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

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JOINT LEGISLATIVE HEARING

In the Matter of the
2021-2022 EXECUTIVE BUDGET ON
PUBLIC PROTECTION

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Virtual Hearing
Held via Zoom

February 10, 2021
9:40 a.m.

PRESIDING:

Senator Liz Krueger
Chair, Senate Finance Committee

Assemblywoman Helene E. Weinstein
Chair, Assembly Ways & Means Committee

PRESENT:

Senator Thomas F. O'Mara
Senate Finance Committee (RM)

Assemblyman Edward P. Ra
Assembly Ways & Means Committee (RM)

Senator Brad Hoylman
Chair, Senate Committee on Judiciary

Assemblyman Charles D. Lavine
Chair, Assembly Committee on Judiciary

Senator Jamaal T. Bailey
Chair, Senate Committee on Codes

Assemblyman Jeffrey Dinowitz
Chair, Assembly Committee on Codes

2021-2022 Executive Budget
Public Protection
2-10-21

PRESENT: (Continued)

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

Assemblyman David I. Weprin
Chair, Assembly Committee on Correction

Senator John E. Brooks
Chair, Senate Committee on Veterans, Homeland Security and Military Affairs

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

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

Senator Gustavo Rivera

Assemblyman Harry B. Bronson

Senator Pete Harckham

Assemblyman Edward C. Braunstein

Assemblywoman Deborah J. Glick

Senator Andrew Gounardes

Assemblyman Erik M. Dilan

Assemblywoman Jenifer Rajkumar

Assemblyman Phil Steck

Assemblywoman Dr. Anna R. Kelles

Senator James Tedisco

2021-2022 Executive Budget
Public Protection
2-10-21

PRESENT: (Continued)

Senator Anna M. Kaplan

Assemblywoman Karen McMahon

Assemblyman Demond Meeks

Assemblyman Ron Kim

Assemblyman Philip A. Palmesano

Senator Todd Kaminsky

Assemblyman Andy Goodell

Assemblywoman Catalina Cruz

Assemblyman Mike Lawler

Senator Kevin Thomas

Assemblyman Michael Tannousis

Assemblywoman Patricia Fahy

Assemblyman Harvey Epstein

Assemblyman Anthony H. Palumbo

Senator George M. Borrello

Assemblywoman Rebecca Seawright

Assemblywoman Latoya Joyner

Senator John C. Liu

Assemblyman Michael Reilly

Assemblywoman Alicia Hyndman

Assemblywoman Carmen N. De La Rosa

2021-2022 Executive Budget
Public Protection
2-10-21

PRESENT: (Continued)

Senator Jeremy A. Cooney

Assemblywoman Marjorie Byrnes

Assemblyman Angelo J. Morinello

Assemblywoman Latrice Walker

Assemblyman Daniel J. O'Donnell

Assemblyman Chris Burdick

Assemblyman Mark Walczyk

Assemblyman Jake Ashby

Senator Elijah Reichlin-Melnick

Assemblyman Kevin M. Byrne

Assemblywoman Linda B. Rosenthal

Assemblyman Jeffrion L. Aubry

2021-2022 Executive Budget
Public Protection
2-10-21

LIST OF SPEAKERS


| | STATEMENT | QUESTIONS |
|---|---|---|
| Honorable Lawrence K. Marks<br>Chief Administrative Judge<br>NYS Office of Court Administration | 15 | 26 |
| Robert H. Tembeckjian<br>Administrator and Counsel<br>New York State Commission on Judicial Conduct | 133 | 140 |
| William J. Leahy<br>Director<br>New York State Office of Indigent Legal Services | 159 | 165 |
| Patrick A. Murphy<br>Commissioner<br>NYS Division of Homeland Security and Emergency Services | 180 | 185 |
| Angelo Riddick<br>Interim CIO and Director<br>NYS Office of Information Technology Services | 229 | 236 |
| Michael C. Green<br>Executive Deputy Commissioner<br>NYS Division of Criminal Justice Services | 267 | 274 |
| Anthony J. Annucci<br>Acting Commissioner<br>NYS Department of Corrections and Community Supervision | 355 | 362 |
| Kevin P. Bruen<br>Acting Superintendent<br>NYS Division of State Police | 455 | 460 |

2021-2022 Executive Budget
Public Protection
2-10-21

LIST OF SPEAKERS, Continued


| | STATEMENT | QUESTIONS |
|---|---|---|
| Kristin Brown<br>President and CEO<br>Empire Justice Center<br>-and-<br>Laura Abel<br>Senior Policy Counsel<br>Lawyers Alliance for New York<br>-and-<br>Molly Clifford<br>Interim Executive Director<br>NY Legal Services Coalition | 504 | |
| Dr. David Sandman<br>President and CEO<br>New York State Health Foundation<br>-and-<br>Coco Culhane<br>Executive Director<br>Veteran Advocacy Project<br>-and-<br>Shane Correia<br>Deputy Director of Strategic Partnerships<br>Center for Court Innovation<br>-and-<br>William C. Silverman<br>Chair<br>Fund for Modern Courts<br>-and-<br>Joan Gerhardt<br>Director of Public Policy and Advocacy<br>New York State Coalition Against Domestic Violence | 513 | 530 |

2021-2022 Executive Budget
Public Protection
2-10-21

LIST OF SPEAKERS, Continued


| | STATEMENT | QUESTIONS |
|---|---|---|
| Manuel M. Vilar<br>Vice President & CAO<br>Police Benevolent Association of New York State<br>-and-<br>Timothy M. Dymond<br>President<br>New York State Police Investigators Association<br>-and-<br>Richard Wells<br>President<br>Police Conference of New York State<br>-and-<br>Michael O'Meara<br>President<br>New York State Association of Police Benevolent Associations<br>-and-<br>Thomas H. Mungeer<br>President<br>New York State Troopers Police Benevolent Association | 532 | 549 |

2021-2022 Executive Budget
Public Protection
2-10-21

LIST OF SPEAKERS, Continued


| | STATEMENT | QUESTIONS |
|---|---|---|
| J. Anthony Jordan<br>Washington County District Attorney<br>-on behalf of-<br>District Attorneys Association<br>of the State of New York<br>-and-<br>Susan C. Bryant<br>Executive Director<br>NYS Defenders Association<br>-and-<br>Laurette Mulry<br>President<br>Chief Defenders Assn. of NY<br>-and-<br>Audrey Sample<br>Founder and Group Lead<br>Students Demand Action Rochester<br>-and-<br>Regina Ritcey<br>Executive Director<br>NYS Dispute Resolution Assn. | 568 | 586 |
| Elizabeth Gaynes<br>CEO and President<br>The Osborne Association<br>-and-<br>Shayna Kessler<br>Senior Planner<br>Vera Institute of Justice<br>-and-<br>Yonah Zeitz<br>Policy Coordinator<br>Katal Center for Equity,<br>Health and Justice<br>-and-<br>Barry Graubart<br>Deputy Chapter Leader<br>Moms Demand Action for<br>Gun Sense in America,<br>New York Chapter | 596 | |

2021-2022 Executive Budget
Public Protection
2-10-21

LIST OF SPEAKERS, Continued


| | STATEMENT | QUESTIONS |
|---|---|---|
| Sarah Bertozzi<br>Managing Attorney and Director<br>of Immigration Legal Services<br>Journey's End Refugee Services<br>-and-<br>Terry Lawson<br>Executive Director<br>UnLocal<br>-and-<br>Elena Sassower<br>Director<br>Center for Judicial<br>Accountability | 611 | |

CHAIRWOMAN KRUEGER: Good morning. I'm Senator Liz Krueger, chair of the Senate Finance Committee. And I'm joined today by many people but most importantly my cochair of today's budget hearing from Ways and Means, Assemblywoman Helene Weinstein.

Today is the joint legislative hearing for fiscal year 2021-2022 on Public Protection, issued within the Executive Budget.

It's Wednesday, February 10th, around 9:40 in the morning. Check back at 9:40 tonight -- we'll still be here, I'm going to tell you, because today will be a very long hearing because there are so many different overlapping agencies within the rubric of public protection.

These hearings are conducted pursuant to the New York State Constitution and Legislative Law.

Today the Senate Finance Committee and Assembly Ways and Means Committee will hear testimony concerning the Governor's proposed budget for the Judiciary, the State

Commission on Judicial Conduct, the Office of Indigent Legal Services, New York State Division of Homeland Security & Emergency Services, New York State Office of Information Technology, New York State Division of Criminal Justice Services, the State Department of Corrections and Community Supervision, and the State Division of State Police.

Following each testimony there will be time for questions from the chairs and rankers and other legislators. Following the eight representatives from state government, we will move to testimony from the public who has asked to testify here today.

All testimony is available online and can be read by each and every legislator and everyone in the public.

If you asked to testify but you were turned down because it was too crowded, you are still welcome to submit testimony even past today's date. And for those of you who are just listening in and want to read along, you should have access to quite a bit of the

testimony online already.

I'm now going to introduce members of the Senate, and Helene will introduce members of the Assembly. Following, we'll have introductions by the Senate --

(Zoom interruption.)

CHAIRWOMAN KRUEGER: Oh, somebody please mute yourself if you're not me talking at the moment.

SENATOR O'MARA: Sorry.

CHAIRWOMAN KRUEGER: That's okay. Thank you. That's another rule for these hearings: Remember to mute yourself if you're not the one who's supposed to be actually speaking.

We have so many Senators here today, but Jamaal Bailey, John Brooks, Julia Salazar, Brad Hoylman. I'm just going through the -- Gustavo Rivera, Pete Harckham, Diane Savino, Anna Kaplan, John Liu.

Let's pass it to Tom O'Mara, the ranker, to name his members who are here today.

SENATOR O'MARA: Good morning. Thank

you, Senator Krueger.

We are joined on the Minority side by Senator Jim Tedisco. I'm sure others will be joining as we progress throughout the day.

CHAIRWOMAN KRUEGER: Thank you.

And now I'll pass it over to Assemblywoman Helene Weinstein to introduce Assemblymembers.

CHAIRWOMAN WEINSTEIN: Thank you.

We are joined by Assemblyman Lavine, chair of our Judiciary Committee; Assemblyman Dinowitz, chair of our Codes Committee; Assemblyman Zebrowski, chair of our Gov Ops Committee. And members of those committees: Members Braunstein, Bronson, Dilan, Epstein, Hyndman, Joyner, Kelles, McMahon, Meeks, Rajkumar, Seawright, Steck. And we probably will have additional members joining us as the hearing continues.

Let me turn it over -- let me just have Assemblyman Ra, the ranker on Ways and Means, introduce his colleagues.

ASSEMBLYMAN RA: Thank you, Chair.

We are joined this morning by

Assemblyman Mike Lawler, the ranker on our Gov Ops Committee; Assemblyman Morinello, who's the ranker on our Codes Committee; Assemblywoman Byrnes; Assemblyman Walczyk; Assemblymen Goodell, Reilly and Tannousis.

SENATOR O'MARA: If I may add, Senator Krueger, I understand that we're also trying to be joined by Senator Palumbo. I think he's in the waiting room awaiting admission.

CHAIRWOMAN KRUEGER: Okay. So one of the moderators please let the Senator in. They'll figure that out. Thank you, Tom.

All right, continuing along, I'm just going to list out the testifiers for today, and then we'll just call up each one. Just know when they start to testify, right before they start, we'll announce who the chairs of the relevant committees are for that specific testifier, because the rules of the road changed slightly.

Our guests have 10 minutes to do their presentations. Chairs have 10 minutes, if it's appropriate for the committee, to ask and get answered their questions. Rankers or

chairs of other committees related to this hearing get five minutes to ask and get answered their questions. Other members get three minutes to ask and answer.

Only the relevant chair for that committee gets a second-round possibility, if they need it, at the end.

I'll go over this a few times today. But so, for example, our first testifier will be Lawrence Marks, chief administrative judge of the Office of Court Administration, and the relevant committee is Judiciary, so Chairs Hoylman and Lavine will go first and have the first 10-minute opportunities. And then their rankers have five minutes. The flow -- you'll figure out the flow as the day goes along, and I'll continue to explain.

So again, we have Chief Administrative Judge Lawrence Marks. And I'm going to introduce the others as we go along.

Good morning, Judge.

CHIEF ADMIN. JUDGE MARKS: Good morning, Senator Krueger. And good morning, everyone. It's good to see everyone. And

thank you.

I'm Lawrence Marks. I'm chief administrative judge of the Unified Court System, and I'm pleased to appear this morning to discuss the Judiciary's budget.

So for the upcoming fiscal year, which as you know is fiscal year 2022, we are asking for the same level of appropriations we received for the current fiscal year. However, our spending plan has changed from the one presented to you a year ago.

For fiscal year 2021, spending under the Judiciary has been reduced by $291 million. That's a 10 percent reduction. In the fiscal year 2022, the Judiciary State Operating Spending Plan assumes continuation of this reduced spending level of 2.25 billion.

And I will address this shortly, but first I'd like to put our budget submission in its proper context by briefly summarizing for you the Judiciary's experience over the past year. And this experience, of course, could not have been anticipated in February

2020 when I last appeared before you to report on our budget.

Since that time, New York's Judiciary, along with the rest of the state, has faced multiple challenges as a result of the COVID-19 pandemic. These challenges include the unprecedented task of keeping the courts operating consistent with a rapidly evolving understanding of public health needs.

Back in March as the extent of the pandemic first became apparent and as the state began instituting aggressive measures to protect the community, the Judiciary took the first of several critical steps affecting court operations. While determined to keep the courts open for business, we initially limited our operations to essential and emergency applications only. Over the next few weeks, however, we put into effect a program of virtual court operations to permit the widest possible delivery of justice services to litigants and lawyers. This made it possible and continues to make it possible for judges and staff to safely conference

cases in all of our courts across the state, to the point where more than 20,000 cases a week are now conferenced to produce settlements, referrals to virtual alternative dispute resolution, and decisions on motions.

Virtual court operations now also make it possible to conduct hundreds of evidentiary hearings and bench trials each week.

As we took these steps to institute and expand a virtual court system, we were also planning for the resumption of in-person proceedings. Closely adhering to applicable public health protocols, we instituted a range of safety measures to protect the health of all who enter and work in the courthouses. This permitted us to resume certain in-person proceedings during the summer and fall months, including, among other things, impaneling of grand juries in all of the state's counties, and some civil and criminal jury trials.

With the resurgence of the virus since the holiday season, we have had to curtail

many of these in-person proceedings, but we are ready to resume them in the days ahead once public health authorities make clear that it is safe to do so.

So now, just going back to the budget, the projected multi-billion-dollar deficit the state faces as a result of the pandemic has had a major impact on the Judiciary. Last spring the Governor, in his revised financial plan, urged the Judiciary to reduce its current fiscal year spending by 10 percent. Notably, that amount was then deducted from the financial plan. As a result, and as a responsible partner in state government, we went ahead and reduced our spending by that amount.

A spending reduction of this magnitude -- a reduction significantly larger than the reduction we absorbed in 2011 when the state faced its last budget crisis -- is an enormously challenging task for the court system. Our annual budget is overwhelmingly made up of personnel costs, with roughly 90 percent of the budget going to salaries of

judges and nonjudicial staff, along with health, pension and other fringe benefit costs.

So it follows that any effort to substantially reduce our spending must entail reductions in personnel costs.

In making these reductions, there were no easy choices. Like much of state government, the Judiciary has been living for years with very-limited-growth budgets. Although in many respects we are faced with a need to provide more services than a decade ago, our annual budgetary allocation has only marginally increased since then. This has left us with little budgetary flexibility when there is a need, as now, to economize.

Also complicating our effort has been the fact that coping with the pandemic and keeping the courts open as much as possible for virtual and in in-person proceedings has necessitated substantial expenditures for technology, enhanced court cleaning, PPE and courthouse retrofits. In addition, overtime costs have increased for our technology and

public safety staff.

Early on we took a necessary first step: We instituted a strict hiring freeze. And so far this fiscal year more than 730 positions that were lost to attrition remain vacant. While this has cost no one their job, its impact on court operations cannot be overstated. Our nonjudicial workforce is the lifeblood of the court system. With no end in sight for the hiring freeze, the Judiciary staffing level now stands below 15,000 employees across the state. This is 2,200 fewer employees than we had 12 years ago, a 13 percent reduction in our workforce.

If the hiring freeze must remain in effect much longer, we can expect a diminished staffing level not seen by the courts in several decades.

While the Chief Judge's Excellence Initiative in recent years has helped the courts become more efficient than ever before, our short staffing will make it increasingly difficult to conduct the

Judiciary's work in effective and timely manner.

Particularly post-pandemic, when things return to a more normal course of business, this can have particular consequences for operations in courts that primarily serve economically disadvantaged litigants, including Family Court and Housing Court.

Among the other hard choices we made this year was the decision not to certificate most of the Supreme Court justices who, having reached 70 and older, were seeking to remain in judicial service. Obviously this was a very difficult decision, and toward the end of 2020 some of you asked that we reconsider it. In fact, some of the justices impacted by this decision have sued to have the decision overturned in the courts.

As difficult as this decision may have been, we had no choice. By not certificating these justices, the Judiciary will save $55 million over two calendar years. The grim alternative for us, in order to find

comparable savings elsewhere in the budget, would be to lay off 325 or more nonjudicial employees -- and again, that's in addition to the 730-plus positions left open so far through the hiring freeze. This was simply unacceptable, both operationally and morally.

First, as we learned from our experience in 2011 when the need for fiscal austerity required layoffs of several hundred employees, such a reduction can have a crippling effect on court operations. And as I have noted, this effect will be felt most in courts that primarily serve economically disadvantaged litigants, who rely heavily on advice and direction from court staff to be able to navigate the court process.

Second, because of the way civil service rules apply to layoffs, requiring layoffs now would fall most heavily on younger court employees not eligible to collect their pensions and strand them without income in what is a very difficult job market.

The remaining austerity steps we've

taken include limitations on nonpersonal service spending. And I won't go through that; they're listed in my written testimony that you have.

So as we approach the start of the 2022 fiscal year, some have suggested that we should make more optimistic assumptions that before long the federal government will provide financial assistance to New York and other states, and that assistance will cut New York's large deficit and enable agencies of government, including the Judiciary, to ease up on their austerity measures. We certainly hope they are right, but we cannot base our plan on their hopes.

For this reason, we've submitted a flat spending plan that maintains the reductions implemented this fiscal year. However, our budget seeks the same level of appropriations that was approved for the current fiscal year. So if the state's fiscal situation does improve in the days ahead and the Judiciary is able to share in the benefits of that, we will have the

spending authority to meet all or at least more of our needs. But if that situation does not improve, we are prepared to continue operating under the spending reductions we have imposed during the current year.

Our overarching goals will be to keep all courts open and to avoid layoffs of nonjudicial personnel. The present hiring freeze will remain in place, as will the reductions in various Judiciary programs, but we will fulfill our constitutional mandate notwithstanding these cutbacks.

And so just if I could conclude, I want to emphasize that now more than ever, as the state works to manage an enormous fiscal deficit while fighting the worst public health threat in our lifetime, the courts remain dedicated to ensuring the fair and prompt administration of justice.

The budget we have submitted will, if approved, enable us to continue our mission regardless of what's in store for us in the days ahead. If it turns out that the state's present fiscal crisis requires that we

continue to operate within a reduced spending level, we can do so under this budget. If instead the state's fiscal condition improves, this budget will permit us to resume more normal operations.

Thank you for your attention, and of course I'm happy to answer any questions.

CHAIRWOMAN KRUEGER: Thank you very much.

The first to question will be chair of the Judiciary Committee in the Senate, Senator Brad Hoylman.

SENATOR HOYLMAN: Thank you, Chair Krueger and Chair Weinstein. Thank you for all of your work on these hearings.

And it's good to see you, Judge. I appreciate the difficult circumstances under which you and your colleagues are operating.

And let me just say from the outset I'm concerned about the fact that a separate, coequal branch of government is imposing austerity measures -- I'm not talking about the Legislature, I'm talking about the Judiciary -- because I don't think the

austerity and the meting out of justice go hand in hand. But that's my editorializing as I open this hearing.

I wanted to ask you specifically about what public health guidance you're following in terms of opening in-person proceedings, as you mentioned in your testimony. Frankly, I'm concerned about the health and well-being of many of our judges. And correct me if I'm wrong, most of those judges are not getting vaccinated unless they're eligible otherwise.

CHIEF ADMIN. JUDGE MARKS: That's correct. Judges are not among the categories of groups eligible for testing under the phases that have been implemented so far. And we've strongly urged the executive branch to include judges and render them eligible for the vaccine, because that's critically important to eventually resuming to more normal operations.

SENATOR HOYLMAN: Thank you. And as you mentioned, your budget request keeps the All Funds operations appropriations flat at 2.4, 2.5 billion. And as you note, last year

you cut your budget by 300 million. If we approve your budget as requested this year, so you're going to cut your budget again? Is that what I'm hearing?

CHIEF ADMIN. JUDGE MARKS: No, we will maintain the 10 percent reduction that we experienced this fiscal year.

So it's -- what we're seeking -- I mean, obviously, like everything, this is a little more complicated this year. We're seeking the same amount of cash as we have in the current fiscal year, factoring in the 10 percent reduction this fiscal year, but our appropriation level is significantly higher. It's what was approved by the Legislature last year. It represents a 2 percent increase over the year before that.

And the reason why we want to maintain that higher appropriation level is that if there is federal aid forthcoming and New York receives federal aid and the Judiciary benefits from that, we will be able to receive and spend more money up to that higher appropriation level.

SENATOR HOYLMAN: So what does that mean for civil legal services? You know, obviously a very important function to make certain that the most underserved have legal representation, particularly during these difficult times.

Can you commit, Judge, to keeping that 100 million in funding for civil legal services intact and not cutting it moving forward?

CHIEF ADMIN. JUDGE MARKS: Well, what we did, as part of the 10 percent reduction -- the 100 million is in two parts. Fifteen million of that is a pass-through in our budget that we suballocate to the IOLA fund, which uses that money in awarding grants to legal services organizations.

That was untouched, and that 15 million has been passed through this fiscal year to IOLA. And that will -- if our budget is approved, that will continue in the upcoming fiscal year.

What we did reduce by 10 percent was the remaining $85 million, which is money

that we award in grants to approximately 80 civil legal services organizations. We did, in this 10 percent cut, reduce that 85 million by 10 percent, by $8.5 million.

And because we're seeking a flat budget, we've put in for a flat budget for the upcoming fiscal year, that lower level of money in grants for civil legal services organizations would continue, it would be $8.5 million left in the upcoming fiscal year, unless we get more money in our budget.

SENATOR HOYLMAN: Well, Judge, I don't have to tell you, as a representative -- and I bet everyone who's on this Zoom would agree -- we want you to spend the 100 million. We want our constituents represented in court. I would urge you to spend that, Judge. It's just so crucial, particularly given the complicated legal factors now at play for so many folks who are seeking legal representation.

How about the -- OCA's contract with Housing Court Answers? Are we looking at a 23 percent reduction there, as I understand

it?

CHIEF ADMIN. JUDGE MARKS: That's news to me. I can check that. But Housing Court Answers is one of the 80 or so organizations that receive grants out of the 85 million. They would have -- I'll have to check this, and I will get back to you on this. But they should not have been reduced more than the 10 percent reduction that was imposed across the board.

But I will check that.

SENATOR HOYLMAN: And -- thank you. We'll follow up with you on that.

And obviously an issue that rankles a lot of the members of the judiciary is the -- is one you touched on, the certification of judges. Because, you know, we believe -- I think, again, many of my colleagues agree -- that this is penny-wise, pound-foolish to decertify these 46 judges that had reached the constitutional retirement age of 70.

Just -- I wanted to point out something, Judge. Article 6 of the Constitution and the statute governing the

certification process requires that the services of judges be "necessary to expedite the business of the court" and that "he or she is mentally and physically able and competent to perform the duties of the office."

Is it your contention that these 46 judges have failed to satisfy this two-prong test?

CHIEF ADMIN. JUDGE MARKS: That is our position.

And that's based on the much broader interpretation of the language in the Constitution that courts have applied in how they've interpreted that language over the years, including Court of Appeals decisions, including a relatively recent Court of Appeals decision in 2017. That that language has always been interpreted far more broadly than how it literally reads, and with very good reason. And I could go into that if we have the time.

But so -- and as I mentioned in my opening remarks, this issue is now in

litigation. In fact, the case was argued before the appellate division just yesterday morning. So I don't want to get into too much of a discussion about it because I'm a named defendant in that lawsuit.

But we strongly believe that there was -- that this is entirely legal, it was appropriate as a matter of good public policy and good fiscal policy. It was an extremely difficult decision, don't get me wrong about that, but that it was entirely legal and we expect to prevail once the lawsuits are resolved in the courts.

SENATOR HOYLMAN: If you get additional funding through federal aid, for example, will you bring those judges back?

CHIEF ADMIN. JUDGE MARKS: Well, that's a good question. Because there's some dispute about whether that would be authorized under the provision in the Constitution, because those judges are retired now from the court system.

But to answer your question, because of the litigation I can't really -- basically

you're saying can we settle the case if there was money forthcoming. That's something that could be discussed, but I'd rather not do that in this venue.

SENATOR HOYLMAN: And may I ask, Judge, how is the refusal to certificate these judges going to impact the nonjudicial employees that work with and for those judges?

CHIEF ADMIN. JUDGE MARKS: You mean their personal staff?

SENATOR HOYLMAN: Yes.

CHIEF ADMIN. JUDGE MARKS: We -- we -- this is unfortunately not widely understood and known, but that was about 90 or so personal appointees of these judges who weren't certificated. For those who wanted to continue employment in the court system, we have placed all of them with other judges and a few in other positions in the court system.

So they've been saved, those who have asked to continue. Some retired themselves, voluntarily, but those who wanted to stay on

we've placed with other judges in other positions in the court system, fortunately.

SENATOR HOYLMAN: Thank you. And my time is up, Chair.

CHAIRWOMAN KRUEGER: Thank you very much, Chair.

SENATOR HOYLMAN: Thank you, Judge.

CHIEF ADMIN. JUDGE MARKS: Thank you.

CHAIRWOMAN KRUEGER: Assemblywoman.

CHAIRWOMAN WEINSTEIN: Before we go to our chair of Judiciary, we've been joined by Corrections Chair Assemblyman Weprin, Assemblywoman De La Rosa, Assemblywoman Glick, Assemblywoman Cruz, Assemblywoman Fahy and Assemblyman Burdick.

So now we go to Charles Lavine, the chair of our Judiciary Committee, for 10 minutes.

CHAIRWOMAN KRUEGER: And just a reminder, as Chuck is starting to talk -- sorry -- if you want to be on the questioning list, you have to raise your hand, which is at the bottom of your screen in the center. Thank you.

Sorry, Assemblymember Lavine.

ASSEMBLYMAN LAVINE: I accept your apology, and thank you, Chair Krueger. And thank you, Chair Weinstein.

It certainly seems to me that at a time of savage and unprecedented attacks on our institutions of government, today's hearing takes on unprecedented significance.

In his classic book On Tyranny, Professor Timothy Snyder teaches us that in times of great civil crisis our institutions of government, such as our courts, cannot protect us, the citizens, unless we protect them as well.

So with that in mind, good morning, Your Honor. It's always a pleasure to see you. And please convey my gratitude to our judges, our administrative staff, and everyone who works in our courthouses. Including court officers, court reporters, and those who have the challenging task of cleansing and sanitizing our courthouses as well.

So on this subject of the

non-certificated judges, we anticipate -- meaning the courts anticipate -- that there will be approximately 55 million in savings -- over the course of this year and next year?

CHIEF ADMIN. JUDGE MARKS: Well, it's over the course of this calendar year and the next calendar year, because the terms of certificated judges are not coterminous with our fiscal year.

So the savings would be in the last three months of this fiscal year, the full 12 months of the upcoming fiscal year, and nine months of the fiscal year after that.

ASSEMBLYMAN LAVINE: So does that amount of money, that 55 million, approximately, does that also include judges who this year will reach the age of 70 and may request to be recertificated or certificated, whatever the word is? And does it also include the judges who had been given certificates to continue past 70 whose two-year term will expire this year?

CHIEF ADMIN. JUDGE MARKS: No, the 55

million pertains only to the 46 judges who were not certificated to start the beginning of this calendar year, January 1, 2021.

The judges who are currently certificated and those whose certification -- you know, you're right, it's difficult to pronounce. Those who would be up for recertification, recertification at the end of this calendar year are not impacted by the decision that was made this fall.

And hopefully later this year the administrative board of the courts will be able to certificate and recertificate all or most of those judges.

ASSEMBLYMAN LAVINE: So there's a movement to make permanent virtual or remote arraignments in our criminal courts.

Do you have any particular view on whether that would be beneficial or detrimental to the concerns of due process?

CHIEF ADMIN. JUDGE MARKS: Well, you know, we've been -- out of necessity -- forced to convert to virtual proceedings throughout the court system, including for

criminal arraignments. The -- it's been successful. It was obviously done for health and safety reasons, and a lot of this experiment, if you will, with virtual court proceedings I believe will continue post-pandemic, post-vaccination.

But whether that makes sense for arraignments is something we would have to look at. We'd be interested in the views of our judges, how they feel about that. We'd be interested in the views of the district attorneys, we would be interested in the views, of course, of the criminal defense bar, we'd be interested in the Legislature's view on that. That's something we'd have to look at.

It has been very successful. Tens of thousands of arraignments -- everyone who's been arrested in this state has been arraigned, the vast percentage of which have received arraignments within 24 hours. It's been all virtual since the last week in March. So it's been successful.

Whether it makes sense to continue

that is something we would have to look at at the appropriate time.

ASSEMBLYMAN LAVINE: So as an old public defender from many years ago, I might simply add that something is really missing in terms of due process and in terms of interaction, basic interaction with those who are charged with crimes where there is this lack of personal immediacy between defense counsel, even prosecutors and those accused, and the judges and those accused as well.

But that's my two cents, as someone who's been --

CHIEF ADMIN. JUDGE MARKS: I think that's --

ASSEMBLYMAN LAVINE: -- defense counsel in the past.

CHIEF ADMIN. JUDGE MARKS: Interested in hearing about, you know --

ASSEMBLYMAN LAVINE: Thank you.

So we're going to end up with substantial case backlogs in our courts as we come to terms with how to best protect ourselves in the COVID crisis. Do you think

that there are going to be changes in law that will be required in order to help address those backlogs?

CHIEF ADMIN. JUDGE MARKS: Absolutely. You know, one of the things we need to do to address backlogs -- I mean, there's a series of things that we're going to need to do, and we are doing, which follows up on the Chief Judge's Excellence Initiative, which was four years in the making a year ago when we began to experience the pandemic -- and was a very successful initiative, dramatically successful in some courts, in reducing delays and reducing backlogs and resolving older cases.

So we know how to do this. And it's by looking at the data and sharing the data and focusing on older cases. And importantly -- and this has happened to some extent during the pandemic -- being able to move resources around, judges and staff, to address backlogs in the most efficient way.

So to answer your question, yeah, I think that the most helpful and important

thing that the Legislature could do was to revisit the chief judge's proposal that was made last year to consolidate the trial courts.

I don't want to go into a long discussion about this today, but as you know, we have 11 separate and distinct trial courts in the state. It's far more than any other state in the country. It's a complicated, redundant, byzantine process. It makes it much more difficult to administer the courts.

So if there was one thing in particular that the Legislature should do, in our opinion it would be to revisit that proposal and pass it -- or at least, since it's a constitutional amendment, see to first passage of our proposal this legislative year.

ASSEMBLYMAN LAVINE: Thank you, Judge.

Finally, the events of January 6th are fresh on our minds and will forever be seared on the mind and the heart of our nation. We've never seen anything like this before. Our courthouses represent our government.

Throughout the entire State of New York -- I don't even know how many courthouses we have. I bet we have more than a hundred courthouses --

CHIEF ADMIN. JUDGE MARKS: Over 300.

ASSEMBLYMAN LAVINE: Over 300. See, I wasn't even close. Close enough for government work, as they say, but not close enough.

What steps are anticipated to be taken in order to provide protection to those representatives -- those courthouses which are so representative of our governmental authority?

CHIEF ADMIN. JUDGE MARKS: It's an excellent question. And in fact we did take steps last month and, you know, we continue to be on alert for the problem that you raise.

Our public safety command, our leadership of our court officer command, are in regular contact with law enforcement, FBI and other law enforcement, State Police, with regard to credible threats, you know, to

government buildings in the state, including courthouses. So we -- and I don't want to get into too much detail about what we do if there is a credible threat, but we have measures in place and provide additional resources where that's necessary when we learn of a credible threat or a possible credible threat.

So it's something we're very mindful of. It's a very real issue, as you point out. And we do have protocols in place to protect the courthouses, you know, if and whenever that's necessary.

ASSEMBLYMAN LAVINE: Thank you so very much, Your Honor.

CHIEF ADMIN. JUDGE MARKS: Thank you.

ASSEMBLYMAN LAVINE: I yield my seven seconds.

CHAIRWOMAN KRUEGER: Thank you.

Assembly, I'm going to pass it back to the Senate, if it's all right with you.

And our next speaker is our chair of Codes, Jamaal Bailey, for five minutes.

SENATOR BAILEY: Thank you. Five

minutes and seven seconds, as time was yielded by Chair Lavine.

Good morning, Madam Chair, good morning, Madam Chair Weinstein. Liz, I'm very sad that we won't have budget pizza today.

Judge Marks, good to see you.

I'm going to jump right into it. This is my fifth budget hearing, and in each of the times we've had a conversation at the budget we've spoken about diversity, not just within the ranks of OCA via the LEO Program, which is great, but also diversifying the bench.

And one of the things that Senator Hoylman wasn't able to touch on was the effect that it had on diversity within the ranks of the bench in the Borough of the Bronx and also Queens. Many of the judges that we are losing as a result of OCA's plan, the decertification plan, are people of color. And as individuals of color are disproportionately affected by the justice system, we are disproportionately not

represented within the ranks of the judiciary.

I'm asking, were bar associations such as the MBBA, Dominican Bar Association, PRBA or community organizations, were they -- did you have conversations with them when this was taking place?

CHIEF ADMIN. JUDGE MARKS: No, frankly, we didn't. It was a strict budgetary decision. We felt it was a necessary and unavoidable and difficult budgetary decision. And it was not discussed with bar associations or other groups.

I could say fortunately -- look, you're absolutely right, and we've talked about this in the past. The judiciary can be -- should be more diverse, has to be more diverse. It has become more diverse over time, but a lot of work left to do on that. But I would say fortunately, of the 46 judges who were not certificated, there were only six judges of color. So -- and again, I'm not minimizing that; that's six judges of color fewer that we have now than we did in

December. But fortunately it was not a larger number than that or a larger percentage.

And I think if -- and these judges by definition are all 70 or older. But if for some reason a younger group or bloc of judges left the court system, it would be far more likely that proportionally that younger bloc of judges would be more diverse and would include more judges of color than this group of 46 judges.

But again, I don't want to disagree with you or argue with you on that point, because losing six judges of color is losing six judges of color. It's not a good situation.

SENATOR BAILEY: And I would say those six of 46, yes, in the aggregate that may not be as much of a percentage. But again, if you hyper-local focus on the Bronx, we have a much larger percentage of judges of color that we've lost within a borough that has a majority minority population. So I would ask that we keep these things in mind, always

based upon context.

The next question I have is related to pretrials. Under the pretrial reforms that we've -- that we were able to pass, the great pretrial reforms that we were able to pass, there are some reports that are due in of November of '21 and January of '22. Are you having data collection issues with those, or do you anticipate that they would be completed on time?

CHIEF ADMIN. JUDGE MARKS: Yeah, I believe the first one is due early July of this year. And we're hard at work on that. We're working hand in hand with the Division of Criminal Justice Services, and I know you have the DCJS commissioner, Mike Green, testifying a little later this morning.

So we are hard at work on that, have been for months, and expect to meet the statutory deadlines.

SENATOR BAILEY: Okay. So again, with the -- and again, funding, right, funding issues as related to the discovery reform that the Governor has put in the budget, has

OCA taken a position on the amount of money? Is it sufficient, should there be less, should there be more?

CHIEF ADMIN. JUDGE MARKS: I think you're talking about funding for prosecutor offices?

SENATOR BAILEY: The discovery reform, yes.

CHIEF ADMIN. JUDGE MARKS: Yeah. We haven't taken a formal position on that. But I can tell you from my own understanding of this, and background and experience, that the new legislation does impose substantial additional burdens on district attorneys. So if they're asking for additional funding, I would offer that that's something that the Legislature should look at seriously.

SENATOR BAILEY: Okay. I would add my voice to the chorus of Chairman Lavine about the in-person appearances being critical to, I think, the -- to the integrity of our justice system, as related to the Article VII proposal.

And if there's time for a second

round, I will come back. But I yield my seven seconds, Madam Chair. Thank you.

Thank you, Judge.

CHIEF ADMIN. JUDGE MARKS: Thank you.

CHAIRWOMAN WEINSTEIN: So we now go to Assemblyman Dinowitz for five minutes.

ASSEMBLYMAN DINOWITZ: Good morning. Five minutes and seven seconds.

Good morning, Judge Marks. It's good to see you.

CHIEF ADMIN. JUDGE MARKS: Good morning.

ASSEMBLYMAN DINOWITZ: I'm glad you're here today. I think it's regrettable that it's under these circumstances with the horrible budget that you have to deal with.

I wish -- I wish OCA had participated in the hearing that the Assembly had a few months ago on the budget, because one of the things I think is important is that when a decision is made, it should at least bring in some of the stakeholders, the Legislature -- because, after all, the Legislature has the authority to review, modify and approve

budgets. But not only the Legislature, but other stakeholders -- bar associations, the New York State Trial Lawyer, defenders associations, civil legal services -- all the stakeholders that are really impacted by these very crucial decisions.

So I would hope that on important decisions like that, in the future, that those things would be taken into account.

And I just wanted to say that the 46 judges, eight of them are from the Bronx. We comprise, in the Bronx, 7 percent of the state's population, yet 17 percent of the judges that are being eliminated were working in the Bronx -- the borough, the county that is probably in the greatest need of every county in the state.

And of the minority judges that you've referred to, people of color, of the six judges, three of them are from the Bronx, 50 percent. That's also a big problem, I think.

And the Borough of Queens, I think they lost six judges. That's a very high number. And the impact of this decision is

not evenly distributed throughout the state, but in fact certain areas -- and I will say, again, particularly the Bronx is most heavily impacted {audio out} -- civil court judges, criminal court judges to become acting supremes, but that means that you're emptying out the civil court and the criminal court, which I think is another problem that you're going to face.

But let me ask you this question. The cost of -- that you're going to save by eliminating a judge -- a judge makes a salary, but that judge will then start collecting pensions at a much earlier stage. And the cost of the pension is very significant. Now, I realize the pensions don't come out of OCA's money, but it comes out of the taxpayers' money one way or the other at some point or another.

So given the fact that you're not really saving money by -- or at least not a significant amount of money by firing these judges, how do you really justify that?

CHIEF ADMIN. JUDGE MARKS: Well, it's

true that the -- if you look at it from an overall state perspective, I believe there's still a savings for the state as a whole, but not the full 55 million.

But the fact of the matter is, I mean, our responsibility is to balance our budget and operate within the money that's allocated to us. And there's no question that there's a $55 million savings to the Judiciary, which of course is our primary concern.

Assemblyman Dinowitz, could I just respond very quickly to the -- what you said about the Bronx and losing those judges? It's seven judges. Two were in the Criminal Term, five were in the Civil Term Supreme Court. We through reassignments -- we haven't waited. And we haven't even done this by taking judges out of, as you said, robbing the lower court, the lower criminal, lower civil courts.

We've taken judges -- Supreme Court justices and two Court of Claims judges who were appointed by the Governor last summer, and the five judges that the Civil Term lost

in Bronx Supreme Court -- because we are very concerned about that, as you are, and please believe me when I say that, because Bronx is a court that's struggled with backlogs historically over the years.

We have held the Civil Term of Bronx Supreme Court harmless with respect to the five judges in the Civil Term who were not certificated by moving five other judges into Supreme Court. And the administrative judge of that court is very pleased that we were able to do that, and is not complaining about judicial resources -- at least for now.

ASSEMBLYMAN DINOWITZ: Oh, I'm sure the complaints will be coming in the near future.

But, you know, I understand what you said about you're worried about the Judiciary Budget, and rightly so. But we as legislators have to look at the whole picture, and the whole picture is that ultimately the taxpayers really are not saving much money at all, but yet we're concerned about how that's going to affect

how justice is dispensed in every county in the state.

And my time is up.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRWOMAN WEINSTEIN: So we go to the Senate now.

CHAIRWOMAN KRUEGER: Thank you very much.

We're next going to Senator Tom O'Mara.

SENATOR O'MARA: Thank you, Chairwoman Krueger.

Good morning, Chief Judge. Thank you for being with us today.

I want to first thank Assemblyman Lavine for his opening quote regarding tyranny, and the protection of our government organizations. And that's certainly never been made clearer than the 61-day siege of our federal courthouse in Portland and the several-week siege of a police precinct in Seattle.

What is the court system doing, Your Honor, to prevent something like that

happening here in New York State?

CHIEF ADMIN. JUDGE MARKS: That's an interesting question. It's not one that's occurred to me, whether the judiciary has a role in protecting attacks and assaults on other governmental buildings. I mean, other than if that occurs and people are arrested and they're charged with crimes, the judiciary will adjudicate those cases.

But other than that --

SENATOR O'MARA: I guess I'm talking in particular, what efforts are being made to protect courthouses in particular, since it was a federal courthouse in Portland that was under siege for 61 days.

CHIEF ADMIN. JUDGE MARKS: Yeah, as I noted before, we have protocols in place to deal with credible threats to our more than 300 courthouses throughout the state. And we've instituted those protocols at different times when there has been a credible threat. And we are confident that we would be able to protect our courthouses if they were under assault. In anything remotely like what

happened in Washington, we would be able to protect -- we would be ready for that in the courthouses.

SENATOR O'MARA: Thank you. I hope we are, because we certainly do not want to see that here -- anywhere, but especially here in New York State.

Moving on to virtual appearances, I'm drawing a blank on the section of law right now, but we've been working on it in our judicial district on virtual criminal court appearances. Some counties in the state are -- had the ability to do virtual appearances even before this pandemic, I believe. Now others are allowed to do them while this pandemic is continuing.

What are your thoughts on expanding that type of virtual appearance activity to these other counties that haven't been able to do it before? Because I think, from what I've been seeing, it has been very successful, certainly in criminal cases with the transporting of inmates back and forth. And these appearances aren't for the purposes

of sentencing or live testimony of witnesses at hearings and things, but for the more run-of-the-mill control dates and things.

What's your thoughts on expanding that to these other counties that won't be able to continue that when the pandemic ends?

CHIEF ADMIN. JUDGE MARKS: Yeah, I think under one of the Governor's executive orders it's permitted across the state, video court appearances and routine proceedings in criminal cases.

I agree, it has been very successful across the state. We would be supportive that -- the provision in the Criminal Procedure Law, I believe it's Article 182, allows for this in a limited number of counties. As I said, the Governor's executive order allows it -- you know, for now, at least -- across the state. So we would be fully supportive of legislation that would expand the current provision in the Criminal Procedure Law to all 62 counties of the state.

SENATOR O'MARA: Great. Thank you

very much.

Can you just briefly, in the minute that's left here -- you've talked a little bit about backlog, and we certainly have had backlog in our court systems at both civil and criminal levels for some time.

How has the pandemic to this point exacerbated that backlog? And when this pandemic ends and we get back to fully functioning courtrooms, how long is it going to take us to dig out?

CHIEF ADMIN. JUDGE MARKS: Backlogs have grown, not necessarily across the board. In fact, in Supreme Court, civil cases in Supreme Court, the backlog interestingly has not skyrocketed. It's been fairly modest. And I think that's because virtual proceedings have worked so well in Supreme Court where, in the overwhelming number of cases, the litigants are represented by counsel. So when that's the case, as compared to courts that handle a large proportion of their cases are -- involve self-represented litigants, who are not

always as able to navigate the technology to participate virtually.

So -- but we do have backlogs that have grown. Look, the court system has always had backlogs. That's been the key focus of Judge DiFiore in her tenure as chief judge, is to attack backlogs and make the courts more efficient and eliminate delays. We have made tremendous success in that, as I noted before, but we're really going to have to redouble our efforts post-pandemic and, you know, focus intensively on the older cases, collect a lot of data -- because a lot of this is data-driven -- and share that data with our administrative judges and our rank-and-file judges.

In high-volume counties, assign dedicated judges just to focus on trying to resolve the older cases; make greater use of alternative dispute resolution; and be more creative and flexible in how we move and assign our judicial and nonjudicial resources -- among other steps we're going to have to take to address what are going to be

very substantial backlogs.

CHAIRWOMAN KRUEGER: Thank you.

SENATOR O'MARA: Thank you, Your Honor.

CHAIRWOMAN KRUEGER: Thank you, Tom.

I'm passing it back to the Assembly.

CHAIRWOMAN WEINSTEIN: We go now for three minutes to Assemblywoman Rajkumar.

ASSEMBLYWOMAN RAJKUMAR: Thank you, Chairman Weinstein. Thank you to our Assembly Judiciary chair, Chuck Lavine.

And thank you, Chief Judge Marks, for your time and your testimony today and for your efforts to maintain the integrity of our justice system during the very many challenges presented by this pandemic.

I have three quick questions for you this morning, and my first question is about the discovery reform. How is the discovery reform that we enacted last year working out now in the New York State courts? I know that prosecutors must disclose their evidence earlier and that discovery is more enhanced. How are the district attorneys adjusting?

CHIEF ADMIN. JUDGE MARKS: Well -- I'm sorry.

ASSEMBLYWOMAN RAJKUMAR: Yeah, I thought -- let me just get my three questions out and then I look forward to your answers.

So I just wanted to know how it's playing out in our courts.

And my second question will be no surprise; I want to ask how the Office of Court Administration is managing layoffs generally during the pandemic.

And I know, as was mentioned here several times, OCA was forced to lay off at least 325 court employees, 92 non-judicial chamber staff, and then of course compelled those 49 judges to retire. So can you just speak in more detail about how you're managing the layoffs generally, giving us insight into your strategy and thinking as a manager as you run OCA.

And then, relatedly, given that we do not have enough court personnel, can you talk about the steps that OCA is taking to deal with the backlogs in the courts and the

overworked staff? Thank you.

CHIEF ADMIN. JUDGE MARKS: Okay. Just quickly on discovery, the Governor's executive order stayed or suspended the -- you know, the swifter timetables that were part of the discovery reform that was passed by the Legislature.

So it's premature -- I think most DA's offices are trying to comply because they -- you know, at some time the executive order will be lifted and the full extent of the legislation will take effect again. So I think a lot of the DA's offices -- it would be a good question for them, better for them than to me. But that they're complying nonetheless or, you know, gathering the information that they're going to need because the day of reckoning will come when the executive order is lifted and the reform takes full effect again.

As for layoffs, we have not had to institute layoffs. And that was the primary -- our primary goal and what led to the decision not to certificate -- recertificate

the 46 Supreme Court justices, because it was an either/or proposition. Either we saved the money from not certificating the Supreme Court justices or we laid off over 300 employees. And we made the difficult decision that it made more sense, as difficult as it was, to not certificate the judges rather than to lay off the employees.

And that was motivated by operational reasons, where we felt we could not afford to lose more employees on top of the attrition that's resulted from our strict hiring freeze. And it was also, we felt, the humane decision, given that if there were layoffs it would be disproportionately younger employees with lesser seniority who would not be eligible for pensions and would have great difficulty finding other employment, you know, in this economic situation.

So I hope that answers your questions.

ASSEMBLYWOMAN RAJKUMAR: So when you say -- I know my time is up, but when you say there's no layoffs, I mean, it was reported in the Daily News that there was 300 layoffs.

Can you clarify for me what you mean?

THE MODERATOR: Time has expired.

CHIEF ADMIN. JUDGE MARKS: Yeah -- well, it's important. There were no layoffs. We avoided -- if the 46 judges had been certificated, that would have translated into and compelled us to lay off 325 employees.

CHAIRWOMAN WEINSTEIN: Judge -- Judge, we're going to go back to the Senate now. Thank you.

CHAIRWOMAN KRUEGER: Thank you very much.

We next go to Senator Gounardes, from Brooklyn.

THE MODERATOR: I do not see him in here, Senator Krueger.

CHAIRWOMAN KRUEGER: All right, we'll circle back to him.

Senator Kevin Thomas.

Kevin, are you there? There you are.

SENATOR THOMAS: Can you hear me?

CHAIRWOMAN KRUEGER: Yes.

SENATOR THOMAS: All right, excellent, excellent, excellent.

Thank you, Chairwoman Krueger, and thank you, Judge Marks.

I just want to take this opportunity to say how disappointed I am with New York City Courts and their handling of COVID. There are several issues which I would like to address, but I will focus my time on two things.

First, the need for cleaning at the courthouses. I remember talking about this earlier on, but I specifically mention the Bronx Supreme Court. Every other day a court employee tests positive with COVID, but proper cleaning is not done in the areas where the employee worked. And there are set guidelines for worker safety, and I don't think the courts are following that.

Second, it's nearly impossible for litigants to get their court file. You know, this kind of delay is resulting in litigants not being able to fight their cases. This is a violation of due process.

I'm sure, again, this is not the first time you're hearing about these issues, and I

cannot believe this is not rectified. Are you putting pressure on supervising judges at these courts to fix these problems?

CHIEF ADMIN. JUDGE MARKS: Okay, just going to the first issue with court cleaning. And you and I have talked about this, and I've looked into it every time we've talked about it, and there's no question in my mind that there is extensive cleaning going on when -- particularly when a court employee is reported that they've tested positive for the virus, there's extensive cleaning going on. It's done by, in New York City -- the DCAS agency is, as you know -- maybe not everyone knows our courthouses are not owned by the state court system or maintained by the state court system, they're owned and maintained by local government, New York City -- and outside the city, the county governments.

And there is no question in my mind -- and we really have to get to the bottom of this. It might be helpful if we knew who -- if we had specific information where people believe that cleaning is not being done.

Because I've talked to many people about this within the Office of Court Administration, and we've talked to people within DCAS, the responsible agency in New York State government, and there is extensive cleaning going on. Not just regular cleaning -- which is elevated over the regular cleaning that's done in normal times, and that was done pre-pandemic -- but particularly when someone -- we learn that an employee or someone else has been in the building or has been in a courtroom who subsequently tests positive, there's very extensive state-of-the-art cleaning going on in those situations.

So I'm not -- I'm not disputing what you're hearing, but we -- you and I have to talk further and get specific information about where we think there have been problems. And I can promise you, you know, we will look into them. And if there are problems, we will address them.

But -- but what I'm being told by everyone involved in this is that -- what I already knew is that we have very extensive

cleaning protocols in place in all of our courthouses throughout the state.

As to your second question, if I could quickly, about getting files, we spoke about this as well, Senator Thomas. I looked into it. It is in fact a problem. It's a function mainly of limited and reduced staffing in the courthouses. But you've identified a legitimate problem, it's a problem we need to address. The ultimate answer is to do more scanning so that we have fewer or no paper records and everything is digital and online and accessible to lawyers -- and the public, for that matter. And that's something, you know, we will work on. That's not a simple thing to do across the board, but New York City Civil Court, where you've identified the problem, does not have efiling --

(Zoom interruption.)

SENATOR THOMAS: Will you mute, please.

Judge, I know we are running out of time. But in the meantime, what are

litigants supposed to do when they've filed their --

CHAIRWOMAN KRUEGER: No, sorry, you've already run out of time. So you can follow up with him in writing or afterwards, all right?

CHIEF ADMIN. JUDGE MARKS: We'll talk further.

SENATOR THOMAS: All right. Thank you, Judge.

Thank you, Chair.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Epstein, three minutes.

ASSEMBLYMAN EPSTEIN: Thank you, Chair Weinstein.

And good to see you, Judge.

Just -- I wanted to second the point about the money for legal services. I think the cuts are going to be catastrophic for millions of New Yorkers. I hope you reconsider the 10 percent cut, because Judge Lippman worked very hard to get to $100 million, and it hasn't budged since then. We

want the number to go up, not down, during a pandemic, and I hope you figure out a way to just support additional funding.

On diversity of the bench, you know, I know there's a huge issue with the lack of diversity of the bench. And I'm wondering -- you know, a report came out last year saying there's more diversity in judges that are elected than appointed. And I'm wondering about how you feel about moving towards more of an elected bench where that will allow more diversity in our judicial system.

CHIEF ADMIN. JUDGE MARKS: Institutionally, we don't have a position on that. I mean, we have great elected judges, we have great appointed judges. We really can't take a position and get -- that's a politically charged issue, an issue for the Legislature, not for the court system.

I will tell you, though, that the one --

ASSEMBLYMAN EPSTEIN: Judge, just -- it isn't really, because the court makes appointments, you make Housing Court

appointments, you make a lot of appointments that has made the bench less diverse, according to reports that we've gotten.

So we really want the court to be a partner in this, and we make sure that the bench reflects New York's population, and right now it's not doing that.

CHIEF ADMIN. JUDGE MARKS: We appoint Housing Court judges -- it's actually my appointment, based on a qualification process by a statutory advisory council. And half of our Housing Court judges are people of color.

So I don't know that there's any category of judgeships that's as diverse as our Housing Court judges, who we appoint ourselves.

Acting Supreme Court justices, which you might be thinking of, I agree, we can do a better job of diversifying the ranks of our acting Supreme Court justices. And we will make every effort to do that.

ASSEMBLYMAN EPSTEIN: Thank you, I appreciate that.

You know, I just wanted to see how --

you know, we passed making sure that ICE was no longer in the court system. I wanted to make sure there wasn't any implications for that.

I know I have less than a minute left, so just before you answer that, I want to just echo my colleagues about -- around arraignments, how important it is for in-person conversations between a lawyer and their client. I've been a lawyer for over 25 years in New York, and I can tell you that, you know, you can't really get the same thing on Zoom as you can in person. And I think especially people in criminal proceedings really need to have that face-to-face time.

And if you could also ask -- answer about the declaration form for commercial and residential tenants, what are you hearing in the court system, you know, about that. And I'll give you the time you have to answer those two quick questions.

CHIEF ADMIN. JUDGE MARKS: Okay.

With the declarations, about a half a million were sent out by our office. We have

not gotten a lot of feedback yet, how that's working. There have been -- and I can get you, I don't have it at my fingertips, but I can get you the number. And it's a fast-moving target because it increases every day, but -- the return of signed declarations. But I can get you numbers on that.

But the important news is we did get out all of them several weeks ago. The form that -- the manual form that's sent out is in English and Spanish. But I think it's six or seven most commonly spoken languages other than English. The form is accessible on our website, and that's noted in different languages on the hard copy form that we sent out.

So we're optimistic that this will work out very well. And -- but more information to come.

ASSEMBLYMAN EPSTEIN: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you. We'll go to the Senate, but before that I just want to introduce some members who have

joined us since we began: Assemblyman O'Donnell, Assemblyman Kim, Assemblyman Byrne, Assemblyman Ashby and Assemblyman Palmesano.

Now to the Senate.

CHAIRWOMAN KRUEGER: Thank you.

I was going to call on Senator John Brooks -- ah, here he is in his chair. Perfect timing. Senator John Brooks, chair of Homeland Security and Veterans, five minutes.

You need to de-mute. Unmute yourself, John.

SENATOR BROOKS: Yeah, it wasn't cooperating. Thank you, Madam Chair, I appreciate it.

Judge, we appreciate you being with us today.

I want to just move maybe to a brighter note for just a moment and ask if you would comment on the Veterans Treatment Courts, the expansion of the program, the success we're seeing, where you think that can go, and how you see or don't see the

acceptance of other neighboring counties accepting to participate in the program.

CHIEF ADMIN. JUDGE MARKS: The Veterans Courts are terrific. We've expanded them. We have 37 Veterans Treatment Courts throughout the state, and that's not enough, we need more in the remaining counties. We have an office that's dedicated within the Office of Court Administration to assisting localities with problem-solving courts, including the Veterans Courts.

And, I mean, I've never heard a word of criticism, or at least as to the concept of a Veterans Court, on either side of the aisle or anyone, any stakeholder in the justice system in this state, I've never heard anything other than positive comments and response about Veterans Courts. And we're fully committed to them.

And as I said, we're not stopping at 37. Maybe when I come back next year to testify it will be 62, or much closer to 62.

SENATOR BROOKS: That sounds good. And I agree, I think that's a great tool and

great success. And I thank you, and I yield back my time.

CHAIRWOMAN KRUEGER: Thank you very much.

Assembly.

CHAIRWOMAN WEINSTEIN: Yes, we go to Assemblyman Goodell, three minutes.

ASSEMBLYMAN GOODELL: Thank you very much, Chairman.

Chairman, can you hear me?

CHAIRWOMAN WEINSTEIN: Yes.

ASSEMBLYMAN GOODELL: Thank you very much, Chairman, and thank you very much to Judge Marks.

As you noted earlier in your testimony that Judiciary curtailed many in-person proceedings earlier this year, and of course that's creating even more backlogs. And as you acknowledged in earlier testimony, the backlog is substantial and growing. Of course one of the largest and most significant backlogs is in the Housing Court, because we haven't had any evictions now -- it looks like it will be over a year.

My question, though, is at the same time that the court system is closing down in-person proceedings and creating more backlog, virtually every private-sector business has been reopening. And the court system itself has been giving several decisions striking down regulations that keep the private sector closed.

So my question is why are the courts closing to in-person proceedings while the private sector is doing everything it can to open? And isn't the closing of the courts to in-person proceedings merely exacerbating the already horrific backlog that exists in Housing Court and some of our other courts?

CHIEF ADMIN. JUDGE MARKS: Well, with all due respect, I think the analogy to business organizations, you know, may not be a sound one.

Courts are different in many respects from most private organizations in that we have tens of thousands -- in normal times we have tens of thousands of people coming into our buildings every day. And, you know, to

suggest that we should go back to -- now, coming out of a second resurgence, that we should go back to normal in-person operations is just contrary to the advice of every public health expert we've talked to, including our own public health expert.

And, you know, we haven't -- we did very early on in the pandemic, in late March and April and part of May, shut down all in-person operations, and we were conducting business entirely virtually. And then we -- in the spring, the later spring, we started to expand in-person operations. We brought back, among other in-person operations, grand juries and criminal and civil jury trials, along with other in-person operations.

But we -- with the onset of the second resurgence, we did cut that back again. We have not suspended grand juries. Every county in the state continues to have at least one functioning grand jury. And, you know, when we're advised by the experts that it's safe to resume jury trials, we will do that. In fact, we've been talking about that

recently.

And if things go well -- and we can't predict the future with this pandemic, but if things continue to improve, we will resume jury trials, which are clearly a critical part of the justice system, both on the criminal and civil side. We can't have a fully functioning court system without jury trials. To some extent it's what drives the court system, because although as you all know a very small percentage of cases actually go to trial, the opportunity to try a case is what drives settlements and pleas and other dispositions.

So we're entirely guided by public health experts and what they're saying, what they're advising us. And hopefully we will be able to resume more in-person proceedings. We haven't suspended all of them, but hopefully we'll be able to resume more and continue that and return things as close to normal before everyone is vaccinated as best we can.

ASSEMBLYMAN GOODELL: Thank you,

Judge. I do note that I sent you some questions back in November of last year relating to the budget. I hope and trust you'll be providing me with a response to those?

CHIEF ADMIN. JUDGE MARKS: Sure. I can call you or respond in writing or both.

ASSEMBLYMAN GOODELL: Thank you very much, Judge.

CHIEF ADMIN. JUDGE MARKS: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you. We go to Assemblywoman Joyner, three minutes.

ASSEMBLYWOMAN JOYNER: Okay, thank you. Good morning, everyone.

I want to just say fantastic job by our chairs who are running all of these hearings. Thank you so much.

Good seeing you again, Judge Marks.

CHIEF ADMIN. JUDGE MARKS: Good to see you.

ASSEMBLYWOMAN JOYNER: I have a couple of questions. As you know, this pandemic has placed a strain and an unprecedented backlog on the New York State court system. And, you

know, I want to echo the concerns that my Bronx colleagues have brought up of, you know, it's concerning that OCA didn't consult with the Legislature or with the Governor's office, with key stakeholders, trial lawyers, bar associations. It's very concerning because, you know, we're all partners in this whole thing, and it would be helpful that, you know, we can all be included in the discussions to help make sure that the court system is running smoothly for all litigants.

So my first question is, did OCA conduct any study on the impact of eliminating these 46 judges from the court system and its impact on the backlog of the court system?

CHIEF ADMIN. JUDGE MARKS: No, we conducted no formal study. But the decision was based on our long and in-depth experience in administering and managing the courts.

And the judges -- by definition, the judges who were not certificated are judges who sit in the Supreme Court. And we felt that the alternative -- if the judges were

certificated, we would have to lay off employees. That would have impacted disproportionately on courts that have large numbers of self-represented litigants who of necessity have to rely on court staff -- court officers, court clerks, help desk employees -- for advice and direction on how to navigate the court system.

And we felt that -- not that this was a simple decision or an easy decision. It wasn't. Don't misunderstand me -- but that given the two bad choices, the worst choice would have been to certificate the judges and have to lay off hundreds of employees.

ASSEMBLYWOMAN JOYNER: Well, I hope that there will be a follow-up and a review of the impact of this.

And I have 30 seconds left, but you and I worked very closely on making sure we had a Legal Hand site in the Bronx. It has closed, unfortunately. It would be great to figure out how we can revamp that and revive that.

And then we've also worked on the

language access problem in the Housing Court. Are there any plans from OCA to expand this in other courts?

CHIEF ADMIN. JUDGE MARKS: The simple answer is yes. We need to do more with language access. It's a very challenging area. It can involve more resources. We don't have a lot more resources.

But the simple answer to your question is yes, language access initiatives can be expanded to other courts, and that's something we will look at.

ASSEMBLYWOMAN JOYNER: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

We're going to go -- I believe the Senate does not have any other --

CHAIRWOMAN KRUEGER: Correct.

CHAIRWOMAN WEINSTEIN: Okay, so we're going to go now to Assemblywoman Seawright, three minutes.

ASSEMBLYWOMAN SEAWRIGHT: Thank you, Chair Weinstein, and Judge Marks for your testimony today.

I just have a couple of questions.

Under Judge DiFiore's proposed simplification plan, certain courts like Family Court and Surrogate's Court would join the Supreme Court. Family Court facilities have designated areas that Supreme Courts lack, like childcare and a help desk for litigants who are unrepresented. How will OCA take this into account?

CHIEF ADMIN. JUDGE MARKS: We would take it fully into account. Under the proposal, Family Court -- we would have a consolidated Supreme Court, which would include Family Court, but we would have divisions within the Supreme Court, including a Family Law Division.

So sort of the unique layout in resources that Family Courts have now would continue. I mean, those facilities obviously would continue to be used and the design of those facilities would continue to support the way that the cases would be handled, although they would be Supreme Court cases, not Family Court cases, under our proposal.

ASSEMBLYWOMAN SEAWRIGHT: Okay, thank

you.

The pandemic has reduced the ability of OCA to host events, trainings, in-person conferences, saving money in your budget. Have you put a dollar amount on how much has been saved from all of these in-person trainings and hotel stays for your senior OCA officials now that don't travel?

CHIEF ADMIN. JUDGE MARKS: We can calculate that number. I don't have it with me at the moment, but we will get you that number.

So there's been -- we've done a lot of training, though, I just want to emphasize that. It's been online primarily for health reasons, but it's also had the benefit of saving us some money. And I will get you that number.

ASSEMBLYWOMAN SEAWRIGHT: Okay, thank you.

CHAIRWOMAN WEINSTEIN: So now we go to Assemblywoman Fahy.

ASSEMBLYWOMAN FAHY: Thank you, Judge. I know this -- a couple of questions have

been asked already, but I just want to go back to a couple of them.

One, I just want to reiterate my sharing of the concerns with the courts being closed for the access. And certainly I've seen a lot of concerns raised about that we're not processing those who are accused and -- so very concerned about, you know, what is needed with technology and what have you. But I also -- in order to keep them open and keep them full functioning as well as to address the backlog.

But my question, though, is also on the retirements. What is the plan to reduce the number of elected Civil Court judges by appointing them to the Supreme Court? And I'll get back to the retirements.

CHIEF ADMIN. JUDGE MARKS: Just -- if I understand your question, you mean what is the plan for designating lower court judges as acting Supreme Court justices who can then sit in Supreme Court and handle Supreme Court cases? Is that your question?

ASSEMBLYWOMAN FAHY: Yes, reduce --

yes, to reduce the number of elected Civil Court judges by appointing them to the Supreme Court. How do you plan to reduce that?

CHIEF ADMIN. JUDGE MARKS: And are you --

ASSEMBLYWOMAN FAHY: As well as, you know -- as well as -- I'll combine it with the next one, which is to increase the number of Court of Claims judges, the plan to increase the Court of Claims judges appointed to the Supreme Court. So however you want to broadly address that.

CHIEF ADMIN. JUDGE MARKS: Well, Court of Claims is entirely the province of the Governor. And there are Court of Claims vacancies. And, you know, those nominations and appointments are usually made at the end of the legislative session.

So I'm not aware that there's been any discussion yet about that. But there will be, you know, later in the spring, I would think.

In terms of elevating lower court

judges, Civil Court judges to Supreme Court, we have not done that yet this year. That's usually done at the beginning of every calendar year when we go through and rethink all judicial assignments throughout the state. We haven't done that this year at all. We haven't appointed new acting Supreme Court justices with judges from the lower courts. We will do that if we determine that it's needed.

But I think, as someone suggested a while before, it's kind of a zero-sum game. Because if you take judges out of the lower courts and you put them in Supreme Court, you've helped Supreme Court but you've robbed the lower court. So it's kind of an art, not a science, I would say.

But it's an option that we have, and it's a critical option that will help us attack backlogs as we go forward, particularly post-pandemic.

ASSEMBLYWOMAN FAHY: Okay. Just overall, just want to share the concerns on the retirements, especially the diversity

among the retirements.

Thank you so much, Judge, and I think I've used my time. Thank you, Chair.

CHIEF ADMIN. JUDGE MARKS: Thank you.

CHAIRWOMAN WEINSTEIN: We go now to Assemblyman Lawler.

ASSEMBLYMAN LAWLER: Thank you, chairwoman.

Judge, thank you for joining us this morning, appreciate your testimony.

I want to focus in on the Ninth Judicial District, which is where I live; Rockland County is part of that district. Currently, there are 40 judges within that judicial district -- 29 of them come from Westchester, 11 of them come from the other four counties: Rockland, Orange, Putnam and Dutchess.

So roughly 72.5 percent of the judges that are elected come from Westchester County. Westchester makes up about 47 percent of the total population of the judicial district; the other four counties make up about 53 percent.

I have put legislation in to create a new judicial district to ensure that there is adequate representation for the other counties within this judicial district. Clearly, you know -- and obviously that is in part a political problem, where these judges are being elected from. But clearly the other four counties are not getting equal representation.

I'm just curious if you have any comment as to whether or not it might make sense to create a new judicial district to ensure equal representation within those other four counties.

CHIEF ADMIN. JUDGE MARKS: Well, remember, we do have authority within a judicial district to move judges around. So there are judges who are either elected from Westchester or reside in Westchester who sit in other counties. And we sort of every year -- and throughout the year, for that matter -- look at that to make sure that the assignments are consistent with the caseloads and the backlogs within all the counties of a

judicial district.

But in terms of creating another judicial district, that's something we could look at. And happy to talk to you about that to see if that makes sense and, you know, meets the district -- wisely meets the district -- the needs and the circumstances of the district.

ASSEMBLYMAN LAWLER: I appreciate that, and I very much look forward to speaking with you about that. I think the caseload will show that the other four counties certainly are on par with Westchester, and certainly there is a need for more judges to be sitting in those other counties.

In the time I have left, I would also just ask, currently, do you know how many judges from the 9th J.D. have been assigned to the Bronx or other judicial districts outside of the 9th J.D.?

CHIEF ADMIN. JUDGE MARKS: I do not believe any have been assigned to other judicial districts. But there are some

judges who are assigned to the Bronx, that's correct.

ASSEMBLYMAN LAWLER: Okay. And the reason for that is based on caseload? Or what's -- what's the reason why they are not serving the people they were elected to serve?

CHIEF ADMIN. JUDGE MARKS: It's based entirely on caseload and the caseload needs and backlogs in the Bronx.

And the judges who have been reassigned -- and these are not permanent reassignments. They're usually temporary reassignments. It could be a year, it could be less than a year, it could be longer than a year. But they're temporary assignments, and it's strictly based on need. And it's with the cooperation and participation of the individual judges, you know, who have agreed to a temporary reassignment.

CHAIRWOMAN WEINSTEIN: Thank you.

ASSEMBLYMAN LAWLER: Okay, I'd like to follow up with you on that. Thank you.

CHIEF ADMIN. JUDGE MARKS: Sure.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to Assemblywoman Kelles.

ASSEMBLYWOMAN KELLES: Good morning, Judge Marks. It's nice to e-meet you, for starters. And thank you to both the --

CHIEF ADMIN. JUDGE MARKS: Good morning.

ASSEMBLYWOMAN KELLES: Good morning.

Thank you to both chairwomen for their endurance, if nothing else, through these meetings.

I have one question related to a comment earlier about the impact of the discovery reform on district attorney offices. I just wanted to share a bit of information. I know in one of my counties they've had to hire a third investigator and an additional paralegal. They've had to add their own dedicated wireless network due to the bandwidth they're using. And they have also had to send a lot of the labs out to private labs because of a backlog at the state labs, and those are, you know, multiple times more expensive.

So I'm curious what data you're looking at that shows that there's no real impact on costs. I certainly think that discovery reform was -- I personally think it was a great idea, but the cost impact and the lack of funding is concerning.

So I wanted to hear your response to that and if there's any data or connection or communication with the district attorneys on that point.

CHIEF ADMIN. JUDGE MARKS: Yeah, I think I said that I agreed that there -- the new legislation imposes significant new burdens on district attorneys' offices, and it may well -- they might well benefit and make a good case for additional resources.

I -- I haven't studied that particular issue myself, but I think there's no question the new law imposes significant new burdens on the DAs, and we certainly -- it's not really our issue. We're more concerned and focused on additional burdens on the court system and whether we would require more resources as a result of this new legislation

or any new legislation.

But we certainly would be sympathetic to district attorneys' pleas for additional resources to help them better comply with the new discovery law.

ASSEMBLYWOMAN KELLES: And I'm curious, in other comments on -- we had many questions before; some of the points I'm very much in support of about funding concerns for the 46 judges of course as well. And I'm curious if there's any data on -- being collected on the time to arraignments that we're seeing. Is that being tracked? And can that be shared in response to the loss of the 46 judges?

CHIEF ADMIN. JUDGE MARKS: Well, these 46 judges did not sit in the arraignment parts in the lower courts.

ASSEMBLYWOMAN KELLES: But it can create a backlog, correct?

CHIEF ADMIN. JUDGE MARKS: I -- well, I'm not so sure about that. I don't know if I agree with that in terms of the -- we have enough judges to staff the arraignment parts.

There really haven't been delays in arraignment. There's a mandate from an old Court of Appeals decision which says that people who are arrested for crimes and held in custody and brought to court for arraignment should presumptively be arraigned within 24 hours.

And we do have data on that, and we do track that regularly. And we believe that the 24-hour rule is being complied with, particularly in New York City, where compliance with that rule has been a challenging issue for the courts and the whole criminal justice system for many, many years. Arrests are down now, and the compliance for a speedy arraignment, if you will, has been good, from all the numbers that I've seen.

ASSEMBLYWOMAN KELLES: It would be wonderful --

CHAIRWOMAN WEINSTEIN: Thank you. Thank you, Judge.

We're going to move on now to Assemblyman O'Donnell.

ASSEMBLYMAN O'DONNELL: Thank you very much, Chair.

I've not been here for all of it; I was conducting a committee meeting. But I want to make sure that you are hearing us. Many of us are disturbed -- I'm outraged about your decision to not certify some of the judges who are available to be recertified. I'm disturbed because in my days when I was a mere Legal Aid lawyer, I would be accused of judge shopping if I hand-picked who could and who could not get certified.

Additionally, just before you decertified those people, you put three new Court of Claims judges in. Can you explain the rationale for creating three new judgeships when you're telling the most talented and experienced judges they can't stay on the bench?

CHIEF ADMIN. JUDGE MARKS: Well, we don't appoint Court of Claims judges. The Governor does that. So that was not our decision and never would be our decision.

In terms of the --

ASSEMBLYMAN O'DONNELL: Do you play any role in who gets those jobs, sir?

CHIEF ADMIN. JUDGE MARKS: Occasionally we're asked for information if there are judges who are under consideration, as opposed to lawyers off the street. Occasionally we're asked for information -- caseloads and information on judges who are seeking nomination and apartment appointment to the Court of Claims.

But in the end, that's the Governor's decision, not our decision.

ASSEMBLYMAN O'DONNELL: So you're suggesting to {inaudible} that you made a money decision about the careers of these extraordinary jurists and then the Governor in the next moment put three new people on the bench and you didn't know?

CHIEF ADMIN. JUDGE MARKS: Well, I think the timing of it was the reverse. I could be wrong about this, but I believe the Governor made -- I think it was four Court of Claims appointments in June, you know, when

those appointments are normally made, and the decision about whether to certificate the retired Supreme Court justices was made in late September.

ASSEMBLYMAN O'DONNELL: Well, I could hardly believe that the financial problems that you bring up didn't exist in June but did exist in September.

Having said that, I'm concerned about the courts that are open, and I'm particularly concerned about the judges who are asked to staff them. Can you assure me that all judges who are staffing in-person courtrooms in the City of New York are getting access to COVID vaccine?

CHIEF ADMIN. JUDGE MARKS: I can't assure you of that. We have urged the State Health Department to include judges among the groups of people that are eligible for the vaccine. We think it's incomprehensible that judges are not included on the eligibility list, and hopefully that happens soon. I couldn't agree with you more on that one.

ASSEMBLYMAN O'DONNELL: Well, I can

assure you it is not happening currently, and I can assure you that the other employees of the court system who stand next to the judges are in fact getting the shot, but the judges are not.

CHIEF ADMIN. JUDGE MARKS: You're absolutely correct about that.

ASSEMBLYMAN O'DONNELL: Well, what can you do about that, Judge?

CHIEF ADMIN. JUDGE MARKS: We -- we -- the executive branch determines who is eligible. We can't decide that on our own. We can interpret the guidelines, the language of the guidelines, and we have interpreted the language of the guidelines as applying to our staff. But the language of the guidelines does not apply to judges, and we've urged -- believe me, we have urged the Health Department, the Governor's office to include judges among the categories of people and groups that are eligible and will continue to urge them to do that.

CHAIRWOMAN WEINSTEIN: Thank you.

ASSEMBLYMAN O'DONNELL: Well, I would

certainly --

(Overtalk.)

CHAIRWOMAN WEINSTEIN: The time is -- we're a minute over. Thank you. Thank you, Assemblyman.

ASSEMBLYMAN BURDICK: Thank you, Madam Chair. And thank you, Your Honor, for your presentation.

I have two questions. The first comes from one of the town judges in my district, who asks about the sufficiency of funding for the local courts for dealing with COVID-19. If you could address that.

And the second question stems from my experience in local government regarding specialized courts. And for example, in Westchester County there are specialized parts in several areas, including foreclosure settlement and environmental claims. And my experience is they work well, and I'm wondering whether OCA is looking at establishing other specialized courts and, if so, what areas do you feel may be considered?

CHIEF ADMIN. JUDGE MARKS: Just going

to your first question, the town and village courts are part of the unified court system, but they're not funded by the state, they're funded by -- unlike all the other courts in the state, the county courts, the family courts, the surrogate's courts, the city courts, the Supreme Court -- the town and village courts are locally funded.

And although we do have a grant program that we've had in place for years -- there's several million dollars in the grant program. That would be continued in our proposed budget. But we -- we don't have the money in our budget to fund the town and village courts in terms of PPE and retrofitting of courthouses.

We do have this grant program that they could take advantage of, but ultimately that's something the Legislature might want to look at, because the town and village courts are an important part of the court system. They -- well over a million people go through the town and village courts -- it may be 2 million people -- year in and year

out. And we can't reopen the rest of the court system to full in-person proceedings and not do that for the town and village courts.

So it's something that the Legislature should look at in terms of supporting those courts.

As for problem-solving courts, we are fully committed to our problem-solving courts. There are hundreds of problem-solving courts throughout the State of New York. We're committed to creating more. I mean, they're all successful, they all address their own unique and specific problems. And to answer your question, we're fully committed to our existing problem-solving courts and we're committed to expanding them to additional jurisdictions.

ASSEMBLYMAN BURDICK: Thank you.

I do know that the town and village courts are supported locally, having been a supervisor of a town. And I certainly will pursue that suggestion about the Legislature looking at supplemental funding.

Thank you very much.

CHIEF ADMIN. JUDGE MARKS: Thank you.

CHAIRWOMAN WEINSTEIN: We now go to Assemblyman Byrne, three minutes.

UNIDENTIFIED SPEAKER: You're muted.

CHAIRWOMAN WEINSTEIN: Assemblyman -- yeah, please.

ASSEMBLYMAN BYRNE: Thank you. Can you hear me now? Are we good?

CHAIRWOMAN WEINSTEIN: Yes.

CHAIRWOMAN KRUEGER: Yes.

CHIEF ADMIN. JUDGE MARKS: Yes.

ASSEMBLYMAN BYRNE: Okay. Thank you, Chair. And thank you, Judge Marks.

My question is relating to the Drug Treatment Courts General Fund. My understanding is that it's from $15.8 million, and it's being decreased by nearly half a million. My question is, how does that affect the county drug treatment courts in the 9th Judicial District? Specifically, I represent Westchester and Putnam, but Putnam County's drug treatment court program has been lauded across the

state and even somewhat nationally. And I know while we met often in the Legislature, we may act in silos and say, This is my county.

It's important to note that many of the people that benefit from the Putnam County Drug Treatment Court Program do not live in Putnam County. I would suggest potentially even the majority of them may be from all over the state. Putnam and Westchester are both part of the federally designated High-Intensity Drug Trafficking Area. And in Putnam, unlike many other counties, we actually take on felonies, misdemeanors and alcohol-related offenses in the Drug Treatment Court Program, including DWIs, which I think is unique. And it's been largely credited as a success to help give these people positive pathways to recovery, even making our roads safer.

But I'm concerned about that decrease, and I'd like to just hear from you, sir, as to how those state dollars flow through the 9th Judicial District into our local county

drug treatment courts.

CHIEF ADMIN. JUDGE MARKS: Well, it's a very important court. We're fully committed to it. Its operations are continuing.

I wouldn't be overly concerned about that, that the budget shows a modest reduced funding. That may be the result of attrition, it may be a single position will continue to be vacant under our hiring freeze. And if that turns out to be a problem, if that's a critical position in that court's operations, we will move staff around to address that.

But I would not be overly concerned about that -- the impact on that court. We will make every effort to ensure that it continues to be an effective and productive court.

And if you're hearing anything to the contrary, you know, please let me know and we'll address it.

ASSEMBLYMAN BYRNE: Thank you, Judge. I just want to make sure that they get the

resources that they need, because the benefits go way beyond just the people in Putnam County, even residents from Connecticut that come by. So I think there definitely is a state obligation to support this type of program.

And in Putnam County we were blessed with a judge named James Reitz for many years, who sadly suffered a heart attack while he was serving on the bench -- the man actually got an Emmy for his promotion of the Drug Treatment Court Program. And it's now being managed by Judge Joe Spofford. They do a tremendous job, but I just want to make sure they get the resources and support they need.

Thank you, Judge.

CHIEF ADMIN. JUDGE MARKS: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to the Senate now.

CHAIRWOMAN KRUEGER: Yes, thank you.

We've been joined by Senator Palumbo and Senator Todd Kaminsky, and Senator Palumbo has some questions.

SENATOR PALUMBO: Thank you, Madam Chairwoman.

Judge Marks, good to see you again.

CHIEF ADMIN. JUDGE MARKS: Good to see you.

SENATOR PALUMBO: How are you?

And I know I had to run down to the floor for a little bit, so I'm sorry if I'm a bit repetitive, but I just have two quick questions regarding the certification.

Of those 46 judges -- I guess it was 39 Supreme and seven Appellate Division -- were any of those judges removed due to either mental or physical incapacity?

CHIEF ADMIN. JUDGE MARKS: No.

SENATOR PALUMBO: Okay. And is there any sort of a process regarding whether or not that would have been evaluated at all?

CHIEF ADMIN. JUDGE MARKS: Oh, absolutely. That's required under the provision in the Constitution.

And under our rules, for a judge to be certificated, they have to undergo an independent medical -- physical and mental

examination. We contract with physician firms who conduct those examinations, and that's a critically important part of the process.

SENATOR PALUMBO: Sure. So none of those judges failed that aspect of their recertification.

CHIEF ADMIN. JUDGE MARKS: That's correct. They might not all have completed the exam at the time that the decision was made, but I'm not aware that any judge had failed the independent medical examination.

SENATOR PALUMBO: Thank you.

And of course in light of the backlog, they were not removed due to a smaller caseload -- or I think we can all agree on that issue as well, correct?

CHIEF ADMIN. JUDGE MARKS: No, it was entirely about the extremely difficult budget situation.

SENATOR PALUMBO: It was purely financial, I would say, I guess.

CHIEF ADMIN. JUDGE MARKS: Correct.

SENATOR PALUMBO: Okay. Thank you.

And now just to move on to the evictions. There were some administrative orders, now we have legislatively allowed someone to file a document that says that they've been impacted by COVID or they're having a tough time obtaining additional or other means -- or other housing.

My question, Your Honor, is in the -- when this expires on May 1st, if there are additional administrative orders, I had some real concerns in my district where we had multi-millionaires from Manhattan living out on the East End of Long Island and refused in residential situations to relinquish their tenancy, indicating that it was because they didn't feel like going back to New York City.

So the real -- my question is, in the event that there are any further administrative orders, would you be willing to consider that it's only upon proof of COVID, of being impacted by COVID, that these folks would be able to stay and there would be a moratorium on those evictions?

CHIEF ADMIN. JUDGE MARKS: Well, we

did have several -- there were executive orders issues by the Governor, there were several administrative orders issued by the court system, signed by me. And then there's been at least two pieces of legislation that were enacted, the most recent one in late December and then the Safe Harbor Act earlier in the year.

So we -- at this point I don't anticipate there will be any further administrative orders. I mean, we're always concerned about the health and risks of large numbers of litigants and members of the public coming into the courthouses during the pandemic, and that's been an evolving -- obviously an evolving background to all of this. But at the moment there's very detailed legislation on the books, we're complying with it, and at the moment we see no need for any further administrative orders.

SENATOR PALUMBO: Terrific. Thank you, Your Honor. I appreciate your time.

CHIEF ADMIN. JUDGE MARKS: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Reilly, three minutes.

ASSEMBLYMAN REILLY: Thank you, Madam Chair. Thank you, Chief Judge Marks.

I was actually -- wanted to ask a question about Mental Health Court here in Staten Island. Currently for misdemeanor cases we can't have them referred to Mental Health Treatment Court. And I was wondering if there was -- if you could touch on that, and if there's an ability for us to open up the opportunity. We can for felony cases, but at this time I think it would be great if we could open that up for misdemeanor cases as well.

CHIEF ADMIN. JUDGE MARKS: That's an interesting question. I'm not aware of that. That on its face doesn't seem to make sense. If felony cases are being referred to Mental Health Court, why not misdemeanors?

I will have to take a look at that and I'll get back to you. But you certainly --

you raise a very interesting question.

ASSEMBLYMAN REILLY: Okay, thank you. I really appreciate that.

And I yield the rest of my time. Thank you.

CHIEF ADMIN. JUDGE MARKS: Thank you.

CHAIRWOMAN WEINSTEIN: Great, thank you. We now go to Assemblywoman McMahon.

ASSEMBLYWOMAN McMAHON: Thank you, Madam Chair.

And good morning, Judge Marks. How are you?

CHIEF ADMIN. JUDGE MARKS: Good morning.

ASSEMBLYWOMAN McMAHON: I just have a couple of questions.

Regarding the certification of the judges over age 70, did I understand your testimony correctly that the plan is to follow the normal certification process for judges who will be turning 70 this coming year?

CHIEF ADMIN. JUDGE MARKS: In judges who will be up for further recertification.

That is our hope. You know, there are too many question marks about the economy, about our budget, about our operational needs. But certainly our hope is later this year that judges will -- the judges who are up for certification or recertification will be able to be approved. But I can't predict, and I certainly can't guarantee that. There are too many variables.

ASSEMBLYWOMAN McMAHON: I understand.

And just one other question. Do you know when the last time assigned-counsel rates were adjusted in the state?

CHIEF ADMIN. JUDGE MARKS: I believe it was -- I don't know why I remember this, but I believe it was 2003 enacted by the Legislature, taking effect in 2004. I could be off a year.

ASSEMBLYWOMAN McMAHON: Has OCA had a recent examination of those fees to look at maybe the appropriateness of adjusting them again?

CHIEF ADMIN. JUDGE MARKS: Yeah, they need to be adjusted. It's been many, many

years.

We strongly advocated for raising the assigned-counsel rates, the assigned-counsel fees. The Chief Judge has been vocal on this. Obviously at the moment there are, you know, serious fiscal challenges. But there's no question, after what I believe is 16, 17 years without an increase, it's time for an increase. Very important.

ASSEMBLYWOMAN McMAHON: Thank you very much. Appreciate --

(Zoom interruption.)

CHAIRWOMAN WEINSTEIN: We now go to Assemblyman Walczyk, three minutes. Thank you.

ASSEMBLYMAN WALCZYK: Your Honor, thanks so much for the time. Wonderful to see you.

District attorneys have a staggering backlog of cases in some cases. What is the Office of Court Administration doing to ensure that speedy trial or speedy presentment aren't the reason that these cases are dismissed at the end of all of

this?

CHIEF ADMIN. JUDGE MARKS: Well, we've -- we've -- at the moment, for pre-indictment of felonies, the Governor's executive order has suspended the speedy trial statute, because that's in recognition of the difficulty of presenting a backlog of unindicted felonies to grand juries.

But what we've done is we brought back grand juries over the summer -- in July outside New York City, in August inside New York City. And since then we've continued grand juries. Every county in the state has at least one. Some of the more populous counties have more than one, particularly in New York City.

So we're trying to facilitate the easing of the backlogs by providing -- and, you know, it's very impressive that people are coming in to serve on grand juries. You know, we weren't sure if we would get people to come in and serve, and it's been kind of remarkable that basically in the very similar numbers to people in pre-pandemic times,

people are coming in and serving on grand juries. So they're doing their public service, performing their civic duty.

So we also have -- particularly in New York City, we've made an effort to designate judges to conference unindicted felony cases to try to resolve them. And actually that's -- we started doing that early in the new year, last month, and there have been thousands of cases that have been resolved without the need to present those cases to the grand jury.

So this is going to take a lot of work, but it's a top priority for us. And, you know, we'll get through it.

ASSEMBLYMAN WALCZYK: Your Honor, one more.

Your weekly address referred to electronic court systems as evolving into a, quote, unquote, better normal. I was just wondering if you could explain to the members of the various committees that are represented what you meant by that. And what health metrics are you following to return to

in-person? What can, you know, locals look to for those metrics in anticipation that they will return to some of their normal operations?

CHIEF ADMIN. JUDGE MARKS: By the way, the weekly remarks are from Chief Judge DiFiore, not from me.

But in terms of virtual proceedings, our view on virtual proceedings -- you know, we've tracked this very carefully, we've examined how it's worked. In most instances it's worked very well. But we're of the opinion that it's not the answer to all proceedings. We don't think that, for example, grand jury proceedings or civil or criminal jury trial proceedings are ideally suited for a virtual presentation.

But there are many other, particularly routine proceedings in civil courts where it's not necessary to drag people into court, that it's good for the lawyers, it's good for their clients, it's good for the court system. It will -- it's more -- it can be more efficient and it can promote public

health and safety.

So it -- we're relying heavily on virtual proceedings now, and they will have an important role post-pandemic.

ASSEMBLYMAN WALCZYK: Thanks for the time, Your Honor and Chairwoman.

CHIEF ADMIN. JUDGE MARKS: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

We now go to Assemblyman Ra for five minutes, ranker on Ways and Means.

ASSEMBLYMAN RA: Thank you, Chair.

Thank you, Judge Marks.

So I just wanted to go back to -- you know, obviously there's been plenty said by my colleagues regarding the recertification of the judges and, you know, backlogs and all of that stuff.

But just with regard to those individuals, one of the things that came up when we had a hearing back in the fall was about, you know, the implication of not just not having, you know, the judges to handle the caseload, but the judges' staff, and, you know, having those folks that are there that

help process cases, help write opinions, help do all that type of stuff.

And I know that, you know, basically by law judges that are in-office are entitled to have their staff to help them with their caseload. So I'm just wondering, what is the status with regard to that in terms of the employee head count within the agency? Are -- is there lacking of staff for judges, you know, through retirements and that? Or are they able to hire people so that they have adequate staffing in each courtroom?

CHIEF ADMIN. JUDGE MARKS: The Supreme Court justices have a -- it's in the Judiciary Law, they have a statutory entitlement to two personal appointments, a law clerk or a secretary. And in some instances they don't hire a secretary, they'll hire a junior law clerk, if you will, someone recently out of law school.

So the judges who were not certificated, the 46, had staff. We committed to finding positions for that staff. Some of those people decided to

separate from service, retire or find a job elsewhere. But those who wanted to remain in the court system we have found jobs for, mostly with new judges coming in, particularly new Supreme Court justices coming in. Although they're entitled to hire the people they want, we got extensive -- a tremendous amount of cooperation from incoming Supreme Court justices to pick up the staff of the judges who were not certificated. So in terms of those employees, they have all been placed.

But generally, our staffing levels elsewhere in the court system -- not the personal staff of judges, but court officers, court clerks, court reporters, court interpreters, back-office staff -- we're down employees. You know, I tried to address that in my opening remarks.

And, you know, we have a hard hiring freeze. We're forced to do that to meet the bottom line. You know, we haven't gotten significant increases in our budget. Over the last decade they've been, you know,

marginal increases. So staffing was down to begin with, and the last year has exacerbated that situation.

So, you know, I'm not going to suggest otherwise to you. It's a real challenge for us that we're going to have to -- we're going to have to figure out.

ASSEMBLYMAN RA: Okay. Thank you for that.

And the other question, just more globally in terms of the budget of the department. You know, there was a comment from the Budget Director, you know, that they didn't direct the agency necessarily what to do with their budget. But obviously there's a, you know, $300 million figure out there of reducing costs.

So is that -- can you clarify that? Was that coming from the administration and the Department of Budget, or is that an internal measure to come up with that number to cut the budget by?

CHIEF ADMIN. JUDGE MARKS: No, I'm glad you asked that. It's an important

question.

We -- in late April when the Governor issued and the Budget Director issued their revised financial plan for the state, how much revenue the state has and so on and so forth, in the narrative of the revised budget plan they urged and assumed that the court system would reduce its spending by 10 percent.

And then they took a second step, they deducted that amount of money, the 10 percent from our budget, they deducted that from the revised financial plan.

So, you know, given that, and given that we always try to act as a responsible partner in state government, we went ahead and proceeded to develop a plan to reduce our spending by 10 percent. And so that's what we did.

ASSEMBLYMAN RA: Thank you, Judge Marks. Thank you, Chairs.

CHIEF ADMIN. JUDGE MARKS: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to Assemblywoman Byrnes.

ASSEMBLYWOMAN BYRNES: Thank you. Thank you, Madam Chair. And thank you, Chief Administrative Judge Marks.

My question is based off of what was just indicated, sir, when you spoke with Assemblymember Ra. You indicated that every judge has the right to two personal appointees. My understanding, though, is that in -- that there is also a hiring freeze on law clerks and secretaries to judges. So my -- again, my understanding is that some judges are potentially going without secretaries, without law clerks because what would normally be their personal appointee positions are currently not fillable.

So is it accurate to say that judges do have two appointees?

CHIEF ADMIN. JUDGE MARKS: Let me be clear about this. The Supreme Court justices have a legal entitlement to two personal appointees. The other judges do not.

The practice has been, over the years, that other judges are entitled to hire one and in some cases two staff people. And, you

know, we've been able to support that in the budget for years.

This year Supreme Court justices, because there's a statutory entitlement, you know, they have been able to fill vacancies and hire their two people -- and have two people work out of their chambers.

With the other judges who do not have the statutory entitlement to -- for a personal appointment or personal appointments, we've said that every judge needs the assistance of an attorney, that a judge cannot do his or her job without the assistance of an attorney. But what we've tried to do is where judges have a vacancy, someone has left and they don't have the assistance of an attorney -- not Supreme Court justices, but the other types of judges -- we've tried to get them to hire someone from within the court system, so that it's not someone off the street, increasing our employment level with the cost that that entails.

We've tried to work with them, and

it's been very successful, and the judges deserve credit for this. They understand the fiscal situation. And I would say overwhelmingly when a non-Supreme Court justice --

ASSEMBLYWOMAN BYRNES: Sir, I apologize. Oh, my God, I've never interrupted a judge before, but I only have 30 seconds left.

I was the court attorney to an acting Supreme Court judge. Are the acting Supreme Court judges who fulfill, in multi-bench rural areas -- they can't rely on somebody else to borrow a court attorney or a law clerk from. You know, are they allowed to have the two personal appointees? Or even as acting Supreme Court judges, are they locked into whatever they're allowed to have in the hiring freeze?

Thank you, sir.

CHIEF ADMIN. JUDGE MARKS: Again, they're not legally entitled to that, but we've said as a policy matter every judge is entitled at least to the services of an

attorney, and we've -- I believe we've done that and we've felt -- there may be a rare exception to this, but we've been able to accommodate every judge in the state to ensure that they have the assistance of an attorney.

ASSEMBLYWOMAN BYRNES: Thank you, sir. My apologies for interrupting you.

CHIEF ADMIN. JUDGE MARKS: No problem at all. Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

Judge Marks, so I just have a very brief -- some very brief -- more comments, I think, than questions.

I was very concerned to hear your response to Senator Hoylman about the cuts to civil legal services, the 10 percent cut. As you know, I worked over the years with Judge Lippman to get us to that 100 million mark, which today even if things were perfect, would not be enough funding. And with increased problems due to the pandemic, I would assume we've only seen an increase in need.

So at the time you did the 10 percent cut, the Executive was withholding 20 percent from local assistance programs. Since the Executive's budget has come out, that has been reduced to just 5 percent of the local assistance budgets of -- community budgets. So I was wondering if, in light of the change in the Executive's position to just withhold 5 percent, if you would be -- rethink the 10 percent and see what can be done to restore those -- make sure that those programs get fully funded.

CHIEF ADMIN. JUDGE MARKS: I can commit to you that we will look carefully at that. It might require extending our hiring freeze longer. That's one of the options. We don't have a lot of options. But I promise you we will look at that very carefully.

CHAIRWOMAN WEINSTEIN: And the question, has any -- have any of the stimulus pandemic fundings from Washington included -- any of the federal programs included any funds for legal services to assist people in

terms of their staving off eviction or mortgage foreclosure?

CHIEF ADMIN. JUDGE MARKS: Not that I'm aware of. The funding I'm aware of is for -- are you talking about in the big -- you know, what's described as the $1.9 trillion package or the --

CHAIRWOMAN WEINSTEIN: Yes. Well, both the December -- the one passed in December and the proposed -- I mean, I -- I should know the answer to the question. I don't. But why don't we -- why don't we both examine whether there's any potential for legal services funding to assist people impacted by COVID-19.

CHIEF ADMIN. JUDGE MARKS: No, we should do that, I agree.

CHAIRWOMAN WEINSTEIN: Thank you, Judge.

Back to the Senate.

CHAIRWOMAN KRUEGER: Thank you.

Judge, I also don't have any questions today. I want to thank you for your time with us and re-emphasize my Senate

colleagues' agreement with the Assembly. We can't afford to cut legal services at this time. I'm not saying we can afford to cut anything else in our court system.

But I think you have explained fairly clearly that for the problems you're seeing you feel like you have your arms around the criminal justice side of the court system. Arraignments have continued, courts have continued, there's been actually a decrease in the number of arrests coming into the courts.

But we've also talked about at some point these moratoriums on evictions and foreclosures and debt and utilities are all going to come due. And I think it's going to be an explosion throughout the court system to try to figure out how you deal with a volume you've probably never seen before.

So I don't want to ask you how you're going to deal with that volume; I'm going to say to you, you need every tool in your arsenal probably to be increased, certainly not decreased, to try to get through that

tsunami when it happens.

So again, I will urge you, explore how you have the resources, how you have your specialized courts, have your specialized courtrooms within your specialized courts, if it's New York City, so that you're up and ready for more foreclosures when those start to happen, you're up and ready for the residential evictions which we hope won't happen, the commercial evictions, which we also hope won't happen. But we know it's all there, it's all building up.

With that, we want to thank you very much for your time and we want to excuse you -- not that anybody's done with the courts, but we're done with you here today with us. So thank you very much for your time.

And I'm going to call up our next testifier, who is Robert Tembeckjian of the New York State Commission on Judicial Conduct.

And for people who track these things, this is also under the rubric of the

Judiciary Committee, with Senator Hoylman and Assemblyman Lavine having 10 minutes, other relevant chairs and rankers having five minutes.

So, Robert, are you with us? I think you're there, but you're muted. Take your mute button -- oh, there we are.

ADMINISTRATOR TEMBECKJIAN: Gotcha, okay.

CHAIRWOMAN KRUEGER: Great. So good morning, or good afternoon, I'm not sure -- oh, still morning.

ADMINISTRATOR TEMBECKJIAN: Still morning.

CHAIRWOMAN KRUEGER: Still morning.

ADMINISTRATOR TEMBECKJIAN: Which is a rarity. But thank you very much.

I look forward to seeing many of you in person when we're allowed to do that again, and particularly the new Assembly Judiciary chair, Mr. Lavine. I look forward to working with you as I have in the past with Assemblywoman Weinstein and Assemblyman Dinowitz, your predecessors in that role.

As you know, the Commission on Judicial Conduct is the state agency created in the Constitution, independent of the court system, to investigate and, where appropriate, to discipline judges throughout the New York State Unified Court System for misconduct -- ethical misconduct as promulgated in the rules on judicial conduct.

Like all of government and society, 2020 presented some very unique challenges for us. We are a small agency, and we're able to adapt rather well to the challenges presented to us by the coronavirus pandemic. On a budget of $6 million a year, we are responsible for overseeing the ethics enforcement on nearly 3500 judges throughout the Unified Court System. And somehow, under the unique circumstances presented to us this year, we managed to shift our operations in early March from in-person to remote and almost entirely virtual.

We instituted video platforms so that we have been taking depositions and conducting hearings as well as interviews

remotely, by video. We have been communicating through email and through electronic use of faxes and the postal system and, where necessary, private carriers. And our 11 commission members, who as you know are appointed by various appointing authorities -- some by the Governor, some by the Chief Judge, and some by the leaders of the State Legislature -- have been conducting all of our business remotely.

And the result was that in 2020, we publicly disciplined 24 judges throughout New York State, which is a greater number than in any year over the past decade. And we were able to do it by essentially going into overdrive, as we adapted to the challenges of switching from in-person to video.

And although I vigorously agree with those who have presented the view that in-person proceedings, particularly our due process and deposition proceedings, are invaluable and really irreplaceable, under the unique circumstances presented to us this

year we were able to manage.

And I suspect that when we do return to whatever the new normal will be, that while we expect to return to in-office, in-person operations to a great extent, we will probably benefit from having pioneered this year the uses of technology for remote proceedings so that, where necessary, witnesses who are in remote parts of the state or even in other states, who are physically challenged, who may be suffering from some infirmity that makes it difficult for them to reach one of our offices, we'll be able to communicate with them as you and I are communicating now by video.

With all of that said, this year, rather uniquely, I am not asking for more money than the Governor's Executive Budget is proposing, which is the same dollar amount that we had last year.

As you know, we've been challenged for a number of years by the decision in the Executive Budget to keep the commission's appropriation flat. And four times in the

last 10 years the Legislature has increased our appropriation, recognizing that the work we do is essential, it is a constitutional responsibility and obligation. And to make up for the fact that our staff has decreased over the last decade from 51 full-time employees to 39 -- while our caseload has increased -- you have come through, time and again, to supplement what the Executive has recommended.

Because of the special challenges and strains and stresses on the state's finances this year because of the coronavirus pandemic, we submit a budget to you that asks for the same dollar amount as we had last year. And in discussing it with the Governor's representatives, I'm happy to say that they agreed that that would be appropriate for us -- with a commitment, to the greatest extent possible, for us not to spend all of the money that is appropriated to us.

And as some of you know because I've sought your help in between these annual

events, we sometimes disagree with the Division of Budget on how our appropriations should be spent or allocated during the year. We have sometimes taken the position that they can implement a cash ceiling on our budget, as they do with executive agencies that report to the Governor.

But because we do not report to the Governor, because we are constitutionally independent, our position has always been what the Legislature appropriates is what we spend, responsibly keeping it under the full figure to do our part, particularly in stressful times such as these.

And I'm pleased to be able to say this year, at least, that the Executive and the commission are on the same page, and I certainly hope that the Legislature would agree. Not that I would object if you somehow managed to find additional funding to provide for us this year so that we can continue the regeneration of our staff, which you supported and found the funding for in previous years.

But given the state of affairs that we all find ourselves in, we are committed to making do with, again, a flat budget and having demonstrated our adaptability in this electronic age to the benefits of IT, we think we can manage to do it.

I certainly hope to stem the tide of departing staff who we cannot replace, which typically is the way we save money over the years -- our expenses go up, our responsibilities increase as our caseload increases, and the only real place that we can find any savings is in not replacing or in deferring the replacement of staff that depart. It slows us down, but we do the best we can.

That said, I'm happy to respond to any questions that you might have, either on our performance this year, on the funding that we're requesting, or what we project for the coming year.

CHAIRWOMAN KRUEGER: Thank you. Thank you very much.

I don't see hands, but I'm just going

to double-check. Does our chair of Assembly Judiciary or Senate Judiciary have any questions?

ASSEMBLYMAN LAVINE: Yes, I do.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRWOMAN WEINSTEIN: Chuck. Mr. Lavine.

ASSEMBLYMAN LAVINE: All right, thanks.

Mr. Tembeckjian, good to see you again, and I look forward to working with you. I want you to know that I spent five years as cochair of the New York State Legislative Ethics Commission, and I also had so much fun in the five years that I served as chair of the Assembly Ethics Committee. So I have some special sense of understanding about what you do and how critically important it is.

So let me ask you a couple of questions -- not so much dealing with the budgetary issue itself, although I hear what you're saying about your budget -- but a couple more granular questions.

So there is a -- you have -- there are 11 commission members, correct?

ADMINISTRATOR TEMBECKJIAN: Yes, correct.

ASSEMBLYMAN LAVINE: Do you need a majority of those commission members to be able to institute an investigation?

ADMINISTRATOR TEMBECKJIAN: No. There are certain quorum requirements to impose discipline: We need the participation of eight and the concurrence of six, no matter how many are in the room. To authorize an investigation, we need the concurrence of a majority of those who are present for the meeting and the vote.

But I would say that unlike other entities where the staff has the opportunity to screen complaints, although we analyze and summarize all of the complaints that we receive -- and last year that was 1500, down a little bit from the previous years, but with the courts having been closed for much of the year it's obvious why that number was down a little bit.

But every commission member sees every complaint that we get, even if it's not against a judge, even if it's a non-jurisdictional against a police officer, a lawyer -- every one of our commission members see every one of the complaints that we get, and they all vote on them. They have the opportunity to hold for full discussion if they wish, but there is an opportunity for each of them to see every complaint, and they all vote on them.

So it's fair to say that in my entire tenure, which is over 40 years at this, every investigation has had at least a majority of members voting, whether or not they were all in the room at the time. Six out of the 11 have authorized everything we do.

ASSEMBLYMAN LAVINE: Very good. And how are investigations initiated? Must they come through complaints, or do you have the inherent authority or innate authority to be able to investigate on your own even about a complaint?

ADMINISTRATOR TEMBECKJIAN: The

statute under which we operate, Article 2A of the Judiciary Law, provides for both. We can investigate complaints that we receive, written complaints from anyone, or the commission has the authority in statute to initiate an investigation on its own motion.

And in fact we do that on any number of occasions during the year, based on information that comes to our attention not through a complainant but through a newspaper article, through interviews or information that we come across while we are conducting ongoing investigations.

Sometimes anonymous complaints, where the individual for whatever reason is concerned about revealing himself or herself. If there is sufficiently detailed information in an anonymous complaint, we will take that as an opportunity to initiate the investigation on our own motion.

But then again, that must be by a majority of the 11 commission members. I don't have the authority to do that on my own.

ASSEMBLYMAN LAVINE: And with respect to the non-jurisdictional complaints -- that would be, for example, complaints against law enforcement officers or complaints against lawyers --

ADMINISTRATOR TEMBECKJIAN: Yes.

ASSEMBLYMAN LAVINE: -- what does the commission do with those complaints?

ADMINISTRATOR TEMBECKJIAN: We have statutory authority to refer them to appropriate entities or authorities, but we don't refer them automatically. We will review each one of them to determine whether or not there appears to be some merit to the complaint, at which point we will give it the imprimatur of the commission and refer it.

We do not refer frivolous complaints. As you might imagine, we do get some of those every year. And rather than burden some other entity -- and create a false hope to the complainant that someone else may be acting on their frivolous complaint, we will by majority vote of the commission decide not to do that, but we in writing explain to

every complainant the reasons for our action, including to those complaints that we choose not to refer by indicating that it didn't really involve misconduct against a judge and there didn't seem to be a legitimate basis for us to refer it elsewhere, but they certainly could if they wished.

ASSEMBLYMAN LAVINE: And you mentioned you now have 39 employees, you're down from 51 not too terribly long ago. Is that 39 employees total? Does that include lawyers, investigators, plus clerical staff?

ADMINISTRATOR TEMBECKJIAN: Yes, that's everything. That's our entire -- our entire staff is 39 full-time employees, and we have two part-time staff who are retirees that we asked to -- if they could manage to give us two days a week to help us through some of the difficulties created by our staff having been reduced, essentially by 24 percent over a decade. Which is a pretty big hit.

And it's why, in previous years, I've asked the Legislature to supplement the

budget request that the Executive has put in for us.

As you know, because we're not an executive agency and because there would be a tremendous conflict for the court system to control our budget, our budget is submitted to the Legislature in the Executive Budget. But unlike, you know, the typical agency head, if I disagree with the Executive recommendation, I can come and tell you that, and my reasons for it, without fear of having no job when I get back to the office.

(Laughter.)

ASSEMBLYMAN LAVINE: Mr. Tembeckjian, it's been a pleasure speaking with you. I'm looking forward to working with you. And thank you. And please thank the members of the commission as well for working so hard to guarantee -- well I should say work toward, would be a better way to say it, the integrity of our judiciary system. Thanks so much.

ADMINISTRATOR TEMBECKJIAN: Thank you very much.

ASSEMBLYMAN LAVINE: I yield whatever time I have left.

CHAIRWOMAN KRUEGER: Thank you.

On behalf of myself and the Senate, I also want to thank you for the work of your commission. You know, I'm not an attorney, but I've been here in the Legislature now -- this is my 19th year, and it is so obvious to me that democracies cannot stand if people lose faith in their judicial system. You know, you have mistakes that happen up here with the Legislature and with local governments and with individual situations, and most of the time you figure it out without attempting coups on the U.S. Capitol. Most of the time.

But if people don't believe that they're going to get, quote, unquote, a fair shake from judges in our court system, then almost anything we try to do here, or pass laws that make sense, you know, cannot work.

So you know that I have been a fan of your office and have tried to ensure that we do get you some more funding and get the

money released for you. My question, because it's another issue that I don't think we ever get to in this state -- again, like I said, I'm not a lawyer -- I am astounded we have judges who are not lawyers. Is that a higher percentage of complaints that you see, a disproportionate number of complaints that come from courts where the actual judges have no law school training?

ADMINISTRATOR TEMBECKJIAN: Certainly the percentage of public disciplines that we have imposed over the years has been higher for the town and village courts than the full-time courts. And within the town and village courts, which are the only ones that can be presided over by a nonlawyer, the vast majority of those disciplines have involved individuals who are not lawyers.

They make up about 60 percent of the overall judiciary, but they constitute 70 percent of our disciplines overall. That's about 890 public disciplines over the last 40 years. It's not to say that there is misconduct that a nonlawyer judge can commit

that a lawyer judge can't commit, but the numbers certainly do bear out your impression, Senator Krueger, that the majority of disciplines involves the part-time town and village courts, the large majority of those comprised of individuals who are not attorneys.

CHAIRWOMAN KRUEGER: Well, thank you for confirming what I feared was the storyline.

So to be more controversial, because a lot of people in the Legislature don't -- or haven't been thrilled with the idea of a parallel type of commission for district attorneys, although we did pass one, get it into law, then it blew up in our faces with a court case. Do you think that a commission like yours can work for overseeing and ensuring the legitimacy of the decisions made by DAs around the state?

Is there a reason we should look at you as a model for them? Because if we're going to do something, apparently we have to go back to square one.

ADMINISTRATOR TEMBECKJIAN: Well, I do think that the commission is a model for ethics reform at all levels of state government. And as you and I have discussed individually, the Judicial Conduct Commission is the model for a very interesting and I think meritorious constitutional amendment for redesigning JCOPE and applying our model to the executive and legislative branches.

Whether or not individually identifying one category of public official, such as district attorneys, makes sense is -- I think it's a legislative issue, and it's as much a political question as it is an ethics question. If the Legislature were to decide that such an entity would be appropriate, as you did previously by legislation, I would recommend that the approach be via constitutional amendment, as you've already considered for the executive and the legislative branches.

There is a mechanism within the existing grievance committees which are supervised by the appellate divisions, to

discipline attorneys, including district attorneys. But having decided as a public policy matter that it was a good thing, I would recommend us as the constitutional model as opposed to the legislative model.

CHAIRWOMAN KRUEGER: Okay. That will take me another 18 years, but thank you for that.

(Laughter.)

CHAIRWOMAN KRUEGER: I have a series of constitutional amendments that unfortunately don't seem to be going anyplace too fast. But I appreciate that.

Assembly, do you have any other questions? Because we have one more Senator who does.

CHAIRWOMAN WEINSTEIN: We do not have anyone.

CHAIRWOMAN KRUEGER: All right, then I'm going to call on our Judiciary chair, Brad Hoylman, who just rejoined us from another event.

SENATOR HOYLMAN: Hi. Nice to see you again.

ADMINISTRATOR TEMBECKJIAN: Nice to see you too.

SENATOR HOYLMAN: I'm glad we were able to successfully fight for your funding that you requested, and I appreciate how it's been utilized since then.

Are there any trend lines that you see in the cases you've been handling that require any legislative action on our part?

ADMINISTRATOR TEMBECKJIAN: I don't think so. I'm happy to say that the incidence of inappropriate demeanor appeared to be diminishing, which suggests to me that judges over time have become more sensitive to even the appearance of probity while on the bench.

I also think that after 40 years of vigorous enforcement by the commission, there has been a salutary effect on the judiciary overall. We are invited now annually to make presentations to newly appointed and newly elected judges. Various judicial associations invite us to give annual presentations to their events. And I think

that overall we're seeing that there is a greater appreciation and sensitivity by the judiciary to its ethical obligations.

And I certainly wouldn't want to suggest that because we had 24 public disciplines this year that we are overseeing a judiciary run amok -- quite the contrary. Our experience is that the vast majority of complaints that we receive are not substantiated, that the judiciary is comprised, generally speaking, of individuals who are highly capable, competent, dedicated and increasingly sensitive to their ethical obligations.

So I don't think so. There is a bill that Assemblyman Steck has introduced, which he has periodically, about mandating punishment for those judges who are exceedingly tardy in deciding pending matters. But we have demonstrated -- there is a rule, an existing rule, that requires judges to dispose of the business of the courts efficiently as well as fairly, and we have disciplined judges publicly for delays

in failing to decide cases on a timely basis. And that's the only legislative issue that I'm aware of at the moment that would directly --

SENATOR HOYLMAN: Thank you.

ADMINISTRATOR TEMBECKJIAN: -- act upon us.

SENATOR HOYLMAN: Thank you.

With the additional 300,000 that we were able to secure for the commission, how many additional cases have you been able to resolve due to that funding?

ADMINISTRATOR TEMBECKJIAN: Well, our pending cases at year-end actually declined by 23 percent. We went from 231 pending two years ago to 177 now.

Part of that is because even with a diminishing staff we had fewer incoming complaints this year, so that we were able to devote our existing resources a little more effectively toward pending matters.

But there's no question that the 300,000 from two years ago really was a major boost to us. And it permitted, among other

things, for us to be positioned to have the physical resources -- the computers, the IT network and so forth -- that enabled us to adapt to an all-remote and electronic model in March once the coronavirus pandemic really hit.

SENATOR HOYLMAN: Has it resulted in additional staff? Would you say that it's improved the quality of investigations and hearings?

ADMINISTRATOR TEMBECKJIAN: We certainly -- we certainly have been able to conduct more thorough investigations. The overall impact on staff, however, has not been realized. We're still at our lowest staffing point in 15 years. We dropped from 51 to 39 full-time employees. And as I mentioned to Chairman Lavine, I was able, fortunately, to persuade two of our retirees to give us two days a week so that we can have the benefit of their experience and participation in our matters.

But we are still terribly understaffed. Had -- had our budget

maintained the standard 2 percent annual growth over the last 10, 15 years, our budget today would be 6.7 million. But it's 6 million, almost even -- 6,029,000.

SENATOR HOYLMAN: So I -- just to be clear, the additional money that we secured has gone into equipment and other types of support, not staffing.

ADMINISTRATOR TEMBECKJIAN: Yes, mandated -- mandated financial obligations that increased every year. Raises for the existing staff that we -- that we still have, the increased costs of doing business, increased rent and so forth.

That 300,000, as you recall, was intended as the first of a two-year bump to get us -- our staffing levels back up as well, but when the coronavirus hit last year we were forced to live with the flat $6 million recommendation, which we're proposing to do again this year.

But the consequences of living on the same dollar amount year after year is essentially regressive financing, because our

costs go up and in order to meet those rising costs with the same dollar amount, we have to cut something. And although we did have 41 full-time staff at the start of the last fiscal year, the two who departed for other jobs we did not replace because we just -- we just were too tight financially.

That would not have been the case if the second year of your two-year program had gone into effect. We'd have more staff now than we do.

SENATOR HOYLMAN: And will you be able to hire more staff moving forward, or are you still in a triage mode?

ADMINISTRATOR TEMBECKJIAN: No, not this year. Not with another year of flat budgeting.

It is my hope that if any one of our 39 existing full-time employees leaves, that we'll be able to replace them, but we won't really be able to tell until we see the overall effect of this flat budget for yet another year, as we progress. I'm hoping that we stay at 39. We do not anticipate

increasing unless you somehow miraculously find some extra money to give us. And as I said just before you rejoined, although we're asking out of a sense of civic responsibility and duty for the same dollar amount this year as last year, I certainly wouldn't object if you managed to find some more for us.

SENATOR HOYLMAN: Thank you.

Thank you, Madam Chair.

ADMINISTRATOR TEMBECKJIAN: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Any other Assemblymembers' light on, Helene?

CHAIRWOMAN WEINSTEIN: No, we have no members.

CHAIRWOMAN KRUEGER: All right. Then I want to thank you very much for being with us today --

ADMINISTRATOR TEMBECKJIAN: Thank you, as always.

CHAIRWOMAN KRUEGER: -- I want to dismiss you to continue to work, and I want to call up William Leahy, New York State Office of Indigent Legal Services, and remind

legislators that for this guest, Jamaal Bailey and Jeff Dinowitz are the two chairs of committees for the first opportunities to question after testimony.

Good afternoon.

DIRECTOR LEAHY: Good afternoon, Chair. How are you?

CHAIRWOMAN KRUEGER: I am fine, I am fine. How are you doing?

DIRECTOR LEAHY: I'm doing well. And thank you for the invitation and the advantageous placement.

CHAIRWOMAN KRUEGER: Well, we're just screaming through this hearing -- okay, that's a lie. It is 12:30 and you are number three of I think 31 today.

DIRECTOR LEAHY: Well, I want to speak to you, if I may, and your cochair and the chairs of the relevant committees, of course, and the other members -- essentially it's a tale of two constitutional responsibilities. And there's one tremendous success story for which we thank everyone far and wide, and then there's one of seriously

unconstitutional stature and crying out for attention.

So of course I speak of the public criminal defense reforms that go back to the Kaye Commission and the creation of my office in 2010 and the settlement of the Hurrell-Harring lawsuit and then the enactment of Executive Law 832(4) in 2017 to extend the benefits of that settlement to the entire state. That is going very, very well. And it's going well because it is supported at all levels of government and throughout the legal community. The Governor has lived up to his commitment, including in the Executive Budget that you're reviewing now. We support that request. That's the fourth year of the planned five-year journey accounted for in the state's long-range fiscal plan to put the state for the very first time in a state of constitutional compliance with respect to its Gideon obligation. And of course that's shorthand for its Sixth Amendment responsibility to provide the effective assistance of counsel.

That's going well I think because our office is functioning well. We -- even in a year in which we've had to shift from a lot of in-person meetings to a lot of remote meetings, we are continuing to work very effectively with each and every county and New York City. We have the support of a tremendous board, which supports us every step of the way. We've had support from the Governor, the Legislature, the 140 or 150 or so providers of mandated representation all throughout the state, all the counties, the State Bar, NYSAC, the Chief Defenders Association, the State Defenders Association. All of these entities are vital partners, and it's going very well.

And I'll cite you quickly to the bullets that we put in on page 3 of our written testimony and the -- we selected four of the many reports we have filed over the years. And Footnotes 2 and 3, with respect to the five counties under the lawsuit settlement, which is still extant -- we still meet every other month with the parties, the

Governor's counsel and the plaintiffs' counsel in the Hurrell-Harring lawsuit and in the statewide effort, where we are, as I say, entering Year 4 of the five years to get us to a state of constitutional compliance.

There are a few things that we need in order to sustain that progress. We are -- as is everyone -- under the state hiring freeze. We need specifically right now our two data officers that we've been waiting on since last March. We need NYSDA to be funded, because NYSDA provides the training and the computer backup, the data backup and the advice and support for lawyers. And I know that Susan Bryant will be speaking much later to you, and we support her testimony.

And we also need, with respect to the Article VII issue about the so-called virtual arraignment bill, we need no backing down from the requirement of in-person representation at arraignment, which is a core component of the Hurrell-Harring settlement and a core component of Executive Law 832(4).

Now, that's the good side of the ledger. I want to hold up for you and see if I can -- yeah, it can be seen. The Chief Judge's Commission on Parental Legal Representation Report in 2019 set out a blueprint for parental representation reform in New York. And parental representation is every bit as required under the state law and the State Constitution as criminal defense representation is. It simply has not, to date, accumulated sufficient political and fiscal support.

We are doing -- and I cite you to Appendix B at the end of our written testimony -- we're doing a lot. We have already acted on the commission's recommendation to expand the eligibility for counsel standards to Family Court. That was approved by our board in December, we're finalizing the actual document. It will probably be out within a week or so.

We are taking to our board at the April meeting, in compliance with the commission's recommendation, caseload

standards. Now, those will have to be subject to state funding, of course, because when you reduce caseloads and you provide lawyers with appropriate caseloads, it's a significant fiscal lift. And so those caseload standards, we will ask them not to be self-executing but to be contingent on available state funding.

In terms of what you ask for at a time of crisis, I guess I want to say that you can't waste a crisis. Nor can the state wait any longer to fix the unconstitutional state of affairs with respect to parental representation. We have to get started, and we have to get started now.

And of course our request, our ask, if you will, is for the $5 million in aid to localities. We spoke with you all about it last year, and it's certainly a high agency priority. It is our fundamental priority this year.

But we also ask you, outside the budget, and as the legislative session goes along, take a very serious look at the

parental commission's recommendations. It's not rocket science. Control caseloads, provide appropriate state funding, provide appropriate state guidance and infrastructure. Do exactly what we are doing on the criminal defense side. We know how to do it, we have done it, we are doing it.

And so let's get started. That's my plea on parental representation, and let's not wait any longer.

So that's my opening statement, and I'm happy and eager, in fact, to have a conversation and answer questions.

CHAIRWOMAN KRUEGER: Senator Brad Hoylman, chair of -- oh, you know what, wrong. Excuse me, Senator Hoylman.

It's actually Senator Jamaal Bailey, as the chair of Codes.

SENATOR BAILEY: Thank you, Madam Chair. And Director Leahy, Bill, good to e-see you today.

DIRECTOR LEAHY: Good to see you.

SENATOR BAILEY: As you often do with this testimony -- and your testimony

generally answers questions that I was going to ask. Right? You always do a good job of that every year.

But I guess I just wanted to double down and also share my agreement with you about the Article VII as related to the arraignments and how it would negatively affect the work that you've been trying to do as related to the Hurrell-Harring settlement. And I just wanted to give you an opportunity to expound upon that if you wanted to.

DIRECTOR LEAHY: Sure. You have my video, so you can see I'm a man of a certain age today. But way back in the day, you know, I was a public defender in the trenches in and around Boston, and I can tell you there is no more meaningful stage of a criminal proceeding than the arraignment when the public defender, who no client has ever chosen, goes into the dock, talks to a complete stranger, is a complete stranger and goes out to appear before a judge to plead for that client's release.

And so, you know, virtual appearances

in the cause of court efficiency are a wonderful thing for unnecessary, unessential appearances. They should have no application to the arraignment. The work of a public defender, the work to build the trust of the client, the work to begin the process of having confidential communication really be meaningful communication, it starts there. It can't be done remotely. It has to be done in-person, person to person. That's from personal experience. And I was very gratified, during Judge Marks' testimony, at the number of members, Assemblypeople and Senators, who spoke to that.

So -- and it's embedded in the settlement and in the law. So we'd be rolling back -- at a time when we're talking about greater protection for minority defendants and people in minority communities and poor people, to tear away the ability to have a personal connection with your lawyer at arraignment? It's unthinkable. And it -- and there's nothing wrong, you know, with extending the 25 counties to the whole state:

Just take arraignments out of it. Take arraignments out of it.

And I commend to all of you the written testimony and the future oral testimony of Susan Bryant and Laurette Mulry representing NYSDA and the Chief Defenders. They'll be up much later, and they'll be speaking to this. I read their statements, and they're excellent.

Also, we have a statement -- I think we've sent it to you already, Senator, but I'll share it with all of the members -- back on December 2nd, our notification about virtual arraignments. Because we've been hearing the drumbeat for a while: Gee, that's so convenient, it's so easy, it works so well for everybody. It doesn't work for due process, it doesn't work for effectuating the right to counsel, it cannot happen with respect to arraignments.

SENATOR BAILEY: Again -- thank you for that. And again, I echo those same sentiments.

You were speaking about, I guess, the

rates for assigned counsel. And I know that we are in a fiscal crisis like we've never seen before as result of this pandemic that we've never seen before. But I just wanted you to touch on the importance of the increase of the rates despite us not having -- you know, where we may not have the fiscal wherewithal to do it right now.

DIRECTOR LEAHY: Yeah, you know, it's interesting Judge Marks mentioned 2003-2004. The very same year, 2004, back in Massachusetts, my agency sued the state because counsel rates hadn't been raised in about 20 years. And we won a constitutional decision. I was lead counsel on the case; I've shared that with some of the people here.

And so last year we worked with the association that was seeking the increased rates, and we were pairing it -- it is one of the six recommendations of the Commission on Parental Legal Representation. And as Judge Marks said, the Chief Judge has been out front about this. Because sooner or later,

lawyers just aren't going to be coming into court at these rates because they're not going to be able to make even a minimal living on it.

So absolutely, it's -- there's a reason why it's in there as one of the six recommendations of the Commission on Parental Legal Representation, and it's something that is a component of a constitutional, as opposed to an unconstitutional system of providing mandated representation.

SENATOR BAILEY: Certainly. And I guess the final question or the statement I would have about parental representation -- and we've spoken about this at length with you as well as my former dean, Angela Burton.

I guess the question is like yes, this is the -- obviously especially in times like these when people that can ill afford to not -- who cannot afford to have inadequate representation, however inartful that sounded as I stated it -- we need to make sure that there's some sort of oversight.

And I look forward to working with you

so that we can have these -- so we can do something like along the lines of what you said. If we have statewide representation defense-wise, we should be having it on a parental level. And if you can, I guess, expound upon that as my final question and statement.

DIRECTOR LEAHY: Absolutely. And the issues, you know, are exactly identical. I made reference earlier to how the criminal justice system has its largest impact on poor and minority communities. It is certainly exactly the same reality with respect to the child welfare system.

And so it's really, you know, not simply a matter of constitutional law or noncompliance with statutory law, it's just plain socially destructive not to have effective representation in that arena where families are torn apart and decisions are made about, you know, whether the parent and the child stayed together.

So -- and so the thing it takes, and what we've learned from the criminal defense

reforms, yes, it takes a lot of money, it's true. But it takes more. It takes two more things.

It takes an expertise from a state entity, so that you don't have, like, you know, let's say a wealthy county which provides good representation and poorer counties that do not.

And the second thing it needs is the spirit of collaboration and cooperation, which I like to think has been a hallmark of our agency, and certainly should be under -- whether it would be ILS or whether it would be a new state agency. I know the commission presented both alternatives. That would be a legislative decision and a gubernatorial decision.

But we certainly have a very strong interest in parental representation, as I think our actions have shown, and we'd love the opportunity to engage in discussions, both pre-budget and post-budget, with the Legislature about how to get that fixed.

SENATOR BAILEY: Yeah, I would

certainly agree with you that we need --

DIRECTOR LEAHY: And I'm not ignoring the Executive here. I talk to the Executive all the time, and they know how we feel about that as well.

SENATOR BAILEY: Sure. And I would certainly echo the sentiments that we need some sort of uniformity in ensuring that all -- everyone, from downstate to upstate and everywhere in between, has adequate representation, especially at a critical age. Especially when we are seeing on the news the younger people are being criminalized, the younger people -- and it's important to ensure that there is representation. And not just representation, there are ways for diversion at that age.

So I will yield the rest of my time, Director Leahy. And again, as always, I thank you for your work and for your testimony.

DIRECTOR LEAHY: Thank you, Senator.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: We go to our Codes chair, Assemblyman Dinowitz.

ASSEMBLYMAN DINOWITZ: Good -- not morning, good afternoon. How are you?

DIRECTOR LEAHY: Good afternoon, Chair.

ASSEMBLYMAN DINOWITZ: So I'm glad the issue of virtual arraignments was raised. I have concerns, a number of my colleagues have concerns as well. And I think it's good that we can do some things virtually, save time, save travel, save money. But we do have a tremendous concern on that issue.

And I think as we get more and more used to doing things like we are today, it becomes easier to do other things the same way, virtually, and I'm afraid ultimately that is going to infringe upon the rights of a lot of people. So it's really a big concern, and I think we have to address it. I think we have to look at that in terms of the proposal by the Governor on virtual arraignments.

But I wanted to ask you about

immigration proceedings. There's a huge need for representation in immigration proceedings, especially when we're dealing with possible deportation. Can you describe how your office has been involved in establishing and improving representation in immigration-related proceedings for persons who are unable to afford counsel? Which I imagine is a very significant percentage of the people involved in such proceedings.

DIRECTOR LEAHY: Yes. Of course.

For starters, you know, at the moment there is not a mandated statutory or constitutional right to representation in these hearings. I know New York has done a lot to provide representation through grants administered, I think, through the Department of State.

But what our role in that is we -- we are very proud that under our office, and with the support of the Legislature, we have got the first -- we are the -- New York is the first state, I believe still the only state that has a statewide network of

regional immigration assistance centers. And what those centers do, under grants that we administer, is they ensure that every lawyer representing every client in the state -- publicly funded lawyer in the State of New York -- is providing proper advice with respect to the immigration consequences of criminal and Family Court proceedings.

We've just entered into our second three-year set of contracts. We've got six offices all around the state. They have a network, they work with one another on listservs.

And so while we don't provide or don't fund direct representation, we do fund support that makes sure that lawyers aren't inadvertently making mistakes that disserve their clients' interest with respect to immigration consequences.

If I could go back to your first reference to virtual arraignments also, Chair, there's -- because it reminded me that there is a -- there is a measure that really should be undertaken, and that is the

existing statute that provides for centralized arraignments. One of the big problems in upstate New York, as we all know, is the distance, the sheer number of courts and the distance, the physical distance between courts.

And a number of counties, under the legislation that was put into place about four or five years ago -- that OCA, with the support of the counties, with the support of my office, have been creating these centralized arraignments. And you heard Judge Marks talk about, you know, no one should wait more than 24 hours. Well, the way these courts are operating, no one waits more than 12 hours, because they have a morning session and an evening session. I think there are about 15 to 20 counties now that already have these courts up and running.

There would have been more but for the pandemic. A lot of plans got waylaid and delayed.

So that's really the way to go in

terms of the future of arraignments in the State of New York. They shouldn't be all over 12 or 1300 village courts all over, you know, on every highway and byway. They should be in these centralized arraignment settings, and they should be in person, with in-person representation. That's the ultimate solution.

ASSEMBLYMAN DINOWITZ: As a result of the pandemic, I believe there must be a huge backlog everywhere on everything. Could you just give your feeling on how we can sort of dig out from all of that and how long it might take?

DIRECTOR LEAHY: Well, we -- yes. We stayed true -- and I have to repeat my credit to the Executive and to the Governor for staying true in this budget. We stayed true to the long-term goal. Because should this funding continue to flow as it has continued to flow, we know that we will be able to assist the providers and the counties in weathering all the storms.

And you're right, there is going to be

a backflow of -- particularly in the upstate, the town or village courts. A lot of them closed down for a very long time, some of them still. Some of them reopening and then reclosing again. And the discovery. Not much attention has been paid today to the impact of the defense of the discovery. The district attorney has the responsibility to assemble the data; it's voluminous -- videos, you know, videocams and everything. But then the defense gets it and they have to analyze it all. So a tremendous additional burden, both in technology and in attorney and staff time.

And as long as we stay true to the reforms that have been already put into statute and have already been funded, consistently, year to year -- including during this pandemic -- we will stay on course and we will be able to continue to make the public defense system in New York something to be proud of instead of something to be embarrassed about, as it was for so long.

ASSEMBLYMAN DINOWITZ: Okay, thank you very much. That's all I have.

DIRECTOR LEAHY: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Any other members have --

CHAIRWOMAN WEINSTEIN: No Assembly.

CHAIRWOMAN KRUEGER: All right. Then we're going to thank Mr. Leahy for being here with us today, and we are going to move along to Patrick Murphy, New York State Division of Homeland Security and Emergency Services.

And the two lead questioners will be Senator Brooks and Assemblymember Zebrowski.

Good afternoon.

DHSES COMMISSIONER MURPHY: Good afternoon. So jump right in?

CHAIRWOMAN KRUEGER: Please. Yes, please.

DHSES COMMISSIONER MURPHY: All right. So really brief opening comments here on the front side.

But first of all, good afternoon to everyone. Thanks, Chairwoman Krueger, Chairwoman Weinstein, and the distinguished

members of the joint committee.

I'm Pat Murphy, commissioner of Homeland Security and Emergency Services. I'm proud to share what the agency has been working on and will provide an overview of the Executive Budget as it relates to this work that's been done.

The staff at the Division of Homeland Security and Emergency Services have worked tirelessly over the past year to not only fulfill our day-to-day responsibilities but also assist the state's COVID-19 response and recovery efforts.

The Executive Budget provides the resources the division needs to accomplish our mission and enhance public safety, including the addition of COVID-related operations.

The total agency appropriation in the Executive Budget is 4.97 billion, which includes a 3.4 billion increase from last year. This increase reflects additional appropriation authority to allow the division to administer federal aid to state agencies,

local and county governments and eligible non-profit organizations.

This federal aid is available as a result of the Governor's March 2020 request for the first-ever Major Disaster Declaration for a public health emergency, which was promptly granted by the federal government. This declaration allowed for the construction of alternative care facilities, including the Javits Medical Center, and provides reimbursement for many of the state's response operations, including COVID testing and vaccination sites.

The division partnered closely with the Division of Budget and continues to work with our federal partners to ensure New York receives reimbursement for all eligible activities.

Throughout the Governor's response to the pandemic, the division has helped coordinate efforts to address numerous challenges presented by the public health crisis. The state's Emergency Operation Center has been activated since last February

to support the state's response and recovery efforts. The division staff supported the state's COVID testing and mass vaccination sites, serving in leadership, safety, and logistics roles.

Additionally, division staff work with our partners in the National Guard and have undertaken the task of procuring and assembling test kits, which in turn have been distributed to state test sites, local governments and school districts. The division also works with the National Guard to oversee the logistics for the receipt, storage and distribution of personal protective equipment and other resources needed to combat the pandemic.

Furthermore, division staff assisted other agencies to perform critical response functions, including the New York State Department of Labor's unemployment insurance mission, the Department of Health's call center mission and, most recently, the vaccination hotline. I'm proud of this service and would like to note over 90

percent of the division’s staff were directly engaged in COVID missions.

The division's Office of Fire Prevention and Control was integral to the state's COVID response efforts. Office of Fire Prevention and Control staff have served at field hospitals, state testing and vaccination sites, as well as in the State Liquor Authority's safety missions and the Department of Health's pilot project for the Bills -- opening the Bills game to spectators. The Office of Fire Prevention and Control ensured the state's new efforts were not only efficient, but also safe for all involved.

While COVID has been the main focus of the division over this past year, we continued to execute our core missions, as discussed in our more thorough submitted testimony. It is not possible to cover all the great work the division has done during my testimony, but I appreciate the opportunity to appear before you today to further discuss the agency's efforts to

maintain daily operations while serving the state's COVID-19 response.

I look forward to the continued partnership with you and others, and hope to answer any questions you have. And I do appreciate being with you today.

Thank you.

CHAIRWOMAN KRUEGER: Thank you very much. And you did it in five minutes, so you get extra points from us today also. Thank you very much, Commissioner.

DHSES COMMISSIONER MURPHY: All right, thank you.

CHAIRWOMAN KRUEGER: The first questioner I believe will be Senator John Brooks. Are you here, John?

THE MODERATOR: I'm asking him to unmute.

SENATOR BROOKS: We were having some trouble getting -- the video's not on, but with the --

CHAIRWOMAN KRUEGER: Very good.

SENATOR BROOKS: Thank you, Chairman, and good afternoon, Commissioner.

DHSES COMMISSIONER MURPHY: Hi, Senator.

SENATOR BROOKS: Hope it's quiet, not much to do.

(Laughter.)

SENATOR BROOKS: I'll tell you.

I got a couple of questions. Some of the questions from a homeland security issue I'm going to save for our briefing when we do that so that we can get a little more deeper discussion.

DHSES COMMISSIONER MURPHY: Sure.

SENATOR BROOKS: Obviously this past year -- I mean, every playing field you're on, something was happening. And I think you did a great job. But I'm curious to understand how much assistance did you get or how much interference did you get from the federal government as the pandemic was beginning to take shape?

And to my understanding in the past, the management of PPE and other things has always been done more through the federal government. So the fact that suddenly you

had to secure all of this equipment -- how much assistance did you get from the federal government, how much direction did you get from the federal government?

DHSES COMMISSIONER MURPHY: Right. So I think, to begin with, FEMA and the pieces of the federal government that we've worked with -- Health & Human Services, along with CDC -- have been pretty good partners for us at our level in terms of providing additional guidance where needed, and then also some resourcing that was limited on the front side.

I think because New York was kind of at the epicenter on the beginning of the pandemic, we received additional resources that other states may not have. We pressed hard to get resources that became very limited quickly, and then transitioned fairly fast over to procuring what we could because of the intensity of the infections and the rise in infections that we had over time.

So we did not have all the resources that we really wanted on the -- in the early

days of this, back in February and March, April of last year, but quickly found ways to start to increase those supplies. But by no means were we able to provide our partners at the county level and municipality level the resources that they would have liked to have from the front.

But now we're in much better shape today.

SENATOR BROOKS: Okay, that is good to hear. And certainly as additional vaccines are -- come into play, that's an assist too. But of course we are seeing the virus move in a number of directions, so there's a lot there.

You know, as -- and last year we had a presidential campaign where there was a great deal of concern on what was happening in the internet and cyber-related issues. Can you give us your impression of where we are right now as a state, how secure are we? And did you see any activity on the internet that was directed towards our state?

DHSES COMMISSIONER MURPHY: So if --

you're asking specifically towards the election, sir? Or ransomware that is being initiated across a larger audience? Was it specifically to the election?

SENATOR BROOKS: The election and as we led up to the events in January that the Congress is meeting on now. How aware were you of activity that involved citizens of this state?

DHSES COMMISSIONER MURPHY: So to the extent of knowing individuals or others that would have caused harm or damage to our systems or to other infrastructure, not specific to the individuals.

To the more overall perspective on where we were with elections and election security, there was a full-out state effort, multiple agencies aligned with the Board of Elections and ITS, our team, our cyber team involved in that as well, monitoring systems. And from our perspective, at no time was the state in jeopardy from having a fair and full election.

The activities that followed that

later, even, in D.C., the law enforcement agencies that we work with, that we collaborate with, were very swift in action where they had known targets and took action on those.

And so I feel fairly comfortable at this point where we are with the knowledge of those who would cause us harm and the action taken.

SENATOR BROOKS: Okay, good.

I think some of that stuff when we get together, maybe we want to talk a little bit more about what you think might need to be done yet and, you know, where we stand in terms of, you know, what's coming from the homeland as opposed to overseas.

With regards to the pandemic, from three rows back, would it be fair to say that the national leadership actually was coming from New York State as this rolled out, under the direction of how this pandemic was being responded to and mitigated in terms of masks and social distancing? We were at the front end, driving that bus, as opposed to getting

direction from Washington?

DHSES COMMISSIONER MURPHY: I would say yes to your question, sir. And really in terms of -- as I talk to my counterparts around the country, having a position that's uniformly applied across areas where it's needed was a benefit to -- and an envied position by many of those that I work with in other states. Clear guidance, decisions, timely decisions are important in trying to manage the pandemic.

And I think to your point, yes, I think the state showed very well, as we look at -- in comparison to others.

SENATOR BROOKS: With the change of administration, is the communications you receive now, and the direction, better than it was before?

DHSES COMMISSIONER MURPHY: Well, I think -- you know, what I would say is that most of my communications are at the FEMA level, the FEMA administrator at the time and the current acting administrator in Region 2. For -- in my lane, I would say that our

communications were good across the board. The ability to respond to our requests I think maybe were a little more restricted at one point, but the communications were open -- the administrator, Pete Gaynor, was -- had no problem calling me and I had no problem calling him in terms of resourcing or discussing the state's needs.

SENATOR BROOKS: Okay, good.

Just one last question. I know from my background, obviously we develop a lot of plans for different events, from hurricanes to the rest. I'll assume that we had a pandemic plan in place. How dramatically did you have to change that?

DHSES COMMISSIONER MURPHY: Well, there was a plan in place. And much of that revolved around county activity and support from communities to be able to execute on the plan.

The plan was not necessarily resourced at the local level to the degree that it could have been. We know that given the magnitude of the event that we went through,

the federal government wasn't prepared to be able to support us as well, to the degree that we needed that support.

So did -- to -- did we have to deviate from the plan? Absolutely. Nobody envisioned, when we wrote that plan, that every corner of the state would be affected to the degree it is. And over a period of time, as it's rolled out, to literally a year ago when we stood up the Operations Center.

SENATOR BROOKS: Thank you. I just -- I want to congratulate you for what you and your people did. It was almost an impossible situation. And as much as people could have envisioned what a pandemic was going to do, this one was way beyond anybody's practical thinking.

So I think you've done a great job. I look forward to meeting with you next month on some of the other issues. But I just want to say thank you very much. And I got done early this time, so I yield my seven seconds back. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

DHSES COMMISSIONER MURPHY: Thank you, Senator Brooks. Thanks for your partnership all the time.

CHAIRWOMAN KRUEGER: Thank you.

Assemblymember?

CHAIRWOMAN WEINSTEIN: Yes. Assemblyman Zebrowski is debating a bill, so we'll go to Assemblyman Byrne first, three minutes. Thank you.

ASSEMBLYMAN BYRNE: Mr. Commissioner, I've just got to --

DHSES COMMISSIONER MURPHY: Hello, sir.

ASSEMBLYMAN BYRNE: I am dealing with two different laptops, for session and for this budget hearing.

So thank you, appreciate your time and your testimony.

I really have just one specific question. A couple of years ago, actually, my Senator that represents portions of Putnam and Westchester and I wrote to the Governor's office about the Securing Communities Against Hate Crimes Grant Program. We were

advocating that it could be expanded. It was particularly for houses of worship, in light of what we've seen across the country and the globe, but also right here in New York to some extent.

And I was encouraged that -- I think it was last year or the year prior, there was an expansion not only with increased funding, but it also added eligibility for nonprofit community centers.

And I was just looking for some clarification as to would that include houses of worship. And is that something that the state and the agency are looking to make sure is a part of that program?

DHSES COMMISSIONER MURPHY: So the answer is -- the easy answer to your question is so that the aperture has opened up so that there are other applicants that can apply for those grants.

With that open aperture, there were literally, in the last round of applications, over double the number that applied. We were over 350 applications that we continue to

sort through and look at the needs. And so it's -- we adhere to whatever the legislation is that provides that funding, and we continue to move out on it.

So I think your advocacy has expanded that eligible pool, and I think we're in a good place right now.

ASSEMBLYMAN BYRNE: Thank you. I bring that up because I know there's been --in the past I've had many conversations with some of the local temples in my district, mainly in Putnam County. And Westchester and New York City are able to access some federal funds and support, but Putnam was ineligible because the proximity to the urban community wasn't close enough.

However, some of the information that was missed in the federal program was many of the members of their congregation were from Westchester, they just happened to be located in Putnam.

So the state program offered them an alternative mechanism to try to get support and funding for things like cameras when

there's been a rise of, you know, antisemitic graffiti or there's accusations. So I wanted to make sure that houses of worship were included and continue to be viewed.

So thank you, Mr. Commissioner. I appreciate your time and your testimony this afternoon.

DHSES COMMISSIONER MURPHY: Thank you, sir.

CHAIRWOMAN WEINSTEIN: Thank you.

Back to the Senate.

CHAIRWOMAN KRUEGER: Thank you.

Our next questioner will be Senator Todd Kaminsky.

SENATOR KAMINSKY: Thank you so much. Good afternoon, Commissioner. Thank you, Senator Krueger.

DHSES COMMISSIONER MURPHY: (Inaudible.)

SENATOR KAMINSKY: Commissioner, with respect to cybersecurity and preventing problems, so far in my district alone I've had a Rockville Centre School District being taken ransom, where payment had to be made

for data recovery, and then the City of Long Beach just had a hacking incident where, thank God, there was no ransom, but their systems were taken down for over a week. You couldn't even call into City Hall.

And my question is, is New York going to have some overall, over-arcing vision as to how to deal with cybersecurity on a local level? Is there some audit being done of our local municipalities or villages or schools? Are there tools to give them resources to help them beef up?

You know, normally when the state wants to undertake an initiative, let's say making its electric fleet -- its buses become electric, it will put money up for studies, it will award you incentives if you do well. Is there an over-arcing program to help our local institutions, especially those that are in control of large amounts of money, protected from cyber hacking?

DHSES COMMISSIONER MURPHY: So currently we have a number of things that we're doing with the area, whether it be in

school districts or in communities or even those that touch the state network, to be able to secure our own -- our infrastructure.

With those things come a number of opportunities. We do assessments. With the limited staff that we have, we're not able to get to 3,000 different districts, but we are able to work with those that have needs. We do education. In your district, I believe -- and through some of your advocacy we've reached out to a number of organizations and provided assistance in the way of best practices, how to go about securing the network using other partners, that type of thing.

So that assistance and advice have been the keys to the work that we've done. We have started to move towards and used some federal dollars as well to be able to do some cyber grants as we move forward. In the school districts, we still rely heavily on State Education to manage that piece of it. But when it comes to the local municipalities, even nonprofits that you

would work with that, if requested, we would be able to reach out to them and support them as well.

SENATOR KAMINSKY: All right, thanks, Commissioner. Let me just get one question in before I go. And I'd love to continue to work with you to beef that up.

But on the Securing Communities Against Hate, hoping you could expand it for cyber as well. We had a private religious institution hacked, awful antisemitic stuff on there. They would love to take some of that funding and, instead of putting physical gates or cameras in some cases, be able to put in some cyber solutions as well, but right now that's ineligible.

DHSES COMMISSIONER MURPHY: Yeah. And so just a quick answer to your question, sir, would be as -- whatever the legislation is that guides those hate crime grants, we will follow that. And if it designates monies for cyber, then we would be more than happy to work with those institutions to do that.

SENATOR KAMINSKY: All right, I will

get to working on that.

Thank you, Senator Krueger.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Yes, we go to Assemblyman Walczyk, three minutes.

ASSEMBLYMAN WALCZYK: Commissioner, thanks so much for taking the time.

DHSES COMMISSIONER MURPHY: (Inaudible.)

ASSEMBLYMAN WALCZYK: Wonderful to see you once again.

DHSES COMMISSIONER MURPHY: Yes, sir.

ASSEMBLYMAN WALCZYK: Obviously a lot of the questions in this hearing for you so far today have been fixed on the pandemic, and I feel like our executive branch's nose sometimes is just fixed solely on the COVID-19 pandemic. You said 90 percent of your staff has been fully dedicated to this.

That's a little bit of a concern to me. I know that that's a huge focus right now and a public health concern moving forward, but there's other things going on as

well. So I'm just going to -- this question is big, very important to me, should be important to everyone globally and also especially to everyone in this -- in these two legislative bodies.

Back in 2013 there was a train derailment in Quebec. That resulted in an executive order by this Governor in 2014 that directed your department to prepare for train derailments, work with locals on emergency preparedness, and get ready for what we knew was going to be more oil carried by rail freight coming out of, you know, the upper United States and especially out of Canada.

Now that we see the XL Pipeline has been cancelled by the federal government, we anticipate that more oil once again will be pushed onto freight rail, onto ships that go through the St. Lawrence Seaway and other areas, and possibly even -- hearing from some Canadians -- onto trucks.

So I was just wondering if you -- does this budget provide for any additional funds for you to be able to deal with that possible

future disaster, and can you talk a little bit about what your department is doing and will do to get prepared for that?

DHSES COMMISSIONER MURPHY: So I think the first thing is, you know, in our responsibilities as it relates to hazardous -- {Zoom interruption} -- hazardous material handling and response to, we continue to work with our partners with the Office of Fire Prevention and Control and Emergency Management staff to best address the needs of the local governments, the counties where these trains and hazardous material would be shipped through.

And so we put in place things like firefighting equipment that would be used in a hazardous material handling situation. We've continued to do training -- not as much in-person right now because of the pandemic, but we'll get back to it -- to address that.

But the specifics of our involvement beyond that, other than in consultation with the communities and those that are making decisions is pretty much limited to that at

this point.

ASSEMBLYMAN WALCZYK: Commissioner, are there adequate resources for your department in this budget to be able to handle an oil spill on the St. Lawrence River, for example?

DHSES COMMISSIONER MURPHY: Okay, so the oil spill itself, where we would respond -- we are not responsible for the oil spill piece of that. That would be Environmental Conservation and the other partners that would actually respond to the spill itself.

So we will organize agencies to be able to apply to it. That is our mission. But I would defer to those that actually have responsibility.

ASSEMBLYMAN WALCZYK: Thanks, Commissioner.

DHSES COMMISSIONER MURPHY: Thank you, sir.

CHAIRWOMAN WEINSTEIN: Thank you.

To the Senate.

CHAIRWOMAN KRUEGER: Thank you.

Next, Senator Diane Savino.

SENATOR SAVINO: Thank you, Senator Krueger.

Commissioner, it's good to see you again.

DHSES COMMISSIONER MURPHY: Thank you.

SENATOR SAVINO: I want to go back to the thread that Senator Kaminsky started, but actually broaden it out a little.

You know, as you know, under your portfolio -- in your portfolio is the issue of cybersecurity. And quite honestly, I don't think that you have enough authority across the state. We have seen because so much of cybersecurity issues are dealt with at the local level by local governments, we're seeing breaches everywhere.

Just last week the Albany County District Attorney announced that many of the cases that are pending before him may have to be dismissed because of a hack in the Albany County DA's office. That threatens criminal justice investigations.

Yesterday the New York Times reported an incredibly dangerous situation in Florida

where hackers were able to access a water treatment plant and potentially poison the water down there.

So we're seeing all of these things happening in other states, in our counties, in our school districts, in our healthcare centers, and one of the big threads along there is we allow localities -- towns and villages -- to deal with the purchase of software and handle their own cybersecurity purchases on their own.

I think, and you and I have had this conversation, this is the opposite way to go, particularly in this time. So I would say that we need to now open up this conversation about right-sizing the way this state addresses issues of cybersecurity and technology purchases and not allow localities to handle this, but to allow it to be driven from the state down, because the risks are far too high.

Would you agree with that?

DHSES COMMISSIONER MURPHY: So one of the things that we've talked about -- and

thanks for continuing the conversation, I know you're passionate about this -- is that to be able to -- in contracts, for example, to be able to dictate in a contract that would be worked either through Office of General Services or some other mechanism that required some level of cybersecurity or the awareness or implementation of those kinds of efforts, would be something that we would advocate for, to be able to do it at a more broad level.

I think providing guidance, as we have for other things that is more directive in nature, is okay, but I will leave that up to the legislators --

SENATOR SAVINO: Not to interrupt you, but guidance doesn't seem to be working, because I think the problem is the localities are forced to make decisions based upon financial reasons, as opposed to the best practices.

And I think it's time for the Legislature to kind of get involved in this and -- because the risks are far too high.

Whether it's ransomware attacks on school districts, whether it's, you know, invading the district attorney's office and threatening the people's justice, or potentially poisoning our water supply -- or our election systems -- we can no longer stand by and allow towns and villages to purchase equipment at the lowest responsible bidder because that's what the law requires them to do, potentially creating all sorts of risks to the population.

So thank you for the work you're doing, and I look forward to working with you in the future on this.

DHSES COMMISSIONER MURPHY: Thanks for your partnership, Senator.

SENATOR SAVINO: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Reilly.

ASSEMBLYMAN REILLY: Thank you, Madam Chair.

Good afternoon, Commissioner.

DHSES COMMISSIONER MURPHY: Hello, sir.

ASSEMBLYMAN REILLY: {Inaudible.} Great to see you again.

I have a couple of questions, too time-consuming for me.

In the Executive proposal there's a decrease of $600,000 to the Red Cross for their response preparedness. Do -- is -- do you think that will have a negative impact on being able to get volunteers for our blood supply? Because just recently I know that there was a push, especially in downstate, if you could touch on that.

DHSES COMMISSIONER MURPHY: Sure.

And so, you know, at our agency we just had the Red Cross in drawing blood here about two weeks ago. And I was able to provide a donation myself.

So -- but to get to the point about the money to begin with, the Executive Budget this year is exactly the same as it was last year, and the add-on dollars that you see that look different were the add-on dollars

from the Legislature to increase that number. And so the Executive Budget itself, in the going-in position, is exactly what it was a year ago.

To your point about will it affect the Red Cross's ability to draw blood, get critical services, Red Cross does a great job. And they are our absolute partners. We keep a liaison in our Operations Center with us routinely because of their partnership. And I think it's the best thing for New York to have a strong Red Cross in our camp.

ASSEMBLYMAN REILLY: Okay. The second question I had is in relation to the Interoperable Communications Program. Can you tell me what that money is going to fund? If you can just give us just a brief overview, and maybe just one specific program that you might know of.

DHSES COMMISSIONER MURPHY: So it really works with a couple of different areas.

First of all, upgrades to radios and communication networks. Our goal is to more

regionalize that effort so that we have interoperability across regions of the state. I think we've made great strides in the activity up to this point.

But it could be radio upgrades, it could be system upgrades, it can be towers that are needed in certain areas depending on how that county or region has applied for those grants. But those are the big things right now.

ASSEMBLYMAN REILLY: Commissioner, I've only got 10 seconds left, but I just wanted to ask, is there any exclusions in regards to applying for the grant, in the population, that would prohibit maybe New York City from obtaining those grant funds?

DHSES COMMISSIONER MURPHY: So we focus on -- we focus on those that have the least amount of funding to begin with, or the more challenged funding areas. And that's why we see primarily those grant dollars going up in Central New York or up in St. Lawrence Country, in those areas.

But it's not specifically excluding anybody, it's really based on the resources available. Yes, sir.

ASSEMBLYMAN REILLY: Thank you. Thank you, Madam Chairs.

CHAIRWOMAN KRUEGER: Thank you.

Okay, I have a couple of brief questions for you, Commissioner.

DHSES COMMISSIONER MURPHY: Yes, ma'am.

CHAIRWOMAN KRUEGER: Thank you.

So it was asked before, but I'm a little confused. So the Governor put another $4 billion of federal money into homeland security. That's from the December money from the federal government, is that correct, or is that from earlier money?

DHSES COMMISSIONER MURPHY: No, so -- so what I was trying to represent, and maybe I just didn't state it very well, was that we now have the appropriations authority so that as we receive the federal dollars for the -- for reimbursement for funding to the localities to be able to execute under this

pandemic -- so we have that expanded authority to receive and distribute those dollars, is really where we're at with that.

CHAIRWOMAN KRUEGER: So when the Governor makes his speeches and talks about $6 billion from the feds would be the worst, $15 billion from the feds would be the best, he means then $4 billion of it will be sitting in your department if he gets it.

DHSES COMMISSIONER MURPHY: So I can't -- I don't -- I'm not familiar enough with the request from the Governor. I know the numbers, because I've heard them. But really what we're looking at is are those projects that the municipalities or the jurisdictions will apply for those grant dollars, the federal government will come in and reimburse for those activities. It could be -- you know, if it's vaccines, for example, and it's 100 percent reimbursable for those expenses associated with the vaccine, well, that money would be pulled into that account and then redistributed. And that's what that authority is.

CHAIRWOMAN KRUEGER: So you do have a master list of what kinds of things this money could be spent on?

DHSES COMMISSIONER MURPHY: So whatever the eligible criteria is for those as -- is right. I'm -- if I understand your question right, we think that that number gives us the latitude to work within the disasters that we currently have for New York.

CHAIRWOMAN KRUEGER: I think my confusion is we in the Legislature tend to think of Aid to Localities as a category of budget spending that actually isn't related to emergencies. It's how we pay for all kinds of things in our counties and towns and cities. So it's a little confusing to see $4 billion of what we think of as oh, yeah, we do owe our Aid to Localities a lot of money.

But that's not what this would be about. This is --

DHSES COMMISSIONER MURPHY: No.

CHAIRWOMAN KRUEGER: -- new categories that fit into approved federal activities.

DHSES COMMISSIONER MURPHY: Correct. So it's -- it's monies that would be associated with the pandemic. Or it could be associated with the Halloween flooding in Herkimer County where we had that disaster that was declared. Or Isaias, where we had the strong winds and we had another federally declared disaster. As part of that, those funding -- that funding stream would come in so that it would be redistributed.

CHAIRWOMAN KRUEGER: Okay. All right, I'm going to go further into it, but not with you today. Thank you very much.

My second question, I believe the new head of the Defense Department at the Pentagon announced his concern that there were active-duty military personnel and others in law enforcement who participated in the January 6th situation at the federal level.

And I am wondering whether we in New York State are doing anything -- he talked about a new system of training, educating and sorting through whether we do

have white supremacists or home-grown terrorists in our own systems of security. And I'm wondering whether you are looking at that and thinking through do we need to do something parallel here in New York State.

DHSES COMMISSIONER MURPHY: So we continue to look at -- whether they wear a uniform or not -- working with our law enforcement partners and the counterterrorism zones as well as the New York Intel Center, and identifying those that would surface as either a white supremacist or nefarious actors in some way. Again, whether they wear a uniform or not.

I'm not able to speak to the -- what General Shields would be working on with the National Guard; at this point I'm two years removed from that. If they've got a program that's coming through the Department of Defense to do screening or other assessments, I'm just not able to speak to that at this point.

But from our perspective, from Homeland Security's perspective, law

enforcement partners continue to look at those that would cause us harm.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: We go to our chair of Gov Ops, Assemblyman Zebrowski.

ASSEMBLYMAN ZEBROWSKI: Thanks, Chair Weinstein.

And good afternoon, commissioner, great to see you. Thanks for being with us today. And like my colleagues, let me thank you and all the men and women who work under you for all the work and how, you know, during this difficult time you've found ways to help out in a variety of ways, you know, looking at and listening to your testimony today.

I know Senator Brooks I think touched on it earlier, but I just sort of wanted to ask -- piggyback on his comments and ask you a little bit directly too. So certainly, as he sort of mentioned, you know, over the past year, January 6th, it certainly seems a lot of New Yorkers think extremism, domestic

terrorism is on the rise.

And I know that -- and I'm not asking you to sort of comment publicly on things that are sensitive. But what can you say publicly to New Yorkers about these threats, about your analysis of these threats, about the rise of the threats and where we are now, about our ability to proactively prevent possible incidents of violence in the future?

And then specifically, because this is a budget hearing, you know, tie it towards our resources, both this year and in future years. Do we have enough resources for you to be proactively doing what needs to be done to protect all the various corners of New York State?

DHSES COMMISSIONER MURPHY: What I would say is that those that have direct responsibility for gathering information, those that are authorized to gather information on citizens and continue to do analysis, we routinely partner with those folks. The New York State Police and the Intel Center have collaborated with the other

agencies throughout the state to be able to track certain individuals that would otherwise want to cause us harm.

And without going into specifics of how that's done or who it is, I think that the citizenry of New York should be fairly comfortable that we have a system in place to be able to take a look at this and to act on those people that would otherwise cause us harm, again.

So from that perspective, I think, you know, we are -- we're in a good place. Could we use more resources over time to better identify people and track them or groups of people that would cause us harm or cause citizens harm? Absolutely. I mean, it goes anywhere from something as basic as license plate readers that have yielded some incredible intelligence for us that would help prevent something from happening, to something as simple as the "See Something, Say Something" Program and the tip lines that we have that are relatively inexpensive but, if the population has confidence in us that

we will act on those things -- which we do, which our law enforcement partners do -- again, I think those in New York should feel comfortable that there's a constant unwavering eye looking for those that would harm us.

ASSEMBLYMAN ZEBROWSKI: Thank you, Commissioner. And I know that to be true, and I appreciate, over the years, you and your team's collaboration with the Assembly and with the Senate.

And I would just end with saying that as, you know, we're certainly in troubling times and I know we have a joint commitment to protect all the people of New York State. And, you know, I just want to express our commitment, you know, for myself but I think for most if not all of my colleagues, that we'll work together and are willing to work together to sort of identify those resource needs over the course of the year -- not just during these budget hearings like today -- but so that we're looking outward several years and proactively to address all the

safety concerns of New Yorkers. And really, thank you for all that you've done and your team has done.

DHSES COMMISSIONER MURPHY: Thank you, sir.

CHAIRWOMAN WEINSTEIN: Thank you.

Senate, do you have anybody else? We still have people.

CHAIRWOMAN KRUEGER: No, I don't believe we do.

THE MODERATOR: Senator Brooks has his hand up.

CHAIRWOMAN KRUEGER: Oh. No, but he took it down for me, actually. He just didn't know he took it down.

(Laughter.)

CHAIRWOMAN WEINSTEIN: Assemblyman Lavine for five minutes.

ASSEMBLYMAN LAVINE: Thank you so much. And thank you, Commissioner.

Scott Beigel is a New Yorker, and he was a teacher at the Marjorie Stoneman Douglas High School in Parkland, Florida, when he was murdered almost three years ago

protecting his students, and he did protect his students.

The Senate today is scheduled to vote on the Scott J. Beigel Unfinished Receiver Act, which would make it unlawful for anyone not a licensed gun dealer to possess the component parts to do-it-yourself homemade weapons, which are easily purchasable online. And the FBI has reported that between 2010 and 2020 there's been a proliferation of the manufacture, the home manufacture of these weapons. And as of 2020, there had been over 2500 arrests, federal arrests for their possession.

In recent months some of the militant rightist movements have had their members arrested for committing crimes and possession of these homemade weapons. They don't want the government knowing what kind of weapons they have got. After all, the government is the enemy, unfortunately. But this is the world that we live in.

Can you tell me, has the Division of Homeland Security begun to yet focus on the

threat posed by the homemade do-it-yourself manufacture of these sophisticated tactical weapons?

DHSES COMMISSIONER MURPHY: So there's really two things that the division does that I think fall into the category of taking a look at this type of thing.

There's really -- the first one is probably the most direct, and that is with our Red-Teaming, where we would go out to a business establishment that may have component parts, not only for building a weapon but also for potentially bomb-making material. And then we work with the "See Something, Say Something" Program to get additional eyes or sensors, if you will, in the community to be able to do that.

So we go out and do a series of educational opportunities in a particular area, in conjunction with the counterterrorism zone, local law enforcement. If that component parts and pieces would be part of a business there, we will go in then later and then sample that organization to

see if they're tracking who sells it, if somebody buys those parts and pieces that there's an unknown reason why they would buy them and it would otherwise be used for something else.

So through the Red-Teaming, I think we touch it. What we also do is through our infrastructure vulnerability, we take a look at some of that infrastructure that potentially could be at risk.

But I would tell you that in more specific terms, it would be our law enforcement partners -- really State Police in this case, or others -- that would be looking into something more in-depth, like a mail order or somebody giving us an indication that they would be -- somebody that they know would be purchasing items that they would have something nefarious in mind with those.

So I think not directly touching on what you're asking, sir, but that is our involvement in it.

ASSEMBLYMAN LAVINE: Thank you,

Commissioner. Thank you for all you and your division does. And thank you for addressing this burgeoning and imminent threat to the safety of our citizens.

Take good care. Thank you.

DHSES COMMISSIONER MURPHY: Thank you, sir.

CHAIRWOMAN WEINSTEIN: Thank you.

So now we go to our final Assembly questioner, Assemblymember Lawler.

ASSEMBLYMAN LAWLER: Thank you, Chairwoman.

Commissioner, thanks for joining us this morning. I apologize for -- I've been going between screens for session and the budget hearing. So if I ask a question that you already answered, if you can indulge me, I'd appreciate it.

With respect to the FEMA reimbursements, what expenditures by local governments are considered eligible for this reimbursement? And does this include FEMA funding or CARES Act funding or both?

DHSES COMMISSIONER MURPHY: So I think

the answer is both, in terms of what is eligible for purchasing.

Our agency is not managing the CARES Act dollars. What we will do is work with municipalities as to what those eligible costs are. Some of them are still being defined right now -- in other words, cleaning, for example, or sanitizing, as well as some of the PPE that was purchased over time. Because we had a period of eligibility, then a period of ineligibility, and now we're back to something that looks more like 100 percent reimbursement. So we are currently working with FEMA to best identify what those eligible costs are.

But in the end, sanitation, as it relates to infection, personal protective equipment of a variety of types. Some of it may be durable medical supplies in the end that would be reimbursed. And then right now, as of I think it's the 21st of January, a hundred percent on vaccination costs. In other words, resources used by the county or the municipality to administer vaccines,

pretty much all of those costs to be able to bring people into a particular site, to be able to provide them the vaccine, to provide them the medical supplies that support the administration of the vaccines, those types of things.

Did I get to your question there, sir? It's fairly broad to answer.

ASSEMBLYMAN LAWLER: Yup. I appreciate it.

Shifting gears completely away from that, my last question is about obviously some of the violence and extremism that we've witnessed in our country both, you know, last summer with some of the riots, and certainly on January 6th down at the Capitol.

When you're looking into some of this, are you looking to see if there are organizations or entities that are paying people to go to protest, paying people to be part of this violence in any way and helping kind of organize? Because in some of these cases it certainly seems very organized. And I'm just curious if that's something you've

looked into as part of ensuring the public safety here.

DHSES COMMISSIONER MURPHY: Okay. So our agency specifically does not look into that.

But I can tell you from being part of the community of interest in this case -- again, I would refer back to the State Police, our federal partners that sit in the New York Intel Center, they do analysis on the flow of money that comes in support of a number of activities. So that is a component of the activity that goes on.

And I can assure you that behind a closed door we could probably talk a little bit more about those activities as they relate to that.

ASSEMBLYMAN LAWLER: I appreciate that. And I know my time is up. I would just say the -- I think that's something we need to look at and go after those that are paying people to actually go agitate and organize in that manner.

So thank you.

DHSES COMMISSIONER MURPHY: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRWOMAN WEINSTEIN: So, Senator Krueger, we are finished on the Assembly side.

CHAIRWOMAN KRUEGER: And we are finished on the Senate side.

So, Commissioner, I want to thank you very much for being here with us today. And continue with your good work on our behalf, even though we often don't know all the things you are doing with your division.

Our next up, the New York State Office of Information Technology Services, Angelo "Tony" Riddick, interim CIO and director.

Are you with us?

THE MODERATOR: He was.

CHAIRWOMAN KRUEGER: Hello. Does anyone on staff know whether --

(Overtalk.)

THE MODERATOR: Yeah, he was just here. We will --

CHAIRWOMAN KRUEGER: Okay. We've lost him; we will find him.

And for those of you tracking the day, we've completed four of our eight government representatives, just to give you a flavor for the length of this hearing.

SENATOR RIVERA: By the way, it's more than a little ironic that it is the chief information officer that had technical issues. Just sayin'.

(Laughter.)

INTERIM CIO RIDDICK: You know, that happens all the time.

Good afternoon. Can you hear me?

CHAIRWOMAN KRUEGER: Yes, we can hear you. Hi, how are you?

INTERIM CIO RIDDICK: I'm fine, thank you. I just looked at my team and said, that had to happen right at the nick of time. So my apologies.

CHAIRWOMAN KRUEGER: That's okay. Everybody has a little bit of technology problems, it's true, it's true.

INTERIM CIO RIDDICK: Especially the chief information officer.

Thank you, Chairs Krueger and

Weinstein and distinguished members of --

CHAIRWOMAN KRUEGER: Wait, wait, wait. One second. Somebody's not on mute. Please put yourself on mute. We don't want to hear your phone conversations. Thank you.

Okay, please keep going.

INTERIM CIO RIDDICK: Thank you, Chairs Krueger and Weinstein, and distinguished members of the Senate and Assembly, for your leadership, experience and service to New York. My name is Angelo Riddick, and I am grateful to be joining you to discuss the work and mission of the State's Office of Information Technology Services.

Before starting as the State CIO in December, I was blessed to have a 30-year military career, much of it specializing in information technology. Most recently I served as the CIO of the United States Virgin Islands.

Let me start by first saying thank you to Governor Cuomo for the opportunity.

Over much of the last year, the agency

I now lead has been at the forefront of the state's COVID response. We helped tens of thousands of state employees in their transition from office to remote work with laptops, phones, video conferencing tools, and secure access to the state's network. This work allowed our client agencies to continue meeting the needs of New Yorkers during the global pandemic.

We rapidly built and deployed new applications like the Facility Entry Screening app, which has allowed state employees to begin safely returning to their offices. Eighty state entities now use this tool to protect their most precious resource -- our people.

We created the state's COVID-19 dashboard and Nourish New York app, expanded remote hearings and virtual waiting rooms, and improved the digital experience for millions of New Yorkers in search of state services.

At the Governor's direction, we managed the state's successful Tech SWAT

program, a partnership with leading technology companies that allowed us to surge resources and meet unprecedented demand. Tech volunteers donated 25,000 pro bono hours and saved taxpayers $14 million.

The work now being done by ITS is consistent with the Governor's "Build Back Better" directive. When it comes to technology, our challenge is always to build back smarter, more agile, more modern, and more secure for the future.

Despite new and unexpected challenges caused by the COVID pandemic, our $861 million Executive Budget allocation is virtually unchanged from last year. However, like most agencies, we are doing more with less. ITS has accelerated modernization efforts, enhanced the digital offerings of many state agencies, and we continue to decommission legacy systems.

We are now fully engaged with the vaccine distribution sites around the state, providing 24/7 technical support and assisting with other COVID-19-related

IT challenges. Meanwhile, our security team is working around the clock to protect the state's infrastructure from a growing number of cyber threats.

In cooperation with partner agencies like DHSES, our security experts are often engaged to support state and local government entities, hospitals and schools as they work to navigate threats to their own environments.

The much-publicized SolarWinds hack has impacted many federal agencies. And while our forensic review has indicated no unusual activity within our systems to date, New York, as always, remains on high alert.

Due to the challenges and complexities brought on by COVID, we live in a very different world than the one we resided in just a year ago. Under the Governor's leadership, I am proud to say that we have adapted to these challenges and continue to position New York as a leader and innovator. The Executive Budget will enable us to deliver timely and cost-effective solutions

for more than 40 Executive agencies and the New Yorkers they serve.

Technology has been an ally during the pandemic. It's allowed teachers to continue to educate our children, helped many businesses evolve and remain open, allowed New Yorkers to seek real-time medical advice from highly-skilled doctors and nurses, ensured the integrity of state and federal elections, and kept us connected to our families when we needed them the most. Investing in our technology infrastructure is more important today than it has ever been.

I am truly honored to serve the state of New York. As CIO, my goal is to seamlessly integrate the people, processes, products and policy to serve our citizens in a better, smarter and more cost-effective way.

I thank you for your time, and I'm happy to answer any questions you may have.

CHAIRWOMAN KRUEGER: Thank you very much, Commissioner.

I don't see the Senate chair yet, so

I'm going to move along to Assembly Chair Zebrowski for the first set of questions.

ASSEMBLYMAN ZEBROWSKI: Thank you.

And thanks for being with us here today.

I've got a couple of questions. And I think the first one is definitely in your purview, and the second one may not be, so perhaps you could point me in the right direction, because I don't know who else I would ask about it.

First, so the budget once again includes a proposal to have almost like a design-build system, right, for comprehensive technology service contracts. So maybe you could talk a little bit about, you know, what problems are you trying to solve? What does this give you the ability to do? How do you currently sort of like internally produce, you know, technology products, and how do you currently procure technology products, and how would this improve that process?

INTERIM CIO RIDDICK: Of course IT procurement is a touchy subject. And thanks

for asking that question. I'm very familiar with the process, I've read on the proposal. And what this proposal will allow us to do is possibly use one vendor from cradle to grave in terms of project management, architecting, and executing the project itself.

Under the old infrastructure -- and I've used it in many cases before -- the procurement process forces an entity to look at several vendors throughout the life cycle of the project. Meaning that you may have one architect, you may have one builder, and you may have one quality-control executor.

It's complicated when you add too many cooks in the kitchen. What this bill proposes to do is to allow us of course to use the standard procurement processes that we use in the State of New York but in many cases we can procure a vendor to do the job from its architectural phase and concept phase through the build phase and finally through the quality-control phase before deployment.

ASSEMBLYMAN ZEBROWSKI: Okay. So it's

not necessarily like a cost-saving measure as much as it's -- you know, given the nature of these contracts, this would make them -- this type of procurement process would make it more efficient and more -- I'm searching for the right word; maybe you can give it to me. Is that essentially what you're saying?

INTERIM CIO RIDDICK: I think you used the perfect word, sir.

Efficiencies are what we want to capitalize on, and this proposal will allow us to be more proficient, especially in big-contract procurement programs.

ASSEMBLYMAN ZEBROWSKI: Okay. all right. Thank you for that info.

The second thing. So there's a part of the budget that would permit agencies to share voluntarily provided citizen data as long as the sharing is consistent with state and federal law and preexisting privacy practices.

So this is the part where I'm not a hundred percent sure if this would be under your purview or not. But assuming it is,

could you give me a sense of what you're -- what is the state trying to do and how our current laws don't allow it?

Because, you know, in our sort of analysis, I'm not sure that we don't think that, you know, you're able to do some sort of interagency sharing if you're looking to give people the ability to, you know, sort of, I don't know, one-stop shop, if you will. But, you know, sign into one state agency and have their information be shareable with other agencies. I can see how that, you know, would be helpful to New Yorkers.

Is that what you're trying to get at?

INTERIM CIO RIDDICK: I see your perspective and I absolutely agree, that if we have one giant database and we could segment that database to allow information to be shared on a need-to-know and need-to-share basis, we'd be in an optimum environment.

However, that's not always possible. Agencies develop requirements. We configure databases and data streaming based on those requirements using the policies and

regulations that they are governed by. We don't set those policies. However, we do work with agencies to understand those requirements and secure that data as much as we can.

ASSEMBLYMAN ZEBROWSKI: So maybe you could allay the fears of myself and some of my colleagues, okay?

So what they would be afraid of if we adopt this in the budget is that, you know, we are contributing to what is a proliferation of the selling of people's individual data, resulting in perhaps a host of, you know, harmful or otherwise invasive things happening in their lives.

So will this provision -- will you be selling data? Will this -- when you say it will be voluntarily provided, will it truly be voluntary? Will people know what they're doing or when they're signing up for something on the DMV or on, you know, some other state agency, maybe they're getting a fishing license or something, you know, will they just be checking a box that, you know,

they have to check anyway and then therefore their information is going to be shared more now than it was in the past?

INTERIM CIO RIDDICK: I can definitely respect your inquiry about the risk of sharing data. I can assure you that ITS will not be in the business of selling data, and data sharing will be based on requirements that are established by organizations that we support.

ASSEMBLYMAN ZEBROWSKI: Okay. So you can definitively say it's not to sell the data.

INTERIM CIO RIDDICK: Absolutely.

ASSEMBLYMAN ZEBROWSKI: Okay. And, you know, I know it says consistent with state and federal law. Well, you know, that doesn't give me a whole lot of assurance because, you know, a whole lot of data's being shared right now and certainly it has to be consistent with state and federal law.

So I can take from your comments today that it's not to sell, it's not to sort of like share with outside entities that are not

related to state agency function, and that this is merely to allow the state agencies to exist and share data within each other for the benefit of New York citizens in terms of just utilizing state resources?

I know I had a lot there, but am I -- can you say yes to that? Can you confirm?

INTERIM CIO RIDDICK: I can say absolutely yes to that.

And again, ITS is not in the business of selling data.

ASSEMBLYMAN ZEBROWSKI: Okay. All right. I appreciate your answers today. And, you know, for both these items I would just say, you know, they definitely are complicated. You know, we want to understand it. You know, I want to understand it both as a chair and our staffs want to understand it, and we want to be able to -- a lot of the members of the Assembly, probably some Senators too -- I won't speak for the other house -- you know, have questions about this stuff.

So as we go forward, perhaps we could

set up a communication channel between now and when we adopt the budget that if we have additional questions, we can ask you. We'd appreciate that.

INTERIM CIO RIDDICK: Well, thank you for your questions. I look forward to working with you in the future.

ASSEMBLYMAN ZEBROWSKI: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRWOMAN WEINSTEIN: Senate?

CHAIRWOMAN KRUEGER: Senator Diane Savino.

SENATOR SAVINO: Thank you. Thank you.

Nice to meet you, Commissioner Riddick. I saw in your testimony that you said that you were pleased to be able to join the team in December. At the end of this year I'll ask you if you continue to feel that way, having been here for a year (laughing).

As you know, New York State, like a lot of large states, is probably years behind where it should be with respect to its

internet technology infrastructure. Ten years ago, as a member of the Senate, I wrote and passed a law that we adopted to allow for the insourcing of information technology and the development of an IT -- what we like to call our own Geek Squad.

Ten years later, the state has yet to fully implement that. We've not been able to accomplish that. How do we recruit and retain information technology experts who want to stay in the government workforce? And it probably couldn't have come at a worse time when the pandemic hit and we had to then send almost all of our workforce home to find ways to service the population, whether it was adapting our legacy systems, whether it was the unemployment system, our public assistance systems, and be able to have people work remotely, provide them the equipment, and do all that and then find ways to secure them.

So you have your work cut out for you. I know in the Governor's budget he is proposing a couple of issues that -- I'm

happy to hear you explained the issue of the comprehensive technology contracts, or kind of the design-build for technology. But I want to ask you a question that I asked your predecessor who testified previously from Homeland Security.

One of the big challenges we're seeing across the state are ransomware attacks, whether it be in our district attorney's offices, our school districts, local governments, or even in our own offices. And some of it I believe is because we're allowing local governments, right down to towns and villages, to handle the issue of technology purchases and software purchases.

Do you think, though, that this approach of this comprehensive technology contract is something that would help to prevent that type of cybersecurity risks?

INTERIM CIO RIDDICK: I think it will definitely create efficiencies. And thanks so much for the question. But what you did is you tapped on my philosophy of using people, processes and policy.

As we work with local entities, as we work with organizations, it's important that we provide the guidance that they need. Now, one size fits all doesn't work for cybersecurity. I've always said, since my days in academia, teaching at the National Defense University, that the best we can do in cyber is stay one town ahead of the posse.

It's the people's job who work in ITS and all the various agencies to lean forward and make sure that we're paying attention to what's happening out there in the wild. We have to improve our processes as well. We have to make sure that we identify efficiencies. And one of the processes that we have to implement and stay glued to is our ability to do the professional reading, to find out what's happening out there.

And with regards to policy, I'm a policy man. I think that we should have inward-facing policies and outward-facing policies for the use of our technologies.

These three things implemented in the right strategy will help us to secure our

network and keep our data safe and our people secure.

However, it takes an effort, it takes teamwork, and I'm going to be behind that a hundred percent. Cybersecurity is something that I'm emphatic about. And again, I emphasize that we can only stay one town ahead of the posse. If we can get two or three, that will be great. But they're always nipping at our heels.

SENATOR SAVINO: I certainly look forward to working with you.

Have you had a chance to analyze some of these legacy systems that we've had in place, whether it's the old welfare management system or particularly with respect to our public assistance programs? They're horrible.

INTERIM CIO RIDDICK: Oh, absolutely. I've definitely looked at WMS, the Welfare Management System, and I've looked at its successor, the Integrated Eligibility System. Eventually in 2024 the goal is to deliver the Integrated Eligibility System, which should

clean some of the problems that we've had with WMS.

However, at the same time, it's like fixing a tire with the car rolling. We cannot discount that we still have to use WMS until its life cycle is over with. So we're paying attention to that, we're trying to fix the holes, we're trying to fix gaps. We're trying to keep the clients and the customers satisfied there.

And yes, I've looked at legacy systems as well. I appreciate that question. I met with the DMV; I know that they're working with an antiquated system. But they're leaning forward as well, and we're looking at solutions that they can move to to make their technology up-to-date, more efficient and more effective. And eventually it will save us money.

SENATOR SAVINO: I definitely look forward to it.

CHAIRWOMAN KRUEGER: Thank you, Diane. No more, sorry.

SENATOR SAVINO: That's okay.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRWOMAN WEINSTEIN: So we go to Assemblyman Ra, five minutes.

ASSEMBLYMAN RA: Thank you, Chair.

Good afternoon. Thank you -- thank you for being here. My colleague got into a little bit of what I wanted to, but I just want to circle back to that Part FF in the budget bill that deals with this kind of design-build-type concept for awarding contracts. And you did give, you know, an idea of what you're looking for.

I just -- I don't know if you can maybe give like an example of a type of, you know, situation that it would help the department with. I know that, you know, there's -- in the past there's been a major bidding of IT contracts. And I know that the state just put off a contract that was due to be rebid and extended the existing one.

So I'm just looking for, would this potentially be in place of that type of contract?

INTERIM CIO RIDDICK: Well, I think I

heard you say you wanted an example, and I'm very willing to give you an example. And it's a great segue from what I just talked about in legacy systems.

If we designed a project to upgrade all of the mainframe systems that we have in an area -- let's just say an area like Empire Plaza. In the procurement process we will look to a vendor that could come in and do an architectural design, provide the resources that we need to replace that system -- say, with a client server-based system or a software solution that's in the Cloud -- and that person could work on the architectural design of the facility itself.

Rather than work on a contract that would hire three or four vendors to do multifaceted pieces of that work, this will allow us to do a procurement proposal that would allow a vendor to make a bid to do all of the work themselves. That creates efficiency and reduces conflict, and it speeds up the project from cradle to grave.

ASSEMBLYMAN RA: Okay. And could you

just -- you know, obviously we've seen in so many ways in the last year that some of our IT infrastructure, you know, needed to be upgraded to handle things. So certainly I understand where you're coming from with regard to that.

But I know this is a proposal that has come up in the past and I guess not made it past the finish line.

So do you think that, you know, the circumstances have changed in part because of some of the issues we've dealt with that makes this the right time to go with this type of approach?

INTERIM CIO RIDDICK: You know, I think what we're going through with the surge in COVID and the resources that we have to use and to tackle, I think it's a great opportunity to identify those efficiencies and perhaps use the next project as an example of the clarity, of the efficiency that that proposal lends itself to.

ASSEMBLYMAN RA: Okay. Well, thank you for that.

It is a -- it's an interesting budget from a technology standpoint. Certainly, you know, there's these types of proposals. There's things I know that aren't directly related to your department. But, you know, you have the broadband proposal; you know, you have obviously the data accountability and transparency piece.

And I just hope that when we get into some of these areas that are just so technical, that we can make sure we're getting the input from our business community, from people in the state, and certainly from experts in these areas to make sure that, you know, we come up with the best system we want. We always want the best. We always want to be the leader in the things we're doing.

So I thank you for your answers.

INTERIM CIO RIDDICK: Thank you so much.

CHAIRWOMAN WEINSTEIN: Thank you.

We go back to the Senate now.

CHAIRWOMAN KRUEGER: Thank you.

Senator Kevin Thomas.

SENATOR THOMAS: Hi. Thank you, Chair. And thank you, Commissioner, for being here to testify.

I'm sure you're aware that the Governor introduced the Data Accountability and Protection Act; my colleague in the Assembly just brought that up. How familiar is the Office of Information Technology Services with privacy and cybersecurity standards and best practices?

INTERIM CIO RIDDICK: You know, I have all the confidence -- and thank you for asking that question.

In my cyber team and the individuals that work at the executive level in ITS, they've done a heck of a job of bringing me up to speed with the questions that I should anticipate here. Not only that, in my orientation they provided me with the information that I needed to talk about things like data privacy, data security and all of those relative subjects. I've got to tell you, it was a baptism by fire. I'm

still working. I can't necessarily answer all the questions. But feel free to ask me something specific and I'll give you the best shot at it that I can. I'll defer to my team at a later time and get back with you later if I can't satisfy your requirement here.

SENATOR THOMAS: Sure. All right, I'll ask you one question because of my time.

The Governor's proposal gives primary enforcement to the Department of State. For context here, the Office of the Attorney General has actively prosecuted privacy violations for a decade. The Department of Financial Services, who was given a small enforcement role in the Governor's proposal, has also actively regulated cybersecurity since 2017.

What experience does the Department of State have in privacy and cybersecurity to justify their role as primary enforcer?

INTERIM CIO RIDDICK: Respectfully, Senator, I think that's a great question but I'm going to have to defer to my colleagues. If I get a satisfactory answer, I'll make

sure to circle back with you.

SENATOR THOMAS: All right. Chairwoman, I will yield my time.

Thank you so much, Commissioner.

INTERIM CIO RIDDICK: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly?

THE MODERATOR: Chair, you're muted.

CHAIRWOMAN WEINSTEIN: We do not have any other Assembly members.

So back to the Senate.

CHAIRWOMAN KRUEGER: Thank you. I didn't realize I was on mute.

Okay. Senator Tom O'Mara.

SENATOR O'MARA: Thank you, Chairwoman.

And thank you for being with us today to testify. Appreciate your time and your commitment, which I'm sure it's been a brutal year from your position in dealing with the crises that we've had, particularly the difficulties in unemployment and how that was handled.

Can you outline for us what's the

status of the computer upgrades for the Department of Labor? That we really got caught with our pants down this year with regards to handling unemployment claims, and my understanding is that was a -- I don't know how old of a system, but I heard it was DOS-based.

So where are we in regard to that agency in particular?

INTERIM CIO RIDDICK: Thanks for that question, Senator O'Mara.

I don't have a specific answer to that. I can tell you what I've done working with the department up to date. But in terms of a deployment for a new computer system or an upgrade, I don't have that specific answer.

However, I will make sure that my team and I work on that and we'll get back to you at a later date.

SENATOR O'MARA: Okay. Yeah, please do.

And do you have a sense of the various agencies and departments across the state --

I mean, where we could find ourselves very embarrassed and uncapable because of our outdated systems? And just what kind of outlook you have for the state's overall upgrading of all its various systems.

INTERIM CIO RIDDICK: Absolutely. As a part of my orientation -- I think that's a great question.

As a part of my orientation, I wanted my CTO, my chief technology officer, and all around him to brief me on where we are with modernization. The modernization efforts that are in place I'm very satisfied with.

I want to improve on the process, however, of how we develop an RFP, how we look at bids, how we look at vendors who, you know, make bids for those RFPs. And make sure that we're use proper process and project planning.

Recently I went over with my chief portfolio officer the process that we use to take a project from cradle to grave.

With regards to looking at those systems, what I want to do is implement a few

processes like a control board, to eliminate the dialogue that it takes to understand what requirements are as we move forward with satisfying an upgrade and find efficiencies to move that process through to implementation.

So yes, we've looked at the legacy systems. It's going to be a challenge, but it's not something we can't overcome with identifying efficiencies and looking at the latest, greatest leading-edge technology.

SENATOR O'MARA: Thank you for that answer. And I'm glad to hear that you're on top of this and reviewing these so we don't have these situations in the future.

And I think we need to make a stronger commitment from the state budgetary process to make these upgrades. I think we go too long in between upgrades of various systems, but -- and the technologies change so fast.

Can you generally outline for me what the -- what your or your office's, the state's strategy is in regard to the Cloud technology that's out there? Are we

utilizing it fully? Are you comfortable with the safety and security of it?

INTERIM CIO RIDDICK: You know -- and I think, again, that's a great question, because I've had those challenges before. Should we go to the Cloud or should we use a local-based system to store? Now, understand that the data centers that we have are really virtual clouds for the data that we store. When we need to resort to a vendor to use their Cloud resources -- say, AWS, Amazon Web Services, or Google services -- we'll definitely look for efficiencies and we'll always factor in security as we make a prudent decision to move to those platforms.

SENATOR O'MARA: Well, thank you very much. Appreciate your time and your answers, and good luck in making the changes that need to be made. Appreciate it.

INTERIM CIO RIDDICK: Thank you very much.

CHAIRWOMAN KRUEGER: Helene, do you have Assembly anyone?

CHAIRWOMAN WEINSTEIN: We do not.

CHAIRWOMAN KRUEGER: Okay. So we actually have one more Senator. But before I go to him -- and that's Brad Hoylman -- I do want to clarify for the record that Diane Savino is the chair of our new Committee on Information and Technology, or some better name than that. And I think you heard from Kevin Thomas, from Consumer Affairs.

These are both crucially important committees for going down the road and looking at the endless questions that now confront us because we live in a world where, you know, that bad movie, the machines have taken over, but we're not exactly sure what they're doing and we need to make sure they're doing what we need them to do and not doing all the other things they can do.

So I encourage you to continue your work with those of those committee chairs and their equivalent Assembly chairs.

With that, Senator Brad Hoylman to close for the Senate.

SENATOR HOYLMAN: Thank you.

Nice to see you. Thank you for being

here, Commissioner.

I wanted to ask you a question -- it's been brought to my attention from constituents that New York State agency websites do generally not offer users an easy way to translate the text of the websites into different languages.

There is one notable exception, which is the state's COVID-19 vaccine eligibility website, which features a drop-down menu allowing users to translate into Spanish, Chinese, Russian, Haitian Creole, Bengali or Korean. It's a wonderful feature. I actually wish more websites incorporated it.

In 2011 the Governor issued an executive order to ensure that state agencies established language access plans. What role does the Office of Information Technology Services play in helping state agencies comply with Governor Cuomo's executive order? It was EO26.

INTERIM CIO RIDDICK: Senator, great question. Our role with agencies is to make sure that we clarify requirements, that we

work with those requirements and we deploy the systems based on those requirements.

I think it takes a double collaborative effort. When our team sits down with an agency -- say, to build a website or to deploy a new piece of equipment or upgrade -- it's important that we understand what those requirements are.

I am not necessarily familiar with the language challenge we have here, but I've made a note and I'm going to have my web team take a look at these websites to make sure that we're working with these agencies to meet all of those requirements, be it language, be it Section 8, whatever we're required to do.

It's my job to make sure we do it effectively and efficiently, but it's important that we collaborate. So collaboration is a part of that process that I want to improve as a team leader.

SENATOR HOYLMAN: Well, thank you, I appreciate that.

I recently introduced legislation with

Assemblymember Yuh-Line Niou that would require New York State agency websites to incorporate language translation technology within 90 days. Do you think that's feasible?

INTERIM CIO RIDDICK: I'll have to look at what that process involved. I think it's feasible. I know there are some tools out there that we can link to to make that more realistic, where we don't have to do the heavy lifting and write all the codes.

So I'll get with my staff to find out exactly how we define that requirement from the agencies, take a look at your proposal, and do it efficiently and effectively and to standard.

SENATOR HOYLMAN: Thank you very much. Much appreciate it.

CHAIRWOMAN KRUEGER: Thank you.

And we have been joined by one additional Senator desperate to ask you a question, Gustavo Rivera, chair of the Health Committee.

SENATOR RIVERA: Thank you. It will

be quick.

Hello, sir. These are -- sorry that I'm a little dark, but the sun is right behind me right now.

The questions all relate to our corrections system, and specifically I wanted to see if you could give us any sense about -- whether it's medical records, updating medical records software, parole records, obviously you could -- I don't have to tell you how much easier either of these things, whether it's providing medical care or securing medical care and the parole process, how easier it would be if there was a more modernized information system for both of these things. And also any updates that you can give us on potentially expanding broadband for prisons across the state.

So anything you can tell us about how these things interact with corrections and information technology.

INTERIM CIO RIDDICK: Senator, unfortunately -- and thanks for the question -- I don't have any ideas that I can

express right now. I'll have to look into that challenge and get back with you, if you'll allow me, because we're going to have to do an analysis. I'm not familiar with the situation. I'm familiar with all of the requirements -- the HIPAA requirements, medical records and all of those things. But as it relates to the correction system, I've not yet been read in. I will make that a priority.

SENATOR RIVERA: And I would really appreciate it that you do. I mean, again, whether it's on the -- I went to one parole board many years ago as an observer, and seeing a stack like literally this high off the desk of just paper, paper, paper for folks who were being seen that day. I mean, that obviously does not speak -- it was years ago, so I'm hoping -- and apparently that is still the case.

So whether it's related to parole, whether it's related to the medical systems like -- and whether it's related to broadband at prisons and also looking more specifically

into the tablets that are provided for incarcerated people. And considering that they're kind of like a money pit, apparently. It's like a private company that just kind of abuses it, the service that they're providing, I would just appreciate that -- you know, I'm glad that you're on the record as not being aware of stuff but wanting to learn more about it, and I would really appreciate if you would get back to us on it.

INTERIM CIO RIDDICK: Absolutely. Thank you very much.

SENATOR RIVERA: Thank you, sir.

Thank you, Madam Chairwoman.

CHAIRWOMAN KRUEGER: Thank you. All right. With that, I think we are going to say thank you very much. Welcome for joining us here in New York State in December. And plan on staying a while, because apparently we have a long list of things for you to do.

INTERIM CIO RIDDICK: Absolutely. Thank you so much.

CHAIRWOMAN KRUEGER: Thank you.

INTERIM CIO RIDDICK: Thank you.

CHAIRWOMAN KRUEGER: Our next speaker is Michael Green, executive deputy commissioner, New York State Division of Criminal Justice Services.

And the chairs are Bailey and Dinowitz, from Codes.

Welcome.

EX. DEP. COMMISSIONER GREEN: Good afternoon. Thank you for having me.

Good afternoon, Chairwoman Krueger, Chair Weinstein, and distinguished members of the Legislature. I am Mike Green, head of the Division of Criminal Justice Services. And again, thank you for inviting me to appear before you today.

New York State is the second-safest large state in the nation, ranking just behind Pennsylvania. While final crime numbers for 2020 are not yet complete, preliminary data shows that the total number of crimes reported will be similar to the historic low reported in 2019.

The COVID-19 global pandemic has placed extraordinary pressure on all

New Yorkers. The communities of color, already facing a disproportionate share of poverty and violence, have borne the brunt of the virus's devastating impact. Although total crime did not increase during this period, our state's largest cities experienced a sharp rise in shooting and gun deaths in 2020, a trend seen in large cities across the country.

The 20 police departments participating in our GIVE, or Gun-Involved Violence Elimination initiative, reported a 75 percent increase in shootings and an 82 percent increase in gun homicides. Similar increases were also seen in New York City.

Staff supported through GIVE, the SNUG Street Outreach program, and the Crime Analysis Center network are working tirelessly to address these increases through effective, evidence-based strategies, and have adapted their approach in light of the pandemic. An innovative partnership with the State Office of Victim Services has allowed

DCJS to establish a comprehensive social work program within our SNUG sites.

Through this $2.3 million investment of federal funding, licensed social workers and case managers are helping individuals and families address long-term trauma resulting from ongoing exposure to community violence.

Last year, the killing of George Floyd by a Minneapolis police officer ignited a renewed focus on social justice and racial inequality around the country. In response, Governor Cuomo issued Executive Order 203, which requires local police agencies to engage community stakeholders in a collaborative process to reform and reinvent how they protect and serve their communities. This process must be open and transparent, and local governments must ratify or adopt such plans by local law or resolution by April 1st.

Strengthening police-community relationships and improving the fairness and effectiveness of the criminal justice system are foundations of DCJS's work. In

partnership with the Municipal Police Training Council, the agency has developed model policies to address critical issues, such as body-worn cameras and use of force, and recently completed a comprehensive update of the basic training required for municipal police recruits. The 700-hour training now includes procedural justice and implicit bias, and emphasizes decision-making, communication and de-escalation skills.

DCJS has also partnered with the Office of Mental Health to revise and expand course components to improve outcomes for individuals with mental illness and enhance collaboration between police officers and crisis intervention services. In addition, the agency worked with national experts to develop Principled Policing training, a comprehensive course focusing on procedural justice and implicit bias that is available to all police personnel.

DCJS also publishes comprehensive data on arrests, case outcomes and sentencing by race and ethnicity, so New Yorkers can see

how the criminal justice system is operating in their communities.

Legislation enacted in 2019 allowed DCJS to seal 3.2 million New York State criminal records for arrests that resulted in low-level convictions and arrests over five years old that had no corresponding dispositions. As a result of this work, nearly 800,000 individuals now have a clean record, with no New York State criminal history barring them from obtaining employment, housing or professional licenses.

Governor Cuomo's proposed budget also aims to strengthen the police profession, which further builds upon our work. His comprehensive proposal establishes minimum hiring standards for police, subjects police agencies to the same training standards, enhances the police accreditation process, and strengthens the process for decertifying training certificates for officers who are terminated for engaging in serious misconduct.

The proposed Executive Budget also

will allow DCJS to continue supporting the criminal justice system across the state and evidence-based programs that have received national attention and distinguish New York as a leader in effective public safety policy.

Most recently, the Giffords Law Center to Prevent Gun Violence highlighted our investment of federal funding in SNUG in a report advocating for changes in federal funding to better address community violence. The Pew Charitable Trusts showcased our Criminal Justice Knowledge Bank and Research Consortium, created to promote and expand the use of research and evidence by criminal justice professionals.

This budget also includes commonsense legislative changes: Adding a new domestic violence misdemeanor to flag convictions that make individuals ineligible to purchase firearms; closing a federal loophole by prohibiting the purchase or acquisition of a rifle, shotgun, or firearm by any person who is subject of an active arrest warrant for a

felony or misdemeanor offense; and requiring law enforcement agencies to share firearm and ballistic evidence through NIBIN and the ATF's eTrace program, two important tools to fight the increase in gun violence.

Public safety is our highest priority. This 2021-2022 Executive Budget proposal will allow DCJS to continue its support for programs and initiatives that promote fairness, respect and transparency in the state's criminal justice system, and help keep New Yorkers safe. Your support of our work will allow the state to address gun violence, sustain its historic reductions in crime, and continue to reduce the number of individuals who enter the criminal justice system.

Thank you for the opportunity to speak with you today.

CHAIRWOMAN WEINSTEIN: You're muted, Senator Krueger.

CHAIRWOMAN KRUEGER: You know, if you move around, you can't get your unmute off. I apologize, everyone.

And our chairs again for this speaker are Senator Bailey and Assemblymember Dinowitz. So I'm going to give Senator Bailey the first 10 minutes.

SENATOR BAILEY: Thank you, Madam Chair.

Executive Deputy Commissioner, thank you for your testimony.

I'll jump right into it. Obviously you mentioned George Floyd and policing, and it's obviously been something at the forefront of many of our minds, if not all of our minds, in the Legislature and not.

And the protest that came about as a result of the murder, and I'll say the murder of George Floyd, resulted in what many of us believe to be significant violations related to use of force and kettling. Does DCJS have any comment about use of force? Because you mentioned it in some of your testimony before.

EX. DEP. COMMISSIONER GREEN: Well, I wouldn't comment on any specific cases because DCJS as a statutory agency doesn't

have a role, for example, in disciplinary process.

I can say generally that DCJS, working with our partners and specifically the Municipal Police Training Council, are very focused on these issues. I mentioned in our testimony that we just finished a comprehensive overhaul of the training that basic recruits go through, the minimum standards. It's now a 700-hour course. You know, I think, frankly -- I'm obviously biased, but I think it's cutting-edge curriculum and incorporates things like explicit bias, procedural justice.

When it comes to use of force, throughout the entire training it emphasizes communication, it emphasizes deescalation, it emphasizes things like legitimacy.

You know, so throughout the training, throughout our work in the Principled Policing curriculum that I referred to, we've trained over 400 trainers. That's a curriculum developed with national experts to really emphasize legitimacy, procedural

justice, implicit bias. Those 400 trainers have now trained over 3,000 police officers. We anticipate that that number will snowball as we get more and more trainers out there.

So we share your concerns for these issues, and while we're not involved in the adjudication or discipline of individual incidents, we are working every day with our local partners to really enhance the training and skill sets that are available.

SENATOR BAILEY: Understood. So no opinion on controversial procedures such as kettling or the use of irritants when individuals, you know, were protesting?

EX. DEP. COMMISSIONER GREEN: Again, no, I'm not in a position to pass on individual incidents.

I'll just say that in general we're working very hard to -- you know, I think, given what you've described, our overall view in terms of the role that we would like to see for police in the community and the type of interaction we'd like to see between police and community has a lot of common

ground. And we're working very hard through our platform, you know, with regard to training to make sure that that viewpoint is pushed out and emphasized.

SENATOR BAILEY: That's fair.

So to the point of the Governor's plan to make sure that there's some sort of a -- that we have the reform by April 1st, have any agencies submitted their plan yet?

EX. DEP. COMMISSIONER GREEN: Yes. I don't have an exact number, but we are receiving plans and they're coming in faster every week.

In addition, we've done outreach -- and when I say "we," collectively, the administration -- to both municipalities and police agencies across the state. We've offered assistance. You know, I got an email just this morning from a police agency asking for assistance.

So, you know, we know that agencies and municipalities are actively engaged in this process. We've received plans. I know other municipalities have posted draft plans

for comment on websites. So it's a process that, you know, folks across the state appear to be very engaged in.

SENATOR BAILEY: So for those who haven't, and if they have an issue with that, from my understanding that if they don't submit it by April 1st there would be a monitor that will be placed. Would that be accurate?

EX. DEP. COMMISSIONER GREEN: So there's two pieces. With the executive order, the executive order itself indicated that if a municipality fails to submit a plan that's been ratified or approved by the governing body by April 1st, there could be budgetary consequences, that funding could be withheld.

In addition, in the Governor's Article VII bills submitted with the budget, there is a proposal to allow for the appointment of a monitor for a police department or from a locality that has not submitted a plan. That monitor would be appointed by the Attorney General, in consultation with the Governor,

as I understand the proposed legislation.

SENATOR BAILEY: Okay. So with the monitor, would you have any information about the role and the duty of that monitor, the extent of the monitoring period?

EX. DEP. COMMISSIONER GREEN: Nothing beyond what's in the legislation itself, in that it would be a monitor appointed by the Attorney General, presumably working with the Attorney General {sic}.

SENATOR BAILEY: Okay. Because as it is right now, it's rather nebulous. And I was hoping that we could have a little more guidance about the nature of what the monitor would do.

But let's say that, you know, everybody puts their plans in, and that's great. Are there plans to ensure that these departments comply with what has been -- with the plans that have been submitted? And if so, what are those plans to ensure compliance?

EX. DEP. COMMISSIONER GREEN: So far, according to either the executive order or

legislation, there is no role that's dictated for DCJS in terms of compliance.

That said, you know, we are very dedicated and are working every day to try and promote the work of fostering and legitimizing police-community relations. As I've said, we've incorporated and are incorporating it into our training. I just recorded a video yesterday that's going out to all law enforcement agencies across the state encouraging them to engage with us on work around legitimacy.

You know, so it's something that's built into our fabric. We're pushing this and working with law enforcement on it every day.

SENATOR BAILEY: Certainly. And I share your desire to ensure that we continue to do everything we can to bridge the gap between community and police relations.

And I think some of my colleagues in the Senate will speak more about uniformity, and I'll allow them to expound upon their own ideas. But I wanted to switch briefly to gun

violence. And you mentioned gun violence is a scourge in our communities and it's up at astronomical rates.

We have legislation that would qualify gun violence as a public health issue. Has DCJS considered that? And have there been conversations between DCJS and the Department of Health as that's related?

EX. DEP. COMMISSIONER GREEN: We have not specifically weighed in on that piece of legislation.

But I can tell you that we at DCJS have viewed gun violence as a public health issue, you know, certainly since I've been at DCJS. And I think there's no better reflection of that than the project I mentioned where we've partnered with the Office of Victim Services and used $2.3 million in funding to provide social workers and case managers, not only to 11 of the SNUG programs across the state so that they are embedded within the SNUG programs and working hand in hand with the outreach workers, but also in four of the major trauma

centers across the state -- Erie Medical Center, Upstate Medical Center in Syracuse, Albany Medical Center, and Jacobi.

That program also embeds SNUG social workers in the medical centers so that you have a direct connection between folks who go into the medical centers and the SNUG program, you know, in a warm hand-off to make sure that folks aren't lost in the process.

So, you know, we truly do view gun violence as a public health problem, and we're looking for and pushing comprehensive and holistic solutions that align with that view.

SENATOR BAILEY: Undoubtedly. And the SUV program is just outside of my district. Pastor Jay Gooding and the folks at SUV, Stand Up to Violence, do a phenomenal job, as does the SNUG program in the City of Mount Vernon and throughout the state.

So to that point, $4.9 million for SNUG. I'd like to see SNUG or programs like that replicated upstate, in the Hudson Valley as well. Do you believe that $4.9 million is

adequate for SNUG funding?

EX. DEP. COMMISSIONER GREEN: These are tough questions, and I think I've said this for the last several years. Because as you know, the problems that our communities face are huge. And if there were an unlimited pot of money, you know, we could find good use for, you know, all of the resources.

But I think if you look historically -- you know, when I started at DCJS the funding for SNUG I believe was somewhere between $1 million and $2 million. You know, and with your assistance it's now grown to almost $5 million. In addition, we've been able to leverage the $2.3 million in the Office of Victim Services. So in total, our support for the SNUG organizations across the state exceed $7 million -- I think it's about $7.2 million.

So, you know, while there's always room for more, I think that's a tremendous investment that all of you have made in those programs. The programs have grown. We've

been able to increase the number of programs across the state. We're now up to 12 SNUG programs. We've been able to increase the size of the programs. In cities with very high rates of shootings like Buffalo, Syracuse, Rochester, we've been able to basically double the number of staff working in those SNUG programs in addition to the staff we've been able to put in by adding the social work component.

So I agree that these are incredibly important programs. You know, and I think that the growth in the programs and the growth in the level of investment, the fact that we now invest $7.2 million -- and, frankly, the fact that the Giffords Law Center, you know, twice now has held our funding and support of the SNUG programs out as a national example represents the fact that we really are doing good work in this area.

SENATOR BAILEY: Thank you, Commissioner. I implore you to continue expanding it.

And Madam Chair, if I may, I'll come back for a second round if questions aren't already asked.

Thank you for your testimony, Commissioner.

EX. DEP. COMMISSIONER GREEN: Thank you, Senator.

CHAIRWOMAN KRUEGER: Thank you very much.

Assembly?

CHAIRWOMAN WEINSTEIN: We go to our Codes chair, Assemblyman Dinowitz.

ASSEMBLYMAN DINOWITZ: Thank you.

I want to get back to the police monitor, because I've looked at it and to me it's very vague. It says the monitor will be appointed by the AG, in consultation with the Governor, to oversee, in quotes, the operations of the police agency if they fail to comply with Executive Order 203.

What exactly does "oversee" mean?

EX. DEP. COMMISSIONER GREEN: My understanding is that the focus of the executive order is to get police departments

and communities to engage in a collaborative process and develop a plan where departments and communities can build on and enhance the relationships.

The monitor would be appointed if jurisdictions do not engage in and complete that process -- or could be appointed if they don't.

So it's my understanding that the focus of the monitorship would be around making sure that that process is in place, is moving along and that communities and police departments are working together to really enhance police-community relationships and move police community relations forward.

ASSEMBLYMAN DINOWITZ: So it says that the AG must consult with the Governor on the appointment of the monitor. Who exactly is really appointing the monitor? Is it the AG or is it the Governor?

EX. DEP. COMMISSIONER GREEN: Again, I can just go by the language of the proposed regulation. As you just indicated, it's the AG that does the appointing and it's done in

consultation with the Governor.

ASSEMBLYMAN DINOWITZ: Right. All I can go by is the language also, and the language is just not that clear.

Would the monitor be expected to report to the Budget Director in terms of possible withholding of funds?

EX. DEP. COMMISSIONER GREEN: As I understand it, those two are separate. The withholding of funds is in the executive order, so that's already in place.

The monitor is a proposal. You know, so whether or not the monitor ultimately is passed, the funding lever exists, and I anticipate the Division of Budget would be looking at that independent of the monitor.

Now, that said, you know, if there's a monitor appointed and the monitor reports on information that's relevant, I would certainly assume that the Division of Budget would consider all relevant information around both the process, the progress the jurisdiction is making on the process, and the police-community relations in the

jurisdiction in making their decisions.

ASSEMBLYMAN DINOWITZ: Okay. I want to switch gears. I want to talk about police reform proposals.

The proposal says it would require law enforcement officers to comply with background check standards that include a criminal history check, a mental health exam, prior employment and review of previous police officer misconduct.

What background check standards are law enforcement agents currently required to comply with in relation to hiring new police officers?

EX. DEP. COMMISSIONER GREEN: There are no comprehensive uniform state standards in terms of background checks right now. Many departments have robust standards, you know, but there's 550-something police departments, give or take, in the state.

To give you a good example, right now a criminal history, a fingerprint-based criminal history background check is not a state legal requirement in the hiring process

of police officers.

You know, I think most departments do it. Accredited police departments have to do it, because it's built into the standard there. But accreditation is voluntary.

So what this proposal would do would be to task the municipal police training council with developing comprehensive standards that agencies have to abide by. And then, you know, by law agencies would have to abide by those minimum standards in hiring. They would include things like, as you indicated, criminal history background check, mental health, physical health, moral fitness. And among other things, require that check to include looking into whether or not that officer has been terminated for cause from other departments in the past.

ASSEMBLYMAN DINOWITZ: How is information relating to police officer misconduct currently reported? I mean, is there like a central database so that it could easily be checked if somebody is applying for a job anywhere in the state?

EX. DEP. COMMISSIONER GREEN: So currently DCJS keeps a registry of police officers and peace officers. And there is a requirement, some grounded in statute, some grounded in regulation, that departments report to DCJS when a police officer is removed for cause.

Unfortunately, that process is not currently as tight as it should be. And for example if a -- and we have real-life examples where this happened: An officer was convicted after a jury trial of assault, unlawful imprisonment, and falsifying his police report in connection with the assault on a citizen while he was working as a police officer.

That was reported to us as a straight resignation, and it was reported that the officer had resigned the day before the jury verdict took place.

Right now, under current law, DCJS is bound by whatever is reported to us. So even though we knew that that officer had been convicted by a jury in a court of this state

of those crimes while working as a police officer, it went on the registry as a straight resignation and not a removal for cause.

This proposal would tighten up that process so that in situations like that, you know, where an officer (A) has left the department and (B) it's clear from reliable evidence, like a certificate of conviction, that that removal was for serious misconduct, the officer's training certificate could be invalidated and the officer would be barred from obtaining a new training certificate.

That's another, you know, current -- I hate to use "loophole," but for lack of a better word. In cases where it's properly reported to us that an officer has been removed for cause right now, that officer's training certificate -- again, by law and regulation -- is invalidated, but there is nothing to stop the officer from going back through the academy, obtaining a new training certificate, and being rehired by another department.

This proposal that the Governor has put forward would bar officers who have been removed for cause and had their training certificate invalidated from obtaining a new one.

ASSEMBLYMAN DINOWITZ: The Governor's proposals will create more work, presumably. Is DCJS equipped to handle the potential influx of extra work that the Governor's proposal is talking about here?

EX. DEP. COMMISSIONER GREEN: It will create more work. You know, obviously we have plenty of work already.

There are provisions in the budget for six -- or for up to six additional positions at DCJS, as needed, to handle the extra workload.

And we certainly are ready and prepared, you know, to implement these proposals if passed and enacted into law.

ASSEMBLYMAN DINOWITZ: So this might be a little more specific question. Under the proposal, the commissioner would be authorized to consider reliable hearsay

evidence of misconduct in making a determination to update the central registry of police and peace officers in relation to an officer who is no longer in service.

How is "reliable hearsay evidence" defined in this proposal?

EX. DEP. COMMISSIONER GREEN: It's not defined in the proposal.

But I can tell you from my interpretation, my experience -- the example I gave you where we learn that a police officer is convicted in a New York State court of assault, unlawful imprisonment, falsifying a report, we get a certificate of conviction from that court affirming that in fact that officer was convicted. You know, to me, that's reliable hearsay.

Another piece of this proposal requires the Attorney General -- and under the new Attorney General powers that take effect April 1st of this year that you all enacted last year that give them the power to investigate misconduct by police officers, if the Attorney General -- this proposal

requires the Attorney General's Office to report the findings of those investigations to DCJS. If the Attorney General made findings of serious misconduct by a police officer and that police officer was removed, a formal communication from the Attorney General's Office regarding their process and their findings, again, to me, would be something that would fall under the rubric of reliable hearsay.

So it's that type of information that's envisioned -- a certificate of conviction from a court, a formal communication from the Attorney General's Office.

ASSEMBLYMAN DINOWITZ: Okay, I have 45 seconds. I'm going to ask you a very quick question. This may seem out of left field -- or right field.

Suppose it was determined that a police officer of New York State took part in the coup attempt in D.C. earlier this month. Is there a ramification for that, that could be certain?

EX. DEP. COMMISSIONER GREEN: So the initial responsibility for that lies with the individual departments that employ the officers. They have disciplinary processes. Some of them have been negotiated through collective bargaining.

These provisions kick in for officers who have been removed for cause. So the first part of that is remove. So if an officer were removed for participating in that event and the removal involved serious misconduct, then yes, this proposal could be implicated.

But the first part would lie with the department in terms of the removal.

ASSEMBLYMAN DINOWITZ: Okay. Thank you very much.

CHAIRWOMAN KRUEGER: Thank you.

Back to the Senate, I believe.

Senator Savino.

SENATOR SAVINO: Thank you, Senator Krueger.

Commissioner, I will be brief because I only have three minutes.

I notice in your testimony you referenced this new training, that in partnership with the Municipal Police Training Council that you have developed this 700-hour training that now includes procedural justice and implicit bias, et cetera.

Is this basic training for entry-level officers, or is it mandatory, is it going to be required? Or is it just offered to the localities?

Because I've done some research and I introduced a bill yesterday that -- and I found out that, you know, New York State has over 500 police departments. Some have statewide jurisdiction, as you know -- like the New York State Police, the MTA -- and most of them are small villages and town departments.

All 62 counties and the City of New York have multiple departments within their boundaries, with possible overlapping jurisdictions. But there's no mandatory statewide minimum training standards. So

I've introduced a bill that would actually replace the Municipal Training Council with another structure and develop a statewide mandatory training council to develop these types of trainings.

So can you describe to me what you guys have worked on? And would this be a requirement for every department, for every police officer, with continuing training through the course of their career? Because from what I've found is that many cops go for their initial training when they're hired and oftentimes don't have continuing training during the course of their career, whether it's in firearms training or it could even be implicit bias training or conflict resolution.

EX. DEP. COMMISSIONER GREEN: So the 700-hour curriculum that I referred to by statute applies to municipal police departments. And currently -- you know, for example, the State Police is not a municipal police department, it's a state department.

There's also an exception under

current law that exempts departments in cities of over a million, so with regard to NYPD. The Governor's proposal would eliminate that language, so NYPD would be covered and almost all of the 550 municipal -- well, all of the 550 or more municipal police departments would be covered.

That training is the basic training that every new officer who is hired has to undergo. So right now that minimum 700-hour basic training applies to all municipal police departments, with the exception of NYPD. Under the Governor's proposal, it would also apply to NYPD.

Departments are free to train above that standard if they want, but they have to at least train to that standard.

SENATOR SAVINO: And this would be for new officers?

EX. DEP. COMMISSIONER GREEN: That's for new officers.

With regard to continuing education for existing officers, the New York State

Accreditation Program -- and that's a voluntary accreditation. About 60 percent of the officers in the state outside of New York City work for accredited programs. Any accredited agency, those officers have to have 21 hours per year of continuing education in order for the department to maintain their accreditation.

But there is no legislated state standard for continuing education right now, with the exception of a supervisor's course. There's a legal requirement for municipal police departments that anyone being promoted into a supervisory role will take the basic course for supervisors, which is also a curriculum set by the Municipal Police Training Council.

SENATOR SAVINO: Thank you. My time's up.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: We go to Assemblywoman Walker.

ASSEMBLYWOMAN WALKER: Good afternoon,

and thank you so much.

I have two -- two questions. I do want to associate my comments with my colleagues in the Senate who have spoken before, as well as our chairman.

But one of the things that I noticed -- again, to follow up on Senator Bailey's notion with respect to SNUG and Cure Violence programs. So I was combing through to attempt to find where there is an association of the rise in gun violence -- and I see that you said there's a 75 percent uptick in shootings and an 85 percent uptick in gun-related homicides.

However, the budget request or item for SNUG-related resources stayed at 4.9 million, which does not work with the rash of gun violence that we've been working on.

So I just wanted your thoughts on the idea of maybe being able to push for more resources as commensurate with the rising crime that we've been experiencing.

And also just had a quick question

about marijuana arrests, incarceration and people who are presently on parole. Is that information kept with the Division of Criminal Justice Services as it relates to -- as designated by race in terms of the impact of marijuana arrests, incarceration and parole?

EX. DEP. COMMISSIONER GREEN: So two questions, if I understand, and I'll try and answer both of them. And thank you for the questions. I appreciate them.

First, as to funding, you know, I think (A), you know, as I mentioned before, you have to keep the historical context in mind here. And I think we've greatly increased the funding for programs like SNUG over time. You know, with the Office of Victim Services investment we're up to $7.2 million in funding for our SNUG programs.

If you look at states across the country, I think that level of funding dwarfs what most other states do. And I think that's why we've been recognized nationally for our investment in these programs.

I think that as important as spending money on programs is making sure that we're spending that money smartly. And DCJS has been very focused on using, for example, Byrne JAG funding and other funding to augment the money in the budget for those programs. And so in addition to the money we provide for municipalities, we spend money out of things like Byrne JAG to provide training, to provide technical assistance, to provide support.

And we've managed to incorporate into the DCJS budget over the years money for a statewide director for the SNUG program, money for a statewide training director. We have a statewide director for the social work program. We've written our own training programs for both the social work and other side. So the investment is growing.

In addition, there's $5 million that can be used out of the discovery and pretrial funding at least proposed for this coming-year budget to address gun violence.

In terms of the marijuana, we have

statistics on our website broken down by race and ethnicity. If you want specific information with regard to marijuana by race and ethnicity, we do have that, if you reach out to our office we'd be happy to get it for you.

ASSEMBLYWOMAN WALKER: Awesome. So please do send it to me. But also please put it and associate all of that with respect to any conversations regarding the taxation of marijuana here in the state. Because of course my district, and particularly communities of color all across the state have been overly policed and overly affected by marijuana arrests, incarceration and parole.

Thank you.

CHAIRWOMAN WEINSTEIN: Thank you, Assemblywoman.

Back to the Senate.

CHAIRWOMAN KRUEGER: Thank you.

We've been joined by Senator Cooney, but our next Senator to ask questions is Senator Reichlin-Melnick.

SENATOR REICHLIN-MELNICK: Thank you, Madam Chair.

So, Commissioner, thanks for joining us today. I wanted to ask you a little bit about the Securing Communities Against Hate Crimes grant program. This is a program since 2017 that has provided funds to improve security at religious organizations, including nonprofit daycare centers, community centers and residential and day camps, and protect them from hate crimes.

So the current 2020-2021 budget that we're on now included $25 million for these grants, but I understand that there has not been a request for proposals put out yet by DCJS. Do you know when DCJS is planning to put out an RFP?

EX. DEP. COMMISSIONER GREEN: I believe you're correct in terms of the timeline and the information. We've been working with the Division of Budget and Homeland Security. It's my understanding that Homeland Security is still working on the prior round of funding. You know, and

when that's complete and done, we'll be prepared to move forward with the next year's funding.

SENATOR REICHLIN-MELNICK: And so with regard to those funds from 2019 and '20, do you know if that was fully expanded? Have those contracts been paid out? Or it sounds like they're still in the works.

EX. DEP. COMMISSIONER GREEN: That is Homeland Security. 2021 is the first year it was moved to DCJS. Just -- it's my understanding they're still actively working on that round of funding. But I'd have to defer any other questions to Commissioner Murphy.

SENATOR REICHLIN-MELNICK: Okay. I appreciate that. I mean, this is just because we're seeing this sort of rising tide of right-wing extremism in the country, and so there are a lot of places of worship especially that may feel threatened. And I think it is important that we get the money out the door if we've got worthwhile recipients here who need these funds to help

keep their -- you know, their congregations safe and help keep schools safe and other places like that from violence.

EX. DEP. COMMISSIONER GREEN: You know, I certainly appreciate your concern and can assure you that we have been working on this since the budget passed last year, and are working closely with Homeland Security. You know, so as soon as it's ready, we'll be ready to go.

SENATOR REICHLIN-MELNICK: Do you know why the program was shifted from Homeland Security over to DCJS?

EX. DEP. COMMISSIONER GREEN: I do not.

It's my understanding that the appropriation may have changed slightly, it may have expanded slightly to include additional grantees. So, you know, it's possible there's some thinking that DCJS, you know, had more expertise with regard to those grantees. But I can't say for sure why it shifted.

SENATOR REICHLIN-MELNICK: And I

guess I also just finally want to note I'm quite concerned because I understand in the current budget proposal from the Governor there is not additional funding provided for this for the next budget year, and that concerns me.

I just want to know if you have any idea why -- why are we cutting back on funding, again at a time when there are more threats and the FBI and federal Department of Justice are identifying rising threats to minority and religious communities with extremist actions?

EX. DEP. COMMISSIONER GREEN: Well, I can't directly address the question.

I do know that this funding has been made available for many years. I think this might be the fifth -- last year's money may have been the fifth year, if I'm not mistaken. So there have been significant amounts of funds made available, but I can't directly answer.

SENATOR REICHLIN-MELNICK: All right. Thank you very much for your time.

EX. DEP. COMMISSIONER GREEN: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Reilly.

ASSEMBLYMAN REILLY: Thank you, Madam Chair.

Good afternoon, Deputy Commissioner. Thank you so much for your testimony.

I actually wanted to raise a couple of questions. I'm just going to read them off to you, and hopefully you can comment on them.

The first has to be about Raise the Age. I was wondering if there's any data that DCJS has in regards to Raise the Age and the impact of cases that have gone to Family Court.

And I didn't get a chance to mention this under the -- with the Court Administration earlier, but I was hoping that maybe you can nudge this a little too. It's in regards to that question. We were waiting

for Staten Island to get upgrades to our Family Court building, and I think this would be -- there was supposed to be some funding that's been in place since 2017, and it hasn't been allocated yet and it hasn't moved forward. So I'm hoping that you can nudge a little on that.

And the second part that I wanted to ask about was about the legalization of -- the potential legalization of marijuana.

With my prior experience in the NYPD, one of the concerns -- two of the concerns that I really have is the driving while impaired, and I know that there's no real testing right now. So I'm hoping that we can incorporate a DRE-type program. And I know that it's very expensive to train those officers.

Just to put it into perspective for my colleagues and anyone that's listening, New York City has 35,000 police officers, approximately, and there's only 16 DREs, drug recognition experts, covering the whole city. But that's for anyone that's actually under

arrest for driving while under the influence. So then the testing would be done afterwards.

I'm looking for something that would be more along the lines of on-the-street recognition. You know, the NYPD has a program operated by Sergeant Schneider and Police Officer Kessler from their highway unit that does a modified DRE program, it's a four-hour class that I think would really help. If we are really going to potentially legalize adult-use marijuana, it should be done in a responsible way, and that's part of the issue.

Some of the other things that I have concerns about is the black-market trade on the street. One of the first homicides that I dealt with as a rookie sergeant in East Flatbush was a young 16-year-old man who was shot in the chest and succumbed to his injuries. I was leaning over him as he passed, and I found out that -- later on that it was in connection to a weed location, a marijuana location, a fight over turf.

So these are the things that we really

have to address and have -- and be mindful of.

The other thing is under-21 driving with marijuana, hopefully that we can coordinate with the Department of Motor Vehicles to ensure that anyone under 21 that operates a vehicle while under the influence will have an administrative hearing and potentially lose their license for a suspension, like they do with alcohol.

So thank you so much for listening. And if you can get back to me with those answers, because I think my time is up.

EX. DEP. COMMISSIONER GREEN: I will do that. And we do share a common background; I spent 22 years prosecuting homicide cases.

ASSEMBLYMAN REILLY: Thank you, sir.

CHAIRWOMAN WEINSTEIN: Back to the Senate. Do you have anyone else?

CHAIRWOMAN KRUEGER: We do. Thank you, Assemblymember.

We have Tom O'Mara, the ranker on Finance.

THE MODERATOR: I'm not sure if he's with us right now.

CHAIRWOMAN KRUEGER: Oh. Okay. Then I'm going to jump to me.

I only have a couple of questions for you.

So obviously you know that down in New York City, where I'm from and many of us are from, there's been quite a bit of disagreement about different policies of NYPD and reform of police and even getting our arms around what you do when something bad happens. So apparently there's a new proposal about implementing new policies with the Civilian Complaint Review Board. And I'm curious whether you've had a chance to review that and what your opinion is.

EX. DEP. COMMISSIONER GREEN: It's my understanding, if I'm understanding your question right, those are local proposals dealing with City Council. You know, and while I have reviewed them, you know, it's not something I can weigh in on.

CHAIRWOMAN KRUEGER: Okay. But you

would agree this is a continuing hot topic for everyone who's running for mayor or City Council or DA in the city.

EX. DEP. COMMISSIONER GREEN: I think not only is it a hot topic, but there's research that's been established for over 30 years now, the main body of it coming from Tracey Meares and Tom Tyler out of Yale, that if you don't have legitimacy and you don't have trust between police departments and law enforcement and, frankly, the criminal justice system and the communities that they serve, you're not going to make significant headway with regard to crime.

So, you know, it's just -- it's just -- it's a crucial issue. If we want to have safe communities, it's something we need to focus on.

CHAIRWOMAN KRUEGER: I agree with you. Thank you.

So for about 18 years now, I've been voting against every peace officer bill that comes before me in the Senate, mostly because I can't figure out what the heck everyone

thinks the training and the qualifications for these people would be. I just know that the end of the sentence is always: If you figure out how to get them to be a peace officer, then they'll have a gun.

So in your new envisionment of 700 hours of training instructing a police officer anywhere in the State of New York, where would peace officers fit in this world? Or do they?

EX. DEP. COMMISSIONER GREEN: There are separate minimum training standards for peace officers. And I don't know the exact hours, but it is not 700. You know, it's many hundreds of hours less than that.

And it's my recollection that there are two separate training standards for peace officers, one for peace officers and then a second one for peace officers who wish to carry firearms, and that training program has minimum standards above and beyond the peace officer program. But that's a separate program that's not as rigorous as the 700-hour curriculum for police officers.

CHAIRWOMAN KRUEGER: And do you have concerns about people with less training somehow having what's perceived as police authority and the ability to carry a gun? I know with some of the bills over the years it's been the right to chase, in a car, suspects; the right to search and seize without warrants, et cetera, et cetera.

I mean, isn't it sort of -- doesn't it surprise you that we would have all these different standards for all these different people all over the state?

EX. DEP. COMMISSIONER GREEN: I think your question, you know, really focuses on the issue, and that is that people need to be aware of when you give someone peace officer powers, it means one thing, and there's a certain minimum level of training that goes along with that. And when you give someone police officer powers, it means something different. And there is additional responsibilities and powers that go with it, and there's additional training.

And to your point, yes, I think we

need to be very thoughtful about who we're giving peace officer powers to and who we're giving police officer powers to, because those powers, you know, are significant, they're different, there's different levels of training. And, you know, I think you're right to focus on that.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

(No response.)

CHAIRWOMAN KRUEGER: Maybe not. Let's see, where did Helene go?

THE MODERATOR: I do believe we have Assemblymember Ra up next on her list.

CHAIRWOMAN KRUEGER: Thank you so much.

(Overtalk.)

ASSEMBLYMAN RA: Thank you for being here today. I just had a few questions going back to -- you mentioned in your opening remarks something that I think we're familiar with. Many of the large cities in the state have had, you know, really remarkable increases in murders, in gun crimes, in

shootings. You know, and it's alarming.

And I'm just wondering if you have, you know, any thoughts as to what may be causing that, given that, you know, we have -- overall, you mentioned crime being down, we had months of last year where people were largely, you know, in their homes because of the pandemic. Yet we see these -- you know, these data points, and they are very alarming.

EX. DEP. COMMISSIONER GREEN: So I don't know that I can opine directly on what's causing it, but I think I can share some relevant data points, I hope.

First of all, I think it's very important to keep this in context. While shootings and gun-related homicides are up and homicides are up, the last three years have been historic lows. We topped out at about 2600 homicides a year in New York State in the early '90s; the last three years we had less than 600 a year, we had about 550 a year.

So when we say they're up, they're up

against our all-time historic low. I think we're going to come in somewhere between 800 and 840 homicides for the year when we collect the chart, which is a terrible increase from our historic low last year, but still substantially below, you know, what we were experiencing in the early '90s, you know, when I was a line prosecutor prosecuting homicide cases.

So I just think it's important, first of all, to keep the historical perspective.

You know, secondly, when we look at what's happening, overall crime in 2020, reported indexed crime is about flat. The one place we're seeing -- well, places we're seeing increases is violent -- crime is about flat, but firearm-related crime is up, shootings are up, and firearm-related homicides are up.

So when you look at, you know, what's driving that, one important thing I think is to look across the country. It's not just New York State that's experiencing this. We see similar numbers in major cities across

the country.

And then secondly, you know, when you look at, again, what's driving it, is it -- you know, people ask is it the reforms we passed, is it, you know, something else. We're not seeing it -- you know, bail reform, for example, really focused on misdemeanors and nonviolent felonies. It made the biggest change there. We're not seeing any movement in that regard. We're just seeing it in the firearm-related crime.

And so I think looking at things like COVID and the impact of COVID, looking at George Floyd and the issues around racial equality, to me, you know, that correlation at this point seems to be stronger. But I think we're going to need more time, frankly, to look at that over time and really draw any solid conclusions.

ASSEMBLYMAN RA: Yeah, and I -- I mean, I think -- you know, I'm sure you recall last year at this hearing there was a lot of talk about bail reform and things like that, and we were fairly early in the year

and there were some statistics out there that were showing an uptick, and kind of it was like, okay, well, let's wait and see when we have full data. Obviously the world has changed in tremendous ways since then with the pandemic and a lot of other things that have gone on.

So thank you for that answer. It is alarming, those numbers in and of themselves. And then when you add to it some of the proposals in this budget that are reducing crime prevention and reduction programs. And certainly this potential for municipalities to lose money for policing, you know, is a concern, given these alarming increases.

The one other thing I wanted to ask you about -- I don't know if you could shed any light on this within the department, but one of the things we talked about a lot in the regard of the criminal justice reforms was discovery last year. And if you know anything about how -- you know, there was this funding that was put in, and what is going on with that and whether the funding is

going out the door or was subject to any of the withholdings that went on to try to balance the budget due to the revenue shortfalls.

EX. DEP. COMMISSIONER GREEN: Sure. So just to clarify, DCJS local assistance funding has not been cut. In fact, DCJS local assistance funding has been increased, and the increase is due to that discovery fund that you've referred to. But our other programs have remained flat, you know, in the face of cuts elsewhere.

In terms of the discovery funding, 1.75 million of that was awarded to the New York Prosecutors Training Institute to support their DEMS system, which all the prosecutor's offices across the state can use for discovery. And award notices went out to the 57 counties outside of New York City just recently, giving them their award allocation to support both discovery reform and pretrial services.

ASSEMBLYMAN RA: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Senator Brad Hoylman.

SENATOR HOYLMAN: Thank you, Madam Chair.

Nice to see you, Commissioner.

In 2020 we passed the Police STAT Act, the Police Statistics and Transparency Act, which among other things is going to require law enforcement, every law enforcement department in New York State to promptly report any arrest-related deaths to DCJS, disaggregated by county, and including demographic information about the race, ethnicity, age and gender of the individuals who die in arrest-related deaths.

Prior to the passage of this, DCJS, according to your website, identified the majority of the arrest-related deaths in New York through reviews of news articles.

The law enforcement reporting requirements took effect in December. Have you seen compliance with the law so far?

EX. DEP. COMMISSIONER GREEN: We have seen compliance. This reporting is kind of going parallel with the use of force

reporting that has kicked in as a result of the new legislation. And we are getting data and reports from law enforcement agencies with regard to both of those.

SENATOR HOYLMAN: Thank you.

And under the law, DCJS is going to be required to annually report that data to the Legislature and to make the data available to the public on your website, updated monthly. Is DCJS prepared from a technology standpoint to make that data available on your website? And if so, when can we expect it to be available?

EX. DEP. COMMISSIONER GREEN: Yes. We're actually working right now on trying to -- I guess for lack of a better term -- clean the data. We're working with departments to make sure it's reliable, make sure, for example, incidents weren't double-reported.

But we do anticipate that by March that data will be up on the website.

SENATOR HOYLMAN: Thank you so much. That's good news.

EX. DEP. COMMISSIONER GREEN: Thank you. It's good to see you.

CHAIRWOMAN KRUEGER: Great. Thank you. We -- yes, Helene.

CHAIRWOMAN WEINSTEIN: Yes, we go to Assemblyman Tannousis.

ASSEMBLYMAN TANNOUSIS: Hi, Commissioner. Thank you so much for joining us.

The one question I wanted to ask you is can you -- will you be able to tell us how many individuals in New York State are incarcerated because of marijuana-related offenses?

EX. DEP. COMMISSIONER GREEN: I cannot give you that figure off the top of my head. You know, there's both inmates in the State Department of Corrections, there's incarceration in local jail facilities. So, you know, I couldn't give you a figure.

ASSEMBLYMAN TANNOUSIS: Would you be able to look into that for us as regards to the state, obviously, state detentional facilities?

EX. DEP. COMMISSIONER GREEN: As to the state facilities -- and I don't want to put him on the spot, but I would suggest that Commissioner Annucci from DOCCS might be in a better position to give you information on who's in DOCCS right now. But we can certainly work with Commissioner Annucci to get any information that would answer that question to you.

ASSEMBLYMAN TANNOUSIS: Thank you. Thank you very much obviously. I appreciate that, because obviously we're -- this is an issue -- recreational marijuana is an issue that's coming up, and obviously we want to have those facts and figures so we can make that determination adequately.

So thank you very much for your time.

EX. DEP. COMMISSIONER GREEN: Thank you.

CHAIRWOMAN WEINSTEIN: So next we have Assemblyman Palmesano.

ASSEMBLYMAN PALMESANO: Yes, thank you, Commissioner. I have a few questions for you.

First, we've had a lot of talk about bail reform and the concerns that many of us have raised on that issue. Do you keep statistics -- in regards to that, do you keep statistics on the number of individuals who commit crimes who have been released without having to post bail or have some type of pretrial supervision assigned to them?

EX. DEP. COMMISSIONER GREEN: So the data that we are keeping in connection with OCA is what was required in the statute. The statute set out requirements for what OCA and DCJS need to collect. And as Judge Marks testified to earlier, by statute OCA's first report on that data is due in July of this year. DCJS's first report is due in January of next year, and we've been working hand in hand with OCA and fully anticipate that both entities will meet those deadlines. In fact, I think -- you know, what I anticipate you'll find is that we'll be posting the same data on both the OCA and DCJS websites that satisfy all of the requirements in that statute.

ASSEMBLYMAN PALMESANO: All right.

I think one of the other issues, along with that, is will that also hopefully include individuals who are released on pretrial supervision on their own recognizance, that status as far as people who didn't show up for their trial hearings? Will that possibly be part of those numbers?

EX. DEP. COMMISSIONER GREEN: Yeah, I would have to go back and look at the statute and see exactly what the reporting requirements are.

But I can assure you that everything that the Legislature put in that statute in terms of reporting requirements, we will have and will have posted publicly.

ASSEMBLYMAN PALMESANO: All right, thank you. I have a couple of other questions.

Relative to the New York State Police Reinvention and Collaboration, we obviously understand that departments who fail to comply with this order risk losing state funding, as well as there's a proposed

directive which requires monitors to be installed to oversee the operations of these departments at their own expense.

Do we know, to date, how many departments fall under this order and how many departments have not complied with this order as of yet?

EX. DEP. COMMISSIONER GREEN: I believe it's somewhere in the neighborhood of 550 departments that fall under the order. That's a rough number, but close.

We've been in communication and I've yet to have any department tell me "We're not going to make it." You know, we're working with departments. As I indicated, just this morning I got a question, you know. So our goal is to help all departments, and we hope there's no department that doesn't have a plan in with their municipality by April 1st.

ASSEMBLYMAN PALMESANO: Thank you.

And as far as withholding of the funding, could this also apply to federal grants that flow through the state?

And I guess the other -- well, on top

of that, with the violent crime that we're seeing that's happening right now in our communities, is it a really good idea for us to be withholding any funding or threatening to withhold any funding that could help protect our local communities?

EX. DEP. COMMISSIONER GREEN: So in terms of the details of what funding, I would have to defer to the Division of Budget, since they're the entity that's named in the order, you know, in terms of the funding end of this.

As I said, our goal is to make sure that we work with departments and that no department falls into that category.

You know, in terms of our major urban centers where we're seeing the increase in shootings, you know, my understanding from our communications with them is that all of those municipalities are working hard on this and are on track to be done, you know, by the April 1st date.

ASSEMBLYMAN PALMESANO: Okay. Thank you.

CHAIRWOMAN KRUEGER: Okay, Assembly continuing.

CHAIRWOMAN WEINSTEIN: Assemblywoman Kelles. Thank you.

ASSEMBLYWOMAN KELLES: It's amazing the technology is still -- I can't seem to put the video on. I'm being asked, but --

CHAIRWOMAN KRUEGER: There you go.

ASSEMBLYWOMAN KELLES: Lovely. Wonderful.

Thank you so much for this presentation and the long explanation of all of these.

I'm new, so I apologize if this question is very basic, but I was going through and looking at the local assistance reductions and eliminations, and I'm pretty sure that the Prisoner Legal Services and the New York State Defender programs are in that. I know you worked closely with those.

I'm just wondering how those programs are going, if we have any data of the impact of those programs. Any information would be great to hear.

EX. DEP. COMMISSIONER GREEN: I don't have data offhand on how those programs are working. They are both programs that have received funding through DCJS.

I'm sorry, you said the Defenders Association and Prisoner Legal Services?

ASSEMBLYWOMAN KELLES: Yup.

EX. DEP. COMMISSIONER GREEN: So the Defenders Association, in the Governor's proposed budget there's a $1,030,000 allocation. The Prisoner Legal Services, there's a $2.2 million allocation.

It's my understanding that both of those sums are the same as in the Governor's budget from last year, that they haven't been increased or increased in terms of the Governor's budget proposal.

And again, while I don't have data, you know, we have -- we've been working with both of those entities for the nine years that I've been at DCJS now. You know, and a very good working relationship with them in terms of the funding end of things.

ASSEMBLYWOMAN KELLES: That's

wonderful. Can you describe maybe some of the other programs -- this was an elimination of $16 million in the General Fund that provided grants to localities and nonprofits, so I was curious what other programs might be in that category.

EX. DEP. COMMISSIONER GREEN: Again, as to the Governor's proposed budget, my understanding is that there are no items that the Governor proposed last year that were enacted as part of his proposal that were cut.

You know, all of our funding -- for example, the aid to probation, we give about $25 million in funding to alternative to incarceration programs, about $44 million in funding to probation departments, about $14 million in funding to gun violence elimination efforts. As we indicated, a total of about $7 million to SNUG.

All of those local assistance that were part of the Governor's proposed budget or the Executive Budget last year, it's my understanding that those are all fully funded

in the Governor's proposal this year.

ASSEMBLYWOMAN KELLES: And two really quick questions.

I heard a conversation about SNUG earlier. I'd love to hear about plans of expanding extensively upstate.

And the other is, has there been any state support or discussion about promoting Law Enforcement Assisted Diversion programs, or LEAD programs?

EX. DEP. COMMISSIONER GREEN: So with regard to SNUG, we currently support SNUG programs in Buffalo, Rochester, Syracuse, Albany, Troy, Poughkeepsie, Yonkers, Mount Vernon, one in Hempstead, one in Suffolk, and one in Newburgh. So we are very heavily involved in upstate New York with SNUG programs.

In terms of LEAD, we did work with Albany in their attempts at running a LEAD program. We did pay for a research component to that program for several years so we could get feedback from a data perspective.

You know, it's not something -- at

least in the way it's operated here in New York so far, I haven't seen data showing that it's had the type of impact that I think you or I would have wanted it to have. You know, so we have not invested heavily in LEAD to this point.

ASSEMBLYWOMAN KELLES: Thank you.

EX. DEP. COMMISSIONER GREEN: We -- that being said, you know, I certainly agree with the idea of trying to find ways to keep people who don't belong in the criminal justice system out of the system and connect them to support systems, you know, that could be far more helpful.

ASSEMBLYWOMAN KELLES: Thank you so much.

CHAIRWOMAN KRUEGER: Thank you.

Assembly continuing?

CHAIRWOMAN WEINSTEIN: Yes.

We go to Assemblymember Rajkumar.

ASSEMBLYWOMAN RAJKUMAR: Thank you, Chair Weinstein, Judiciary Chairman Lavine.

And thank you, Deputy Commissioner Green, for your testimony this afternoon.

I want to use my three minutes to engage you on issues of underrepresented immigrant communities and their interaction with the justice system, specifically around hate crimes.

My first question is on hate crimes against a particular subset, South Asian-American immigrants. South Asian immigrants here in my district in South Queens -- and around the state and the country -- have been targeted for hate crimes. These include hate crimes against Sikh Americans, who wear the traditional turban, and Bengali Americans.

Do you anticipate any items in the budget that will combat hate crimes against this specific underrepresented immigrant group?

I see the Governor's 2021 budget includes $2 million in support of the Hate Crimes Task Force, first established in 2018. And in fact before I was an Assemblywoman, I worked as director of immigration affairs for the state and I remember when that task force was created.

Do you foresee or is it possible to explore possibilities for that task force to engage South Asian communities? And you mentioned the Governor's Executive Order 203 requiring the local police to engage community leaders in a process to reform the police and how they serve their communities.

So what are your thoughts on how to engage immigrant communities in that process, and where might the opportunities lie for collaboration?

EX. DEP. COMMISSIONER GREEN: So first, thank you for the question.

I think there is data to support your concern. While generally speaking in 2020 we did not see an increase -- in fact, overall we saw, you know, slight decreases in hate crimes. In New York City -- you know, and the data is preliminary at this point, but we did see a rise in hate crimes specifically targeted against Asian populations. Upstate -- and again, very preliminary data -- we saw a rise in hate crimes targeted against Blacks. So I think there is a basis,

clearly, for your concern.

In terms of the Governor's budget, the Governor's budget continues to provide the funding to DCJS that we need to work with the Municipal Police Training Council and our local partners on training around these issues.

As part of the revamp of the basic course that I talked about, we worked with the Anti-Defamation League, we worked with others to really beef up the hate crimes training section so that every new recruit will have an up-to-date and thorough hate crimes training component.

And that component that's in there can also be used by individual departments as an in-service training on hate crime, if they want it.

So we continue to be engaged with our partners in terms of training around hate crime and trying to support entities.

And then the last piece of your question, certainly it's envisioned when -- under the Governor's executive order when

departments and municipalities are asked to engage with communities, that immigrant communities would be included in that engagement.

ASSEMBLYWOMAN RAJKUMAR: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Next to Senator Jeremy Cooney.

SENATOR COONEY: Thank you, Madam Chair.

And hello, Commissioner, it's good to see you.

EX. DEP. COMMISSIONER GREEN: Good to see you again.

SENATOR COONEY: Long time no see.

As someone who's from Rochester and of course served as our district attorney, you're well familiar with some of the challenges and issues we face in Rochester with policing, specifically in Black and brown communities, many of which I represent in the 56th Senate District.

My question to you is going to be framed in the lens of our new Senate Committee on Cities 2, which is focused on

upstate New York cities, specifically the Big 5. And when it comes to diversity in law enforcement, both in policing and in the district attorney's office, it's something I know that is not unique to Rochester, certainly, in struggling with -- but I do wonder if you have some experience, based on your time not only in Rochester but in the State of New York, talking with other states across the country, on how they have been successful with diversifying our law enforcement divisions.

Because I believe truly that if we want to have a more just system that works equally for everyone, I believe that law enforcement should reflect the communities in which they serve.

And I would appreciate your thoughts and any examples or specific opportunities that we could do some more research on.

Thank you.

EX. DEP. COMMISSIONER GREEN: I certainly agree -- you know, thank you for the question. You know, we definitely want

police departments -- as we do all of our other institutions -- to reflect the communities that they serve. And frankly I think they would be better -- you know, any institution is better at doing their job and better able to serve the community if they are.

We are working, continue to work with groups like the IACP and others to make sure that we are up on, you know, what others around the country are doing.

As you know, this is a very challenging topic and not one that there's an easy solution to. You know, you mentioned the Rochester Police Department. You know they have been under a court order out of federal court for years around this issue, and yet it still remains a very difficult issue.

You know, the Governor's proposal, among other things, does look to standardize hiring practices and require the Municipal Police Training Council to do work and put guidelines around standardized training

practices. And if that's passed, we certainly envision that one part of that work would be to make sure that whose hiring practices take into account the desire to have diverse police departments and are reflective of that goal.

You know, so I think in the terms of the Governor's budget proposal and current work, those would be the highlights I'd point out.

SENATOR COONEY: Commissioner, I appreciate that. And I do have a bill that I've entered into the Senate which would specifically work with the Big 5 cities and address a long-time question about police residency and, you know, begin to have those conversations.

Because I do believe that making sure that dollars are staying in the communities and that people feel invested in those who they are protecting really does matter.

So we'll take a look at what you have in the budget, and I appreciate your time today, Commissioner.

EX. DEP. COMMISSIONER GREEN: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

So we go to Assemblyman Braunstein, and after that will be Assemblywoman Byrnes.

CHAIRWOMAN KRUEGER: Are you there, Ed? Put your mute off.

ASSEMBLYMAN BRAUNSTEIN: Okay, thank you. Sorry about that.

Forgive me if someone asked you this question earlier, Commissioner; we've been going back and forth with different things today.

My question is about Executive Order 203, the Police Reform and Reinvention Collaborative plan with the localities. I guess I have two questions. My first question is, it requires localities to submit and -- to put together a plan and then certify it and then submit it to your agency.

Once the plan is submitted, is there any kind of evaluation after that to see that it's acceptable? Or has the locality met its

obligation just simply by submitting a certified plan?

EX. DEP. COMMISSIONER GREEN: I'll have to go back and look at the executive order again. But my recollection is it required the submission to the Division of Budget.

You know, certainly that said, you know, we intend to review all the plans. But, you know, at least as of now my understanding is if the plan has properly been ratified by the local municipality or governing body, you know, that that satisfies the requirements.

ASSEMBLYMAN BRAUNSTEIN: Because it doesn't really speak to it in the executive order. And my question is if a locality -- let's say the City of New York submits a plan, you know, it's certified, it's put together. Is there an opportunity later for the Division of Budget to withhold funding based on, you know, some kind of subjective evaluation of the plan that they don't agree with?

EX. DEP. COMMISSIONER GREEN: And that's something you'd have to direct to the Division of Budget. I can't speak to that, I'm sorry.

ASSEMBLYMAN BRAUNSTEIN: And do we know what kind of funding could be withheld from a locality if they don't meet the requirements?

EX. DEP. COMMISSIONER GREEN: Again, that's something the Division of Budget would have to speak on.

ASSEMBLYMAN BRAUNSTEIN: Okay. Have you had conversations with the City of New York about their plan and how they're moving?

EX. DEP. COMMISSIONER GREEN: I personally have not had conversation with the City of New York. But I know -- you know, it's a collective process between DCJS, the deputy secretary's office, the Budget Division and others. You know, and collectively we've spoken with every jurisdiction.

ASSEMBLYMAN BRAUNSTEIN: Okay. All

right. Thank you.

CHAIRWOMAN KRUEGER: (Muted.)

ASSEMBLYWOMAN BYRNES: Thank you. Assemblywoman Marge Byrnes.

Mike Green, how are you, sir?

EX. DEP. COMMISSIONER GREEN: Fine, how are you? Long time no see.

ASSEMBLYWOMAN BYRNES: I was going to say the same thing.

I have one question for you. It may spring to a couple others, but we only have 2 minutes and 45 seconds, so -- but look, we all hope and expect that our police departments are going to be submitting plans that meet all of the new procedures by the deadline that's been established.

My question is if a police department submits and operates under a plan that they think in good faith satisfies the objectives of the state and what they believe satisfies the requirements, but yet later on down the line the state for any reason believes that their plan is inadequate, are they still going to be penalized? As long as they're

operating in good faith and doing their best.

EX. DEP. COMMISSIONER GREEN: Ultimately it's the Budget Director who's going to make those determinations, and I can't speak for the Budget Director.

But what I can say is the intent here was to simply try and make sure that police departments, municipalities and communities engage with each other in an effort to move relationships between police departments and communities forward.

And certainly I would hope to the extent that municipalities and police departments have done that in good faith, you know, I wouldn't expect that there would be any consequences for that.

ASSEMBLYWOMAN BYRNES: I trust there's some expectation that because our communities can be so different -- from a village I live in that only has 2200 people and basically two full-time officers, to a larger municipality -- that they deal with such different types of complaints and people that live within the communities that I would hope

those types of factors are taken into consideration as plans are evaluated.

EX. DEP. COMMISSIONER GREEN: And I believe that that's the reason why the executive order was crafted as it is, to have the approval process being done by the local governing body.

So that in the village you talked about, there's a village board made up of folks who are representative of your village, and they can pass on whether or not that plan is appropriate for the village -- which may be very different than the City of Rochester, who has a city council who can pass on Rochester's plan.

So, you know, my understanding is that the executive order was crafted that way, to take into account the exact things that you raised there.

ASSEMBLYWOMAN BYRNES: All right. And then, again, my only fear -- which I hope doesn't become borne out -- is that somebody will play armchair quarterback and decide that plans that are approved ultimately

aren't satisfactory. And I'd hate to see for any reverberations on the back end when they are operating in good faith.

EX. DEP. COMMISSIONER GREEN: No, thank you. I understand and appreciate the concern.

ASSEMBLYWOMAN BYRNES: Thank you, sir. Take care.

CHAIRWOMAN KRUEGER: Thank you.

Back to the Senate to close -- yes?

CHAIRWOMAN WEINSTEIN: We have no more.

CHAIRWOMAN KRUEGER: You have no more. That's what I thought, thank you.

Okay, to close for the Senate the chair of our Codes Committee, second round, five minutes, Jamaal Bailey.

SENATOR BAILEY: Thank you. Thank you, Madam Chair.

And Commissioner Green, again, this won't be long at all. This is just related to the Article VII proposal about the creation of the crime of -- the new domestic violence crime created in this new

Article VII.

I just wanted to know DCJS's opinion on this, and will it help to -- I guess I -- I guess I'll -- let me take a couple of steps back, right?

During this pandemic we've obviously seen an increase in stats related to domestic violence. I just wanted to know will this Article VII, in your opinion, in the opinion of DCJS, help to stem the tide of some of these domestic violence-related offenses.

EX. DEP. COMMISSIONER GREEN: So if the proposal you're talking about is the one to create new crime, a misdemeanor crime of domestic violence --

SENATOR BAILEY: Correct.

EX. DEP. COMMISSIONER GREEN: The intent is that certain convictions for crimes of domestic violence are supposed to result in a disqualifier for someone purchasing a gun.

Currently, though, in order for that process to take effect, in addition to someone being charged with a crime, the

district attorney has to file a certificate alleging that it's a crime of domestic violence. In addition to adjudicating the criminal case, the court has to hold a separate hearing to determine whether or not it's a crime of domestic violence. And then if in fact a finding is made, not only does the conviction have to be transmitted to DCJS, but the results of that separate hearing have to come to DCJS.

And if for any reason any of those things don't happen -- the DA doesn't file the certificate, the court doesn't do the hearing, the result doesn't get transmitted to DCJS -- someone with a qualifying domestic violence conviction can still go out and purchase a gun.

This is an attempt to close that loophole. It will not criminalize any new conduct. So anything that's criminalized under this proposal would already be a criminal offense. It will simply eliminate the need for filing that separate certificate, having a separate hearing, and

having two pieces of information conveyed to DCJS instead of one.

When this new crime is charged, the element will be the existing underlying crime plus the domestic relationship. It can all be heard and adjudicated within the course of that single case, and if there's a conviction, that gets sent to DCJS and there's an automatic disqualifier.

So, you know, our understanding right now is that there are more qualifying convictions than orders that we're receiving. So there's basically a disconnect there. And this would close that disconnect and keep convicted domestic abusers who shouldn't have guns from being able to buy guns.

SENATOR BAILEY: Okay. And thank you for that answer.

And just my final question, to close. To your knowledge, have you had -- have there been conversations with advocacy groups as related to domestic violence in the formulation of this proposal?

EX. DEP. COMMISSIONER GREEN: I think

yes, there have been conversations.

I think there have also been conversations around some of the broader proposals like expanding the scope of the Office for the Prevention of Domestic Violence to include gender-based violence. There have been conversations around streamlining the application process for resources for not-for-profits, you know, that go to different state agencies, so there would be a more common platform for that application.

So in general, yes, I think both the Office for the Prevention of Domestic Violence and the administration generally have been very engaged with the domestic violence advocacy community here around these proposals.

SENATOR BAILEY: And my final, final question -- you know, sometimes -- I'm sorry, I'm an attorney too.

(Laughter.)

SENATOR BAILEY: So as related to sealing -- you spoke about the sealing of

convictions. There are some bills being proposed -- we'd like to greatly expand our sealing statutes and actually give us actual expungement in New York State. Does DCJS have an opinion on either the legislation or the concept of expansion of sealing?

EX. DEP. COMMISSIONER GREEN: So for the sealing that we've done, as I indicated, we sealed about 3.2 million records that was marijuana -- low-level marijuana convictions, low-level historical offenses like disorderly conduct, and things open for more than five years. That left 800,000 people with clean records.

You know, those types of things we support. Currently we're working on the legislation that was just passed and signed into law which will seal convictions for loitering for purposes of prostitution. So we're engaged right now in making sure we carry that out.

And so those types of sealing or expungement that you referred to we certainly support, you know, and are working very hard

to make sure we carry out everything that's enacted.

SENATOR BAILEY: Excellent, thank you. You know, New Yorkers deserve to have a clean slate to be able to move forward.

And I thank you for your time and for your attention to these questions. Thank you, Commissioner.

CHAIRWOMAN KRUEGER: Thank you very much.

EX. DEP. COMMISSIONER GREEN: You too.

CHAIRWOMAN KRUEGER: I think at this point we are done with you for today. Thank you for spending your couple of hours with us helping us to understand your agency and budget.

EX. DEP. COMMISSIONER GREEN: Well, thank you. It's always a pleasure to see everyone, and appreciate all of your support.

CHAIRWOMAN KRUEGER: Thank you.

And our next commissioner -- excuse me, acting commissioner -- Anthony Annucci, New York State Department of Corrections and Community Supervision.

And just before he starts, the chairs for this commissioner are Senator Julia Salazar and Assemblymember Weprin. And the rankers are Senator Akshar and I believe Assemblymember -- the ranker is a replacement, am I correct?

THE MODERATOR: Yes. That will be Assemblyman Palmesano.

CHAIRWOMAN WEINSTEIN: Correct, for five minutes. Thank you.

CHAIRWOMAN KRUEGER: Thank you. Okay, when we get there, good.

And then I believe people saw the note that Assemblymember Weinstein needs to run out for something else, and so I'll be shifting back and forth between the Assembly and the Senate.

So please raise your hand if you have a question. And when I get your name wrong, Assemblymembers, I apologize. You can blame me later.

So with that, Acting Commissioner Annucci, who I think has been here in Albany as long as I have but is still an acting

commissioner, right?

ACTING COMMISSIONER ANNUCCI: That is correct.

CHAIRWOMAN KRUEGER: Welcome.

ACTING COMMISSIONER ANNUCCI: Thank you.

CHAIRWOMAN KRUEGER: Ten minutes on the clock.

ACTING COMMISSIONER ANNUCCI: Thank you, Senator.

Good afternoon, Chairwoman Krueger, Chairwoman Weinstein, and other distinguished chairs and members of the Legislature. I am Anthony J. Annucci, acting commissioner for the Department of Corrections and Community Supervision. It is my honor to discuss some of the highlights of Governor Cuomo's Executive Budget plan.

Since the Governor took office, the incarcerated population, now under 33,200, has decreased by more than 22,000, marking the lowest total since 1984, and representing a 54 percent decline since its all-time high in 1999 of 72,773. More significantly, the

total population reduction since January 1, 2020, exceeds 11,000. Even with these drastic reductions in incarceration, New York proudly remains one of the safest large states in the country.

With this significant reduction in population since 2011, the state has safely eliminated excess capacity through the closing of 18 correctional facilities without laying off workers, while achieving $292 million of savings for taxpayers. This year's closure process is underway with the transfer of staff to vacant positions at other facilities or offices, while the incarcerated population is transitioned into vacant beds elsewhere.

Based on the continued decline of the incarcerated population, we anticipate additional facility closures in the upcoming two fiscal years.

Over the past year, COVID-19 has plagued our nation and state. The department was not spared from the effects of COVID-19. Accordingly, last March I convened a

multidisciplinary COVID-19 Task Force to guide our comprehensive response.

During this pandemic there have been many heroes along the way. Our essential workers, including corrections and community supervision staff, came to work every day and consistently carried out their professional duties in an exemplary manner, oftentimes going above and beyond their traditional responsibilities. I am very proud of the dedication and sacrifice staff have displayed throughout the duration of the COVID-19 public health emergency and thank them for their continued great work.

Incarcerated individuals also helped to support and protect fellow New Yorkers with the production of nearly 11 million bottles of hand sanitizer of various sizes, over 89,000 protective gowns, and almost 2 million face masks.

As the Governor has pointed out, our path forward is to continue testing and vaccinations. We have begun the process of vaccinating our staff and the incarcerated

individuals in the system who are 65 and older, consistent with statewide guidance for that age group.

Under the direction of Governor Cuomo, the department has also leveraged existing laws that allowed for the early release of 3,555 nonviolent, non-sex offenders, which included 791 low-level parole violators from local custody. The department decommissioned over 3,000 top bunks, greatly reducing density within dorm settings, and followed CDC and DOH guidance to help reduce the spread of COVID-19. We also modified policies and procedures in community supervision that have drastically reduced the issuance of technical warrants.

Despite the pandemic, there were many accomplishments in 2020. Last year, the Governor successfully advanced legislation to remove all individuals under the age of 18 from DOCCS, and to send adolescent offenders to the Office of Children and Family Services. This transition was successfully completed.

In 2019, the Governor, along with the leaders of both houses, jointly agreed to further overhaul segregated confinement through administrative action. DOCCS issued and adopted regulations after a thorough review of the public comments. Leveraging the $69 million capital funding allocation, the necessary infrastructure upgrades to develop residential rehabilitation units are underway, with several becoming operational later this fiscal year.

The regulations further restrict the number of infractions that can result in a disciplinary confinement sanction, among other things. When fully implemented, these reforms will restrict the use of segregation for vulnerable populations and cap the amount of time someone can spend in segregation.

Through the ongoing reforms, I am confident we will successfully provide incarcerated individuals with the services and treatment they need, while continuing to keep staff, the population and visitors safe.

Lastly, the Board of Parole, in

consultation with the department, adopted regulations that improved the standard conditions of supervision, and modified the parole revocation process, advancing both alternatives to incarceration options and shorter periods for reincarceration when necessary.

In conclusion, while we will continue to tackle the many challenges posed by COVID-19, we will simultaneously explore additional means to further leverage technology for the delivery of programs and the advancement of safety, both inside our facilities and within our communities. We cannot ignore the overall safety of our staff and the security of our facilities and offices. They remain a top priority for the department. Our professional, well-trained and dedicated workforce, who perform their responsibilities in a highly commendable manner, often under dangerous and difficult circumstances, will continue to be our best resource as we meet our mission.

The Governor's budget positions the

department for success, while continuing to address the dramatic decline in the population, to the benefit of the entire agency, as well as the taxpayer.

Thank you, and I will be happy to answer any questions.

(Pause.)

CHAIRWOMAN KRUEGER: Our first questioner will be Senator Julia Salazar, the new chair of Crime, Crime Victims and Corrections.

SENATOR SALAZAR: Thank you, Chair.

And thank you very much, Commissioner, for joining us today and taking the time to testify.

I wanted to begin by asking you about racial disparities in parole denials and in solitary confinement. There was a New York Times investigation in 2016 that documented pretty astounding racial bias in New York's prisons, particularly bias in the use of solitary confinement and in parole denials that had prompted the Governor at the time to announce an investigation.

Recently in December, the Times Union issued a report showing that these same racial disparities in parole denials and solitary confinement had actually increased since the 2016 report. Now we're in 2021, it's been more than four years since the Governor initially announced that there would be an investigation.

Would you be able to inform us why findings haven't been issued from such an investigation and any other action that's been taken since then specifically to address the Parole Board's racially disparate release rates?

ACTING COMMISSIONER ANNUCCI: Senator, first of all, thank you for that question.

Let me begin by saying I have been around since 1984, 36 years plus. And in my entire tenure with the state, as with this agency, this is the most diverse Parole Board that we have. And I know the chairwoman very well. She's a person of integrity and character. I know at least 11 members are considered to be minority. I know she is

very active in initiatives with me. She is the cochair of my Commissioner's Diversity Management Advisory Council, which is dedicated to increasing diversity throughout the ranks of our agency. I know that she is very engaged, and I know that if you're going to do any type of study, you have to be able to compare apples to apples and oranges to oranges.

In order for you to ascertain whether or not there's any potential racial difference in decision-making, you have to have the full array of information before you. For example, you have to know whether or not someone has been incarcerated five or six times versus someone who's incarcerated for the first time on a burglary in the third degree conviction. That is not ascertainable from the information that may be available on a website.

One of the smartest laws we never passed in this state is "three strikes and you're in," so people can get repeatedly convicted as second felony offenders.

You also need to have access to a whole host of information that the Parole Board looks at which is not available on any public website. For example, what did the district attorney say, what did the defense attorney say, what did the sentencing judge say in response to solicitation records. What is the record while incarcerated? What is the disciplinary record? What did the crime victim submit?

So all of these factors are taken into consideration and considered. And therefore, you would really have to have a very, very carefully constructed research project that had access to a lot of different records in order to ascertain whether there is any potential racial impact.

And I will point out that one reason why our population is going down is that the Parole Board has significantly increased the rate at which people are released. This is well before COVID. In calendar years 2019 and 2018 combined, right -- which was pre-COVID -- our population declined by

basically 6,000. So we've had that going on.

Then with respect to what we're doing in the disciplinary system, I have initiated a number of different training initiatives throughout our agency. Staff are mandated to take implicit bias, racial stereotyping and many other things.

I also have commissioned my research units to generate two different types of comprehensive reports, one of which looks at the assignments at each facility and the racial breakdown at each facility. And that comes in to my deputy commissioner for program services, and where we need to be better at assigning particular jobs, the jobs at each facility have to be balanced according to the racial population at each facility.

I also get a quarterly report from my research unit on overall statistical indicators of various types at a 5,000-foot level. And where corrective action is required, we do -- instruct the appropriate deputy commissioner to follow up. So we are

very much married to the concept of diversity and inclusion and fairness for everybody.

SENATOR SALAZAR: Thank you, Commissioner.

I want to preface this by saying that I may need to cut you off, and I apologize. I mean no offense. If I cut you off, it is only because my time is limited.

I want to talk a little bit about solitary confinement. In November, just a few months ago, the Partnership for the Public Good released a report demonstrating that if the HALT Solitary Confinement Act were implemented, it would actually yield New York State a net savings of $132 million each year. I mention this because we previously heard from the current administration that contrary to this, the Executive claims there would be a fiscal cost to implementing these same changes that are outlined in the -- changes to the use of solitary confinement and the length of time.

My question is, in your capacity do you have an assessment of the HALT bill or on

its proposed limits to the use of solitary confinement and whether it would in fact have a fiscal impact or cost or savings to the state?

ACTING COMMISSIONER ANNUCCI: Senator, normally -- I can't comment on pending legislation, but there are several things that I can point out.

First, I have firsthand experience of what it's like to be confined in a special housing unit cell in a maximum security prison. I did it almost as an undercover operation back in December. We selected a facility; the superintendent was simply told be prepared for two high-level, high-profile individuals. Myself and my executive deputy commissioner, we went in dressed in inmate uniforms, and we stayed there for 24 hours. So I got to see firsthand all the different actions, interactions that are there with all the different staff, from being screened by the nurse, from the counselor that comes by, having the tablet, listening through headphones in the exercise pen, the whole

nine yards. And I can go into a lot further detail.

But the big thing is that we would have to spend a lot of money to transfer people after 15 days to RRUs, which are being constructed as we speak. That movement can be very costly and very disruptive. It's disruptive to an incarcerated individual to suddenly have to leave the facility. If you are somebody that commits an infraction that's somewhat serious but not so serious that the hearing officer wants to impose a 30-day SHU sentence, you would have to be moved after 16 days.

But leaving him at that facility, when he comes out he could resume where he was, including being back in a college program, if that is where he was.

So there's a lot of costs that are involved with any type of proposal that is there. And I'd love the opportunity to really lay out in detail all of the reforms that we've done, all the existing alternative units that we spent a lot of money on, and

where we will be with the RRUs, including tablets where you can speak to your family for up to six hours a day from a segregated confinement cell. That is a privilege that you don't get in general confinement.

SENATOR SALAZAR: Thank you.

I want to ask more about COVID-19 in DOCCS. Given that jails and prisons are congregate settings -- and I appreciate that you mentioned in your testimony that density has been reduced, but I think we can probably agree that DOCCS facilities are congregate settings -- when can we expect all of the people, not just based on their age, but all people who are currently incarcerated to become eligible for receiving the COVID-19 vaccine? And when they are granted eligibility, is there a plan by DOCCS or DOH for rolling out vaccinations?

ACTING COMMISSIONER ANNUCCI: Well, Senator, we have been in partnership with DOH since the very start of this pandemic, and they have guided every step that we have taken, including how we would roll out

vaccinations. And it's a lot of work to do that. We have 27 teams of people that were assembled, ready to go to the facilities. We have OSI staff that are ready to transport the vaccine. We had to survey all of the staff to see who would be interested. We had to deal with the medical people in 1-a, the correctional staff, including community supervision staff, in 1-b. We had to find where the elderly are, 65 and older. And then we had to transport the vaccines.

And in order for us to get as many people to accept the vaccine who are incarcerated, instead of giving them information for them to just read, I had a member of my executive team and a health services person directly interview them and try and convince them to accept the vaccine. And so far, close to 80 percent have accepted the vaccine.

We will have injected 4,000 vaccines this week. We will continue with that. We are next tackling the vulnerable population of a little over 3,000 medical problems that

we will get to. I can't give you a date when everybody will be vaccinated. I can tell you that as a matter of public health -- public protection and public health go hand in hand, so it's in everybody's interest to get there as soon as possible. I think the news that Johnson & Johnson has now been approved for vaccinations is a big, big step that will help all New Yorkers.

CHAIRWOMAN KRUEGER: Thank you, Commissioner. And Chair, I have to cut you off. Chair, you're entitled to five minutes for a second round of cleanup at the end.

With that, I'm turning it over to the chair of Corrections for the Assembly, Assemblymember Weprin.

ASSEMBLYMAN WEPRIN: Thank you, Chair Krueger, thank you, Chair Weinstein, for your leadership and patience during all these long hearings.

I just want to follow up just on what Senator Salazar brought up, because I just want to let you know, Commissioner, that Commissioner Zucker, the State Health

Commissioner, told the Democratic Conference, I think it could have been a month ago, that the intention was to inoculate with the vaccines everybody in the congregate setting, because it really applies to -- correctional officers, correctional employees, as well as incarcerated individuals are all part of that congregate setting. And he did say that the intention was to inoculate everyone, not just those over 65.

So I just wanted to point that out and I hope you'll get to that. Because just like nursing homes, there has been a huge spread to the whole system, as you know better than most.

A couple of questions. A couple of things you already touched on, so I will try not to be repetitive. But I know you're planning on closing Gowanda, Clinton and Watertown; you announced that in December. What steps are being taken, if any, to minimize the impact on the local economies, and what's happening to the staff and inmates currently at these facilities?

ACTING COMMISSIONER ANNUCCI: Well, one step at a time. The first thing is to actually close the facilities. And they'll close by March 31st.

My number-one immediate priority is to make sure that every one of the staff members at those three facilities have opportunities for employment elsewhere within our system. So I've dispatched our human resource staff, director of personnel, to meet personally with all of the staff that are affected at the different facilities, as well as the unions, and to carefully explain to them what their rights and options are.

So we're going to be moving a number of them in about two weeks, and then we'll continue after that. We're also gradually moving the incarcerated population out of there as well. That is a process that is much less complicated because we have thousands and thousands of vacancies throughout our entire system.

Ultimately, when the facilities are closed, we will maintain them at least in a fashion that they can be reused when and if

another purpose comes about. So we work with ESD, and if at some point one of them can be sold or used for a different purpose, we'll allow people to be brought on-site, we'll maintain them so that the infrastructure is preserved, and perhaps one of them may be sold or there may be an alternate purpose.

So we are always mindful of trying to do our best to leave the community with other options.

ASSEMBLYMAN WEPRIN: I appreciate that, Commissioner. And I appreciate the working relationship we've had for the last five years.

I'd love to hear about your undercover experience offline; I don't want to monopolize the time of this particular hearing. But I'll discuss that with you at a later date.

Something that came up in our Democratic conference as we were going over the budget the other day was the $5 million for the Correctional Services Commissary addition. Can you give us a little more

detail on that? Because that came up in --

ACTING COMMISSIONER ANNUCCI: Yeah, basically that's a dry appropriation that's funded by the population themselves. And because each facility has its own independent commissary account, and because with things like loss of visitation more money is coming in from family members for them to be able to spend on things through the JPay account, et cetera, we needed to raise the appropriation so that we wouldn't have anybody that wouldn't be able to spend.

So that was something we increased I think a couple of years ago, and now we're raising it another 5 million.

ASSEMBLYMAN WEPRIN: Okay. I have a number of issues to cover, so I'm going to try to go through them quickly.

As you know, I've been a huge supporter -- and I think you have as well -- for higher education in facilities. And obviously we're a little bit more limited during this COVID-19, but hopefully that will change.

As you probably know, I have a proposal for educational release, and I think that's something that you might support. Has there been any discussion about adding college programs and possibly having the educational release? And with the recent bill in Washington which basically, you know, provided additional TAP coverage for incarcerated individuals, I think that makes it even easier or, you know, more likely that we can expand some of these prison programs.

Can you just elaborate on that and how the TAP could help that?

ACTING COMMISSIONER ANNUCCI: Okay. Very quickly, Assemblyman, yes, thank you. I really appreciate your support for higher education. I strongly believe in education for a lot of different reasons, primarily because it's transformative. We have totally different people once they get through education.

We presently have about 21 different outside colleges delivering services at 30 different facilities. And we always would

love to expand and include more. There's about 15,000 individuals in our system that have high school diplomas already, so they could move on to higher education if possible.

I was very pleased to see the Pell Grant restored at the federal level. I can tell you that the documentary that was made in our facilities, "College in Prison," the Ken Burns documentary, four hours, that helped significantly. It showcased to the whole country the power of higher education behind bars in our system, and I think it was a big factor in why Congress restored Pell Grant funding.

As for your pending legislation, Assemblyman, I can't really comment on that. But obviously anything that furthers the linkages -- and if that's educational release that allows people to continue their education with colleges in the communities where they live, that's fine. We support anything that builds on secondary education in our institutions.

ASSEMBLYMAN WEPRIN: Thank you.

And just following up on the Parole Board and the diversity of the Parole Board, when I first came on as chair about five years ago, there were I think only somewhere between 10 and 12 parole commissioners. And we've obviously expanded that. We expanded, allowing it to go up to 19 parole -- I agree with you that the diversity has expanded, and I know you and I have been part of that process.

My question for you is, how many vacancies do we have now? And I know we can go up to 19, and we really should try to fill all of those spots. How many vacancies are there now? And I know the board is much more diverse. And I actually had recommended one of my Corrections staffers, Tana Agostini, and she was one of those, and I think the state was the beneficiary, you know, of her service.

And if you could just kind of just elaborate on how many vacancies we have right now.

ACTING COMMISSIONER ANNUCCI: Sure. We have 16 members of the board right now.

And one thing I'll just remind you about -- one is the population obviously has dramatically declined. When you go down 11,000 in a little more than a year, that's a significant decline.

The second thing is a significant proportion of individuals incarcerated are serving determinate sentences, which means they don't get released by action of the Parole Board, they don't get interviewed before Parole, they're released at their date by operation of law. And so anybody with a drug offense or serving time for a VFO or a sex offense is serving a determinate sentence. They will not appear before a Parole Board for potential release.

ASSEMBLYMAN WEPRIN: Okay, thank you. My time is running out. I have a bunch of questions, and I will reserve the right to come back for the second time as chair.

But you talked about the reduction in overall prison population, significantly,

over the last few years. I just want to ask about double bunking. Is there still double bunking, meaning two to a cell, two residents to a cell currently in use? And if so, why, since the prison population has been significantly reduced.

ACTING COMMISSIONER ANNUCCI: Well, first, for those double cells that had been in operation when we were very overcrowded and we had to convert a number of single cells in 16 of our maximum-security facilities -- they've all been taken down, with very few exceptions. There's a very limited number in Auburn; I doubt if they're filled right now. And there's a very limited number, I think, in Downstate. And I think the others -- that would be it. So those have been taken down.

But then you have the double cells that were constructed as double cells at places like Five Points and Upstate Correctional Facility, in our S blocks. Now, to the extent that there are instances where some of them will be two in a cell, yes, that

still exists. But it has been significantly decreased with the significant reduction in the population.

ASSEMBLYMAN WEPRIN: Thank you. I'm running out of time, so I'll come back. And let me just ask one more question --

CHAIRWOMAN KRUEGER: Quickly. You're not going to have any time to get an answer.

ASSEMBLYMAN WEPRIN: Okay. Well, you know what, it's been a pleasure working with you these last five years.

I'll come back for the five minutes for some of my other questions. How's that, Chair?

CHAIRWOMAN KRUEGER: That's perfect.

ASSEMBLYMAN WEPRIN: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

And our next questioner is Jamaal Bailey for five minutes, chair of the Codes Committee.

SENATOR BAILEY: Thank you, Madam Chair.

Acting Commissioner, good to see you.

Chair Salazar mentioned a lot of the

conversation that I wanted to do, and she touched on it, and I think she'll touch on more of it in her second round, as related to the response as related to COVID.

But I wanted to double down on what Assemblymember Weprin was talking about as related to education for individuals who are currently incarcerated. You mentioned the documentary related to the Bard Prison Initiative and the restoration of the Pell Grant at the federal level, which is great news.

I was wondering, are there steps that we can take, in your opinion, that we can do to further put pressure on getting TAP back for individuals who are incarcerated?

ACTING COMMISSIONER ANNUCCI: That's a difficult question, Senator.

Obviously we're in an enormous situation with the budget. I mean, we all have heard the reports; we know what it's done. I think the Budget Director is very hard-pressed to find additional funds for anything without cutting something else.

I think for the most part, if you want to show support, at least, we'd love to have you at our college graduations. Come and help give support to the population. It's really an uplifting event when we have graduations and men and women are dressed up in caps and gowns and the family members are in the audience. And we've gotten some named speakers, people like Whoopi Goldberg and Bill Whittaker from "60 Minutes" and Cardinal Dolan.

So come to a college graduation and really see what the end result is from College Behind Bars. It's very uplifting.

SENATOR BAILEY: Certainly. If we're really talking about actual rehabilitation, this is a huge step in that direction towards incarcerated individuals being able to resume normalcy once they are no longer incarcerated.

But I guess the next question I would have is related to individuals who are working while incarcerated. Generally, what's the average hourly rate in number of

hours that an incarcerated individual would work each week?

ACTING COMMISSIONER ANNUCCI: It depends, Senator. It depends upon a particular grade. The highest-graded worker can make probably a little more than a dollar a day if he's in a high-earning correctional industry job. But it all depends upon the particular job.

And I'm very sensitive to the wages issue. I think it's an important conversation to have. And it's one of the things that in order to try and at least help offset the low wages, we keep the population harmless as best we can with things like having very, very low rates for telephone calls, for secure messages on our tablets. We make sure the vendor keeps us among the lowest in the country. We'll never charge sales tax for anything. We did supply the tablets free of charge to them. We're never going to ask for a copay for medical care.

So while we're dealing with this period when we may be restricted, because of

budget constraints, from raising wages, I'm very sensitive to it and am trying to at least have other things to take their place.

SENATOR BAILEY: Okay. And generally speaking, how much does DOCCS spend paying people that work in prisons, generally overall?

ACTING COMMISSIONER ANNUCCI: By an hourly wage?

SENATOR BAILEY: No, in total. Like what is DOCCS's outlay like for paying individuals who are incarcerated that work in prisons?

ACTING COMMISSIONER ANNUCCI: (Aside.) Do we know?

Yeah, we'll get back to you, Senator. I just don't have that off the top of my head.

SENATOR BAILEY: Sure. No problem. As my time is running low, I want to talk about medication-assisted treatment. I'm the sponsor of a bill to expand that. And as you know, I think it's critical, especially with us being in an opioid crisis, still within

the throes of an opioid crisis. How many facilities again in the state provide MAT currently?

ACTING COMMISSIONER ANNUCCI: Oh, it's about seven or eight at this point. We were really building our capacity until obviously COVID really put a damper on everything. We have methadone and buprenorphine at a number of facilities -- off the top of my head, it's Bedford, it's Downstate, I think Elmira, Marcy.

We have Vivitrol at a number of facilities. And we also have naloxone, which obviously is important for overcoming overdoses. And it's part of transitional services, and any individual being released who will willingly accept the kit, we'll give it to them and hopefully they can potentially save a life in the community.

SENATOR BAILEY: Sure. So I guess my final question is related to segregated confinement. And I know Senator Salazar spoke incredibly well on that earlier, and I would echo those sentiments that we should do

anything we can to reduce that.

But as it is right now, what are the total number of infractions that are issued for people violating rules each year? And then what's the result of being placed in the SHU after those violation results?

ACTING COMMISSIONER ANNUCCI: Okay. So basically like the Penal Law, our disciplinary system has three tiers -- Tier 1, Tier 2, Tier 3. And I can give you the total number of -- {Zoom glitch} -- for each one. You can't go to SHU for a Tier 2, and a Tier 1 is almost like a violation -- you get punished, but you don't get any kind of record that could come back and haunt you.

Tier 3 is the one where you can get a recommended loss of good time, keeplock confinement or segregated confinement.

But we have significantly modified the offenses that could result in a Tier 3 outcome. So we've moved a number down to Tier 2. And in fact, a snapshot on January 1st of this year, compared to a year ago, there's something like 400-and-some-odd

less people in SHU. So we are clearly moving away from that direction.

There's a number of things that we had agreed to with the NYCLU settlement agreement, including the requirement that we tier at the lowest level, that the review lieutenant reviews that and makes sure it's the least tier for the particular act of misbehavior that's involved. Many other things that we do that have really ameliorated who goes to SHU or -- and how long they stay there. And keeplock as well.

SENATOR BAILEY: Well, I see that my time is up, and thank you, Chair, for the opportunity.

And thank you, Acting Commissioner.

CHAIRWOMAN KRUEGER: Sorry. I was on mute. If you would, Commissioner, get me and Helene the information you were just describing, the charts showing the Tiers 1, 2, 3, what the categories are that actually fall into a 3, and the numbers of people now going to the SHUs under these new rules. I think everyone will be very interested in

seeing the data. Okay?

ACTING COMMISSIONER ANNUCCI: Sure.

CHAIRWOMAN KRUEGER: Thank you.

And next we have Assemblymember Palmesano, who is serving as the ranker for today and gets five minutes.

ASSEMBLYMAN PALMESANO: Thank you, Commissioner, for being here.

I want to kind of get at talking about the prison closures a little bit. That's something of great concern to myself and a number of my colleagues.

Certainly I've seen -- you know, the Governor has taken a lot of credit, proud of the number of prisons he's closed in his tenure. I believe with the three recently announced, that would be 20 facilities. But what he seems to fail to do is to take responsibility for the dangerous powder-keg environment these closures and some of his other policies have created in these correctional facilities, like restricting the use of special housing units -- and I call them special housing units, not solitary

confinement.

Even by DOCCS' own website, inmate-on-staff assaults are up over 38 percent over the past five years. Inmate-on-inmate assaults are over a thousand per year over the past five years -- I think it's a 31 percent increase since 2015. So we're really jamming more and more inmates into fewer facilities, especially in this age of COVID.

The other area I want to just talk about really is this whole fast-tracking of these prison closures, 90 days. I really believe, as a number of my colleagues do, this is really a lack of respect to these families and communities who have been totally disrupted by these closures, and it's really adding insult to injury. No time for planning or preparation. And so this is like seven prisons that will be closed within a 90-day period over these past two budgets. It's difficult enough. It's not enough time for a family to plan for moving, to relocate for schools and homes. It's just not

appropriate. And especially in this era of COVID.

We really should be rejecting any measure to close a facility within 90 days. The statute calls for one year.

But I do want to talk about the prison closure. I know in this budget he's talked about a two-year period. That creates more uncertainty. So have you identified how many prisons you might be looking at as far as for closure -- mediums, maximums, you know, number of beds? You know, how many prisons are you talking about, do you have any idea right now?

ACTING COMMISSIONER ANNUCCI: We're basically looking at closing the equivalent of prisons that would amount to 1800 beds. In that neighborhood, Assemblyman.

ASSEMBLYMAN PALMESANO: Would that involve mediums, maximums, both?

ACTING COMMISSIONER ANNUCCI: We haven't made a final decision yet. There are a lot of different factors that we look at.

Let me just back up one second, if I

may. It's the toughest decision to do, to close --

ASSEMBLYMAN PALMESANO: I understand.

ACTING COMMISSIONER ANNUCCI: I do not underestimate the impact on the staff or the surrounding communities. But --

ASSEMBLYMAN PALMESANO: I know you understand that, but I just -- it's still a concern. Because I guess even in this age of COVID, what practical matter does it mean to jam more and more inmates into fewer facilities and lesser space?

I do want to talk about the issue of violence. I mean, how high is the violence in our facilities? We already talked about 38 percent. And the contraband numbers, you know, the drug numbers, drugs getting into our facilities, over 4,000 incidents in each of the past five years, before the administration in DOCCS is going to implement meaningful reforms instead of taking away resources like the ability to use special housing units.

I mean, where is the Secure Vendor

Program? Several years ago that was a program you had in place -- that started out and you canceled it abruptly -- to help screen these drugs getting into our facilities. I have not been made aware of any new facility or program that you're utilizing to deal with the screening of these programs. Where does that stand? What about the use of K-9 units at every facility? Where does that stand?

ACTING COMMISSIONER ANNUCCI: Well, you asked a lot of things. Let me try and answer them one by one.

First, 75 percent of the assaults happen in maximum-security facilities. We haven't touched maximum-security facilities. The facilities that are closing are medium.

Second, we have thousands and thousands of vacant beds throughout. You can't possibly say that we're jamming people when we're closing facilities.

Third, the Secure Vendor Package Program is something that's very important that I want to get back to. I had to stop it

when we got hit with COVID. We learned from the first misstep, and I'll take full responsibility for that. We've met with the advocates, we've met with the unions, they've given us positive feedback. We've gotten feedback from the superintendents.

I do want to get back to that. The presence of drugs is a significant concern. It's a health risk both for the population and for staff. I think ultimately getting to that will put us on the right track and help reduce drugs.

But in the meanwhile, our staff are fantastic, in our package rooms, in discovering contraband that's secreted within cans of vegetables and fruits and things of that nature.

So I can't agree that closure somehow is linked to violence at all. There's no connection whatsoever to that. Because we are at a level that we haven't seen since 1984.

ASSEMBLYMAN PALMESANO: One last quick question. Who is supervising --

CHAIRWOMAN KRUEGER: No, sorry, you can't throw up a question and an answer in two seconds.

ASSEMBLYMAN PALMESANO: Thank you.

CHAIRWOMAN KRUEGER: It was a good stab, though. I like that.

(Laughter.)

ASSEMBLYMAN PALMESANO: Thank you.

CHAIRWOMAN KRUEGER: Sorry, my job is to be mean here today.

ASSEMBLYMAN PALMESANO: Fine.

CHAIRWOMAN KRUEGER: Senator Borrello next.

SENATOR BORRELLO: Yes, thank you, Madam Chair.

Thank you, Commissioner.

I represent the 57th Senate District, and Gowanda is in my district. I have -- just wanted to bring up a couple of concerns.

First of all, thank you for being here.

But there have been four requests put in by the Gowanda Area Redevelopment Corporation, and they've gotten a bit of the

runaround. And I understand sometimes the request is made to the wrong agency, but DOCCS did receive a request -- you know, you're claiming $89 million in savings for closing these three facilities, so the request was made to see those savings and exactly where those savings are. And somehow they were notified that in order to produce that, it's going to take now until April 2nd. This is a request that went in in January.

So my question to you is if you made the determination to close these facilities based on savings, then how could that data be -- take three months to procure and deliver to this FOIL request when that should have been what you used to make the determination? Shouldn't you just be able to pretty much instantly turn that over? Why would it take so long to show what savings would be made?

ACTING COMMISSIONER ANNUCCI: Senator, I'll have to look into exactly what the response to that FOIL request -- you said it was a FOIL request submitted by --

(Overtalk.)

SENATOR BORRELLO: I'm sorry, it's the Gowanda Area Redevelopment Corporation. And it's been in to you since January 25th -- I'm sorry, the first response was from January 25th, and they're saying April 2nd.

ACTING COMMISSIONER ANNUCCI: Okay. Okay. I will look into that.

But basically the closure is all personnel that ultimately are relocating to other vacant positions throughout the system. So that, for example, the closures going forward are projected to reduce our overall budget fill level by 800 positions.

And so when you factor into that all the costs -- the fuel costs of maintaining a correctional facility, the sewage treatment, all those other costs -- they're complicated, but you come up with a number that basically says this is how we get to 89.

I don't know why they've said until April, but I'll follow up on that.

SENATOR BORRELLO: Yeah, because it was literally, you know, two days after the

prison is going to close, which is my concern.

But let me also add that there's other factors there too. You may not be aware, and I don't expect you to be aware of this, but the Collins' facility heat system is supplied from the Gowanda facility. I don't know if you're aware of that or not. So when you start talking about savings based on labor, that's one thing. But you're going to have to maintain that facility in some manner. And also there was a brand-new infirmary, I'm told, at Gowanda, that there's going to be upgrades needed to Collins.

So, you know, I'm a businessperson and, you know, you can't just look at one side of the equation. The other side is what's it going to take to maintain that facility or quote, unquote, mothball it and still have it there so that it can be used to supply heat to the Collins facility.

So I'm just curious what that final number really looks like.

ACTING COMMISSIONER ANNUCCI: We'll

get back to you on that, Senator. We are relocating an infirmary at the Collins, but I think it may be backwards about where the heat is coming from as well. So I'll get a final answer for you on that.

SENATOR BORRELLO: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Next up, Assemblymember Mark Walczyk, three minutes.

ASSEMBLYMAN WALCZYK: Thank you, Chairwoman. Appreciate it.

Acting Commissioner, you said you were very proud of the corrections officers that work for you and how they've acted during the pandemic. I appreciate that sentiment. I certainly am.

How did you come to announce prison closures for those COs and for their families four days before Christmas?

ACTING COMMISSIONER ANNUCCI: If you're asking why that particular timing, Assemblyman, it was not an easy decision to make. We were balancing a number of things. Had COVID never happened, we probably would

have announced June 1st, July 1st the latest. COVID happened; that complicated everything.

And we're balancing, obviously, the decrease in the population, which is happening at a very rapid pace, something --

ASSEMBLYMAN WALCZYK: I'm sorry, I only get three minutes, so I hate to cut you off there. But Chairmen Weprin brought this up in his question. He was talking about Watertown Correctional and the correctional facilities that you're shutting down here, which the Governor has the prerogative to do through you.

You said in planning here, the first thing you have to do is close the facility. I would disagree. I think your job, whether acting commissioner or commissioner, would be to create a reasonable plan for prison closure and communicate that plan. Your next would be to take care of the employees that are under your department. And then the following would be to take care of the inmates and make sure that everybody is safely done there.

Leaders plan. So the next phase is not close the facility and then figure out what happens next.

But I wanted to talk to you about safety and staffing of facilities, since you brought that up as well. You said safety of staff and facilities is of paramount importance. Is urinalysis a key component of that?

ACTING COMMISSIONER ANNUCCI: Yes, we look at everything. We look at how things are working at the facility, we look at the infrastructure, we look at the capital, we look at the proximity to other facilities where we can move staff. Most of all, we look at the actual infrastructure of the facility itself and what the costs are --

ASSEMBLYMAN WALCZYK: You may recall, Commissioner, back in September, on September 1st, a number of us legislators penned a letter to you asking that you reinstate the urinalysis program because of the danger that drugs in our facilities pose to both COs and inmates.

You took two months to respond, and in your response on October 28th of last year you said you were working as expeditiously as possible -- those were your words in that letter. Your staff then in last December said that the urinalysis program would start in January, which would be last month.

Do you have a urinalysis program that is running in all of your facilities now?

ACTING COMMISSIONER ANNUCCI: We have an urinalysis program that's an interim measure with a vendor that can -- if there's reasonable suspicion to believe that someone has taken drugs, we will have that test done for this interim period.

We have selected two new vendors, one an outside lab, one a supplier of the tests. We have sent out distribution of the kits to every facility. We are ready to implement. It will probably be done -- I'm almost sure it will be done before the end of this month.

So understand that when you're dealing with things like COVID and vaccinations and relocating staff, to stick to a schedule is

not the easiest thing.

ASSEMBLYMAN WALCZYK: Obviously I would love more time, Commissioner, but mine has expired. You'll be hearing from me soon.

CHAIRWOMAN KRUEGER: Thank you very much.

The next questioner is Latrice Walker.

Are you still with us, Latrice? Perhaps not.

Oh, there she is. Hello.

ASSEMBLYWOMAN WALKER: All right. So thank you. Thank you so much for your testimony this afternoon.

I have of course -- I want to associate my comments with my colleagues who spoke to you about solitary confinement. Particularly I was told, when I first got elected, that 25,000 people were going to be returning home to my district between 2015 and 2020. And so I'm pretty much about at Year 5 now, and the level of support that is needed for so many individuals who have gone through such volatile incarceration conditions is -- it definitely feeds the

supportive housing community within my neighborhood, and a lot of folks are really left without a lot of supportive services.

And so I really think that the detrimental effect that this type of housing unit has had on our communities has been troublesome. So I would like for you to take a look at that.

Of course I also associate myself with comments with respect to elder parole and releasing people who have paid their debt to society and are behind bars.

But I had an opportunity to visit the Queensboro facility recently, and I think that that type of facility is really necessary for most people who are transitioning out of the upstate criminal justice system. But I've noticed that a lot of facilities were closing down, including Arthur Kill and a few other facilities in New York City. But I know -- I think Edgecombe is still there.

What do you think about maybe allowing some reentry services to be utilized for --

in order to help people to facilitate their reentry back into our communities?

I also want to just say that this -- the pay situation with respect to the tablets, I think I'd like to discuss that with you. Because during COVID, as you know, that was some of the only solace that many people who are incarcerated sort of had as they went through that whole process. And having it be based on, you know, people sending them money or a pay schedule seems to have been problematic. So I want to talk to you about that.

But -- and as well as, of course, that by vaccination, as we've seen happen in the federal court system.

But I did want to hear -- and also about your thoughts on voting rights of people who are presently on parole and what the process and procedure is with respect to providing voter registration cards, et cetera, and registering those people to vote as they're walking out of your doors. In a nutshell.

ACTING COMMISSIONER ANNUCCI: You have a lot there --

ASSEMBLYWOMAN WALKER: Well, we can follow up later on in the 20 seconds that you have left.

ACTING COMMISSIONER ANNUCCI: (Laughing.) Okay, a lot there.

First of all, the whole reason or a big reason why the Governor merged our former agency and the Division of Parole is he wanted a seamless transition, he wanted people to have a smooth hand-off when going from an institution to the community. And he felt putting us all under one agency has really helped further that, because we -- all staff, we can prepare better, we have transitional services, we can identify housing, we give people Social Security cards, birth certificates, they get free access to their rap sheet to prepare for job interviews, et cetera.

The fundamental purpose of the Penal Law changed to include reintegration as a fundamental purpose. The Governor created

the Reentry Council to focus on those issues and to remove obstacles. We have staff that are called reentry managers that are devoted to hooking up free services. We have reentry councils at a number of different counties, and I'm sure in your county as well, where we work with the local officials to hook up individuals with services.

The Governor has issued pardons to thousands and thousands -- I can get you the total number of individuals -- to make them immediately eligible to vote. So before they even walk out the door, I give to them information -- well, at least those that are maxing out -- on the importance of voting and how to register to vote. If they get the pardon when they report to the parole office, they're given that information, they're explained how to register to vote.

You already passed a statute back in 2009, I think it's 75 of the Correction Law that says if someone is maxing out, that's when they're immediately eligible to vote. So we give them that information on

registering, the importance of voting. And then if they're on parole and they're about to get discharged, we give it to them. But before that even happens, with the Governor giving pardons to so many, they're eligible to vote, they're informed of that, and they have written materials to explain that to them.

ASSEMBLYWOMAN WALKER: Thank you. I'll follow back up with you on some of my other questions, but I did want to highlight reentry housing is so very important. And I could totally use your help on facilitating that.

ACTING COMMISSIONER ANNUCCI: Sure.

CHAIRWOMAN KRUEGER: Thank you.

We've been joined by Senator Pete Harckham, and it's his time to ask questions.

SENATOR HARCKHAM: Thank you very much, Madam Chair.

Commissioner, thank you for your testimony.

I want to align my comments with those of Senator Bailey. I chair the Committee on

Alcoholism and Substance Abuse and cochair the Senate Task Force on Opioids. And we know from families, from treatment advocates, from recovery advocates that there are scores and scores and scores of our inmates who are not getting the treatment they need.

I know you've made some strides, but inmates coming out of incarceration without medication-assisted treatment are among the highest risk for overdose death because they still have the cravings, and when they come out and they use, their body no longer has the tolerance, and we end up losing a lot of them. It's also one of the number-one reasons for recidivism.

So, you know, I implore you to work with us. I know you've done some things. But whether it's Senator Bailey's bill or we do it, you know, in-house through the process, we really need to do more because we know there are scores and scores of people who are incarcerated who are not getting the treatment that they so desperately need.

ACTING COMMISSIONER ANNUCCI: I

totally agree with you in terms of the importance of MAT. We've expanded that. We have a wonderful partnership with OASAS. We have an application in to try and become the first corrections-based certified OTP. That is something that I think could really expand treatment.

Right now we have an initiative where somebody who's already on MAT, namely methadone and buprenorphine, and their sentence is two years or less, they can come into our system and be maintained on that and then continue it in the community.

But COVID obviously put a huge damper on everything. So I look forward to, when COVID's in the rear-view mirror and we can build upon the good work that we've already done and expand upon it, including MAT.

SENATOR HARCKHAM: All right. I look forward to offline working closely with you on this, because I think it's an important step that we need to take.

CHAIRWOMAN KRUEGER: Thank you very much, Senator.

Next from the Assembly, Linda Rosenthal.

ASSEMBLYWOMAN ROSENTHAL: Hi. Hi, Commissioner. Good to see you.

Last year we went over the MAT in prisons, when I was chair of the Committee on Alcoholism and Drug Abuse -- now I'm Social Services chair -- and I asked you questions about the availability of MAT in prisons and jails. And the bill that Senator Harckham referenced of Senator Bailey, I have the Assembly version.

Last time I think you said there were maybe six prisons statewide that had a MAT program. How many do you have right now?

ACTING COMMISSIONER ANNUCCI: It's more than that. And at one time it also included PDPs for the Vivitrol.

And I can't -- I can't think of them all. I don't want to give you misinformation, Assemblywoman, so let me count. But it's at least eight, from my recollection.

ASSEMBLYWOMAN ROSENTHAL: But how many

prisons are there?

ACTING COMMISSIONER ANNUCCI: Right now there are 52, but two are closing, plus the Clinton Annex.

ASSEMBLYWOMAN ROSENTHAL: Okay. So that's really quite a -- you know, not a great ratio when we have the tools to make sure that people can recover from addiction when they're ready to.

And I see that the Governor cut the funding for jail-based MAT by a tremendous amount, by 50 percent, saying that, you know, people have been let out of jails and prisons so there's not such a need.

What's your view on that?

ACTING COMMISSIONER ANNUCCI: Well, the reality is that the population is significantly reduced at the jail level and at the state level.

When you look at our population and you measure basically a one-year decline in five figures, that's astounding. It took from 1981 to 1999 to increase by 50,000. In three years, we've decreased by 17,000.

So that has ramifications for a lot of different things, including what your ultimate needs will be for all kinds of things, like mentally ill inmates and --

ASSEMBLYWOMAN ROSENTHAL: I understand. I understand. But we've really not made much progress since last year, and that's shameful, because people will die -- people who leave will die because of the overdose effect when you're -- you understand all that.

And I think that the state really needs to prioritize that because we have solutions, we have treatments, we have a toolkit, and we're just not using it.

I'd like to ask you about women's health in prisons. Women who are incarcerated have complained about a lack of access to healthcare services, prenatal care, trauma-informed care, and many other aspects.

Are the staff in your facilities provided any particular training on the health needs for women, particularly those who are pregnant?

And before you answer, I'd like to say I echo my colleagues' views on the vaccines, elder parole and all of that. Thank you.

ACTING COMMISSIONER ANNUCCI: So obviously for the women we have many different programs, many relationships with outside volunteers that come in, and specially trained healthcare staff to meet all of their needs.

I was very adamant that I don't want in any way, shape, manner or form, for any of our female population to feel neglected. So if you go to Bedford Hills or you go to Taconic, you can see the nursery, you can see the children's center, you can see the RMU, the regional medical unit that we have to care for prenatal and post-birth and many other things that we do for them.

I'd like you to just come and see for yourself what we do. But it is very, very important --

CHAIRWOMAN KRUEGER: Thank you --

ASSEMBLYWOMAN ROSENTHAL: I certainly -- certainly would. One last --

one last --

CHAIRWOMAN KRUEGER: No, no, no, you're way past zero. Sorry.

ASSEMBLYWOMAN ROSENTHAL: I see zero.

CHAIRWOMAN KRUEGER: Look at the clock. Look at the clock. Sorry.

ASSEMBLYWOMAN ROSENTHAL: I see zero.

CHAIRWOMAN KRUEGER: Nope, I know you're past zero.

ASSEMBLYWOMAN ROSENTHAL: Thank you.

CHAIRWOMAN KRUEGER: Assemblymember Byrnes.

ASSEMBLYWOMAN BYRNES: Thank you very much, Chair.

And I also want to thank the acting commissioner for being here and being so gracious with answering a lot of questions, and there's more to come.

I want to go in a little different route. I want to talk a little bit about the pause on -- and the moratorium on having state-ready prisoners sent from our local county jails to state facilities.

The reason I want to talk about this,

Commissioner, is because it has a big impact on our counties, both financially -- in Steuben County, it's about 2500 a day. And so we have a significant cost factor and also, at least in one case, we have an inmate that's ready, that is parole-eligible but he can't be reviewed until he gets to state prison. They can't review him while he's sitting in the jail, and he could potentially be home now.

Right now, just in Steuben County, there's 147 total inmates. Twenty-five -- 17 percent -- are state-ready. In Broome County, 414 total inmates, 76 are state-ready. That's 20 percent of their total capacity.

So my question, sir, is when you look at the impact of the cost of the moratorium on the counties, compounded by the fact that we could actually have inmates that could be released if they could just get transferred to prison to be processed out -- and also, sir, you've been talking at length about all the vacancies in the state prison system,

which don't exist in our county jails -- when we take all of these factors into consideration, sir, with the deepest respect, would you agree with me that this moratorium should be immediately lifted and at the very least the moratorium should be immediately lifted on a regional basis in areas like ours that do not have COVID concerns with transfers to state prison?

ACTING COMMISSIONER ANNUCCI: Assemblywoman, I take your concerns very seriously. We did not take this step lightly to stop intake. We're reviewing it every day with a view toward trying to reinstate it as soon as possible.

The challenge with accepting state-readies means that we have to start movement throughout the entire system. You can't just accept people into reception centers and leave them there. You have to -- it's like an assembly line; you go from reception centers to general confinement facilities, and that starts the movement among all 52 facilities.

So for the period that we had these spikes, which happen predictably, right after Thanksgiving and Christmas and New Year's and those holidays, we needed to stabilize the system. We are seeing good results now. The numbers are coming down. So we're going to meet very shortly to discuss this. But I'm sensitive --

ASSEMBLYWOMAN BYRNES: Will the moratorium not be extended? Can you promise it will not be extended anymore?

ACTING COMMISSIONER ANNUCCI: I can promise that we're going to give it very, very careful consideration, Assemblywoman.

CHAIRWOMAN KRUEGER: Thank you.

ACTING COMMISSIONER ANNUCCI: It's a difficult issue.

The one thing I can tell you is everybody gets reimbursed, either actual cost or $100, for every state-ready that's not accepted within ten days of declaration of state-ready. There's additional funding that's in our budget to try and make the counties whole for that.

CHAIRWOMAN KRUEGER: Thank you both.

Next, Assemblymember Burdick.

ASSEMBLYMAN BURDICK: Thank you to the chairs and also to Deputy -- to Acting Commissioner Annucci.

And I want to thank you for your good work and the partnership that you have with the Town of Bedford in my district and work that you're doing on the early release program and so forth.

I do want to align myself with my colleagues who would like to see an expansion of early release and to get on a path to terminating solitary confinement.

That takes me to a question that Chair Weprin had raised about the impact on local economies of closures. And actually in Bedford there's, as you know, a shared service between the Town of Bedford and the department in which the department is a customer of the water and sewer district. And the closure of either of those facilities would have a devastating impact.

The question is whether there's any

plan for closure and whether there might be some carve-out of the 90 days with respect to that which -- that could be the only one in the state that has that kind of arrangement.

And another question I have, really unrelated, is that I'd like to get direction -- and we could do this offline -- on who I could work with in terms of plans for solar and electric vehicle charging installations.

So if you could address those, that would be terrific.

ACTING COMMISSIONER ANNUCCI: So, Assemblyman, it's good to see you. We welcome you to your new position. We have a long working relationship with Bedford and the local officials, and you were one of them, and we value that relationship very much.

It's a slippery slope for you to ask me whether or not any of our 52 facilities -- soon to be 50 facilities -- can be off the table for closure. Because if I answer your question, then somebody else is going to ask

a similar question about their facility, and it's just something I can't do.

But I can tell you that we only have one maximum-security facility for women in the state, and that's where most of the programs are. So if there are ever a set of circumstances where we would even consider that, there would be a lot that we would have to factor into.

The other issue is there's a lot of issues, a lot of initiatives that we're doing for the environment and clean energy. We have a whole arrangement with NYPA to put in electrical panels on our vacant property. And the idea that you suggest may be worthwhile; it depends upon the logistics. But one of our engineers in our facilities planning would be the person that you could have a liaison with to even discuss the logistics of whether that could be doable or not at various facilities.

ASSEMBLYMAN BURDICK: Is that Keith Rupert that I'd be working with?

ACTING COMMISSIONER ANNUCCI: He's one

of them. But he works under a deputy commissioner, so it would be both.

ASSEMBLYMAN BURDICK: Thank you so much. And again, thank you for the very positive collaboration and partnership.

ACTING COMMISSIONER ANNUCCI: Sure.

CHAIRWOMAN KRUEGER: Thank you very much.

Our next questioner is Assemblymember Harvey Epstein.

ASSEMBLYMAN EPSTEIN: Thank you, Commissioner. Appreciate your time.

I know a lot of -- some of my comments my colleagues already mentioned to you, about solitary confinement and how the HALT bill will save money. I hope you will consider, you know, that savings, because that's a really critical thing. It helps people to get out of prison and will save us money.

The vaccinations for inmates, we do -- we were given a commitment that it would happen at the same time as other folks in the prison system, and I hope that still goes forward.

I was at Green Haven just earlier this week, and I'll say that there were -- you know, there were floods in the -- by where the cells were, leaks, there were safety issues. You mentioned school programs, Bard has a program there. But with 1600 inmates, only 30 are enrolled in the Bard program.

You know, I -- dozens and dozens of inmates wanted to join the school program, but they have no access to it. There's a technical school program, you know, that's about 200 students. But the college program, which is advancement, where people can get a college degree and the recidivism rates are so low, we didn't see that.

So I'm wondering, you know, just in Green Haven alone, you know, that -- the facilities need some work. We would want more money to our prison system on capital, to redo our solitary units and move forward. I saw you were redoing a solitary cell there, but not in a new way to avoid solitary confinement.

Can we get your committee to look at

solitary cells and redo them in a way that's more humane and not in violation of the U.N. rules around solitary confinement?

ACTING COMMISSIONER ANNUCCI: Well, I can't make specific commitments about how we spend capital.

What I can tell you is I experienced it myself. All of the things that we're doing is moving in the direction of making the conditions more humane as we build our RRUs.

The existing programs that are alternatives to SHU at Mid-State and at Lakeview and the step-down to the community at Wende all are designed to provide out-of-cell structured treatment and programming. So the earphones that you can listen to the radio on, the tablet that you can make phone calls on, while we're moving to ultimately get the RRUs are ways that we are ameliorating.

One thing everybody should keep in mind: The very purpose of this is separation. If we lose the ability to

separate those --

ASSEMBLYMAN EPSTEIN: Commissioner, I only have a few seconds left, so I've got to -- if I can just follow up on that issue. You know, we've talked a lot to the inmates who have limited access on the JPay system. I'm wondering if we can get access to them, maybe they could be -- we could get a tablet and they could be just emailing our offices so we could follow up. Would that be something you'd be open to?

ACTING COMMISSIONER ANNUCCI: I'm sorry, you want access to what?

ASSEMBLYMAN EPSTEIN: The tablets, JPay, so inmates could email our offices directly and communicate with us without having additional costs associated with that.

ACTING COMMISSIONER ANNUCCI: I believe there's a way that they could send you an email, but they'd still have to pay for the stamp. But I'll double-check on it.

ASSEMBLYMAN EPSTEIN: Yeah, if there's a way to make it more accessible for us.

And I know -- and on a second point,

the early release time, and the costs associated with inmates. And I know I've run out of time --

CHAIRWOMAN KRUEGER: You have run out of time, Harvey. You can -- everyone can submit their questions to Helene and I and we'll write the commissioner or -- we're asking him if he'll send us back -- or you can write him separately or follow up with him separately.

But we've got to keep going. I'm an equal-opportunity mean -- whatever. Moderator.

Okay. Next is Carmen De La Rosa.

ASSEMBLYWOMAN DE LA ROSA: Commissioner, thank you for being here and for coming before us.

I want to also echo the sentiments of many of my colleagues here. I'm the main sponsor of the Elder Parole Law here in the Assembly. And we know, because you said even in your last budget hearing, that at 55 people who are in prison are considered seniors because of the conditions they live

under.

My question is more towards the medical necessities, that these people who are either terminal or have very high critical needs, medical needs, what is the cost associated with providing some of the services that they require across the system?

ACTING COMMISSIONER ANNUCCI: I can't give you the specific dollar figure, but you are correct, the older you get in prison, the more costly level of medical care you are required to receive. And we do have arrangements with outside hospitals; if somebody needs hospitalization, they go on a secure ward until they're better. They may recover in one of our regional medical units.

But clearly people -- the older they get, if they have hypertension, high blood pressure, some of them may have cancer -- whatever, it is we have to provide the treatment and we will do that.

The medical parole issue is another important one. And it is something that I try and prioritize whenever I get an

application. But read the statute in terms of who's eligible and who's not -- there's a hurdle that has to be overcome. It can't just be for somebody that's terminal; they have to be so infirm that they can't potentially pose a danger to society. Which is a high hurdle.

So I know people want a lot more medical paroles, but there is the law that we have to abide by in that area.

ASSEMBLYWOMAN DE LA ROSA: Certainly.

And I did visit Fishkill Correctional Facility two weeks ago, and I saw their infirmary, state-of-the-art machines to deal with dialysis and infirm people.

But I also did walk through the wing where the developmentally disabled people were, as well as people who were on their deathbed. These people do not pose a threat at all. They can't even walk. So I just want to bring that to your attention.

But I also wanted to ask you about the cost of something like dialysis machines, for example, for the department. What does

something like that cost you all a year?

ACTING COMMISSIONER ANNUCCI: It's not cheap. Dialysis is expensive, and we have them at several facilities. But it is not cheap by any means.

One thing I will caution is that some of these individuals that are infirm, like in the unit for the cognitively impaired, it's not easy, when it does come for them to be released, to find a nursing home that would accept them. That is a very difficult chore for us.

ASSEMBLYWOMAN DE LA ROSA: That was actually my follow-up question.

Can you explain the biggest hurdle to finding housing for these people right now?

ACTING COMMISSIONER ANNUCCI: If some of them are sex offenders, it's very, very difficult to find nursing homes that would accept them. And some of them, if they have no place, if they have no family, then your only option is a homeless shelter.

One of the things I prioritize is the use -- the work of social workers to

reconnect people with their families. In Adirondack, where we have some elderly people right now, we have social workers that are reconnecting them with family that they've been disconnected with for many, many years.

When you reconnect with family, you potentially have a home to go to when it's time for your release. So that's a priority that we're pushing.

ASSEMBLYWOMAN DE LA ROSA: Thank you. I'll come back for a second round later. Thank you.

CHAIRWOMAN KRUEGER: And you won't, unfortunately; we're only allowing chairs to have a second round. But you can follow up with the commissioner in a variety of ways.

ASSEMBLYWOMAN DE LA ROSA: I will. Thank you.

CHAIRWOMAN KRUEGER: Thank you very much.

Next is Assemblymember Ra.

ASSEMBLYMAN RA: Thank you.

Good afternoon. I just wanted to first start with -- my colleague

Mr. Palmesano had a question at the end that he tried to sneak in, but he was foiled by the chair --

(Laughter.)

ASSEMBLYMAN RA: -- so I wanted to ask it for him. It was regarding the youth that were transferred from DOCCS facilities to OCFS secure facilities last year pursuant to last year's budget. And who is supervising those youth?

ACTING COMMISSIONER ANNUCCI: OCFS, that agency.

ASSEMBLYMAN RA: Okay. And so they're supervised by their staff within the --

ACTING COMMISSIONER ANNUCCI: Right. Right.

ASSEMBLYMAN RA: Okay. Thank you.

The other questions we just had were regarding staffing at your facilities. I mean, obviously I know of many entities throughout the state, especially in, you know, your type of facilities, that had to deal with staff quarantines due to exposures and all that type of stuff.

How have you found that during this almost year now with COVID -- do you have enough correction officers to cover when there were absences due to COVID or quarantines?

ACTING COMMISSIONER ANNUCCI: It was a big challenge at times. It depended upon the specific facility when we had high numbers.

I've been having regular phone calls with my superintendents, and we do monitor carefully. We have a plan to go to 12-hour schedules if we reach a point where there's too many staff that are quarantined. I mean, obviously the things that we've stopped -- visitation stopped, medical that's not an emergency, deathbed funeral -- deathbed visits, et cetera -- has allowed staff to be present to do other responsibilities.

But it has been a big challenge. And again, I'm just so grateful for the staff helping pull us through this very challenging time.

ASSEMBLYMAN RA: Okay. And are there any plans at this point to run academy

classes in the very near future?

ACTING COMMISSIONER ANNUCCI: We do foresee that we will have a need for a couple of classes down the road in the upcoming fiscal year. And we do foresee parole classes as well, a couple. We don't have them yet scheduled, but there clearly is a need given the rate of attrition, which is about 54 or 58 a pay period, of correctional staff.

ASSEMBLYMAN RA: Okay. And one other thing I wanted to ask about. So years past -- and it's been a few years now, but DOCCS used to issue an annual report on recidivism. And I believe it would take a few years of rolling data. And my understanding is there hasn't been one released, I think, since 2012.

Are there any plans on releasing updated stats with regard to recidivism?

ACTING COMMISSIONER ANNUCCI: The three-year study I think is what you're referring to. Let me check with our research unit when the next one is going to come out,

and we'll get back to you.

I can tell you that they have been working tirelessly to keep accurate statistical numbers on daily rates at every one of our facilities -- how many tests are performed, how many positive, how many recovered, et cetera. So they have been doing extraordinary work so we can have real-time data and put it on our website.

ASSEMBLYMAN RA: Okay. Thank you. We're definitely, you know, interested in those reports. I think -- I think they're important for the Legislature to look at when we're making, you know, decisions in all different types of things.

So thank you, Acting Commissioner.

ACTING COMMISSIONER ANNUCCI: Sure.

CHAIRWOMAN KRUEGER: Thank you. Assemblymember Tannousis. I apologize if I pronounced that wrong.

ASSEMBLYMAN TANNOUSIS: Hi, Commissioner, how are you? Thank you for being here today.

I asked this question of the prior

speaker, and he mentioned that you may be able to help us better. Would you be able to tell us how many inmates in the state system are there because of a marijuana-related offense?

ACTING COMMISSIONER ANNUCCI: Yeah, we ran this analysis on December 12th of last year -- someone else had asked the question -- and there was a total of 21 whose most serious crime of commitment was a marijuana offense.

ASSEMBLYMAN TANNOUSIS: Out of how many inmates in the entire New York State?

ACTING COMMISSIONER ANNUCCI: Today we have 33,100 something, I think.

ASSEMBLYMAN TANNOUSIS: So it's 21 individuals from 33,000 New York State inmates are there for a marijuana-related offense.

ACTING COMMISSIONER ANNUCCI: The top offense is a marijuana offense, yes.

ASSEMBLYMAN TANNOUSIS: Thank you very much. And thank you for your service.

ACTING COMMISSIONER ANNUCCI: Thank

you, Assemblyman.

CHAIRWOMAN KRUEGER: You're ceding back your time?

ASSEMBLYMAN TANNOUSIS: Yes, thank you.

CHAIRWOMAN KRUEGER: Thank you.

And Assemblymember Anna Kelles.

ASSEMBLYWOMAN KELLES: Hi, thank you.

I have a few questions. One -- I'm just going to jump right into them for the lack of time. So it was so good to meet you.

First question, to clarify something that was brought up earlier with respect to solitary. So recognizing that people in prison are already being moved anyway because they're being moved into solitary, I'm trying to understand the opposition with the financial justification. If they're already being moved into these facilities and out of them into the solitary, and you are already building the rehabilitation units, I'm trying to understand where the expense is that you were talking about.

ACTING COMMISSIONER ANNUCCI: The

expense is primarily in additional staffing that are going to have to transport them on Day 16 -- if that's the day that we have to move them, under the bill -- to a distant RRU.

Whereas there will be shorter sentences, like 30 days, and they can stay where they are. Plus you have to pack up all their property and transport it with them to another distant RRU. If they can stay where they are, the property can remain there. It will still be packed up, but not have to be moved to a distant facility.

ASSEMBLYWOMAN KELLES: I'm sorry, just to understand --

ACTING COMMISSIONER ANNUCCI: Most of that expense --

ASSEMBLYWOMAN KELLES: You have to transfer them anyway, correct, when you bring them out of solitary. I'm just trying to understand. I mean, you would transfer them anyway when they're coming out of solitary, so the timing of having --

ACTING COMMISSIONER ANNUCCI: We're

not transferring them to another facility. They could -- their cell could even be remaining there for them to be back into that same cell.

ASSEMBLYWOMAN KELLES: And another question -- thank you. How many people leave the prison system, do you know or keep track of, and go into the homeless shelter system?

ACTING COMMISSIONER ANNUCCI: It's not a low number. I can get it for you. But it is not a low number. And --

ASSEMBLYWOMAN KELLES: Yeah, that would be really wonderful to get that. I'm curious, is there any program in place to coordinate with DSS potentially to work with people before they leave the system, to get them into services?

ACTING COMMISSIONER ANNUCCI: Yes.

Well, first of all, let me back up. We work four months prior to a release date with the individual, trying to get them into approvable housing.

If they come up to the release date and we can't find them, we coordinate with

the local DSS, we give them notification so that they're aware on this day, this individual is coming out and he will require some type of services.

We also have, you know, contracts with housing -- limited, but we do have the ability for housing.

We also have relationships with two entities, CEO and PLS as well. They've secured funding, stipends to give to individuals who are released into certain areas, like the Bronx or Manhattan or other parts of the state so that they can help pay for some type of housing when they get there.

So there's a lot of different things that are out there. But even before COVID, it was a big challenge. It's only that much more difficult now.

ASSEMBLYWOMAN KELLES: Yeah, that data would be great. Thank you so much.

CHAIRWOMAN KRUEGER: Thank you.

Okay, we're going to our final two chairs for their second five-minute rounds. First, Chair Julia Salazar.

SENATOR SALAZAR: Thank you, Chair.

Commissioner, if I may follow up on Senator Bailey's question regarding Tier 3 violations, could you briefly define what is no longer defined to be a Tier 3 violation?

ACTING COMMISSIONER ANNUCCI: We just published the regulations on that. There's a number of them that are no longer Tier 3. I don't have them off the top of my head, but I certainly can pull that information together and get it to you.

SENATOR SALAZAR: Excellent. Thank you.

And I wanted to ask, when DOCCS reports or records the number of people who are currently held in special housing units in state facilities, does that include people who are kept in keeplock in their own cells, meaning, you know, people who are confined for 17 hours or more for disciplinary purposes? And if it doesn't, could you tell me how many people are currently kept in keeplock or for the disciplinary purposes in their general population cells?

ACTING COMMISSIONER ANNUCCI: Yeah, if you're in keeplock in your own cell, you're not in SHU. We do keep track of that population. We do have separate amenities for them and, as you mentioned, five hours time out of cell to still go to programming, et cetera.

It is possible that you could be serving a keeplock sentence in an SHU cell, in which case other things kick in and you will earn an earlier release. You get more credit if you're serving keeplock in an SHU cell.

So I will get you, if you want, the total-number breakdown as of a particular date.

SENATOR SALAZAR: Thank you.

And I wanted to go back to COVID-19 regulations.

Actually, how many people who are incarcerated have applied for medical parole since the pandemic struck last March, approximately?

ACTING COMMISSIONER ANNUCCI: It's a

high number. I don't remember it off the top of my head, but it is a high number that have applied.

But remember, a lot of people applied because they felt, I am at risk because I have asthma or I'm a smoker or whatever it is. And that's not a ground under the statute the way it's written, 259R and S in the Executive Law, of the standard you have to meet. You actually have to have a condition that's either terminal or so debilitating that you can't reasonably pose a risk to the public.

And we've had a bad experience, even someone in a wheelchair who ended up in a nursing home was able to sexually molest another patient in that nursing home, even though when they were with us, it took them half an hour to go 30 feet in their wheelchair.

SENATOR SALAZAR: So I guess the question is, more broadly, how many people have been released from prisons in New York specifically for COVID-19-related reasons,

including medical parole?

It sounds like you don't have the number exactly. Actually, you know what, I'll just ask you: What was the rationale for the COVID-19-related release eligibility that DOCCS had set up being limited to people who were within 90 days of their release date, limited to those who were convicted of nonviolent crimes? What was the rationale for that eligibility?

ACTING COMMISSIONER ANNUCCI: It was a balancing of public health and public safety.

These were individuals that were scheduled to be released within 90 days, so we created the legal means for that to happen by transferring their legal status to a residential treatment facility. And then on that basis, they physically were allowed to go home, if they had one, they had approved housing. We didn't want to just release them into the homeless shelter.

So they were non-sex -- nonviolent individuals and less risk to the public. But achieving less density while they were still

in the correctional system.

SENATOR SALAZAR: And for the COVID-19-related release mechanism that DOCCS had initially set up last April, I understand it was limited to people aged 55 and older, in addition to the previously mentioned criteria.

What was the rationale for that age criteria initially? Is 55 the age at which DOCCS defines people as aging or elders in prison?

ACTING COMMISSIONER ANNUCCI: It's something, you know, that researchers have basically said it's -- it's a good measure.

The 65 and older in a community translates to 55 and older in prison for two reasons. One, a lot of the cohort that are incarcerated have neglected their health concerns. Many of them are smokers, many of them drinkers, maybe they use drugs, whatever. When they come to us, they're already, you know, at a disadvantage.

Prison is stressful, that can also exacerbate things. So 55 and older is a

decent benchmark to look at and consider people to be, you know, a senior cohort, so to speak.

SENATOR SALAZAR: Thank you, Commissioner. That's my time.

CHAIRWOMAN KRUEGER: Thank you.

So since I'm only north of 55, I'm not sure how I'm feeling about this discussion, but we'll leave that alone for now.

I am going to allow Assemblymember Aubry, who snuck in with his hand very late in the game, to jump in for three minutes before I go to Assemblymember Weprin to close.

Hello, Assemblymember Aubry. You're not -- you're muted. I feel you're driving and you have no voice. There you go.

ASSEMBLYMAN AUBRY: I have a voice now.

CHAIRWOMAN KRUEGER: Okay.

ASSEMBLYMAN AUBRY: Good.

Commissioner, good to see you. I think you've got to be the longest acting commissioner that I've ever heard of in the

state system. And I know there's no Tony Award, there won't be an Emmy, but it's good to see you. Glad that you're still around.

I have two questions. One, what is the current budget for the prison industry component of the corrections system?

ACTING COMMISSIONER ANNUCCI: You know, I have that number, but I just haven't memorized it. It's a separate appropriation in our budget. But I can get you that number, Assemblyman.

ASSEMBLYMAN AUBRY: Okay. That would be helpful.

And the second, the rules that were agreed to, or the agreement made by the leaders two years ago with the Governor in regard to the maintenance of SHU took a very long time to get approved. Is there any reason why it took so long?

ACTING COMMISSIONER ANNUCCI: The rules were studied for quite some time. And, you know, we had to get public comments from people. There was just a lot of different complications to consider them.

But they've been adopted. They definitely changed things in dramatic ways. And we'd love to be able to explain to staff everything that has been done to get us to where we are today, everything that will be done to get us to where we are, you know, as the RRUs come on board and all the different amenities that you can get as conditions of confinement.

ASSEMBLYMAN AUBRY: The -- those rules also now have been adopted for localities. Is there any assistance that is going to be provided through the Executive Budget for those localities to implement the same rules?

ACTING COMMISSIONER ANNUCCI: I -- I can't speak to the localities, Assemblyman. I'm unaware of, you know, whatever arrangements have been made and what role an entity like the State Commission of Correction might play vis-a-vis them. I don't have any firsthand knowledge of that.

ASSEMBLYMAN AUBRY: Okay. Thank you very much. Sorry to hold you up.

Thank you, Senator, for --

ACTING COMMISSIONER ANNUCCI: This is my Academy Award, by the way (holding up Oscar statuette).

(Laughter.)

ASSEMBLYMAN AUBRY: I could never trust you to keep straight, you know?

Take care, my man.

ACTING COMMISSIONER ANNUCCI: Good seeing you, Assemblyman.

ASSEMBLYMAN AUBRY: Good to see you too.

CHAIRWOMAN KRUEGER: Thank you, Assemblymember.

And now to close, chair of the committee, Assemblymember Weprin.

ASSEMBLYMAN WEPRIN: Thank you, Senator Krueger.

And thank you, Commissioner, for being patient through these many hours of testimony.

I understand -- I have a bill that just passed out of committee, it seems like a long time ago but it was actually this morning. And it would basically give you

more authority to release inmates to home confinement, similar to the federal system.

And I know you've pointed out that medical parole, you know, is not necessarily the end-all and it's not solving some of the problems. So the question I have for you is, is that something you would support? And we're hoping to -- you know, to have that in place.

ACTING COMMISSIONER ANNUCCI: Assemblyman, I love the working relationship you and I have, and the mutual respect, but as you know, I can't comment on pending legislation, so I will not be able to give you any feedback on that.

ASSEMBLYMAN WEPRIN: Okay. I'm going to just ask a couple of questions about aging in prison, because I know that's been coming up and I know there's strong support for some form of an elder parole bill, which has been around for a long time.

How many people 55 years or older are currently in DOCCS custody? And I know you're obviously focusing on 65 for the

vaccine. But can you give us some kind of a figure on how many we now have over 55?

ACTING COMMISSIONER ANNUCCI: I might be able to. I have someone in my office trying to look that up very quickly.

I know it was slightly more than a thousand who are 65 and older.

ASSEMBLYMAN WEPRIN: So 55 is much higher, obviously.

ACTING COMMISSIONER ANNUCCI: Yeah, no, it is much higher.

ASSEMBLYMAN WEPRIN: What would be the average cost of incarcerating an older person, and how does that compare to a younger person? Because I know there are a lot of medical issues associated. And as you pointed out at a prior hearing a number of years ago, that people age much quicker in prison and 55 is really -- in the outside world is equivalent to someone much older.

ACTING COMMISSIONER ANNUCCI: The answer to your earlier question, it's about 5,000 individuals that are 55 and older in our system.

And I believe someone else previously asked the difference in the cost. It's -- there is a higher cost for individuals that are older, their medical needs are exacerbated. But I can't give you a dollar figure. It would be something very hard to quantify, really, when you look at the different units that we have and the dialysis and the regional medical units and the unit for the cognitively impaired.

I will tell you, though, that we are trying to institute good programming for them to make them feel at ease and make them still feel important. We may, you know, start a feline program at Adirondack and a college program. You're never too old to go to college. So, you know, we do try and keep them feeling useful and important and having value.

ASSEMBLYMAN WEPRIN: Okay. Thank you, Commissioner.

I know the issue of tracking deaths in prison -- you know, and illness as well -- has been a current issue. Let me ask you a

question. If an inmate serving a DOCCS sentence dies in a hospital or ambulance, how is that death classified?

ACTING COMMISSIONER ANNUCCI: It's counted as a DOCCS death. It will require an autopsy to be performed by the coroner. Every DOCCS death, a facility death is by a coroner. In fact, the Correction Law specifies that when we send people to outside hospitals, they are legally still in our care and custody. We just enforce appropriate security measures.

So every single individual, if they're in the ambulance on their way, they're in an outside hospital, whatever they are, they're counted as a death of a correctional facility, an autopsy is required, we reimburse the locality for the cost of the autopsy.

ASSEMBLYMAN WEPRIN: Good. I'm happy to hear that, because that has been an issue, as you know, with nursing homes. And certainly, you know, we would consider that a death as well from a correctional facility.

I've got 30 seconds. Let me just ask, of -- let me see what I didn't cover. How often are inmates tested for COVID? Or is it only symptom-related and requests?

ACTING COMMISSIONER ANNUCCI: No, we basically tested the entire system. We started with those that were displaying symptoms. We expanded that for asymptomatic, then we expanded it to those in quarantine. Then we did certain cohorts like the seniors. And then we finally did the entire system.

And right now we continue to test anybody that's displaying symptoms or in quarantine, including asymptomatic. And now we also superimposed on top of that a randomized selection, depending upon the size of the population at a particular facility. We go to different housing units, and various people are selected randomly so that we can get real feedback as to the presence of COVID in our system.

ASSEMBLYMAN WEPRIN: Okay. Thank you, Commissioner.

Thank you, Madam Chair. I think my

time has expired.

CHAIRWOMAN KRUEGER: Yes, it has.

And Commissioner, not really, but your time has expired with us. So thank you very much for being here with us, and I guess for being the longest living acting commissioner in New York State.

ACTING COMMISSIONER ANNUCCI: Thank you very much. It was my pleasure.

CHAIRWOMAN KRUEGER: Thank you.

All right, and now we're going to call up our eighth government representative for today's hearing, and that is -- and I see that he's here patiently waiting -- Acting Superintendent Kevin Bruen, New York State Division of State Police.

Hello, Acting Commissioner -- Acting Superintendent, excuse me.

ACTING SUPERINTENDENT BRUEN: Yes, thank you very much.

CHAIRWOMAN KRUEGER: Thank you.

ACTING SUPERINTENDENT BRUEN: Thank you, Chairs Krueger and Weinstein and distinguished members of the joint committee,

for the opportunity to discuss Governor Cuomo's Executive Budget for the Division of State Police.

I am Kevin Bruen, acting superintendent. I've served the agency in various capacities for 17 years and as acting superintendent since November 2020. I am truly honored to lead the dedicated sworn and civilian members of this great agency.

I would like to thank the Legislature for recognizing our critical mission -- to protect and serve all New Yorkers. Your support has enabled the State Police to earn its reputation as one of the top law enforcement agencies in the nation.

For more than 100 years, the State Police has consistently provided a high level of professional public service. We learn and adapt to the needs of a constantly changing society, and we strive for continuous improvement in every aspect of our work.

Our mission priorities include improving highway safety; providing

professional police services and investigative support; detecting and preventing terrorism; and preparing for and responding to emergencies and disasters.

2020 brought several challenges to New York, none more so than the COVID-19 pandemic. I am proud that our Troopers have worked continuously for the state as we have played and continue to play a significant role in the state's response, including the transportation of thousands of test samples from across the state to the Wadsworth Laboratory in Albany; assisting in establishing, operating and securing state COVID testing sites and vaccination sites; and supporting other state and local agencies in enforcement operations to help stem the spread of the virus.

As you know, the State Police is unique in that we are the only full-service New York law enforcement agency with statewide jurisdiction. In response to emergencies or natural disasters, the State Police has the ability to deploy large

numbers of professionally trained police officers throughout the state and beyond on short notice. For instance, last summer, following the death of George Floyd in Minneapolis, our Troopers were deployed throughout New York, at the request of numerous local and city police agencies, to assist with efforts to ensure public safety.

Over the past year, the Governor and the Legislature have enacted several police reforms, including a new body-worn camera program directed at the State Police. Since its passage in June, we have worked diligently to implement this program.

The Governor and the State Police recognize the dynamic nature of terrorism and extremism of all types around the world and domestically. Our role in the state's counterterrorism efforts help provide a wide range of initiatives and capabilities, enabling New York to remain one of the safest states in the country.

New York City remains a top terrorist target, and our expanded presence in the

city -- primarily at mass transit hubs and bridge and tunnel crossings -- has enhanced the collective efforts of the state and our partner agencies to detect, deter and respond to terrorism.

Disaster preparedness is a top priority of the Governor, and we continue to partner with the Division of Homeland Security and Emergency Services to improve response readiness. This partnership has enabled the State Police to better coordinate with state agencies and provide local support to communities following significant events.

Illegal drug use, in particular the availability of heroin, opioids and synthetic drugs such as fentanyl, along with the toll they inflict, remains a critical public safety issue. Building on the resources and training provided over the past few years, the State Police will continue to aggressively investigate drug-related offenses, particularly criminal trafficking, as well as assist local police agencies with their investigations whenever requested.

Our highest priority continues to be the safety of the public and our Troopers who protect them. With your support, the Executive Budget continues to provide our Troopers with the necessary equipment, training and other valuable resources to achieve the best levels of safety as they carry out their duties.

Again, I am exceedingly honored to represent the nearly 6,000 dedicated men and women of the Division of State Police that serve and protect the people of this great state. They do so selflessly, with tremendous pride, and at times with great personal sacrifice.

I thank you for your support on behalf of the State Police, and I welcome any questions.

CHAIRWOMAN KRUEGER: Thank you very much.

Our first questioner will be Senator Jamaal Bailey, chair of Codes, five minutes.

SENATOR BAILEY: Thank you,

Madam Chair.

Thank you, Acting Superintendent, for your leadership and for your testimony. I guess I just want to get into the conversation about the body cameras.

So what is the exact amount of body cameras that will be provided in this contract?

ACTING SUPERINTENDENT BRUEN: I'll have to get you the exact number.

The number is going to be sufficient to cover the Troopers on patrol who will need to have them, as well as backups should they go down, and they need to be recharged and the data needs to be uploaded. So we have to have a certain number to cover that.

SENATOR BAILEY: Okay. And I guess that was my next question.

So on patrol, is it -- so they would be given to individuals who are actively on patrol at that time? And would they be switched out from member to member? Would they be permanently assigned, or how would the body cameras be assigned?

ACTING SUPERINTENDENT BRUEN: The body cameras are assigned to the members, partially because they need to be recharged.

The shift lasts 12 hours. The data they collect needs to be uploaded. The upload speeds -- as you can imagine, the connectivity is better in some places than it is at others.

So there will be enough body cameras so that an individual going out on patrol will have one.

SENATOR BAILEY: Okay. Undoubtedly highlighting the need for more broadband around the state, especially in the upstate regions.

So the access to that body camera footage, would that be limited to that -- again, that individual officer, or would that be available to other folks, such as superiors or other officers?

ACTING SUPERINTENDENT BRUEN: Well, it's going to be available to other officers, other Troopers, investigators. It may be available for other purposes as well.

There will be audits to make someone that the Troopers are engaging the cameras when they should be. It will -- the data can be uploaded and associated -- in association with a criminal case and provided to the district attorney and ultimately the defense.

It will be stored and it could be used and FOILed should someone want that body camera footage for an auto accident or something that they deem necessary.

SENATOR BAILEY: Okay. And if an officer is found not to have properly engaged the body camera, are there going to be disciplinary procedures? If so, what would they be?

ACTING SUPERINTENDENT BRUEN: Well, you can't specify exactly what the result of a particular disciplinary procedure would be.

But I have to tell you, the State Police, we have a rule for everything, or it feels like it sometimes. And if you are given a piece of equipment and we have rules that say you need to engage it under specific circumstances and you don't do it, you will

get supervisory attention and it can escalate, depending on what happens.

SENATOR BAILEY: Okay. I mean, that's the -- well, I guess I want to ask one more policy-related question that I asked Commissioner Greene from DCJS. And you may have a similar answer, but I figure I'll ask it of the State Police superintendent.

Any position on the use of kettling or certain irritants during protests? Is there a position that the State Police has on that?

ACTING SUPERINTENDENT BRUEN: The position that we have is that the interaction with mass demonstrations and protests are delicate, and they need to be handled with planning, they need to be handled with training, they need to be handled with express supervision.

I wasn't familiar with the term "kettling" until I heard you use it. And, you know, I'm now aware of it. We don't use that practice in specific because as I understand it, that practice would force people into an area where they can't get out

of, and we simply don't do that.

But the fact of the matter is that those -- what starts out as a peaceful protest can turn difficult, and we have to have the rules of engagement and the operational plan that we have set out before we engage with the public. So before anything happens, we need to lay those things out.

We do have a highly trained, specific unit that will often do this sort of work, and we have a very explicit, you know, manual that governs their action, that lays out -- this is people's First Amendment rights. People's First Amendment rights need to be respected and ensured that they can carry on peaceful protests.

SENATOR BAILEY: Well, let me thank you for your testimony, and let me also say thank you to the women and men who serve our state. We appreciate the sacrifice that they make for our state.

And on a personal level, I appreciate you opening up the gym to us on Tuesday

nights during better times on Washington Avenue so that some members and I, we can play basketball. So I just --

ACTING SUPERINTENDENT BRUEN: Any time, Senator. Just don't ask me to play.

(Laughter.)

SENATOR BAILEY: Listen, when we're back, you have the keys, literally and figuratively, so --

ACTING SUPERINTENDENT BRUEN: I'll open the door, but I'm not playing.

(Laughter.)

SENATOR BAILEY: I appreciate you. Thank you very much.

CHAIRWOMAN KRUEGER: Now we jump to what really Jamaal Bailey cares about, so thank you --

SENATOR BAILEY: Basketball and policy, you know.

CHAIRWOMAN KRUEGER: I know, I know, it's a good mix.

Assemblymember Dinowitz.

ASSEMBLYMAN DINOWITZ: Thank you.

So when New York passed the SAFE Act,

it unfortunately ended its own attempt at creating a database to connect and submit all ballistic evidence of weapons sold in New York.

Do you know, when will the state create its ammunition database to track sales to residents who may be assembling deadly stores of ammunition, as mandated by the SAFE Act? Because it's kind of been a long time already.

ACTING SUPERINTENDENT BRUEN: I think you're referring to the NIBIN system, which was shut down, which was -- collected expended brass when a gun was sold, and the creation of the -- and that was true, that was shut down. I don't believe anyone uses it anymore.

And you're talking about the recurring issue of the ammunition database --

ASSEMBLYMAN DINOWITZ: Yes.

ACTING SUPERINTENDENT BRUEN: -- to check whether someone is lawfully able to purchase ammunition.

That continues to be an IT issue, and

it continues to be not in a current position to be deployed effectively.

ASSEMBLYMAN DINOWITZ: Okay. I would just urge that we try to address that issue.

Two years ago the Legislature enacted a law that allows law enforcement to remove firearms from people charged with domestic violence offenses, and it also allows courts to revoke or suspend their firearms licenses.

This information is then reported to the State Police and DCJS, presumably for inclusion in the statewide license and record database established by the SAFE Act.

Now, from what I understand, this license and record database, like the ammunition database, is still not operational seven years later. Is that true? I understand it's true, but I just want to double-check that. Is that the case?

ACTING SUPERINTENDENT BRUEN: No, I understand that is an ongoing effort as far as that part of it is going.

ASSEMBLYMAN DINOWITZ: Ongoing to establish it or that it's already working?

ACTING SUPERINTENDENT BRUEN: No, it's an ongoing effort to make it operational.

ASSEMBLYMAN DINOWITZ: Right. It's -- okay. I mean, it's been a couple of years already --

(Overtalk.)

ASSEMBLYMAN DINOWITZ: I'm sorry, go on.

ACTING SUPERINTENDENT BRUEN: The challenges are significant due to the nature of the way and the length of time that we've had the pistol permit database and pistol permit records. They are on many different platforms, and that data has to be cleaned up.

In addition, we have the ongoing reregistration and registration of the assault weapons and the pistol permits.

But I understand your concern.

ASSEMBLYMAN DINOWITZ: Do you have a timetable at this point, or is it pretty much open-ended?

ACTING SUPERINTENDENT BRUEN: I don't have a timetable, but I can get one.

ASSEMBLYMAN DINOWITZ: I'd appreciate it.

And what about the ammunition database? Do we -- I mean, that's a pretty long delay. Do we have a timetable for that?

ACTING SUPERINTENDENT BRUEN: I don't, but I can follow up with IT. It's largely an IT program at this point. It's, you know, a heavy lift to work that out.

ASSEMBLYMAN DINOWITZ: Okay. Thank you very much.

CHAIRWOMAN KRUEGER: Okay, thank you.

Senator O'Mara has popped into the scene. Hello, ranker on Finance.

SENATOR O'MARA: Hello, Chairwoman. I've been here all along, just been quiet.

CHAIRWOMAN KRUEGER: I know, but we haven't heard from you all day, so I was a little worried about you.

SENATOR O'MARA: Superintendent, thank you for being here today and thank you for your long and really great role and career in law enforcement with the New York State Police.

ACTING SUPERINTENDENT BRUEN: Yes, sir.

SENATOR O'MARA: Can you kind of describe for us, with the prospect of the legalization of recreational marijuana, what -- first of all, how is enforcement going to be handled with that, since we don't have a Breathalyzer-type test for that? And what additional resources is the State Police going to need in regards to impaired driving while intoxicated under the influence of marijuana?

ACTING SUPERINTENDENT BRUEN: So we enforce driving while impaired right now. We do successfully, and it largely is not going to change. It will change in one significant way with the Governor's program bill, and that is it will allow us to take saliva like a breath test.

There is a test at the lab that is ready to go, and I have spoken with my toxicology people and they feel that they can handle the test and the increase, if there is some increased number of tests.

But the approach to intoxicated driving is going to remain the same. We teach at the academy right now every person graduating as a Trooper from the New York State Police Academy is what's known as an ARIDE. An ARIDE is not a DRE, but it's an enhanced detection training program. It's a two-day course in the detection of drug-influenced driving.

Also, within the year we're going to have every Trooper trained as an ARIDE. So we're going to have that in our back pocket as well.

But the core policing mission will remain the same: Observations of erratic driving, pulling someone over, gathering evidence by paying attention, engaging the driver in conversation and observing the driver's behavior, gathering the evidence of impairment, getting the saliva sample and having it sent down to the lab to determine whether --

SENATOR O'MARA: On the saliva sample -- I'm not familiar with that -- is

that going to indicate like a blood alcohol level, the THC blood level?

ACTING SUPERINTENDENT BRUEN: That's a good question, and I asked it myself recently. And the answer is no, it's not. What it's going to do is detect the presence of THC. The challenges with THC in determining, based on a particular level impairment, remain. That's an ongoing scientific kind of discussion.

That's why the Trooper's observation of impairment is critical: Do you have marijuana in your system, and did it impair your driving?

SENATOR O'MARA: I think that's going to be problematic, since THC stays in your blood system far longer than alcohol does. So I would think that would be unfair evidence in many cases, perhaps, for somebody that is not under the influence but may have smoked marijuana 10 days before.

ACTING SUPERINTENDENT BRUEN: Well, you've hit upon the exact issue. And that is why I said it's two pieces. One, do you have

marijuana in your system? And were you -- is there evidence of impairment, sufficient evidence of impairment, beyond a reasonable doubt or probable cause, depending on the place you're at. That's the standard we have now. And that's the standard we've had for years.

Is there evidence you've taken marijuana, and can the police -- the Trooper, county sheriff, or a city police officer -- by evidence or testimony or other things indicate that your driving was impaired?

SENATOR O'MARA: What will the policy of the New York State Police be regarding marijuana use of State Troopers?

ACTING SUPERINTENDENT BRUEN: They will not be able to use recreational marijuana.

SENATOR O'MARA: Okay. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Next up is Assemblymember Chuck Lavine.

ASSEMBLYMAN LAVINE: Thank you.

And thank you, Acting Superintendent.

Two things I'd like to discuss. First of all, following the brutal assault on the United States Capitol on January 6th, when I learned that the State Police were going to be watching our State Capitol, that gave me great comfort. So thank you, and please thank the members of the State Police for that.

Secondly, Scott Beigel was a New Yorker. I don't know whether his name is offhand familiar to you, but being a New Yorker didn't --

ACTING SUPERINTENDENT BRUEN: Sure. Marjory Stoneman, I think.

ASSEMBLYMAN LAVINE: Yes. Yes.

But being a New Yorker didn't make him a hero, but protecting his students at Marjory Stoneman Douglas High School nearly three years ago in Parkland, Florida, and saving them, during which he was murdered -- he was a hero.

So the State Senate today passed the Scott J. Beigel Unfinished Receiver Act, making it illegal in the State of New York

for nonlicensed gunsmiths to possess the component parts that are used to make do-it-yourself ghost guns, and making it illegal to sell those.

Now, we have seen people arrested in New York State -- on Long Island, in Port Washington, in Orange County, in Syracuse. And in 2020, in Syracuse, the police confiscated 25 ghost guns. And the list goes on and on and on. And the FBI instructs us that between 2010 and 2020, there were more than 2500 arrests for ghost guns.

So a question I have for you -- and let me just set it up this way. The District of Columbia and other states are considering making the possession and sale of the component parts of these do-it-yourself sophisticated tactical weapons illegal.

The question I have for you is, is this a cause for concern? Is the ready and easy ability to build these weapons from purchases online, in the open source market, is that a cause for concern for those of us

in the State of New York?

ACTING SUPERINTENDENT BRUEN: Without commenting on potential legislation, nonserialized guns, untraceable guns, are a concern.

If you had asked me that question five years ago, even two or three years ago, I would have said they're not prevalent in New York. One, two, three, four, five cases a year. And I would have said they largely appear in Western -- meaning Western United States, in gang-related kind of contexts.

But that is not true in 2020. We've seen a substantial jump, upstate and in New York City, of the use and recovery of ghost guns.

ASSEMBLYMAN LAVINE: Thank you, Acting Commissioner. And please give our warmest regards and gratitude to the men and women of our State Police. Thank you.

ACTING SUPERINTENDENT BRUEN: Thank you.

CHAIRWOMAN KRUEGER: Thank you very much.

We have Assemblymember -- well, actually, since he's a ranker, let's do Assemblymember Lawler for five minutes, ranker on Government Ops.

ASSEMBLYMAN LAWLER: Thank you.

Appreciate your time today.

Just following up on the cannabis legalization, currently there's only one state that puts a cap on the potency of marijuana and the THC levels, and that's the state of Vermont.

Do you believe that as we debate the issues surrounding this that we should have a cap on the potency of marijuana if it is in fact legalized?

ACTING SUPERINTENDENT BRUEN: Yeah, I -- thank you for the question, but I'm not going to comment on pending legislation. We leave it to you guys. And if it's signed into law, we'll enforce it.

ASSEMBLYMAN LAWLER: Okay. Following up on my colleague's questions related to trying to determine someone's THC level, you know, obviously an oral swab, if that is in

fact the case that we're going to go down that road, how long does that take to get a result on that?

ACTING SUPERINTENDENT BRUEN: Well, there's two things -- well, three. First, we don't have a test that will determine the level or concentration of the THC in the bloodstream. It's that two-part test I said: Presence and then we have to independently verify it, right?

The other thing is that there's two oral swabs. One's a roadside test, like a prescreen device in an alcohol case, you know, where the Trooper could have a small handheld thing. That's been experimented with.

And the test I'm referring to is a forensically valid test. It would be a test that would be gathered at the -- either roadside or at the station and then transported to the lab, and the test would be run there.

ASSEMBLYMAN LAWLER: Okay. And do you know, generally speaking, how long it takes

to get a result on that test?

ACTING SUPERINTENDENT BRUEN: I don't. I suspect that it depends on the volume in a particular time frame. And that may effect how the Trooper proceeded at that point, in terms of whether somebody was arrested and charged or done something else with.

But clearly, if the Trooper has taken a sample like that, the person was exhibiting substantial impairment, otherwise they wouldn't have been asked for a sample. So there would be actions that had to be taken roadside to ensure safety, among other things.

ASSEMBLYMAN LAWLER: Okay. So generally speaking, they -- at that moment they would treat it as they would a DWI?

ACTING SUPERINTENDENT BRUEN: They would treat it as a DWAI. The test that I'm talking about is forensically valid, meaning it's like a blood test. So it's at that level of precision.

Now, again, it's not measuring level, but it's measuring presence. So it would be

something that could -- they would have to have sufficient probable cause to charge DWAI drugs.

ASSEMBLYMAN LAWLER: Okay. Totally switching gears, the last legislative session this body repealed 50-a of the Civil Rights Law. You're familiar with that?

ACTING SUPERINTENDENT BRUEN: Yes.

ASSEMBLYMAN LAWLER: Okay. This is more of a comment than a question, because I'm sure you're probably not going to want to opine on this.

But the -- are you aware that under the rules of the New York State Assembly, Rule 8, that the members of the State Assembly exempt themselves specifically from being subject to FOIL?

ACTING SUPERINTENDENT BRUEN: I have not made a particular study of the rules of the Assembly, no.

ASSEMBLYMAN LAWLER: Okay. Just so -- I'm putting this out there for you to be aware. You know, obviously there's a clear hypocrisy between what this body has chosen

to do with respect to the officers who serve under your command and their personnel files and making them subject to FOIL while expressly exempting themselves.

So I just wanted you to be aware of that. And happy to send you Rule 8 of the rules of the New York State Assembly so you can see that at some point.

ACTING SUPERINTENDENT BRUEN: Thank you.

ASSEMBLYMAN LAWLER: Okay, I have no further questions. Thank you, sir.

ACTING SUPERINTENDENT BRUEN: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

I'm sorry, I'm going to ask you a question just in follow-up on the marijuana.

So it's my understanding that New York State Police can pull you over for appearing to be driving dangerously right now, they can give you field sobriety tests, they can take away your right to drive your car, and they can do follow-up with chemical tests that may or may not be available, depending on what

you have in your system. Because obviously you could have alcohol in your system, you could have marijuana, you could have -- I guess I'll say hundreds if not thousands of prescription drugs.

So that's correct, that your police have the authority to do that now?

ACTING SUPERINTENDENT BRUEN: Yes.

I would only say that we don't have the authority to take away anyone's right to drive. But temporarily we would have the right to take you -- stop you from driving while we conduct an investigation.

(Zoom interruption.)

CHAIRWOMAN KRUEGER: Thank you, yes. I wanted to be clear about that.

Okay, I think they went back on mute. Thank you.

Next we have Assemblymember Tannousis.

ASSEMBLYMAN TANNOUSIS: Thank you.

Thank you very much. Thank you, Superintendent, for being here.

I just wanted to follow up in regards to Senator O'Mara's questions regarding the

possibility of passing the recreational marijuana.

I found myself as a prosecutor a few years back prosecuting these cases that I found that cases that were solely based on the testimony of police officers were substantially weaker compared to those cases that, for example, driving while intoxicated, where an individual -- a portable breath test was conducted, then they would be taken to an IDTU room where they blow on an Intoxilyzer. And we had a whole scientific machine that we were able to bring forth in court to show that the person was driving while intoxicated.

Are you somewhat concerned that if recreational marijuana is passed this year, that the cases that are brought forth by arrests by your Troopers will not be quite as strong as those cases of prosecuting driving while intoxicated? Because in that case there is an actual scientific machine, the defense attorney could attack the machine, he could talk about procedure -- where in this

situation, a State Trooper is testifying about his observations, a State Trooper without any type of test is basically going to be testifying on assumptions.

So are you concerned about that?

ACTING SUPERINTENDENT BRUEN: Well, you're lucky --

ASSEMBLYMAN TANNOUSIS: And -- I'm sorry to interrupt you -- just as a follow-up question, when will that machine be available, the machine that you were telling us about?

ACTING SUPERINTENDENT BRUEN: So it's available now. We have it.

ASSEMBLYMAN TANNOUSIS: Ah, okay. Thank you. If you could answer the first part --

ACTING SUPERINTENDENT BRUEN: And you're lucky you're not here at the academy calling it a machine, because they would make you run laps. It's an instrument.

ASSEMBLYMAN TANNOUSIS: God knows I could use the laps, by the way.

(Laughter.)

ASSEMBLYMAN TANNOUSIS: Are you concerned at all, Superintendent, about that?

ACTING SUPERINTENDENT BRUEN: You know, the -- I -- the -- one of the things that's going to address it -- first of all, I expect New York State Troopers, and it's been my experience that they do this, to conduct careful investigations and to testify clearly and accurately to the point where a jury would trust what it is they're saying and the -- let the chips fall where they may.

But it is an artifact of body cameras that I don't know as anyone's thought about it clearly, but an activation of a body camera -- if someone is behaving in such a way that mirrors what the Trooper saw and is describing and her body camera footage plays that back, a juror and juries presumably will have an even higher degree of reliability about their testimony.

ASSEMBLYMAN TANNOUSIS: But it's not as strong as an Intoxilyzer, though, correct?

ACTING SUPERINTENDENT BRUEN: You know, I don't -- I disagree with that. You

know, I think the Intoxilyzer and the instruments that we have are fantastic.

I think that the testimony, properly done, the evidence gathered, observations from the vehicle, observations from the car, things that are recovered from the car, other witnesses, can build very strong cases.

And quite frankly, this is the environment we're at now with DWAI cases. And, you know, I haven't seen any significant issues. I know what you're saying, that we're not going to end up with a particular threshold. But we have the -- if the legislation is passed, we have the instrument, we'll have the methods to collect it, and we'll have the forensically valid results.

ASSEMBLYMAN TANNOUSIS: Thank you for your time.

ACTING SUPERINTENDENT BRUEN: Thank you, sir.

CHAIRWOMAN KRUEGER: Thank you.

Assemblymember Latrice Walker.

Are you there, Latrice? I don't think

so.

ASSEMBLYWOMAN WALKER: I'm here, but of course there's -- we have conference going on as well as a number of other things, so I apologize for toggling back and forth.

But thank you very much for your testimony today, Mr. Superintendent. I have a really quick question.

So there was a budget request for body-worn cameras for the State Police. However, the request didn't match I believe what had been previously stated was the need for the State Police in order to get that done.

And so how much is the request this year? And what is the difference between what you indicated in the past was required and what is being proposed in this year's Executive Budget?

ACTING SUPERINTENDENT BRUEN: Well, I'm not exactly familiar with the prior request. I know we have made requests and wanted to pilot body cameras particularly in some of the more extreme environments, in the

mountains and other things.

But based on the passage of the law in June, which had very specific activation requirements, we ended up having to get -- essentially, only one product met that need. So that might account for what you're seeing.

It's my understanding that the cost is roughly about $8 million a year.

ASSEMBLYWOMAN WALKER: Okay. All right, no problem.

So what we did see was a request in the past for about $15 million, but it looks like there's about $7 million in this year's budget.

ACTING SUPERINTENDENT BRUEN: Yeah, and these are recurring costs, yeah.

Again, because the law was passed with very specific requirements, there was really only one product on the market that would meet the needs. And that then dictated kind of everything else from there.

That comes with -- you know, it meets our needs and it meets the requirements of the statute in terms of activation, signal

activation.

ASSEMBLYWOMAN WALKER: Okay. All right. Well, just wanted to -- so you're saying it's only going to cost you $8 million in order to fully implement state body-worn cameras for this year -- and my face is moving on the Jeopardy --

ACTING SUPERINTENDENT BRUEN: That's all right.

ASSEMBLYWOMAN WALKER: -- the Hollywood Squares board.

ACTING SUPERINTENDENT BRUEN: Yup, that's my understanding of the costs of cameras. There are additional costs for personnel and other things, but that is the cost of cameras.

ASSEMBLYWOMAN WALKER: So there is an additional cost. But is that being taken into account for -- with respect to the budget request that you've put in?

ACTING SUPERINTENDENT BRUEN: Yes.

ASSEMBLYWOMAN WALKER: Okay. All right, awesome. Thank you.

ACTING SUPERINTENDENT BRUEN: Thank

you.

CHAIRWOMAN KRUEGER: Thank you.

I see we've been joined by the chair of Government Ops, Ken Zebrowski. And it's been a busy day for everyone.

Please give him 10 minutes on the clock, thank you.

ASSEMBLYMAN ZEBROWSKI: Thanks, Chair Krueger, and I won't need the 10 minutes.

Let me just say, Superintendent, thank you and please thank your officers for all the work that they have been doing during these difficult times. I know they're out on the roads, they're in our communities. When -- you know, when this pandemic started, by no means did their jobs stop. They had to figure things out at times where we had absolutely no idea how this was being transmitted, where it was being transmitted. They had to do their jobs.

So, you know, will you please express our gratitude for all their hard work and what they do in protecting us every day.

ACTING SUPERINTENDENT BRUEN: I will.

ASSEMBLYMAN ZEBROWSKI: I just wanted to reiterate a little bit on the body cam question. And my understanding is that it's a multiyear request. Certainly I believe we're funding one year, this year, of $8 million. But I believe it was a five-year request or estimate of about 8 million a year for five years, which is a significant amount of money.

So my understanding is that that would cover the total cost for not just, I think, the 3,000 or so cameras now but, you know, all the logistical and other hardware, software things that go through it for the next period. Is that your understanding?

ACTING SUPERINTENDENT BRUEN: Yeah, that is my understanding. That is my -- all the products associated with the camera and support with the camera.

ASSEMBLYMAN ZEBROWSKI: Okay. All right. We appreciate that.

And, you know, certainly I'd love to keep in touch with you for both, you know,

the rollout of this program as to how you think it's going, you know, is there sufficient funding, does it provide your officers with the proper support, you know, so that they can do their job and, you know, further on, obviously, with a host of other issues. Just wanted to say that, you know, we're there for you for continued collaboration going forward. So thank you.

ACTING SUPERINTENDENT BRUEN: Thank you.

CHAIRWOMAN KRUEGER: Okay, thank you. And Assemblymember Mike Reilly.

ASSEMBLYMAN REILLY: Thank you, Madam Chair.

Thank you, Superintendent, for your testimony.

A couple of things I wanted to ask about was I know you mentioned the ARIDE training. New York City Police Department is doing an offshoot of the DRE program, which is like a four-hour class. Do you think there's a possibility of the ARIDE training being administered to local police

departments throughout the state to help with the legalization of marijuana if it moves forward? Because I know the DRE program is expensive. And, you know, many times it takes the patrol officers away from their duties for some time because of the extent of the training.

Could you tell me how much that training is, the DRE program, and if it's feasible for ARIDE?

ACTING SUPERINTENDENT BRUEN: Well, the ARIDE program -- in order to be qualified for the DRE program, you have to be an ARIDE. And as I said before in testimony, that every new New York State Trooper is qualified as an ARIDE as they come through the academy. And by the end of the year we'll have the entire road Trooper force trained as ARIDEs.

DREs are akin to, as you know, you know, a test. It's a very extensive training, medically based and all the rest of it. There is only so much bandwidth that -- there's only so much bandwidth at the training academies that will do this. At one

point there were only two. I think there's plans that they'll add two more online. But there's only so many slots. I think New York City has about -- between 12 and 16.

ASSEMBLYMAN REILLY: Yeah, 16.

ACTING SUPERINTENDENT BRUEN: And I have about 110. My goal is -- and it will take time -- is to make that number, that fixed number of DREs closer to 200.

But we have, you know, resources and ways of dealing with the issue up-front. And I'm certain that other departments will be -- and other agencies will be looking at ARIDE training.

ASSEMBLYMAN REILLY: Thank you, Superintendent.

So I also wanted to touch on fentanyl analogs. I know that we have some legislation that's in to allow the Department of Health commissioner to add any necessary analogs. Do you think that would help with investigations?

ACTING SUPERINTENDENT BRUEN: You know, I don't comment on pending legislation,

but fentanyl is extremely serious and extremely dangerous.

ASSEMBLYMAN REILLY: And I wanted to touch on one last thing about the -- I know my colleague earlier mentioned ghost guns.

When that legislation came up, I raised one issue, that unfortunately the possession of a ghost gun right now would be an E felony. And, you know -- as you know, if you have a firearm with an untraceable serial number, it's a D felony.

Do you think that it would help with investigations if it was a D felony for a ghost gun? Because as we know, as an E felony, with bail reform it currently is eligible for a desk appearance ticket.

ACTING SUPERINTENDENT BRUEN: Well, I hate to repeat myself and say I'm not going to comment on pending legislation, but I'm going to do that.

I am going to say the ghost gun situation has me concerned.

ASSEMBLYMAN REILLY: Thank you, Mr. Superintendent. I appreciate it.

Thank you, Madam Chair.

CHAIRWOMAN KRUEGER: Thank you, Mike.

I think our last Assemblymember, or the last hand I see up, is Chris Burdick.

ASSEMBLYMAN BURDICK: Thank you, I appreciate it.

And thank you for the testimony. And I also echo the words of Ken Zebrowski to thank you and your officers for the heroic work that you've done during the pandemic. We greatly appreciate it.

There's been a great deal of discussion in this line of questioning regarding enforcement issues in the event of the possible legalization of recreational marijuana. I echo the concern on training for local police departments and do hope that there can be coordination in that regard. I think that would be very helpful.

I had a question regarding if you happen to know whether any of the funds that would be raised from this, in taxes and fees, would be going to any kind of drug prevention, drug abuse prevention programs?

It may not be your wheelhouse, and I can check elsewhere.

ACTING SUPERINTENDENT BRUEN: It is not my wheelhouse.

ASSEMBLYMAN BURDICK: Okay. A different question is the question regarding enforcement.

Have you folks looked at what's going on in other states with respect to whether or not the measures that they use, the instrumentation that you described, have been effective in getting dangerous drivers off the road? Do you feel confident that you're going to be able to do that effectively?.

ACTING SUPERINTENDENT BRUEN: We've looked at data from other states on a wide range of issues about legalization. I have contacted and had conversations with my opposite numbers in other states.

And I keep going back to the fact that we do this already, we do this job already. We make arrests for impaired operation based on the use and THC intoxication. We do it. And I feel like I have every confidence in my

Troopers that they'll be able to do this.

ASSEMBLYMAN BURDICK: That's very helpful to know, and reassuring.

Thank you very much.

CHAIRWOMAN KRUEGER: Thank you.

So it is my wheelhouse, since I am the lead sponsor of the MRTA bill in the Senate that Crystal Peoples-Stokes carries in the Assembly.

And so the answer is that in our bill we hope that up to 25 percent of the revenues from legalized adult recreational use of marijuana would go towards drug treatment for serious, dangerous drug addictions and education to discourage people, particularly young people, from using drugs. Chris, so that's the answer to that.

I also want to thank the acting superintendent. I am very confident his State Troopers are perfectly capable of handling impaired driver stops, because as he just said, they do it every day.

You know, there's a lot of things people can have opinions about with

marijuana, but the one we really need to agree on, it's already here. It may not be legal, but it's already here and being used more than pretty much any other drug in the State of New York, so many of these questions aren't really new questions.

I do have one final question for you, Superintendent. So in the last year, the pandemic has changed almost everything in our lives. What are the State Police doing in my city nowadays? What do you have them doing?

ACTING SUPERINTENDENT BRUEN: In New York City?

CHAIRWOMAN KRUEGER: Yes, sir, I'm from New York City.

ACTING SUPERINTENDENT BRUEN: We provide a number of roles and do a number of missions in New York City -- our presence, obviously, at the transportation hubs, the train stations, the bridges and tunnels. We are also at the airports.

We have investigators that follow -- that are on the Hate Crimes Task Force in the city. We have investigators assigned to the

Joint Terrorism Task Force and investigators that work closely with the Drug Enforcement Agency on very large narcotics cases, just to name a few of the missions.

CHAIRWOMAN KRUEGER: And so you still believe that the number of State Troopers assigned to New York City is a justified use of your budget costs?

ACTING SUPERINTENDENT BRUEN: Absolutely. It gives us flexibility to do things, act in certain missions that are specific, and flexibility to act. I feel it is justified.

I have to tell you also it has been a particular benefit with recruiting minority members. The folks in the city are able to see the Troopers doing their work in the great uniform, looking great, and they can picture themselves doing the job. And it's been a true benefit to us.

CHAIRWOMAN KRUEGER: That's very good news.

On behalf of us all, thank you for your work, thank you for your members' work.

And we are going to excuse you for the day.

ACTING SUPERINTENDENT BRUEN: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

And because it is now 6:10 and we started at 9:30 this morning, I am allowing myself a three-minute nature visit. And everybody should just either also explore nature for three minutes, or whatever you like. Just don't go anywhere, because it's a very fast three minutes. Thank you.

(A brief recess was taken from 6:11 to 6:14 p.m.)

CHAIRWOMAN KRUEGER: We are now starting the part of the hearing where people who have asked to testify will be called up in panels. You'll have three minutes, each person on the panel. Then people who want to ask you questions, whether they are chairs or not, only get three minutes in total to ask the panel questions and get answers.

So I like to describe this part as speed dating. But it's also important to know that when you hear a question from a

legislator, you know you want to follow up with them afterwards because you know you have more information for them than you can possibly give them in this ridiculously short period of time.

For people who did not get to sign up to testify because they asked too late and there were no more slots left -- and I apologize, we had to turn a lot of people down -- you can still submit your testimony, it will still go to all of us, it will still be up for the public to view.

And I always advise the testifiers, if you think you're going to read your testimony, that will be a mistake. You only have three minutes. You want to highlight the most important part of your testimony as far as what you're prioritizing in relationship to the state budget this year.

The one thing I can say with confidence is we are all readers. All the legislators actually can read, and so we have full testimony in front of us or on our desks or in our computers or all of the above.

So having said that as the rules of the road for the rest of this hearing, I'll now introduce our first three panelists. And they will do it perfectly, and then everybody will know what I was talking about.

So we have Kristin Brown, from the Empire Justice Center; we have Laura Abel, from the Lawyers Alliance for New York; and we have the New York Legal Services Coalition, Molly Clifford.

Hello, good evening. Kristin, you get to go first.

MS. BROWN: Thank you. Thank you so much.

Good evening, my name is Kristin Brown. I'm the president and CEO of Empire Justice Center. We're a statewide legal services and advocacy organization for low-income New Yorkers outside of New York City.

For my time today I'm going to highlight two trends and focus on the importance of your continued support for allocation of the Legal Services Assistance

Fund.

We can all agree that COVID has really revealed deep structural inequities in our society and made existing problems more acute and complex for people in low-income communities. In the area of legal services, we find problems such as unemployment, eviction, lack of benefits, intimate partner violence, and removal proceedings that may have been navigated separately through different attorneys and organizations, are now melded by the pandemic into a single landscape, often with an attorney as the main person who's triaging services and providing advice in a number of different areas. And this is a shift that we have had to navigate to meet the needs of our clients.

A second noticeable trend is the digital divide. Reliance on technology has created very deep disparities between people who have tech skills and resources and those who don't. For example, during nursing home fair hearings and foreclosure proceedings, our clients often lack computers, technical

skills and reliable internet access to take advantage of virtual hearings.

For Empire Justice attorneys, the pandemic has made it harder to collect evidentiary proof, maintain attorney-client privilege in the virtual setting, and have sidebar negotiations.

A Chief Judge's permanent commission is studying how to -- examining the digital divide, and this is something we urge the Legislature to look at.

These trends are just part of the urgent need to fund civil legal services to help low-income communities cope with the pandemic and navigate structural complexities. For Empire Justice, the JCLS and Legal Services Assistance Fund money allows us to provide representation to immigrants, individuals who are unemployed, and families with special-needs students, among others, and to provide training and technical assistance for students as well as frequently answer questions for folks. We've had over 9,000 people access our Unemployment

Frequently Asked Questions.

To support this work, we urge you to support the Legal Services Assistance Fund, including domestic violence legal services at last year's levels.

I also want to highlight that in spite of your much-appreciated support last year, none of the LSAF or domestic violence funding for the current year, which goes to provide services all across the state, has been paid to providers. Nothing.

We understand this is a very challenging time for most people, and there's a budget deficit. But the LSAF funds have their own revenue source, they don't come out of the General Fund, and they do play a crucial role in providing -- pursuing life's basic necessities for low-income New Yorkers.

So we look forward to working with you all to make sure that this crucial funding is available for both this year's LSAF and the one to come.

Thank you for your time.

CHAIRWOMAN KRUEGER: Thank you.

Next, Laura Abel.

MS. ABEL: Thank you. Thank you for this time. And I will be brief.

I'm Laura Abel. I'm senior policy counsel with Lawyers Alliance for New York. We are a nonprofit law office that provides business and transactional legal assistance to the nonprofits that serve low-income communities in New York City.

Last year, in the last days of budget negotiations as the pandemic was closing everything down, an unfunded administrative burden on thousands of charities was inserted into the Public Protection and Good Government Article VII bill. The apparent goal of that provision was to track the flow of resources from 501(c)(3) public charities to 501(c)(4) social welfare organizations that engage in a lot of lobbying or in certain types of issue advocacy.

But perhaps unintentionally, the bill swept way, way too broadly. As a result, thousands of charities that have nothing to do with social welfare organizations have a

new, completely unnecessary bureaucratic hurdle this year. They have to take the annual financial reports that they already file with the Charities Bureau and file them again with the Department of State. They have to pay a second filing fee and deal with the Department of State's different and earlier filing deadline. But perhaps most importantly, they have to worry about a potential threat to the privacy of their major donors.

The Charities Bureau has decades of experience and careful procedures in place to protect the privacy of people who contribute to these purely nonpolitical charitable organizations. The Department of State doesn't.

This year's one-house bills should fix last year's overstepping, they should eliminate the dual filing requirement, they should implement measures to protect privacy. In my written testimony I've pointed you to an Assembly bill that has language that could fit very easily in the one-house bills.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

And Molly.

MS. CLIFFORD: Thank you.

I'm Molly Clifford, and I'm the interim executive director of the New York Legal Services Coalition. We're a nonprofit consisting of 49 civil legal services providers. Collectively we serve every New York State county and provide high-quality legal services to hundreds of thousands of low-income families in New York every year.

Civil legal services address a fundamental gap in access to justice: The gap between low- and moderate-income households in need of legal aid and the number who can be helped by our providers. For decades that gap remained at a troubling 80 percent. Thanks to ongoing support from the Legislature, state agencies and the Judiciary, CLS providers in New York have narrowed that chasm to approximately 60 percent.

While this is a positive trend, there are certainly significant needs that remain, made worse by the pandemic, particularly among low-income New Yorkers and communities of color.

At the coronavirus peak, our network effectively pivoted their workforces to meet heightened demand to ensure New York's families hit disproportionately hard by the pandemic have a sense of stability during this time of crisis. Amidst these staffing demands, staff continues to work within our many practice areas, including domestic violence, eviction, foreclosure and immigration matters.

Some matters, especially economic and housing stability, are being exacerbated by the pandemic and will affect families throughout 2021 and beyond. We're particularly concerned about the eviction and foreclosure moratoria, which upon expiration will bring a tidal wave of evictions and result in sharp increases in homelessness in the communities we serve.

We stand ready to meet these new and shifting demands, and appreciate the joint efforts of the Legislature and OCA to support legal services funding. We respectfully ask for continued state support in two key areas: Restore and increase funding for civil legal services through the Legal Services Assistance Fund, and restore 10 percent for civil legal services programs in the Judiciary Budget, including $85 million to help bridge the gap and continuing the 15 million supplemental appropriation for the IOLA to fund its grantees.

The JCLS program is by far the largest source of support for our members. On average, our members' budgets consist of over 50 percent in state funding, and JCLS comprises nearly half of that amount. It is especially important because it gives our providers the flexibility to allocate funds to the most substantive needs in their own communities.

The JCLS program has been reduced by 10 percent, and we caution that the resulting

cuts will be borne by our most underserved and marginalized communities. We appreciate that local assistance reductions are being reduced to 5 percent under the Governor's budget. Should sufficient federal funding be realized, we urge that these amounts and Judiciary funding be restored in full.

Thank you very much.

CHAIRWOMAN KRUEGER: Thank you very much.

Any questions? I don't see any hands up.

We're going to move quickly, so if you don't put your hand up -- nope? All right. Thank you very much, ladies. Appreciate your being with us tonight. Thank you.

Next panel: New York State Health Foundation; Veterans Advocacy Project; Center for Court Innovation; Fund for Modern Courts; and the New York State Coalition Against Domestic Violence. Sometimes I was stretching a little when combining into panels, but I did my best to be thematic.

David Sandman, from New York State

Health Foundation. Nope, you're on mute. See if you can get your mute off. There we go. All right --

DR. SANDMAN: Thank you, Madam Chair, for the Zoom advice. Thanks for the opportunity to testify before this hearing.

I'm Dr. David Sandman, the president and CEO of the New York State Health Foundation, and I am here today to speak on behalf of creating universal access to veterans treatment courts, or VTCs, for every veteran in New York who needs one. And a simple transfer policy that is proposed in the Executive Budget would make universal access a reality.

VTCs provide an alternative to incarceration for veterans who encounter the criminal justice system and who have a mental health and/or substance use issue. They provide treatment and services instead of jail. And I've provided details in my written testimony about the history and benefits of VTCs and why a transfer policy is needed.

I'll use my brief time today to tell you about a veteran whose name is Nick. He comes from Western New York. Nick is a Marine sergeant who joined the military after the 9/11 attacks. He did two difficult combat tours in Afghanistan, and when he came home he felt isolated, had a hard time readjusting. He was drinking heavily, became addicted to drugs. He ended up homeless, living in his car in a Walmart parking lot. And when he was found, he was arrested for narcotics possession.

Nick was not a danger to anyone besides himself. He didn't need jail, he needed treatment. And Nick's mom had heard about the Monroe County Veterans Treatment Court.

As Nick puts it, the judge was the first authority figure he'd ever encountered since leaving the military who showed him respect. She thanked him for his service, she helped him to get out of jail, got him into treatment, and Nick says that it saved his life.

He graduated from the VTC, and today Nick is thriving, has a family, completed his education, and himself works in government service now.

The evidence is clear: VTCs work. Research shows that they are associated with lower rates of recidivism, they have positive impacts on alcohol and drug use, mental health, housing stability, employment and interpersonal relationships.

There's lots of vets like Nick out there. Not all their stories are successful because, depending on where you live, you might not have access to a VTC. Only about half of the state's counties have one. And the transfer policy proposal proposed in the budget will fix this. It will allow a case to be moved from a county without a VTC to a neighboring county with one.

It's simple, effective, it means the vets won't languish in a justice system that's not equipped to deal with their challenges. It's a point of pride -- the first VTC in the nation was started about a

decade ago, in Buffalo, New York. As their birthplace, it's only right that we should have the largest and best system in the nation. And a transfer policy will allow New York to become the national beacon and remain the beacon for Veterans Treatment Courts.

Thank you.

CHAIRWOMAN KRUEGER: Thank you very much, Doctor.

Next, Veterans Advocacy Project, Coco Culhane.

MS. CULHANE: Hi. Thank you.

I'm executive director of Veteran Advocacy Project. And David's a tough act to follow. I want to echo everything he has said. And I was thrilled today to hear how much support there is for Veteran Treatment Courts.

And, you know, if there's a theme to my testimony here, it would be to leave no one behind. You know, one person is not more worthy of redemption or recovery because of the county they live in. So a transfer

policy is an easy way to increase access to justice.

My organization specializes in working with veterans with less-than-honorable discharges. And I just wanted to also say that the support services for these courts -- the peer mentors, all of the different components that come together -- are so important because there's a very high ratio of veterans with less-than-honorable discharges in Veterans Treatment Court, and they can't access the VA.

So we're talking about a population that is extremely vulnerable. Often they have been discharged less than honorably due to symptoms of posttraumatic stress or traumatic brain injury, such as self-medication, getting into fights, things like that. And when they get out, they're seen as having a criminal record and they -- you know, having a less-than-honorable discharge is the second-highest predictor of homelessness. If you've been discharged for misconduct you are almost three times as

likely to die by suicide than other veterans, which is already at way too high of a rate.

So we're talking about a really vulnerable population that's essentially been failed by the military justice system and is now entering the civilian one. And Veteran Treatment Courts are so important and so vital.

My organization works with several. We're so lucky in New York City to have I think six or seven courts now. The thing is, we can -- it's easy to forget -- we have so many resources in the city it's easy to forget that veterans around the state really don't have those options.

And in particular, you know, even in New York City, these veterans can't work with the VJOs, the veterans justice outreach social workers who are such a vital piece of connecting these veterans to treatment.

So again, just -- that's why these support services, all of the different players that come together to make Veteran Treatment Courts what they are, are so

important. And I hope that the Legislature will support those programs that are working with all the veterans, because everybody does deserve that second chance.

Thanks.

CHAIRWOMAN KRUEGER: Thank you very much.

Next, the Center for Court Innovation.

MR. CORREIA: Good evening. My name is Shane Correia, and I work at the Center for Court Innovation.

Based on the amount of time, I'll dive right into the areas that our upstate and downstate programs and research seem well-suited to contribute to public discourse on.

In the first topic, reducing unnecessary incarceration, last week we released a fact sheet on the impact of bail reform in New York State, exploring popular opinions, what the data says, and what we know from operating pretrial diversion programs. We hope that this will be useful in exploring the issue through facts.

For example, in response to attempts to tie gun violence to bail reform, we provide an analysis that shows that of the 528 shootings through June 20th in New York, only one was released due to bail reform.

The second topic is the shrinking footprint of police. During the summer calls for police reform, we released a document spanning six areas of practice we operate programs in that can help shrink the footprint of police.

As an example, we suggest supporting families when they appear in other parts of the justice system. In our Strong Starts program that supports children under three in child neglect cases with a clinical coordinator, we have data that shows that 50 percent of those parents were previously the subject child of a prior neglect proceeding with their own caregiver.

The goal of me sharing this example of shrinking the footprint of police is because it seems slightly off-center for police responses, and yet a criminal arrest can

trigger a child neglect proceeding and have intergenerational impacts if not sufficiently addressed. Meaningfully helping them at this point of their needs can have a profound long-term impact.

The third topic is housing as a justice issue. Many New Yorkers are anticipating a crush of Housing Court cases when current protections end. It's important to understand the spectrum of effective models for protecting tenants.

Models such as housing resource centers can help residents stay in their homes for issues like avoiding default judgements for non-appearance or lapsed annual certification for public housing. These are both issues that require legal information, not necessarily legal representation to keep New Yorkers housed.

Finally, on the topic of anti-gun violence, we want to add research to the calls for increased access to gun violence prevention programs. Over the summer we released a report entitled "Gotta Make Your

Own Heaven," where we utilized participatory research with credible individuals within the communities we serve to examine why youth are carrying guns.

One finding is that a lack of safety from other youth and police are motivating gun possession.

We hope that the state can continue to support programs like ours that are asked to create a sense of safety in environments that are more expansive than the funded catchment areas that we operate in.

Thank you for giving me the opportunity to sprint through this overview of how we believe our research and programming can help to continue the sense of public safety and trust in New York.

CHAIRWOMAN KRUEGER: Thank you very much.

Our next is Fund for Modern Courts.

MR. SILVERMAN: Good evening, and thank you. My name is Bill Silverman. I am the chair of the Fund for Modern Courts. I'm also a partner at Proskauer, where I have the

privilege of running their pro bono program.

Modern Courts is an independent, nonpartisan, statewide court reform organization. And I'd like to emphasize two main points tonight.

First, the 10 percent spending cuts that have been imposed on the court system have in fact affected access to justice. We are seeing significant cuts in staffing based on the hiring freeze. We're seeing cuts to legal services organizations at a time when the need is getting much worse, much greater. And we're seeing, obviously, the separation of the 46 senior judges.

Those cuts could not have come at a worse time, at a time when COVID-19 is affecting the most vulnerable among us. Those cuts are occurring at a time when the court system is already underresourced. As we all know, in 2011 the court endured a multi-million-dollar -- $170 million in cuts.

Given the growing backlog of cases, the central role that the courts play in access to justice, we believe that the budget

should be approved, and we'd also like to see the 10 percent cuts restored at some point.

I want to briefly address the issue of backlogs, because I think it raises a question of fairness and equity during COVID. We're not seeing massive backlogs in the Supreme Court, where people are generally represented and where proceedings are virtual. We're seeing backlogs in the Family Court. We're seeing backlogs in the Housing Court. These are courts that serve poor people.

The backlogs are affecting people of limited means. They're affecting people of color. And they're affecting them disproportionately during a time of crisis, and that's unacceptable.

So this leads me to the second point that I want to make today, which is that we need to restructure the court system. Having 11 separate and distinct trial courts in the best of times is completely inefficient. Having them now, during a time of crisis, makes it very difficult for the court system

to consolidate resources. It makes it difficult for them to reassign judges. It makes it difficult for them to get resources to the courts that are serving people of limited means.

Pre-COVID I think we were making progress, and I urge the Legislature to take up court simplification at the earliest possible time.

I want to thank you for this opportunity. I also want to thank the elected officials, the people who also are testifying, and all the staff for your public service. Thank you.

CHAIRWOMAN KRUEGER: Thank you very much.

And then the New York State Coalition Against Domestic Violence, John {sic} Gerhardt.

MS. GERHARDT: Thank you for the opportunity to speak today. I'm Joan Gerhardt, the director of public policy --

CHAIRWOMAN KRUEGER: (Inaudible.)

MS. GERHARDT: That's okay.

CHAIRWOMAN KRUEGER: I called you John by mistake, I apologize.

MS. GERHARDT: That's okay (laughing).

I'm Joan Gerhardt, the director of public policy and advocacy at the New York State Coalition Against Domestic Violence. NYSCADV was established nearly 45 years ago, and we represent about 100 programs serving thousands of domestic violence survivors and their children across the state.

Rather than review our specific budget priorities, which are described in detail in our written testimony, I'd like to use my time today to give you a sense for domestic violence in New York State and the challenges presented to domestic violence survivors and service providers, both before the pandemic and now.

New York consistently has the highest demand for domestic violence services in the country, despite some states being more populated. And as has been widely reported, this demand has significantly increased during the pandemic. Thousands of adults and

children are in need of domestic violence services in New York each day. More troubling, thousands of requests can't be met because of declining or stagnant funding.

Since last March, in order to meet the rising demand and do it safely, domestic violence programs have spent thousands of dollars on unbudgeted items like PPE, cleaning supplies, noncommunal food service, and new technologies.

New York's domestic violence advocates have acted heroically, staffing shelters at their own personal risk, learning to provide services to survivors in new ways that still enhance safety -- even providing crisis and trauma counseling to survivors from their own homes.

And yet at the same time, domestic violence programs are getting less funding. That's because New York's antiquated per diem reimbursement system only reimburses programs when survivors are in shelter. During the pandemic, many survivors haven't chosen to enter shelter. Plus many shelter beds can't

be used due to social distancing and quarantine requirements.

Add on to that the 20 percent reduction in county contracts with local providers, and you have a perfect storm. It's not an exaggeration to say that New York's domestic violence programs are barely getting by. They're using financial reserves, opening lines of credit, reducing staff, just to keep the doors open and the lights on.

Domestic violence programs reported to us in November that their shelter occupancy decreased as much as 30, 40, even 55 percent. That means that the revenues New York provides to programs decreased in kind. We estimate these losses to the statewide system to total approximately $1 million a month. That's 10 million since the pandemic began. Obviously this isn't sustainable for long.

We urge the Legislature to make emergency funding available to those domestic violence programs that can demonstrate documented losses. The state must ensure

domestic violence services remain available and accessible to all who need them.

Thank you.

CHAIRWOMAN KRUEGER: Thank you. I really shouldn't eat my food at the same time. Sorry.

Are there questions for anyone on the panel?

I have one for the domestic violence. So the state's rules in your contracts are the bed has to be filled in order for you to be reimbursed. So how would you -- what would you suggest we change so that the state was paying you but paying you for empty beds? That's a challenge for us.

MS. GERHARDT: Well, it shouldn't be. You know, programs have operating costs, just like any other not-for-profit.

And we're bifurcating the services right now that these programs are providing. Residential services get reimbursed through this per diem, and all the other nonresidential services that programs provide are -- you know, with contracts with the

county DSSs.

We'd like to see these services merged -- New York State is the only state that does it this way -- and that we provide funding to programs for the services in totality that they provide. So removing it from a per diem entirely.

CHAIRWOMAN KRUEGER: Thank you.

I see Senator John Liu with his hand up. I did see Senator John -- yes, there you are.

SENATOR LIU: Thank you, Madam Chair. I know they don't want me to show my -- oh, there we go. All right, thank you very much.

I want to thank this panel for their testimony. I just have a quick question for Mr. Silverman.

You spoke of supporting the reorganization of our state's judiciary. And are you in support of the proposals that the Chief Justice has already made? Is that the specific proposal and reorganization that you support?

MR. SILVERMAN: Yes, Senator, that's

exactly the proposal that we support.

SENATOR LIU: Okay. That's very helpful. Thank you very much.

Thank you, Madam Chair.

CHAIRWOMAN KRUEGER: Thank you.

And the chair of our Judiciary Committee in the Assembly, Chuck Lavine.

ASSEMBLYMAN LAVINE: Thank you, Madam Chair.

This will be the best political speech of all time. Sincere thanks to each of you for what you do. Thank you very much.

CHAIRWOMAN KRUEGER: Thank you.

Indeed, thank you all very much for what you do.

All right, our next panel, we have the PBA of New York State, Manuel Vilar; the New York State Police Investigators Association, Timothy Dymond; the Police Conference of New York, Richard Wells; the New York State Association of PBAs, Michael O'Meara; and the New York State Troopers PBA, Thomas Mungeer.

And I will ask Manuel Vilar to start

us off. Do we have you?

VICE PRESIDENT VILAR: There we go, I think we're unmuted.

Hello, Chairwomen Krueger and Weinstein and other members of the Public Protection Committee. Thank you for your continued support and interest in the men and women of the Police Benevolent Association of New York State. My name is Manuel Vilar. I'm the founding president and current vice president. I'm also a 37-year-veteran sergeant of the New York State Park Police.

I'm here today to advocate for the merger of the Park Police into the New York State Police, Senate Bill 4647. There will be a same-as in the Assembly on deck soon. The Park Police is a division of OPRHP and is currently under command and control of the Division of State Police.

New York state parks, by their very nature, are geographically challenging, beautiful, and yet dangerous places. To perform these duties, New York State Park

Police officers receive the same training as State Troopers, plus specialized training to be prepared to assist patrons when crimes, accidents and other life-threatening incidents occur.

State Park Police, with their specialized training in snowmobiling, high-angle rope and swiftwater rescue, to name a few, are a critical part of New York State's response to natural disasters, weather emergencies and other catastrophic events, including the current civil unrest in multiple cities throughout New York State.

During the current COVID-19 crisis, State Park Police have been at the forefront of protecting testing and vaccine sites, some located at various state parks, as well as non-state-park locations. Several State Park Police officers, including myself, have all contracted COVID-19.

The lack of State Park Police levels is quickly reaching crisis proportion. In the past 15 months we've seen a 15 percent reduction in staff. In fact, since 2000,

State Park Police have graduated over 500 officers, only to have 53 percent -- 255 officers -- leave for other police departments with better pay, 20-year pension, and disability protections. The cost to New York State to train all those police officers over 16 Park Police academies, has been roughly $80 million.

The second issue adversely impacting our members -- and not only the Park Police, but all four police forces in the PBA -- is the slow-walking by the Governor's office of the 2015-2018 binding arbitration award. This has left PBA members stuck at salary levels from 2014. Our members have not had a raise since 2014, despite having a binding arbitration award in place.

Because of State Parks' inability to operate and maintain a viable, functioning State Park Police force, for the safety of the public and our members we are requesting that the State Legislature pass the New York State Trooper-Park Police Merger Bill that we have submitted and include the Governor's

program bill enacting the terms of the 2015-2018 binding arbitration award. We believe this would go a long way to making state parks much safer as well as spending tax dollars wisely.

Again, I'd like to thank you for this opportunity to speak to you, and I'm happy to answer any questions anyone may have.

CHAIRWOMAN KRUEGER: Thank you very much. Just a smidge past the three minutes.

Timothy Dymond, New York State Police Investigators Association.

PRESIDENT DYMOND: Yes, ma'am. Good afternoon, Senate and Assembly members. My name is Tim Dymond, and I am a senior investigator with the New York State Police.

And I am the elected president of NYSPIA, the New York State Police Investigators Association. I represent approximately 1100 investigators and senior investigators across the State of New York, and we cover all the heavies. We handle the felonies, the murders, the rapes, the robberies, the human trafficking, the gang

violence. That's the stuff that my membership does.

NYSPIA's members are hand-selected from the most highly trained uniformed Troopers and represent some of the best that our agency has to offer. My membership, along with every police agency in the country, is dealing with historic policy change, a job expectation that seemingly changes by the day. Our members have displayed a strength, a resilience and a compassion that I'm incredibly proud of through what has been one of the most difficult times law enforcement officers have dealt with nationwide.

We as an agency have proven to be highly adaptable to the rush of current law enforcement reforms, and we continue to take a leadership role in the law enforcement community, maintaining the highest quality services to the citizens of New York.

Our highest priority this year is the same as most years: It's the replacement of retired members. Our members are leaving at

a breakneck pace. We have approximately lost 20 percent of our senior investigators statewide. Those investigators supervise all these investigative units around the state, and losing them has caused our investigator ranks to now be depleted.

We are now at what I would say is a critical point where we need a class of Troopers. We can't have investigators if we don't hire Troopers.

Second, the automobile fleet. I'm happy to report that our fleet has improved, and a lot of that is a testament to the work the Legislature has done on the fleet. It is more diverse, it is younger. The diversity of our vehicles in the field helps our undercover units to remain concealed, which, as someone that was a senior investigator in the violent gang unit, is very important to me.

I have an issue in here for a UC gun program. We're looking for support from the Legislature to provide our undercover members -- and there's about 300 of them

scattered throughout New York State, in all cities, towns and villages -- we would like to get them a weapon that is easily concealed so they can remain safe in the field. If they are made to be police, it puts them at risk, and we want to keep them safe.

The proposed legalization of adult-use cannabis and online gambling will generate revenue. It will also generate some black-market crime that we are going to have to act on.

That's a sprint through. Thank you for listening to these important issues.

Law enforcement reform is a leading discussion topic right now in the country. As reforms are implemented, there's no question New York State Police will be looked upon to lead the charge professionally and respectfully. If the police, Legislature and members of these communities can bridge the gap and be the glue, we can cause positive change while keeping our communities safe.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

That's certainly what we all want.

Richard Wells, Police Conference of New York.

PRESIDENT WELLS: Good evening, everyone. Richard Wells, president of the Police Conference of New York, which is a coalition of over 200 local PBAs throughout the State of New York.

My comments this evening will be kind of an expansion on Commissioner Green's testimony earlier as regards training of police officers. We're asking that the Legislature consider establishing a statewide training curriculum for police officers, especially as regards to in-service training.

Currently there are certain standards that are in existence by the Bureau of Municipal Police and the Municipal Police Training Council, minimum standards that must be met, but that's as far as it goes.

In-service training is conducted sporadically throughout this state and very infrequently. Some jurisdictions don't do it at all. There are police officers that,

after they leave the academy, go through their entire career never receiving any further training. This is not good, especially in light of the current circumstances we find the police profession in.

Academy lengths differ throughout the state. In-service training is not done frequently enough. Due to changes enacted by the Legislature on use of force, retraining is necessary. Police officers encounter violent people every day. It is obvious that physical force, use of pepper spray, other chemical weapons or Tasers are now considered suspect and frowned upon.

Police officers are confused and bewildered on how to do their jobs. Cops are expected to keep the peace, enforce the law and make arrests without using any substantial force, deal with violent, emotionally disturbed persons, control riots. This necessitates innovative and increased training.

Increasing the length of the academy

should be considered. In-service training must be frequent and substantial so police officers are current on all law changes.

In the past, cost has always been cited as a reason not to do in-service training. The Legislature should give consideration to sufficient resources -- applying sufficient resources to local police departments so that they can send all of their officers to training on a regular basis. Consideration should also be given to imposing sanctions on municipalities that fail to provide such training.

The cop on the street is held responsible for every action that he or she takes while they're working. They, however, do not and cannot schedule their own training. Police unions have no say in police training. Police chiefs have budget and personnel constraints.

Adequate and meaningful training will be difficult to implement. It will be expensive and time-consuming. But if the goal is to have police officers adapt to the

changing standards in the use of force and laws of arrest, then it is incumbent upon the Legislature to provide the funding and means to accomplish it. It cannot be an unfunded mandate. If it is, it will never happen.

The bill submitted yesterday by Senator Savino might be a good place to start this process.

Thank you.

CHAIRWOMAN KRUEGER: Thank you very much.

Michael O'Meara, New York State Association of PBAs.

PRESIDENT O'MEARA: Good evening.

CHAIRWOMAN KRUEGER: Good evening.

PRESIDENT O'MEARA: Thank you for letting me address you.

I wanted to start to talk about training as well. I'm Michael O'Meara. I am the president of the New York State Association of PBAs. It's an umbrella group that represents about 45,000 police officers in New York State. It's the largest umbrella group of police officers in the state.

Senator Savino did submit Senate Bill 4706, I believe it was yesterday. And I believe that's a great place to start, because we have not had many conversations with legislators about police reform.

4706 proves that police reform does not have to equate to police punishment. Police reform can be a hand-in-hand process that we can help accomplish in this state, and we embrace that.

To expand a little bit on what Richie said and what the commissioner of DCJS said earlier, think about this. We've expanded our program to give new police officers 700 hours of training. That's the basic minimum course. It sounds like a lot, right? But if a young man of 21 enters the police academy -- or a young woman -- on January 1st, by the end of April they're a police officer walking around with a gun, with a mace and with a Taser.

And after they leave that police academy, they don't go back for any training whatsoever. There's no training. We don't

go for training. You can go -- I'm in my 31st year. I've never put my hands on anybody in a training aspect except when I'm in the police academy. When you explain that to people, they're horrified. They would think that in a profession where we are engaging the public at such a high level, that we would have to be trained.

Senator Bailey has a great bill in. And after our history over the last year or two, you'd think that's funny that I'm saying that. It's a great bill, mandates that police departments have to train police officers in firing their weapon at least once a year. Can you imagine that we have to legislate that? Because there is -- there is no policy, there's no procedure. So once we leave the police academy, we're out there. We're out there with the public. We don't go back. We don't get retrained.

We don't hire people -- police in police unions, you know, we don't hire people, we don't train people, we don't deploy people, we don't equip people, we

don't investigate people. We just represent police officers because we have a duty of fair representation. And somehow that makes us evil in some aspects.

But all I'm telling -- and thank you for letting me speak -- is that we need to have some budgetary money for in-service training for police officers that's mandated, mandated. That police officers should be trained at a high level, not just four months when they're in their 20s and then just go out and do the job.

So I appreciate Senator Savino's bill, and I appreciate you letting me speak. Thank you. And have a good night; I hope it ends quickly for you.

CHAIRWOMAN KRUEGER: Thank you.

And the last panelist, Thomas Mungeer, New York State Troopers PBA.

PRESIDENT MUNGEER: Thank you. Madam Chair, members of the committee, I appreciate this opportunity.

This is actually my 12th time addressing this committee in my time as

president of the Troopers PBA. I represent 6,000 active and retired Troopers, the uniformed Troopers that you see on the side of the road.

This is almost like the movie Groundhog Day. When I first started doing this job back in 2009, in 2010 I addressed this committee that we hadn't had an academy class. And we went three and a half years without an academy class, and our levels of manpower got dangerously low. And we had to start cutting services for the public.

Well, we -- our last class, the last Trooper we hired was in 2019. Last year we did not have a class. And this year there is no money budgeted for a class. So I'm offering a cautionary tale that I'd hate to see us go down that road where we were a little over a decade ago, with our manpower levels dwindling to dangerous levels.

And again, this is not the time to cut police services in our statewide capacity. I know that my superintendent had testified earlier today the different duties that we

have, and more duties are going to be heaped upon us with the legalization of marijuana and so forth.

Right now I could use 300 Troopers. I need a class of at least 250 to get them up and going. And it takes 18 months to train a Trooper and get them onto the roads so they can ride by themselves. So we have to actually do this somewhat quickly. And again, I'd hate to be in this situation this time next year testifying before you when my manpower levels have dwindled even further.

I'll echo my counterparts with the training. In the New York State Police we do have in-service. We have a vigorous in-service training program. And I believe it is good to use that as a model to bring all other police officers in the state up to that level with yearly training, and to also enact the different policies, the different law changes, the different training techniques that are out there. All police officers should have a yearly refresher in order to do this.

And again, the New York State Police has a vigorous in-service training program. It works. I believe that the State Police operates at an extremely high level, you know, for training purposes. And again, I saw Senator Savino's bill, very interesting. And I think she's on the right track. And let's get through this next year all together, working as a team.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

And Senator Savino's had her hand up, and we all keep talking about her, so I think I'll call on her first.

Are you there, Diane?

SENATOR SAVINO: Yes. Thank you, Senator Krueger. Am I unmuted? Yes, I think so. Okay.

First I want to thank the panel for testifying and sharing their experiences. I also want to thank them for actually I guess writing the memo in support of my legislation. But in all honesty, I do appreciate them, because they helped me

understand better just how difficult the police reform process will be in New York State.

When the Governor last year tasked each and every locality and each department with coming up with ways to make our police better and to reform their practices, one of the things that became glaringly evident is that we did not have a standard across the state. As Tommy Mungeer spoke, the State Police have the highest standards and they train regularly, but it became very clear very quickly that that was a rare instance across the state, including the largest police department in the state, which is the NYPD. So my legislation that we introduced yesterday answers that.

And we also heard earlier tonight the commissioner of DCJS talk about how they've proposed a new training curriculum of 700 extra hours, but it's not mandated, it's not required. And as we heard from Richie Wells, if we don't mandate it and require it and we don't provide funding, it will not

happen.

We all have an interest in better police and better police practices. Every one of us wants that. And I think if we follow the bill that I introduced -- and we can even improve upon it, working together -- we'll wind up with exactly what we want. Everyone wants better police.

So I want to thank everyone for helping me draft the bill. And I want to thank you guys for the work that you're doing keeping us safe, and keep yourselves safe.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

And we have been rejoined by Helene Weinstein, who didn't --

CHAIRWOMAN WEINSTEIN: Thank you. So we have --

CHAIRWOMAN KRUEGER: -- she had another big assignment for the Assembly.

CHAIRWOMAN WEINSTEIN: So we have a number of Assemblymembers with questions or comments. So we go first to Assemblyman Lavine, then Lawler, then Ra, then Palmesano,

in that order.

ASSEMBLYMAN LAVINE: Thank you, Chair Weinstein.

And I want to thank each of you, and please thank your membership for protecting us all.

I have a quick question, a follow-up question for President Dymond. So we want more compact firearms for undercover officers. Do you have a sense of how many of these firearms are going to be needed, what kind, and how much would that cost?

PRESIDENT DYMOND: Yes, sir, and I appreciate the question and the interest in that topic.

So we're looking for a subcompact weapon for approximately 300 members. We're looking at an estimated cost of around $150,000. Which, you know, it is a -- it's a big number, but if it keeps our undercover members safe and concealed, I think it's a very worthy way to spend those funds.

ASSEMBLYMAN LAVINE: Do you have a particular make or model in mind?

PRESIDENT DYMOND: We are taking a look at a bunch of different makes and models. The biggest concern for me is that it's something that is subcompact, easily concealed in the waistband or pocket, and the most important thing is it doesn't look like the same weapon that our uniformed State Troopers wear and our suit-and-tie investigators wear.

ASSEMBLYMAN LAVINE: Thank you very much. Thank you all.

CHAIRWOMAN WEINSTEIN: Senate, I believe you have a Senator?

CHAIRWOMAN KRUEGER: Senator John Liu, thank you.

SENATOR LIU: Hello?

(Zoom interruption.)

CHAIRWOMAN KRUEGER: Somebody's going to have to put their mute on --

SENATOR LIU: I don't know if you can hear me, Madam Chair, but -- Madam Chair?

CHAIRWOMAN KRUEGER: Yes.

SENATOR LIU: Oh, okay. Thank you very much.

I appreciate this panel's input. I do appreciate the comments about the police reform that has taken place, not only in New York but across the country, and attempts at more police reform. I think the comments have been constructive. I think Senator Savino already spoke with many of us rather eloquently, and I understand that you all pretty much universally support her bill, so that's helpful. And I also appreciate the support mentioned for Senator Bailey.

I do want to say something, though. One of the comments was that, you know, we need to train our police -- which is definitely true -- train them and not always look to punish.

I would only add that it's -- that I don't think there's a universal intent to punish officers, but asking for accountability is not synonymous with punishing. So, you know, I would ask that you are tremendous leaders in law enforcement here in New York State, and you have a voice far beyond as well. So accountability is not

the same as punishment.

And with that, I really do want to thank these gentlemen and their members for the work that they do. The work is vital. At the same time, in government we need to fine-tune what responsibilities in government should be carried out by which agencies.

Thank you, Madam Chair.

If any of the gentlemen would like to respond, I'm all ears. But that's all I have to say, Madam Chair.

CHAIRWOMAN KRUEGER: Thank you, Senator Liu.

If any of them would like to respond, they have -- oh, nope, they lost their one minute on the clock. They could have had one minute.

SENATOR LIU: My office is always open to you.

CHAIRWOMAN KRUEGER: Okay. Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to Assemblyman Lawler, please.

ASSEMBLYMAN LAWLER: Thank you, Madam

Chairwoman.

And thank you to everybody. I'm actually proud to represent one of our esteemed panelists here in the State Assembly.

I think one of the things that's critically important as we move forward with any potential reforms is obviously that law enforcement is included in the discussion. I think what is evidently clear over the last few years is that law enforcement really hasn't been part of the discussion on some of these criminal justice reforms that came down the pike.

One thing I just want to point out to all of you, which you may or may not be aware of, is that last year obviously the Legislature repealed 50-a of the Civil Rights Law, which impacted obviously the personnel files for many of your members. One thing you should be aware of is that under the rules of the New York State Assembly, Rule 8, this body exempts itself from being subject to FOIL.

So just so you're aware of kind of the hypocrisy of some of the bills that get passed. So when we talk about accountability and not punishment, that actually does seem like punishment and not really accountability when we're not holding ourselves to the same standards that we hold your members to.

With respect to marijuana legalization, I have a quick question for you. There's only one state -- of the states that have in fact legalized marijuana, there's only one state that has capped the potency of marijuana. Do any of you have an opinion on whether or not you think we -- if we do end up legalizing recreational use of marijuana, that we should cap the potency of it?

PRESIDENT MUNGEER: Well, I'll just say that you should -- you know, whatever laws that this esteemed body passes, we're tasked to enforce. So if you do decide to cap it, we'll act accordingly in our enforcement acts out on the road.

ASSEMBLYMAN LAWLER: Okay.

With respect to in-service training, I agree it's critically important. I know where I live down in Rockland County, we have great in-service training for all of our officers who work in our various police departments within our municipalities.

So I absolutely agree with your comments that, you know, in-service training is critical, and providing the funding for that, especially as we make some of these criminal justice reforms, to make sure that all of your members have the necessary and adequate training that they need to do their jobs, you know, responsibly and so that, you know, they can enforce the law and uphold standards.

The academy class, I think that's a critically important point. I know last year the Rockland County police exam was canceled. So I certainly agree with your assessment for the State Police and all of our police departments that we need to in fact get these police exams and classes on the books and get the funding for it, because I think one thing

we've seen is a lot of people have retired as a result of some of these reforms, so we definitely desperately need to fill some of these positions. So I appreciate your comments on that.

CHAIRWOMAN KRUEGER: Thank you.

The last Assembly -- no, I see two Assemblymembers more.

CHAIRWOMAN WEINSTEIN: Yes. So we go to Assemblyman Ra and then Assemblyman Palmesano.

ASSEMBLYMAN RA: Thank you, Chairs.

Panelists, thank you all. Thank you to all of your members for their service during -- you know, the last year has obviously been, between COVID and a lot of the unrest and things we saw last year -- you know, and they kept being out there each and every day to keep the public safe. So thank you to each and every one of your members.

I was just wondering if -- you know, in particular maybe for Mr. O'Meara and -- regarding this proposal in the budget that deals with the Governor's executive order

that requires, you know, changes at the local level with the potential of funding being withheld and the potential of a monitor being put in to oversee a local department.

How have -- you know, from the departments that are members of your organization, I'm sure there are some that probably have already put in plans and others that are going through that process. I'm just wondering if you have any perspective on how that is going.

PRESIDENT O'MEARA: Yeah, we've had a lot of perspective on it from our member associations. A lot of the police unions actually were not even represented on a lot of those panels, so ...

But my take on that is that it's going to be these numerous, numerous reports from all over every corner of New York State that are all going to be different. But last year we passed a bill that the Attorney General of New York State is the single person that looks into police misconduct.

So you have 40 to 50, I believe,

police academies in New York State. Everybody learns something different. We keep on changing laws. And like we said, we're not trained up to the laws, we're just told about the laws. And now we're going to have these commissions from all over the state coming up with ideas and plans on how the profession of policing is going to change. And, you know, that's okay. I mean, we have to -- we have to, you know, learn to adapt and move on. But we don't get training.

You know, they did the compression bill in New York City and the plan is to show a video on how police officers who learned to take people down and, you know, go on their back or sit on them -- they learn this in the academy -- we're going to show them a videotape now to teach them to not do it.

So, you know, if that's the case -- you know, I watched a lot of karate movies when I was a kid. I should be a black belt, but I'm not.

You know, you've got to -- you have to

go through training. You have to go through training. You can't just -- you know, you can't be handed a piece of paper or shown a video. You know, this is -- as you all know, this is serious business. And we all know that too. You know, we represent police.

So we have to treat it seriously, we have to allocate the funds, and we have to train our police officers to match what these commissions are going to come up with.

ASSEMBLYMAN RA: Thank you.

CHAIRWOMAN WEINSTEIN: Assemblyman Palmesano.

ASSEMBLYMAN PALMESANO: Yes --

CHAIRWOMAN WEINSTEIN: Phil, you're muted?

CHAIRWOMAN KRUEGER: Muted.

ASSEMBLYMAN PALMESANO: Oh. Sorry about that.

Good evening, gentlemen. I don't have any questions for you tonight, just a few comments, if I may.

First I just wanted to say -- take this opportunity to say thank you to you and

your members for your selfless dedication, commitment, service and sacrifice to protect us and keep us safe.

You know, each and every day you and your members leave your house and say goodbye to your spouse and/or kids, not knowing whether you're going to return home safely. Although unfortunately some of the policies coming out of Albany the past couple of years certainly doesn't reflect this appreciation, I just want you to know, on behalf of myself, my family, my community and certainly a number of my colleagues in the Legislature, how very truly grateful we all are to you for all that you do, have done, and will continue to do for all of us.

So on that note, I just want to say thank you, God bless you, and please be safe.

Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to Assemblyman Chris Burdick.

ASSEMBLYMAN BURDICK: Thank you, Madam Chair.

And I want to thank you all for your

testimony. And I also want to echo the thanks that have been expressed for your service to the state and to keeping us safe.

There has been a good deal of concern and discussion regarding the potential legalization of recreational marijuana. And this afternoon there was a very enlightening discussion with Acting Superintendent Kevin Bruen of the New York State Division of State Police, and there was a fair deal of discussion regarding how will we be coping with driving under the influence of marijuana.

And I think that for some, that's regarded as something new, something untried. But one of the things that became clear, that the comment that was "This is nothing new. We're already enforcing. It doesn't have to be legalized in order for us to enforce this." They're already looking for those who are driving under the influence, testing for THC and so forth.

And I'm wondering if you could comment on that. I don't know which panelist would

feel best in addressing it, but I'd like to get your take on it and your feeling about the preparedness to go forward should recreational marijuana be legalized.

PRESIDENT MUNGEER: I'll take that, Tom Mungeer from the Troopers.

I am a drug recognition expert, and -- but that beside, we do that, police officers, every day they go out there. The charge is DWAI, drugs. And it's based on a police officer's observations on how somebody drives. You know, whether somebody's under the influence of alcohol or some other substance, your initial stop is based on the observation of how somebody operates that vehicle. And then our investigation then continues through there.

So just because marijuana is going to be legalized, it doesn't change the way we investigate and do business. We're out there anyway.

Will more people be under the influence? I guess that remains to be seen. I do believe we need more funding for drug

recognition experts throughout the state.

And I think it also comes back -- and this segues back to the training, that police officers should --

ASSEMBLYMAN BURDICK: I just have a couple of seconds left. So you feel fairly confident that you'll be prepared for this should this occur?

PRESIDENT MUNGEER: Absolutely.

ASSEMBLYMAN BURDICK: Thank you so much. I appreciate it.

CHAIRWOMAN WEINSTEIN: Thank you to the panel for all of the work your members do. I've worked with many of you over the years.

And I'll go back to the Senate; I believe we have no more members who want to speak.

(Pause.)

CHAIRWOMAN KRUEGER: I was on mute, I apologize.

I just want to let everyone know that we are very open to working with all of you on additional changes we can and should be

making in New York, and I really appreciated your honesty about the fact that this has been tough times for you, and this has been tough times for a lot of communities as we evaluate the need to learn to talk to each other and to get things right.

And it sounds like you all think we need improved training. I come from New York City, just for the record; they're not doing anything once you graduate the first time. Our NYPD training academy, I describe it as a combination of a trip to Star Wars and Harvard at the same time. So they're not letting anybody go back and continue their training once they've graduated. That's extremely disturbing. Because I think we could probably provide the facilities for the entire state at that campus.

So again, thank you very much for your work and for your being with us tonight.

And our next panel, for those who are keeping track, Panel D: The District Attorneys Association of the State of New York, Anthony Jordan, from Washington

County; representing the Defenders Association, Susan Bryant; the Chief Defenders Association, Laurette Mulry; a group called Students Demand Action, Audrey Sample, student leader; and the New York State Dispute Resolution Association, Regina Ritcey.

I'll start with the District Attorneys Association, if you're here.

WASHINGTON COUNTY DA JORDAN: I am.

Chairwomen Weinstein and Krueger, thank you for letting us speak with you this evening on behalf of the DAs Association. On behalf of our president, Sandra Doorley, she sends her regrets, but she was not able to get out of a prior commitment.

When we've been looking at this year's Executive Budget, but certainly in following the discussions in the Legislature, there are some areas in the criminal justice system that certainly continue to remain in very sharp focus. A few of the areas that I think matter certainly to our organization, but I suspect to many on this current panel,

include pre-arrest and judicial diversion. These provide great opportunities, both for the accused -- but my experience is they do a great amount of good toward reducing recidivism.

Certainly as we look at the legislation to add greater access to mental health and Veterans Court, that is a great and important initiative.

I think what we find, though, as we look at these, the implementation of these initiatives, there's a significant resource gap in the state. And I think as we look at bringing about these programs, I would ask that you consider those issues so that the accused can have access to these diversion programs and then DA's offices can certainly make them available.

Certainly discovery and the changes that came about as part of the 2019-2020 budget brought about a change to the criminal justice system unlike any, I suspect, in the last generation. Our offices spent months working together, collaboratively, to -- I

won't use the full three minutes.

CHAIRWOMAN KRUEGER: Yeah, I'm not sure what happened with the clock. It was our fault, so just --

WASHINGTON COUNTY DA JORDAN: No, no.

But, you know, we spent a great deal of time trying to come up with how to comply with the spirit of the law. And certainly none of this would have been possible without that collaborative effort amongst the offices and the contribution of NYPTI, which is the New York Prosecutor Training Institute.

Their programs, their case management system, but most importantly the digital evidence management system that they helped develop has made our ability to turn over voluminous, you know, amounts of discovery in a very rapid period of time possible. So we would ask that you certainly continue to look to fund their efforts.

But also, much of the burden of discovery fell squarely on the backs of the localities on very tight budgets. And there was not a commensurate amount of support for

the localities. And we would just ask, so that we can all continue to comply with not just the letter of the law, but truly the spirit of the law, what is it for and what is the goal, to look to provide that type of funding.

I know there's been a lot of talk about body-worn cameras for the State Police. And what a significant step forward in continued transparency and accountability. But body-worn cameras are great, but they are very expensive -- not only the expenses that we heard Acting Commissioner Bruen mention for State Police to purchase, but the cost to the localities to review, to store and to deliver the body-worn cameras. In much of the state, public defender's offices are also part of county government, and so there's going to be duplicative storage of all of that data.

So we would just ask not only do you look for funding toward the State Police side, but also for our localities again in that area.

And I'll wrap up sort of quickly here. A lot of talk about decriminalizing marijuana, a lot of focus on driving. But there are other public safety and public health issues that, as you explore this, we would just encourage the continued discussion with all of the experts, as I know you will, but also include our offices, because we are on the front line of trying to move these cases through the system.

And then lastly, you know, DAASNY, we're here, we're ready, we want to work with you to try to bring about these important initiatives. And certainly would look to help explore the resource gaps that we see that exist throughout the state.

So thank you very much.

CHAIRWOMAN KRUEGER: Thank you.

Next is New York State Defenders Association.

MS. BRYANT: Hi, good evening, Chairs Krueger and Weinstein and the rest of the members that have stayed on. I appreciate your time and the opportunity to testify.

In fact, this is earlier testifying than ever before, so I greatly appreciate that.

My name is Susan Bryant. I'm the executive director of the New York State Defenders Association. And I'm proud to talk to you today about the work of the Defenders Association and to ask for your ongoing support.

So NYSDA is a nonprofit organization that provides a wide range of services to public defenders around the state who represent individuals in criminal and family court proceedings. So we are really the counterpart to NYPTI, which my previous panelist spoke about. And we've been funded by New York State since the early '80s to do this work as the public defense backup center.

And for five years we've also run a Veterans Defense Program, which you heard about yesterday, many of you, from our deputy director, Roy Diehl.

So the key issue I wanted to bring up

with you is your support and funding for the state defenders association's ongoing work, as well as in the current state fiscal year. So we are asking the Legislature, both the Senate and the Assembly, to add an additional $1,059,000 to NYSDA's budget in the upcoming state fiscal year because the Executive in the proposed budget, as has happened in the past many years, has proposed half of the money that we need in order to maintain our base operations.

So we are also asking for -- to make sure that we receive a reappropriation for the million-fifty-nine-thousand legislative add from last year, which has not been put to contract and we have not been able to seek reimbursement for. I know we're in the same situation as many others, and appreciate your support with regard to that.

As you heard from Bill Leahy earlier today, the director of the Indigent Legal Services Office, NYSDA's work is critical to public defense and improving the quality of representation. In the past year we've taken

responsibility to educate and train defenders on the existing laws as well as many new laws which we are grateful to the Legislature for passing, including bail, discovery, speedy trial reform, Domestic Violence Survivors' Justice Act, the Driver's License Suspension Reform Act, Raise the Age. All of those things we provide training on.

We also run a case management system that's similar to NYPTI's, which is in 91 sites in 53 counties, and we're expanding that to help with the discovery process.

And also, for Family Court, we support the ILS request for 5 million additional dollars, because families, particularly Black and brown families, are disproportionately involved in our family regulatory system and they really need quality representation, and the state really needs to step up in that regard.

We also support the Indigent Parolee Program appropriation of $600,000 and a reappropriation of that funding.

Thank you so much for your time, and I

look forward to speaking further on these issues.

CHAIRWOMAN KRUEGER: Thank you.

Next is Laurette Mulry, Chief Defenders Association of New York.

MS. MULRY: Thank you and good evening. As you said, my name is Laurette Mulry. I'm the president of the chief defenders association of New York, which is an association of public defenders and chiefs of Legal Aid Societies and assigned counsel plans across New York State. Collectively we oversee programs that provide the mandated service of indigent criminal and family defense in over 300,000 cases annually.

I would like to thank Senator Krueger and Assemblymember Weinstein and this venerable Legislature for the opportunity to present on the limited topic of the Public Protection Article VII bill Part J, which allows for the expansion of electronic court appearances.

On behalf of the public defense community, I would like to state

unequivocally our unified opposition to virtual appearances at critical stages of court proceedings, most notably at first court appearance or the arraignment stage.

When New York paused back in March due to the COVID crisis, our court system never faltered and continued operations in a virtual format. And we understood this and were grateful for it, because it protected public health and safety and continues to do so to this day.

However, once the exigency of this pandemic subsides, in-person arraignments must be restored to our hallowed court system to assure due process, to allow public access to the courts, and to prevent further racial and digital divide within our justice system. Virtual arraignments deprive the accused of effective assistance of counsel, which of course is predicated upon building trust with our clients, which is very difficult to do on a computer screen.

Furthermore, due process would require that a person being held before a court to

answer charges should actually have the right to be present in court, right, for a judge to look them in the eye to be able to assess their credibility, demeanor and humanity. Indeed, New York State has already made a commitment to, and I quote, ensuring that each criminal defendant is represented by counsel in person at his or her arraignment. This is language that comes directly from the Hurrell-Harring settlement agreement to which New York State and five counties are parties.

This commitment was further extended to the entire state by virtue of the Executive Law in 2017. Therefore, in New York, client and counsel are legally mandated to appear in person at the arraignment stage.

Virtual arraignments produce harsher results for the accused. Studies have shown that bail outcomes of virtual arraignments were over 50 percent higher than when done in person. This may be attributable to the inherent dehumanization of defendants appearing in a virtual setting.

Virtual arraignments further broaden the justice gap for those who are poor who lack resources like computers or smartphones or wifi. This digital divide threatens access to justice and may disproportionately affect communities of color, further perpetuating a racial divide in our court system as well.

Virtual arraignments are less efficient. The ability to speak to clients is limited, the processing of paperwork is hampered, and definitely technology issues abound. Each case takes much longer, and arraignment calendars often go well into the early morning hours in many places.

Furthermore, public access to the court is denied. Family members and friends who ordinarily could vouch for our clients and assure a contact, supervision or place to live in the community are not present.

Virtual arraignments have come at a huge cost for our clients in terms of their constitutional rights. The true majesty of

our court system, which preserves these rights and should do so equally for all, must return to in-person arraignments in post-pandemic New York, and we respectfully ask for your assistance in this matter going forward.

Thank you for the opportunity to speak. Sorry I went over.

CHAIRWOMAN KRUEGER: Thank you.

Everybody's doing very well at this time frame. It's okay.

Next we have Audrey Sample, Students Demand Action.

MS. SAMPLE: Hello. Thank you for having me today.

My name is Audrey Sample, and I am the founder and group lead for Students Demand Action Rochester. I joined the movement to end gun violence as a teenager, shortly after my beloved, medically fragile sister passed away at home, surrounded by family.

In the aftermath of her death from the flu, well-meaning friends told me, "There is no worse way to lose a child." These remarks

always struck me as inaccurate, because I know there are families who lose children without a peaceful goodbye.

Grief connects you with everyone who has ever lost someone. I know the hollowness of waking up each morning knowing the person you love most in this world is dead -- and yet I cannot imagine how much more complicated my relationship with grief would be if my sister's death could have been prevented by greater access to community resources or sensible legislation.

I urge you to include S1049, the Community Violence Intervention and Prevention Act, in the budget. I have a responsibility to help prevent other young people from knowing this hollowness, and you, as a legislature, do too.

Despite some of the strongest gun laws in the country -- which have had a significant impact -- New York still struggles with gun violence. In New York, on average, 370 people die by firearm homicide and 1,522 people are wounded by gun assault

or shooting by police.

We need investment in community-led safety initiatives. If we want to end gun violence, we need access to resources that are not dependent on a survivor's level of comfort with police. Currently, victims who report to the police receive services at higher rates. From 2000 to 2009, 14 percent of victims who reported to the police received services, while only 4 percent of victims who did not report received services.

Violence intervention programs successfully reduce violence by implementing alternative public safety measures that are locally driven, informed by data, and often don't require police involvement.

The Federal Victims of Crime Act funding has been underutilized in supporting gun violence survivors. S1049 allows New York to address its gun violence epidemic via trauma and community-informed programs.

We must act now to prevent gun violence. We owe this to survivors; we owe this to New Yorkers.

Thank you, and please let me know if you have any questions.

CHAIRWOMAN KRUEGER: Thank you very much. I'm sorry for your family's loss.

Regina Ritcey, New York State Dispute Resolution Association.

MS. RITCEY: Thank you.

Good evening, Madam Chair and honorable members of the committee. Thank you for the opportunity to be with you here this evening.

My name is Regina Ritcey. I'm the executive director of the New York State Dispute Resolution Association, and I'm here this evening on behalf of NYSDRA, the New York State Dispute Resolution Association, and the statewide network of Community Dispute Resolution Centers, or CDRCs. CDRCs help people address and resolve conflict in their lives, improving lives and strengthening communities.

The CDRCs are actually a network of 20 independent nonprofit organizations which provide remediation and related dispute

resolution services. The 20 independent CDRC centers serve every one of New York State's 62 counties.

Funded in part by OCA, the Office of Court Administration, independent funding, contracts and grants, CDRCs match OCA funding nearly dollar for dollar through grants, contracts and other fee-based services.

The New York State Dispute Resolution Association is the membership association of the CDRCs and their mediators. We support the work that they do. The centers actually are staffed by a dedicated group of staff members. The work itself, the mediation work, is primarily, though, done by pro bono volunteers, community members who are professionally trained to provide mediation and other services. Nearly all of the work that they do is provided at no charge to the participants.

Conflict in our lives is not new, but as New Yorkers struggle to adjust to the disruptions of COVID, conflict has been exacerbated and housing conflicts, family

conflicts, conflicts with neighbors and any part of our society have really just been exacerbated. And the need for conflict resolution has just grown.

The CDRCs offer an effective alternative to the courts and are actually an important part of the Chief Judge's Excellence Initiative. The CDRCs work in concert with the courts to handle cases that are referred out and also receive self-referrals and referrals from other organizations. They handle housing, family matters, and many other situations where conflict is disruptive and impacts people's lives.

The CDRCs have been hard-hit by cuts in 2011, and the funding since that time was never fully restored. I'm here today to ask you to support the funding for the centers. I stand with the civil legal services in asking to have the 10 percent recent cuts restored, and also to help prevent any further cuts.

We're also asking for the preservation

of the $10 million in the DCJS Aid to Localities budget.

By funding the effective dispute resolution services of the CDRCs, you can have a positive impact on the lives of New Yorkers. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Do I see any hands up? I do. I see Jeremy Cooney from the Senate's hand up.

Hello, Jeremy.

SENATOR COONEY: Hello, Madam Chair. It's good to see you. It's getting darker outside, but we're all still here, and I'm glad we are.

I want to direct my question to Ms. Sample from Students Demand Action. Audrey, it's great to see you here, and thank you for hanging around with us tonight. I'm so grateful for the work that you do in Greater Rochester specifically around communities of color. I've seen you out doing that work over the past several years.

You know as much as I do that Rochester still struggles with gun violence.

We had a quadruple shooting last week in my district on Lyell Avenue. This continues to be an issue for us, and we're very concerned about it. But I want to direct my question really about the healing that you noted before, specifically for survivors of gun violence.

Where are we missing the mark as a state? Where could we do better, whether it's a program that is happening in other parts of the country that Students Demand knows -- but where could we be offering more resources to survivors of gun violence who are dealing with the trauma that we're seeing right in our hometown of Rochester?

Thank you.

MS. SAMPLE: Thank you, Senator Cooney.

Well, as I noted before, I feel really passionately that in New York as a whole, but in our cities specifically, where so many Black and brown people do not feel safe with the police -- and, you know, white people as well -- that we need resources that don't

rely on them contacting law enforcement if that's something that they don't feel comfortable with.

And so one of the most popular violence intervention program models is called Street Outreach, which provides both immediate crisis response services and long-term stabilization support to individuals and communities affected by gun violence. A 2017 evaluation of a Street Outreach model known as Cure Violence implemented in the South Bronx found that its street outreach efforts were associated with a 37 percent decline in gun violence injuries and a 63 percent decline in shooting victimizations, while a similar neighborhood without such a program did not experience the same rates of reduction.

So I think that, you know, we really need innovative solutions and we need creativity and people with, you know, compassionate hearts and, again, creative minds to come to the table on this. And I'm happy that you have continued -- that you

fought with us from the beginning and then continue to fight with us, and I really hope that the Legislature can include this in the budget.

SENATOR COONEY: I thank you. And with compassion and creativity, we can accomplish a lot. And I know that Students Demand Action will do just that.

So thank you for all the work that you're doing.

Thank you. I yield my time.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Ra.

ASSEMBLYMAN RA: Thank you, Chair.

Good to see you, Mr. Jordan. I just had a quick question for you.

So I had asked DCJS earlier today about the $40 million that was appropriated last year for the Discovery Compensation Fund, and he did tell me that I guess some -- there was some amount, I guess 1.75 million that had been spent on this DEMS system. I

was just wondering if you are aware of any funding going out the door, you know, directly to local DA's departments.

WASHINGTON COUNTY DA JORDAN: So late yesterday afternoon we actually received an email from DCJS. And what they've done is they've structured the award by -- I think they used some formula of arraignments and maybe county size. But it's not exclusively for discovery, and it's not exclusively for DA offices.

So what they've done is it looks like they've bundled together pretrial services so -- to address release under supervision or release with conditions, to fund that, also providing funding for the sheriff's department, local PDs, and then the DA offices.

My understanding, although it's very early, but in terms of trying to understand how it's going to get rolled out, it looks like in counties with county executives the notice may have gone to the county executive. So that is -- you know, it could create

"where is the money going to go, how is it going to be used."

So certainly some is better than none, as we often tell our kids. But I think it's a -- if it's a one-shot, it might -- it helps address some of the costs that our county has incurred. But certainly the amount that we were seeing that we expect if we're able to complete all of the grant application process would be about what probably is necessary each year going forward.

So hopefully it's not a one-time deal. And it wasn't just for discovery. And it goes far beyond just DA offices. So it will be interesting to see how all that works out.

ASSEMBLYMAN RA: Thank you.

WASHINGTON COUNTY DA JORDAN: Good to see you as well, Assemblyman.

ASSEMBLYMAN RA: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

Back to the Senate.

CHAIRWOMAN KRUEGER: Actually, we thought we had a Senator, but we lost them. So I'll give it right back to the Assembly.

CHAIRWOMAN WEINSTEIN: Okay. Then we have Assemblyman Lawler, I believe is the last member we have.

ASSEMBLYMAN LAWLER: Thank you, Chairwoman.

Tony, it's good to see you. I'm sure you --

WASHINGTON COUNTY DA JORDAN: -- {inaudible} on this side.

ASSEMBLYMAN LAWLER: That's right. I'm sure you miss these budget hearings.

So I just wanted to ask quickly -- I know in your comments you had mentioned really about the cost for some of these criminal justice reforms that came down on the district attorneys', you know, offices.

So I just want to give you another moment to expand on some of the unfunded mandates as part of these criminal justice reforms and the need for funding in the state budget. So that's one.

And then, second, I just wanted to get your comment with respect to the legalization of recreational use of marijuana. Of all the

states that have so far legalized marijuana, there's only one state that has capped the potency of marijuana, and that's the State of Vermont.

So I was just curious if you had a comment with respect to whether or not, as New York State looks to pass the legalization of marijuana, whether or not you think there should be a cap on the potency of marijuana.

WASHINGTON COUNTY DA JORDAN: Sure. I think with funding, I think there -- it's a noble effort and it was an important change in terms of really rearranging completely how discovery happens in criminal cases.

But to make sure it actually works and works well, I think the state should look at funding for all affected agencies. So a lot of the funding has focused on the defense side, which is important, but I guess they should also focus on our ability to turn that discovery around and get it reviewed. And it's only -- body-worn cameras is going to have a significant impact on those costs. With --

ASSEMBLYMAN LAWLER: Especially on the IT side of it.

WASHINGTON COUNTY DA JORDAN: Well, in body time. You have to review the body-camera footage because you have to make sure there's nothing on there that shouldn't be made public. You know, you could have kids in compromising situations, Social Security numbers. You know, it's not even related to the case.

So there -- and you can't substitute reviewing body camera footage with a computer. And as I speak, if I were the Public Defenders Association, they're saying the same thing, right, because their people have to review this footage now. So it goes both ways.

With marijuana, I would really encourage -- we had a great presentation from folks from Colorado, and they talked about many of their experiences. And I think those can be very instructive. Potency certainly would be a concern as -- just as a person. But it's also the deliverables, how is it

going to be deliverable. Is it edibles, is it candies? It's things that we've often struggled with in the cigarette world, right, with not making it attractive to kids.

So I think those would be some of the same public health and safety concerns we would have.

ASSEMBLYMAN LAWLER: And on those edibles, the potency is about 98 percent. So that's -- that's why I asked specifically about capping the potency.

Thank you.

CHAIRWOMAN KRUEGER: Anyone else?

CHAIRWOMAN WEINSTEIN: No, we have no one else, Senator.

CHAIRWOMAN KRUEGER: All right.

I just have to say that Assemblymember Lawler and I have to sit down separately and discuss my marijuana bill, because I think he's getting a bunch of the issues slightly off. But we're not going to do that at tonight's panel. But let's make a date to talk about this. Thank you.

ASSEMBLYMAN LAWLER: Happily, Liz.

Happily.

CHAIRWOMAN KRUEGER: Thank you.

All right, the next panel, the Osborne Association, Elizabeth Gaynes; the Vera Institute of Justice, Shayna Kessler; the Katal Center for Equity, Health and Justice, Yonah Zeitz; and Moms Demand Action for Gun Sense in America, Barry Graubart.

And everybody here? Let's start with the Osborne Association.

MS. GAYNES: Hi. Thanks for having me. I'm Liz Gaynes, from Osborne. We are a 90-year-old nonprofit that works in 30 prisons, Rikers Island jails, New York City, Newburgh and Buffalo.

And I want to be in that conversation about cannabis that you guys are going to have. And hold on to your idea and don't compromise. It's not just about where the money goes, it's also making sure that it's not Big Pharma and Big Cannabis that takes over but that our communities get the licenses to produce, process and sell.

But that's really not why I came.

It's been a brutal year. The nonprofit sector has really stepped up. And I know that it's easy to thank police for their service and sacrifice, but I'd like to also thank the front-line people in public safety who have been doing this work. It's mostly -- it's not been done with state money. The CEO raised money for a private stimulus package for people coming home. We raise thousands of dollars from private donations to give people coming home smartphones and reentry kits so that they could come home in this time of COVID.

We've even had to raise private money to do our work with policing. We're working with the Buffalo Police Department and NYPD on training specifically around policies and protocols of what happens when you arrest a parent in front of a child.

With all the talk about police training, it's a great idea, but the issue is police-community relations. And the training needs to include, as Buffalo and NYPD have included us, members of the community to be

part of that training.

Obviously the Rochester Police need some work responding to children and people with mental illness. But it's broader than that. And so your investment in police training, including the community, will contribute to raise equity as well.

Look, the DOCCS population has gone down dramatically, but one group that's persistently and sadly stuck because of the persistent and perpetual punishment of people sentenced for violent offenses decades ago. Parole reforms are on your agenda, and I hope we get them this year. Elder parole, fair and timely parole bills are critical to offering opportunity for long-term incarcerated individuals. They have a recidivism rate that's about zero. They often committed their crimes as adolescents. Yet they're excluded from the early release DOCCS executive order. They're excluded from work release. They're excluded from educational release, although they are highly represented in the prison college group. And

the community would benefit from them. I hire as many as I can.

I hope you'll pass legislation for parole reforms, prison reforms, sentencing reforms and other campaigns. We're part of parole justice, justice roadmap, and HALT.

We also have some budget requests we don't have time for -- Senator Kennedy has funded our work in Buffalo, and our elder parole reentry program for Adirondack and the 8,000 older adults who are incarcerated.

I'm out of time, but not out of energy.

CHAIRWOMAN KRUEGER: All right. Thank you.

Our next testifier, Vera Institute of Justice.

MS. KESSLER: Thank you very much. Good evening. Thank you so much for your time.

My name is Shayna Kessler. I'm a senior planner with the Vera Institute of Justice. I'm pleased to testify today in support of an increased commitment to the

Liberty Defense Project, or LDP, which funds the New York Immigrant Family Unity Project, or NYIFUP.

Governor Cuomo included $10 million in his fiscal year '22 Executive Budget for LDP, and today I'm asking you to support this critically important work with an additional $5.3 million investment, for a total of $15.3 million in FY '22. This would support a $6.5 million allocation to NYIFUP.

The Vera Institute leads national efforts to advance universal representation so that everyone at risk of deportation can have access to a lawyer. In spite of extremely high stakes, immigrants are not guaranteed a lawyer if they can't afford to hire one. With New York's investment, though, NYIFUP became the country's first and only statewide universal representation system for detained immigrants, providing a beacon of hope for those torn from their homes by immigration enforcement.

This investment in NYIFUP brings critical benefits to our state, especially

during the pandemic. One in three New York children has an immigrant parent, and more than one-quarter of the state's workforce is foreign-born. During the pandemic, immigrants are responsible for work that sustains our economy and safeguards public health.

With immigrants three and a half times more likely to obtain release from detention with a lawyer, and 10 times more likely to prove their right to remain in the United States, NYIFUP has reunited families, promoted economic stability, and maintained confidence that New York stands with immigrants in this difficult time.

While the Biden administration is making promising changes reversing the brutal anti-immigrant harm of the past four years, paving the way forward will only be possible with legal advocacy. NYIFUP presents a powerful example to Washington of an immigration policy that centers human dignity.

It is also critical to addressing

systemic racial injustice by interrupting the arrest to deportation pipeline that leads to racial profiling and the criminalization of communities of color. More than 40 jurisdictions have followed New York's lead by funding deportation defense. They recognize that investing in representation for immigrants safeguards health and stability during this challenging time.

There's also overwhelming public support for the work. A poll found that 93 percent of New Yorkers support government-funded lawyers for people in immigration court. The $10 million for LDP and in the Governor's budget is a welcome start, but to keep the program strong we urge the Senate and Assembly to fund LDP at $15.3 million, which would enable a $6.5 million allocation to NYIFUP.

Thank you very much for your time.

CHAIRWOMAN KRUEGER: Thank you very much.

Katal Center for Equity, Health and Justice.

MR. ZEITZ: Yes, good evening. And thank you, Senator Krueger and Assemblymember Weinstein for inviting our testimony this evening.

My name is Yonah Zeitz, and I'm the policy coordinator at the Katal Center for Equity, Health and Justice. And we're a community-based organization that focuses on ending mass incarceration and building community power.

And for tonight's testimony I will be talking about the parole system and in particular the problem of reincarcerating people for technical violations of parole.

This issue is unjust, and it exacerbates racial inequity within our justice system, and it provides no commensurate gains to public safety. And in particular for this hearing, it comes at an immense fiscal cost.

And so the Katal Center, along with the Less Is More Campaign, has been working to pass the Less Is More Act, which would address this issue and should be included in

this year's budget.

And so what exactly is a technical parole violation? It's anything from missing an appointment with a parole officer to failing an alcohol or drug test. And so these are not new criminal offenses, but yet New York reincarcerates more people for these type of noncriminal technical violations of parole than any other state in the nation. This is a failure in terms of our public policy.

And so right now there are currently 5,000 New Yorkers that are incarcerated in jails and prisons for these type of noncriminal technical parole violations. And so that means about 4,000 people in state prisons are incarcerated for these violations, and that makes up about 12 percent of the entire prison population and about one-third of all new admissions to state prisons. And so this is one of the main driving forces of mass incarceration in the state.

And the racial disparities are quite

stark. Black and Latino people are incarcerated at much higher rates for these technical violations than white people.

And along with, you know, the human and racial aspect of this bill, it also comes at an immense fiscal cost. New York is -- we spend over $600 million annually at the jail and prison level, incarcerating people for noncriminal technical violations of parole.

And so at the state level the nonpartisan Council on State Governments issued a report stating that New York State spends about $369 million annually incarcerating people at the state prison level for technical violations of parole.

And then at the county level, the counties are responsible for the full costs of incarcerating people in the jails as they're awaiting alleged violations. And so in New York City alone, that was about $300 million a year.

And so the Less Is More Act would fix this issue. And so the bill is currently in the New York Legislature and it's being

sponsored by Senator Brian Benjamin, and it actually just moved out of the Senate Crimes, Crime Victims and Corrections Committee. So thank you, Senator Salazar, for helping make that happen. And so we're hoping that this bill can be included in the budget.

And also it's worth noting that we have broad support for this bill. So there are over 230 groups, faith leaders and other organizations, that support this bill, along with some broad support from public safety officials. So we have over seven DAs signed on in support of this bill. We have county sheriffs. We also have some former probation and parole officers that support this bill.

And so let's get -- we want to get this done in this budget year. And so thank you for the time, and I'd be happy to answer any questions.

CHAIRWOMAN KRUEGER: Thank you.

And our last speaker for this panel, Barry Graubart from Moms Demand Action for Gun Sense in America.

MR. GRAUBART: Hi, my name is Barry

Graubart, and I'm the deputy chapter leader for the New York Chapter for Moms Demand Action for Gun Sense in America.

In that role, I work with numerous survivors of gun violence from across the state on a daily basis. So thank you, Chairs Krueger and Weinstein, for inviting us to testify on this critical issue.

And I'm urging you today to include Bill S1049, Senator Myrie's Community Violence Intervention Program Act, in the budget. We know that in New York, gun homicides disproportionately impact Black and brown families living in neighborhoods shaped by long-term underinvestment. Adequate funding is critical to providing these key services to victims of gun violence.

A few things that we do know about access to these victims services. So on average, fewer than one in ten victims of serious violent crimes receive assistance from a victims services agency. Victims of serious intimate partner violence are three times more likely than other victims of

serious crimes to receive those services. And in our Black and brown communities, we know that crime victims are less likely to report their crimes to the police, and as a result we know that a large percentage of victims of serious crimes in these neighborhoods are just not receiving the services they require.

Instead, a patchwork of small community-based organizations try to fill the gaps where they can, but clearly it's not enough.

What's the cost to this failure? Well, you know, the data shows us that using VOCA funds to resource community-based services to gun violence victims allows us to interrupt these cycles of violence. And funding community-based organizations is the best way to increase access to these services.

Community-based organizations are small, they're often founded by a gun violence survivor, and they're staffed by volunteers. These organizations are amazing,

but they operate on shoestring budgets and they really could increase their service provision and their impact through increased funding.

So in conclusion, I just want to say VOCA victim assistance grants, they're a plentiful and largely untapped funding source for gun violence victims services like hospital-based violence intervention, street outreach programs, trauma recovery centers, and more. States, cities and community-based organizations have a unique opportunity to drive VOCA victim assistance funding to these and other gun violence victims services. New York has struggled to utilize these funds due to unnecessary constraints which make it harder for these small organizations to participate.

The CVIP bill, S1049, is really an important step toward removing those constraints and delivering on the vision for gun violence prevention that I think we all strive for.

In my last 20 seconds, I want to just

thank -- I know Senator Hoylman is in the room. I want to thank Senator Hoylman and all of the Senate for passing two critical bills today on banning ghost guns, S13 and S14. Chuck Lavine is also -- we'll get to the Assembly -- and has been a big -- like both of those bills are named for gun violence survivors, to honor them, who I know very well.

So thank you all.

CHAIRWOMAN KRUEGER: Thank you very much.

Any hands up? Then we're going to thank you all -- oh, sorry, Helene.

CHAIRWOMAN WEINSTEIN: No, just -- we don't have anyone.

CHAIRWOMAN KRUEGER: Oh, okay. I didn't want to cut you off.

And really it's just the hour that is keeping us all from following through with you tonight. But thank you very much for your testimony and for being with us here tonight.

All right, our next panel, which is

actually our last panel for this evening, Journey's End Refugee Services, Sarah Bertozzi; UnLocal, Terry Lawson; and Center for Judicial Accountability, Elena Sassower.

Starting with Sarah. Are you here, Sarah? Does any staff see whether she checked in?

THE MODERATOR: Oh, she's here.

MS. BERTOZZI: Can you hear me?

CHAIRWOMAN KRUEGER: Oh, there you are. Now we can hear you. Hi there.

MS. BERTOZZI: Sorry about that. Hi, thank you. Good evening.

My name is Sarah Bertozzi, and I'm the managing attorney of the Immigration Legal Services Program at Journey's End Refugee Services. And my testimony also supports funding for immigration legal services in the New York State budget.

Our legal department maintains offices in Buffalo, Rochester and Binghamton, where we provide immigration legal services, access to which is one of the most critical needs of

immigrants in New York State.

Immigrants of all statuses require legal assistance on their immigration matters, including refugees, asylees, asylum seekers, DACA recipients, green card holders, and even naturalized U.S. citizens. And their ability to access and navigate our federal immigration system is also dependent on immigration attorneys that represent them before USCIS, which is U.S. Citizenship and Immigration Services, and immigration court.

Specifically, immigration attorneys fight civil detention and deportation for asylum seekers seeking safety in the U.S. They apply for green cards and naturalization to secure and advance immigration status. They obtain work authorization to seek lawful and meaningful employment. And they petition to reunite families that have been separated by violence, conflict and war.

These needs are great and are critical to a safe, healthy, productive and meaningful adjustment to life in the U.S. However, due to a lack of resources, particularly in

underserved areas like upstate New York, there are not enough immigration legal service providers to adequately meet these needs.

And immigration cases are primarily successful with the representation of an attorney who can assist in the navigation of this turbulent field of law. Seventy-eight percent of immigrants with lawyers win their cases, versus 15 percent who do not have legal help. And consequences of denied cases are severe. They can include prolonged family separation, even deportation to dangerous countries.

In response to these significant challenges, New York State has made a substantial investment in immigration legal services, in 2012 with the creation of the Office for New Americans, or ONA, and in 2018 with the launch of the Liberty Defense Project, or LDP. ONA and LDP provide funding for nonprofit immigration legal service providers to meet these needs, and our legal department could not operate without this

funding.

However, each of our offices maintains a waitlist. In Western New York we're the only refugee resettlement agency that has attorneys working on these cases. And in the Southern Tier and Finger Lakes regions, access to representation on immigration legal cases is a rare opportunity.

So consequently we are advocating for the maintenance and expansion of ONA and LDP funding in the New York State budget. We are specifically asking for increased funding for LDP to 15.3 million from its current 10 million, and an increased budget for ONA to 9.1 million from its current 6.4 million, maintenance of which will allow us to keep our commitment to clients with open cases. And expanded funding allow us to help even more immigrant New Yorkers.

Thank you for your time.

CHAIRWOMAN KRUEGER: Thank you.

Our next testifier, Terry Lawson, from UnLocal.

MS. LAWSON: Thank you for this

opportunity to testify at today's hearing. My name is Terry Lawson, and I am the new executive director of UnLocal, a community-centered nonprofit that provides direct community education, outreach, and legal representation to New York City's undocumented immigrant communities.

I would like to begin by discussing the work of UnLocal in the context of a recent case of ours that has been in the news.

Javier Castillo Maradiaga is a 27-year-old Bronx resident who came here with his family when he was 7 years old. He was referred to UnLocal because we are one of founding partners of the Rapid Response Legal Collaborative, which is funded in part by ONA. In December 2019, Javier was unlawfully transferred from NYC Department of Corrections custody to ICE, in violation of New York City's Detainer Laws.

Though Javier's criminal charges were subsequently dismissed and sealed, he remains in ICE detention and has been nearly deported

three times since President Biden's inauguration.

To stop Javier's deportation, in the span of just two weeks UnLocal has filed two requests for a stay of removal, one with ICE and one with the Board of Immigration Appeals, a motion to reopen his removal proceedings, a habeas petition, a motion for a preliminary injunction, and a memorandum of law with the Southern District of New York. We have held four press conferences, an online community gathering, and have gathered over 6000 signatures in a public petition. We have also engaged with legislators and elected officials at every level.

Before coming to UnLocal, Javier's family spent over $20,000 in private legal fees to fight their immigration cases. Javier's mother has told me about how her family was taken advantage of by unscrupulous providers and how hard it was for them to find free, high-quality legal representation.

Their case came to our attention via the Rapid Response Legal Collaborative just

days before Javier was transferred to Louisiana.

If the events of the past two weeks have taught us anything, they have taught us that while the Trump administration is no longer in power, this work is far from over. Deportation flights are still taking off, and UnLocal and immigration advocates across this city are working tirelessly alongside immigrant New Yorkers to ensure that they remain here with their families.

Javier is DACA-eligible, his siblings have DACA, his parents have TPS, and we continue to work harder than we have before to provide immigrant New Yorkers like Javier and his family with free, high-quality legal services.

We appreciate the Legislature and OCA's support of civil legal services. And as Javier's case demonstrates, the need for this funding continues, particularly as immigrant communities battle the effects of COVID.

Thank you so much for this hearing and

for outlasting your federal counterparts by several hours today. So thank you so much.

CHAIRWOMAN KRUEGER: Thank you very much.

And our last testifier for this evening, Elena Sassoir -- Sassoher, excuse me. Sassower. I know how to say it, I'm just a little tired, excuse me.

Unmute yourself, we can't hear you. There you go.

MS. SASSOWER: My name is Elena Sassower, and I am director and cofounder of the nonpartisan, nonprofit citizens organization Center for Judicial Accountability. Our website is www.judgewatch.org. And from its prominent center panel entitled "Comparing New York's Legislature Before and After its Fraudulent Pay Raise," you can find the evidentiary substantiation of this testimony.

As you know -- because I've stated it repeatedly -- our foremost public protection is the New York State Constitution, which by Article VII lays out the manner in which the

State Budget is to be fashioned and enacted. This year, as in past years, the budget is off the constitutional rails, and I long ago and repeatedly furnished you with proof and, in the absence of your response, sued you in two citizen taxpayer actions, the second encompassing the first, laying out the unconstitutionality of the Judiciary Budget, the Legislative Budget and the whole of the Executive Budget, and of the force-of-law commission scheme by which you gave pay raises to judges and, as a consequence, to district attorneys via commission reports that are false instruments.

You have had no legitimate defense to either lawsuit, and so your attorney, the New York State Attorney General, himself a defendant, corrupted the judicial process with litigation fraud and was rewarded with fraudulent decisions. This also enabled you to utilize the same force-of-law scheme to procure your committee-based pay raises for yourselves, and for the Attorney General, the Comptroller, the Governor and the Lieutenant

Governor, also by a report that is a false instrument.

The foregoing is the subject of 62 fully documented grand jury public corruption complaints against you that I've filed with New York's 62 district attorneys, including Washington County DA Jordan, who has just testified at this hearing.

In the event you are not knowledgeable of those 62 complaints, the most important being the complaint filed with Albany County DA Soares, all 62 are accessible from CJA's webpage for my testimony and this Public Protection Budget Hearing. That is where you will also find other relevant complaints such as against the first witness at this hearing, Chief Administrative Judge Marks, and New York's Court of Appeals judges who certified and approved the Judiciary's slush-fund budget filed with the Commission on Judicial Conduct, whose administrator, Robert Tembeckjian, was your second witness.

I am available to meet with the Legislature to discuss the foregoing,

including the specifics relating to the fiscal year 2022 budget, and to testify under oath. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Any questions? I don't see hands raised.

CHAIRWOMAN WEINSTEIN: No questions from the Assembly.

CHAIRWOMAN KRUEGER: Okay, and no questions from the Senate.

So I want to officially call this hearing over.

I want to thank you all for participating throughout the day and evening. We learned a lot, and we absorbed a lot. And again, anyone who's still listening and who thought, Why am I not there testifying, the answer is you can still submit testimony and it will go up online and we can review it in the context of all of our work on the budget.

So I want to thank my colleague Helene Weinstein and all my colleagues for making it through with us today.

And tomorrow morning at 9:30, we start

the Local Government Budget Hearing, am I right, Helene?

CHAIRWOMAN WEINSTEIN: Yes, correct, 9:30 we start.

CHAIRWOMAN KRUEGER: There you go. So tune in tomorrow: Same people, different topics.

Thank you so much. Get home safe.

(Whereupon, at 8:11 p.m., the budget hearing concluded.)