing.

1 Community policing, when implemented
2 properly, is an organizational strategy, is an
3 innovation of strategic proportions that has
4 implications for the mission and structure of police
5 organizations.

6 It is not a programmatic add-on in police
7 agencies.

8 It entails police performing new tasks, or
9 old tasks in new ways; and that requires changes at
10 many levels in the organization.

11 Community policing enhances police
12 legitimacy, both instrumentally and symbolically, in
13 connecting with communities and focusing greater
14 police attention on communities' priorities, and
15 then addressing communities' problems using diverse
16 means.

17 Decisions about the adoption and
18 implementation of community policing are local
19 choices.

20 But just as the federal government has
21 encouraged and supported the adoption of community
22 policing through hiring and other grants to states
23 and localities, New York State could encourage and
24 support the implementation of community policing
25 through grants to localities, and also through

1 technical assistance, to ensure that
2 community-policing initiatives are properly
3 conceived and implemented.

4 We would add, though, although we did not
5 include it in our written statement to you, that
6 sustaining community policing can be particularly
7 challenging in the context of efforts to promote
8 management accountability.

9 Many of the important outcomes of community
10 policing are not captured very well, or at all, in
11 police record-management systems, and attention to
12 the kind of police work that generates these
13 outcomes can wane when performance measures do not
14 extend to these outcomes.

15 Second, New York State could promote and
16 facilitate the adoption of police auditors, which
17 represent a fairly new form of citizen oversight.

18 Like other forms of citizen oversight,
19 especially civilian review boards, police auditors
20 could be expected to enhance police legitimacy
21 through the greater perceived neutrality and
22 transparency for which they provide.

23 Police auditors conduct inquiries into
24 broader patterns of police operations and
25 performance, review policies and procedures, produce

1 publicly-disseminated reports of their findings, and
2 engage in community outreach.

3 Auditors make recommendations for changes in
4 policy and practice, and they follow up to determine
5 the extent to which adopted recommendations are
6 implemented and sustained.

7 And several cities currently police auditors,
8 such as San Jose, Denver, and Seattle.

9 Cities across New York State can now choose
10 to establish police auditors with similar authority,
11 but so far as we know, none other than New York City
12 has such an authority.

13 New York State could encourage the voluntary
14 establishment of auditor-like mechanisms, through
15 grants to police departments that come with a string
16 of an auditor attached, which might make it
17 sufficiently attractive to induce departments to
18 voluntarily submit to such external oversight.

19 Auditor's purpose would not be to defect
20 individual cases of policy violations; but, rather
21 to assess broader patterns of police performance and
22 offer independent recommendations for improvement.

23 They're based on the premise that misconduct
24 is not a simple function of bad people making bad
25 choices; but, rather, a product of organizational

1 systems that leave room for improvement.

2 They would be independent of the police
3 departments; and, thus, credible to the public, and
4 the existence and operation of such auditors would
5 help to build trust and confidence in the
6 departments that submit to such scrutiny.

7 Third, and, finally, training.

8 You've already heard some about training,
9 especially, but not only, training in verbal
10 deescalation.

11 Fair and impartial policing, and procedurally
12 just policing, might offer the opportunity to
13 enhance officer safety and improve the quality of
14 policing.

15 While it is only our impression, it appears
16 to us that local resources for in-service training
17 are not adequate, as agencies are reluctant to incur
18 the opportunity costs of training which often take
19 the form of overtime necessary to backfill trainees'
20 position for the duration of their training.

21 The State could help with funds earmarked for
22 safety-related training.

23 Now, we take as a premise that training is
24 important for effective policing; yet, fairly little
25 rigorous research has assessed the impacts of

1 different training curricula and modalities on
2 officer performance and safety.

3 We do not have scientifically-credible
4 evidence about what kinds of training are effective
5 in achieving various outcomes.

6 And in our judgment, the state and federal
7 government could better support the development of
8 an appropriate evidenced-base on police training.

9 And insofar as state and federal governments
10 to fray the costs of training, the public and its
11 representatives deserve better information on the
12 benefits of training.

13 We believe that the rapid expansion of
14 technology, such as in-car and body-worn cameras in
15 police agencies, although, we would emphasize are
16 not a panacea, but they provide a proficuous
17 opportunity to examine the impact of training on
18 officers' performance; and, thereby, accumulate an
19 evidenced-base for best practices.

20 And, finally, in closing, though we welcome
21 your questions, we would acknowledge that enhancing
22 police legitimacy, and through that, the safety of
23 police officers, is a very tall order, particularly
24 in the minority neighborhoods that currently have
25 the lowest levels of trust and confidence in the

1 police.

2 The procedural justice that citizens
3 experience in their encounters with the police is
4 shaped not only by how officers behave, but also by
5 how citizens perceive and interpret officers'
6 actions.

7 And citizens' preexisting attitudes toward
8 police, we know from research, have a strong
9 influence on their perceptions, both for the better
10 and for the worse.

11 And against the historical backdrop of racial
12 discrimination in the U.S., and the contemporary
13 backdrop of disparities of many kind, not only in
14 criminal justice, but in private hiring and
15 employment, and educational outcomes, and
16 health-care delivery, to name a few, an inference of
17 procedural injustice is easy to draw.

18 And scientists disagree, as they will, about
19 the sources of the disparities and the quality of
20 the evidence on which those inferences rest.

21 The people on the wrong end of those
22 disparities do not look to science for explanations.

23 In the context of individual police-citizen
24 interactions, it appears that most of what the
25 police can do is avoid making matters worse through

1 acts of a procedural injustice, such as discourtesy
2 or a refusal to listen, that detract from police
3 legitimacy.

4 We probably cannot achieve dramatic gains in
5 the face of these powerful, historical, and social
6 forces.

7 And so, in that, we echo Chief Zacks'
8 observations about our expectations for what police
9 can achieve in making improvements in these regards,
10 but we must try to do so.

11 Thank you, and we'd be happy to address any
12 questions you might have about these remarks or any
13 other topic on your mind.

14 SENATOR GALLIVAN: Thank you, Doctors, both,
15 for your testimony.

16 My first question is an odd one.

17 You were at the school of criminal justice in
18 the early '90s?

19 DR. ROBERT WORDEN: Yes, I guess I was.

20 SENATOR GALLIVAN: I think I was there at the
21 same time, when we were both a little bit younger.

22 But, nonetheless, thank you for your
23 testimony.

24 And your testimony, as I turned each page,
25 answered some of the questions that came to mind, so

1 I want to move off your testimony.

2 Have you -- are you aware of, or have you
3 done any research, regarding the broken-windows
4 theory?

5 And if so, are you able to comment on it,
6 please, and your thoughts about it?

7 DR. ROBERT WORDEN: I would not characterize
8 any of the research that either one of us has done
9 as on broken-windows, but, I'd say -- I think it's
10 fair say, we're familiar with the literature on
11 broken-windows policing.

12 I would say to you, and for the record, as
13 I did to my class a couple of weeks ago, that
14 broken-windows is a style of policing that is often,
15 and, unfortunately, confused and conflated with
16 zero-tolerance policing.

17 Broken-windows, as I understand that
18 approach, directs police attention to the very kinds
19 of problems that really motivate community policing
20 more generally.

21 The minor crimes, we call them "disorders,"
22 or "incivilities," but the kinds of matters that,
23 for decades, police found easy to ignore, and really
24 didn't appreciate how important they were to the
25 communities that they served.

1 Through the '70s and '80s, research
2 contributed to our deeper understanding of how
3 closely connected fear of crime and quality of life
4 in urban neighborhoods is connected to those
5 seemingly minor matters, but they're conditions with
6 which people live day in and day out, and they seem
7 to have a much more dramatic impact on their quality
8 of life than criminal incidents do.

9 And, so, policing that attends to those is
10 important; it's important in meeting the priorities
11 of the communities that they serve.

12 And as I understand it, broken-windows, when
13 it's properly practiced, does exactly that, and it
14 does not do it only by invoking the law.

15 Police intervene into those incidents of
16 minor offenses, or not offenses but are troublesome
17 to communities, and they might exercise a wide range
18 of discretion in fashioning responses to those
19 problems, and do not rely only on invoking the law,
20 then making arrests or issuing citations.

21 And that I think can be, and the research is
22 not a very strong evidenced-base, but there's
23 certainly evidence that supports the proposition
24 that broken-windows policing can have very
25 beneficial effects.

1 I think, at the same time, broken-windows
2 practice and zero tolerance can be very destructive
3 to police-community relations, and I think it's
4 important to keep broken-windows and zero tolerance
5 separate in our minds.

6 SENATOR GALLIVAN: I think that's an
7 excellent point.

8 So if -- would it be fair to say, and you
9 brought the other word together, "community
10 policing," very early in your answer to that, that
11 if deployed properly, it fits very well within the
12 community-policing model, and the practice of
13 community policing, as you had testified to, as you
14 described earlier in your testimony?

15 DR. ROBERT WORDEN: Absolutely.

16 I think it's fair to say that, you know,
17 departments across the country that claim to
18 practice community policing emphasize either a
19 broken-windows approach or they emphasize a more
20 kind of problem-oriented approach.

21 It's not that each is exclusive of the other,
22 but both are quite compatible with the aims of
23 community policing, in my view.

24 SENATOR GALLIVAN: Great. Thank you.

25 DR. ROBERT WORDEN: Sure.

1 SENATOR NOZZOLIO: I'd like to address a
2 couple of questions.

3 That, on page 9, you list your end notes.

4 I guess they call them "end notes" now
5 instead of footnotes.

6 That, the end note is from both Mr. Worden
7 and Ms. McLean, citing, "Assessing Police
8 Performance in Citizen Encounters: Police
9 Legitimacy and Management Accountability" --

10 DR. ROBERT WORDEN: Yes, sir.

11 SENATOR NOZZOLIO: -- is a report that your
12 institute evidently made to the National Institute
13 of Justice? Is that accurate?

14 DR. ROBERT WORDEN: Yes, sir, it is.

15 SENATOR NOZZOLIO: And what was this report?

16 DR. ROBERT WORDEN: It was a report of a
17 project that we undertook between 2011 and 2014.

18 We worked in collaboration with Syracuse and
19 Schenectady police departments. It was motivated by
20 a concern that CompStat mechanisms,
21 management-accountability mechanisms, in police
22 departments tend not to capture many of the
23 important outcomes of policing, including,
24 particularly, the subjective experience of citizens
25 in their encounters with the police, the quality of

1 police service, as they see it --

2 SENATOR NOZZOLIO: How did you measure
3 citizen input?

4 And I go to your cite in the testimony, "The
5 police enjoy fairly high levels of public trust
6 compared with other social institutions."

7 Did you measure that public trust in a
8 particular subset?

9 DR. ROBERT WORDEN: We measured trust and
10 confidence in the police --

11 SENATOR NOZZOLIO: And how did you do that?

12 DR. ROBERT WORDEN: Through surveys.

13 We conducted ongoing surveys in each of those
14 two cities, of people who had contact with the
15 police.

16 We interviewed -- each -- well, semi-monthly,
17 we do samples from police records of calls for
18 service of people who had called for police
19 assistance, we sampled from among people who had
20 been arrested, and we sampled from among people who
21 had been stopped by the police, in each of those
22 cities.

23 We administered a standardized interview
24 protocol to each of the citizens.

25 We inquired generally about their perception

1 of the Schenectady and Syracuse police,
2 respectively. And we also inquired particularly
3 into the nature of their interaction with the
4 police; their perceptions of the procedural justice
5 with which the police acted in that particular
6 context.

7 SENATOR NOZZOLIO: How did you get
8 information on stops?

9 DR. ROBERT WORDEN: The Syracuse Police
10 Department has, for many years now, required its
11 officers to complete a form, they call it a "C67,"
12 about all of their police-initiated-enforcement
13 contacts with citizens.

14 SENATOR NOZZOLIO: And you did this study in
15 conjunction with the department, or a commission by
16 the departments? Is that --

17 DR. ROBERT WORDEN: Yes. We approached each
18 department about the study, and they agreed to
19 cooperate in conducting the study.

20 SENATOR NOZZOLIO: Consistently high levels
21 of support in the community, even by those
22 individuals that may have been apprehended, or even
23 within the mix of those that have been apprehended,
24 interesting finding --

25 DR. ROBERT WORDEN: We thought so.

1 SENATOR NOZZOLIO: -- particularly, contrary
2 to a lot of the anecdotal descriptions we get from
3 media reports and others.

4 I thought that extremely interesting in this
5 assessment.

6 One of the proposals out there, and you heard
7 about it if you were -- you probably know about
8 it -- knew about it beforehand, but you might have
9 heard us discuss it today, of asking the police
10 department to, basically, be a census-taker, and
11 solicit demographic data from everyone that they may
12 stop, may apprehend, may arrest.

13 And the data is a subjective test based on
14 race, when, in fact, as an arresting officer, the
15 officer's forbidden from -- or had been forbidden
16 from asking that question, about race.

17 Now they find themselves to be a veritable
18 census-taker in the -- if this policy is put
19 forward.

20 What do you anticipate your poll results to
21 be if this type of question has to be asked by
22 police officers?

23 DR. ROBERT WORDEN: Well, I have two
24 reactions to that, Senator.

25 First, as a social scientist, I certainly

1 appreciate having more information.

2 On the other hand, as social scientists, as
3 we design data-collection efforts, we have to, at
4 every turn, ask ourselves: Of what value will the
5 data be?

6 And I would anticipate that data of this kind
7 will show us something about disparities in police
8 contacts with the community.

9 But, unfortunately, and, you know, we've seen
10 research on racial profiling accumulate for well
11 over 15 years now.

12 We still don't really know what to make of
13 that.

14 We lack an appropriate baseline or benchmark
15 against which to compare the data that we collect
16 and analyze; and, so, we're not in a very good
17 position to interpret the results of our data
18 analysis.

19 And so I'm a little skeptical about the value
20 of the data, because I'm skeptical about the value
21 of the analysis that it might support.

22 SENATOR NOZZOLIO: Thank you both for
23 waiting, for being here, and for your testimony.

24 DR. ROBERT WORDEN: Of course.

25 SENATOR NOZZOLIO: We appreciate it very

1 much.

2 DR. ROBERT WORDEN: Thank you for the
3 opportunity.

4 SENATOR GALLIVAN: Thanks.

5 Are we going to officially close it?

6 SENATOR NOZZOLIO: I think we can wake up
7 anybody that's left.

8 Thank you.

9

10 (Whereupon, at approximately 3:39 p.m.,
11 the joint public hearing held before the
12 four New York State Senate Standing Committees
13 concluded, and adjourned.)

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