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

PUBLIC HEARING:

EXAMINING POLICE SAFETY AND PUBLIC PROTECTION IN NEW YORK CITY

Senate Hearing Room
250 Broadway - 19th Floor
New York, New York 10007-2375

February 4, 2014
12:00 p.m. to 7:00 p.m.

PRESIDING:

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

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

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

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

PRESENT:

Senator Leroy Comrie

Senator Thomas Croci

Senator Ruben Diaz

Senator Ruth Hassell-Thompson

PRESENT (continued):

Senator Andrew Lanza

Senator Bill Perkins

Senator James Sanders

Senator Daniel Squadron

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SENATOR NOZZOLIO: Good afternoon.

I would like to call this joint legislative committee of the New York State Senate to order.

I am Senator Mike Nozzolio, Chairman of the New York State Senate Committee on Codes.

I'm very honored to be part of a distinguished panel of legislators who are experienced in law-enforcement matters, and are engaging in a statewide inquiry to examine the -- every aspect of the criminal justice system.

That I -- as Chairman of the Codes Committee, as former chairman of the Crime Victims, Crime, and Corrections Committee, I am seated between two of those individuals who have had in the Senate -- a career prior to the Senate in law enforcement.

To my right is Senator Martin Golden, who has served in the New York City Council, and also, with great distinction, as a New York State Senator.

His first career, though, is as a New York State police -- New York City police officer.

And, Senator Golden, thank you for your participation, and for your service to the public in all those capacities.

SENATOR GOLDEN: Thank you.

SENATOR NOZZOLIO: To my left is Senator Pat Gallivan.

Senator Gallivan is Chairman of the Crime Victims, Crime, and Corrections Committee of the State Senate.

Before that, he was a member of the New York State Board of Parole; a commissioner on that board.

Also, prior to that, lengthy service in law enforcement directly; first as a New York State police officer, part of the New York State Police force, who mustered out as a captain.

And after that, following, became the elected sheriff of Erie County. Served with great distinction in that capacity, the second-largest county outside of the city of New York.

Also during his tenure, was a graduate of the FBI National Executive Institute.

To my far left is Senator Carl Marcellino.

Senator Marcellino is -- served over two decades in the State Senate.

He is head of the Senate Committee on Investigations. That is the Senate committee with subpoena power and authority.

And as a part of this important inquiry,

Senator Marcellino is a very active participant.

With that, we're honored today to have a number of law-enforcement experts.

First and foremost, the Commissioner of the New York City Police Department, that we're very honored and pleased that William Bratton is testifying today and helping to elucidate very important issues that this Committee and the State Legislator will be addressing in the very near future.

We also have two district attorneys from the city of New York who will be testifying.

We have the head of the police union, Pat Lynch, who will be testifying.

But we ask the Commissioner, if he would be so kind to step forward, and thank him for his -- in advance, for his generous time and effort to help us in this inquiry.

Good afternoon, Commissioner.

COMM. WILLIAM J. BRATTON: Good afternoon.

I'm going to be joined, if you don't mind, by my first deputy commissioner, Ben Tucker, as well as chief of the department, Jim O'Neill.

I've also brought with me additional executive-staff personnel that would be in a

position to answer in more specific detail some of the anticipated questions that you might have.

So, first off, we thank you very much for the opportunity to speak to you on these very important matters.

I have a brief prepared statement, if I may, that I might read to you, that you've been provided copies of that statement.

And, I thank you for, again, the opportunity.

First, let me express the thanks of the men and women of the NYPD and the people of New York City for the unwavering support that the State Senate has given us throughout the years, through good times and in bad.

New York City, with regard to crime control, we have just finished another banner year.

Crime was down 4.5 percent from 2013.

Murders, burglaries, and robberies saw lower numbers than in generations.

Since 1993, there's been a staggering 75 percent drop in major felony crime in New York City. This represents hundreds of thousands of people who do not become the victims of crime. It also represents similar numbers of people who were saved from committing crimes and suffering

the consequences of acts that are often rash or intemperate.

I might point out that this was also a significant driving factor in the reduction of the state prison population which is significantly fed from the city crime situation.

Yet despite this achievement, there are many who question the role of the police and the fairness of our criminal justice system.

American policing is going through a difficult time right now. I think we're all aware of that.

It's a time of great challenge, but also great opportunity; the opportunity to reevaluate the fundamental manner in which we do our work.

The national dialogue about a great divide between the police and the community has been heartfelt and passionate, and has led police departments across the country to recognize, and some of those we serve feel as if they're underserved.

But the dialogue has contained significant misconceptions also, because, in many ways, our public approval is quite good.

A recent Siena poll showed that 75 percent of

New York City residents had a favorable view of their local police department: us, the NYPD.

We've done a lot to foster that.

Our community affairs bureau is tremendously active with outreach in nearly every neighborhood and group in the city.

And at the beginning of my administration, I also created the "deputy commissioner for collaborative policing" position, to prioritize providing services to underserved populations, such as at-risk youth and the homeless.

And we also have the 35,000 dedicated men and women of the department who have committed each day to protecting and serving.

Nevertheless, public approval is not uniform across the city.

Crime is down throughout the city, but in some places it's down less than others.

In those neighborhoods where citizens need us most, our approval rating, according to our own polling, is much lower than the 72 percent.

Part of this stems from the fact that both sides of the equation, the police and the community, oftentimes don't see each other. Both sides see only what the other represents instead of who the

other is.

If they could, each would learn that each is the other.

If you remember what Sir Robert Peel, who I often reference, described nearly 200 years ago: The police are the public and the public are the police.

The national dialogue has led to a new focus on an old maxim, another of Sir Robert Peel's principles, which says: That the ability of the police to do their job is dependent upon public approval.

Here in New York City it's inarguable that the police have helped to make the city and its people safer, but safety without public approval, ultimately, is not public safety.

There's also another major concern among American police, my colleagues, the police chiefs in America. It is a sense that they are not supported by those they serve, and that both their livelihoods and their lives are at risk.

In December, in Brooklyn, we saw a nightmare become real when two of our officers, Detective Liu, Detective Ramos, were assassinated without warning or provocation.

The threat of being targeted has always been a reality for the officers, but the assassinations of Detectives Liu and Ramos have brought it to the fore.

As a department, we still feel their loss, we still grieve with their families, even as we remain true to their memories and move forward to do our duty.

As we do our duty, the opportunity to improve police-community relations, and the chance to make our citizens and our officers safer as we do so, has never been so close to our grasp.

The greater the sense of partnership and trust between the police and the community, the better the police and the people can work together to prevent crime and disorder.

In making the city safe in this way, the police make themselves safer too, because, after all, the police are the public and the public are the police.

This is the definition of "public safety."

So I would like to describe for you some of the things the NYPD is doing already to address the challenges we face; both the external issues with community relations and the internal concerns about

officers' support and safety.

We've begun several initiatives to improve community relations and assist officers in doing their jobs more safely.

One of the foremost is an unprecedented three-day in-service training course.

We are starting with the 20,000 police officers and supervisors who routinely serve on patrol, and we call the program the "20K training."

This will be the beginning of an institutionalization of three additional training each year for our personnel, in addition to the two days of firearms training that they have historically received for many years.

The remaining 15,000 officers out of our 35,000 will also receive this instruction as part of the new annual in-service training program. And, of course, it has been incorporated into the recruit training for our oncoming police officers.

The training includes a highly-praised workshop called "Blue Courage." It is nationally recognized and taught in law-enforcement agencies across the country.

The workshop is designed to instill the leadership, cultural sensitivity, and personnel

values essential to policing our diverse and democratic society, but the main focus of this training is engagement.

The 20K training instructs officers on effectively and safely engaging suspects verbally, and, if necessary, physically. It helps officers take suspects into custody safely by using various escalating levels of force.

I would point out that, the NYPD, we are quite proud of this, that our officers have one of the lowest use-of-force rates in America, both in terms of firearms, but also in effecting arrests. It's something we're very proud of, that the training that they've already received is being used effectively.

So in addition to Blue Courage, the three-day course emphasizes two core priorities.

First, how to talk to a person who is initially uncooperative, with the goal of avoiding a physical confrontation;

And, second, how to physically restrain a suspect who continues to resist arrest without harm to that individual or the officer.

We believe this training gives officers additional tools for communicating with the people

they serve.

We are constantly, as a department, a professional agency, watching to see who might be doing something better than we currently do, so we are attempting to ensure that we stay abreast of modern and changing systems that might be of benefit to us and to our officers' safety.

I believe that this will help address both our internal and external challenges by reinvigorating officer pride and by promoting effective collaboration with the community.

Technology also offers a way to make both the community and our cops safer; and to that end, with the significant help of Manhattan District Attorney Cy Vance, and our mayor, Bill de Blasio, we are making a $160 million investment, asset-forfeiture funds, in making the NYPD, this year, the most technologically-advanced department in the nation.

Our information-technology bureau -- Jessie Tisch, our deputy commissioner, is here with me -- will soon begin distributing a smartphone to nearly every cop and a tablet to nearly every car.

Here, too, as with our training, we'll start with patrol officers and patrol vehicles.

The smartphones will contain mobile apps,

giving officers in the field a wealth of information they can currently only access from their desktop computers.

The tablets will ultimately replace the mobile digital terminals currently mounted in most patrol vehicles. Like the smartphones, these tablets will contain mobile versions of many NYPD applications currently only available at the precinct station house.

Unlike [unintelligible] computers, they have the advantage of being removable from the patrol car. Officers can bring them along as they respond to calls for service, and eventually be able to use them to complete necessary paperwork.

Between the smartphones and the tablets, officers in the field will be able to access vital information about the situations and people they may encounter no matter where the officers are; a truly lifesaving development in our profession. But, also, it will allow us to keep our officers in the field rather than having to return to the precinct station house as they so frequently now have to do.

We also routinely keep our officers informed of threats to police officers, whether from terrorist sources or otherwise, through advisory

messages distributed currently to the precincts.

Those messages are then related at roll calls, or, as necessary, to each daily tour of duty, or, sometimes, on radio transmissions.

Soon, with the mobile digital platform, distributing advisories and intelligences briefs to officers in the field will be instantaneous and ubiquitous.

Beyond the field, all of the department's computers are being upgraded or replaced if their useful life has ended.

Currently, some forms are still required to be typed, so we still do have typewriters, a few. But the vast majority of the department forms are now digitized.

As of December 2014, over 10,000 desktops have been upgraded or replaced, representing approximately 50 percent of the department's supply.

We expect to complete the process of total refurbishing and replacement by December 2015.

To go with these mobile devices, new desktops, every police officer will be getting an e-mail address, finally, in the twenty-first century.

Our information-technology bureau has tested

a new cloud-based e-mail system. The first [unintelligible] of department-wide e-mail began this past Monday.

I truly believe that the new mobile digital technology will change our department and significantly improve the safety of our personnel.

There's another technology that also promises to change how we police, how we work with the public, and how we work with the courts.

Body-worn cameras will permanently alter how credibility is weighed in the criminal justice process.

They will enable the full account of an instance to be recorded and reviewed, rather than the out-of-context videos we sometimes see on the Internet or the nightly news, and, they may minimize the conflict of unreconciled testimony.

But, body-worn cameras result in many complicated questions, both technological and otherwise. They are not a panacea that they are oftentimes represented to be.

We are examining issues like storage capacity, guidelines when the cameras are turned on, how long the data is stored, chain-of-custody issues, whether the images would be available under

the Freedom of Information Law (FOIL), and, of course, cost. That, for a department the size of the NYPD, it could potentially run into the hundreds of millions of dollars each year.

In collaboration with other agencies that already use this technologies, we are working to resolve these issues, and are looking forward to the benefits that the technology will provide.

Based on those agencies' experience, we expect we will significantly reduce the number of false claims about police encounters, whether such claims come from the citizen or from the officer.

We also think it will improve how the community appreciates our role.

At the same time, we believe it will ensure that our officers act responsibly and appropriately, which will ensure and further improve the community's confidence in police legitimacy.

The department has just completed the first month of the body-worn-camera pilot program.

Currently, 54 officers are wearing the devices in a number of our precincts, and we are looking forward to commencing a wider rollout.

While body cameras may help officers keep safe from -- keep them safe from false allegations,

a crucial item for their physical safety is the bullet-resistant vest.

Contrary to what you may have heard, our vests are not past their replacement cycles. Vests do have a five-year warranty period from the manufacturer, but similar to other pieces of equipment, warranty periods do not determine an item's life cycle.

The life cycle for a vest is significantly longer than the warranty period, assuming proper maintenance, care, design, and manufacturing, something that the department assiduously adheres to currently.

There are approximately 22,000 members of the department whose vests are over 5 years old.

Even though all of the vests are currently within our standards, the Mayor and the City Council have indicated, and will be allocating shortly, an additional $7.3 million in this year's budget to replace all vests that are out of warranty within this calendar year. The money will also facilitate the creation of a replacement cycle.

We are grateful for this commitment to the safety and continued support of our officers; in that, that we will be in a position within a year

that, within the expiration of the warranty, we will be able to replace the vests.

I have an example of the new vests that we are moving toward.

[Holds up a vest.]

They are lightweight. They have detachable additional panels.

The vests, all custom designed. Each officer is custom-fitted for the vest.

So as you might appreciate, to do the initial 22,000 officers, including about 6,000 officers who have a vest that does not have a side panel, that's of great concern to us. So those 6,000 officers will be the first to be fitted and given the new vests.

But the idea is, that we will be in a position to replace all of them with the newer, lighter-weight vests, but it cannot happen instantaneously.

They are manufactured after they are fitted. And talking with the various manufacturers, it will take us almost a full year to fully outfit the department with these new vests.

SENATOR NOZZOLIO: Is every line officer, Commissioner, in possession of a vest?

COMM. WILLIAM J. BRATTON: All 35,000 of our uniformed officers are.

We also have additional heavyweight vests, tactical vests, for our emergency-service personnel and other officers who may have to go into active-shooter-type situations, for example.

So, again, we are very grateful to the City Council and to the Mayor for the quick turnaround on this item when it was raised by our unions recently.

Now that we have discussed some of the ways in which the City and police department are working to enhance police safety and public protection, we would like to discuss some of the ways that our elected officials, yourselves, might be able to help in this effort, and I thank you for your attention to this.

First, there's a proposal currently being discussed that would require police vehicles to be retrofitted with bulletproof glass.

While we appreciate the concern for officer safety that has inspired this proposal, we do not believe that it would be prudent or workable to do so.

It would cost [unintelligible], we

understand, approximately $50,000 per vehicle to retrofit with bulletproof glass. With approximately 8300 vehicles in our fleet, 2800 of which are marked, costs, as you might appreciate, are of significant concern.

Two additional significant concerns are that the bulletproof window would only be able to be opened a few inches, and the glass would not be in compliance with the current highway safety standards.

A police vehicle must have breakable, crash-tested glass which is actually safer for the officers.

Bulletproof glass is not crash-tested, and an officer trapped in a vehicle would not be able to get out by breaking the vehicle.

Reality is, also, our officers are in and out of those vehicles. They're out of vehicles more than they're in.

When they're in the vehicles, oftentimes, they have the windows are down so they can hear what's going on around them as they interact and engage with citizens.

So, while it's a -- what would appear to be an excellent idea, cost-wise it's not feasible.

But, also, day-to-day police work would just not warrant its practicality.

And, so, we would respectfully discourage moving too far along in that direction.

Alternatively, if State funding were made available, it might be worthwhile to explore installing ballistic panels inside vehicle doors to provide an additional measure of protection.

My seven years with the LAPD, every marked LAPD vehicle have these ballistic panels, so that when officers do traffic stops, they can open the door, and, from the waist, down, they have that additional protection available to them, and it has frequently helped.

There's also the ability to also put ballistic panels on the dashboard of a vehicle to help if a round is coming through the windshield of the vehicle.

We've also discussed the possibility of retrofitting the vehicles with air-cooled seats, somewhat easing the discomfort of officers wearing bullet-resistant vests which can be become uncomfortably hot as one sits in the car.

I recently had a vehicle, before coming back into the public sector, that had those type seats,

and they are really quite an enhancement.

We would further be pleased -- we would be pleased to discuss these alternatives further.

Second, there are many gaps in the law which need closing, and many opportunities for new legislation that would help protect law enforcement, many of these you're already aware of.

Our primary goal is not punishing offenders, but deferring dangerous and problematic conduct. We are really focused on the prevention aspect of it.

We would like to offer a few thoughts for your consideration, and then I will close for your questions.

This is by no means comprehensive, but it does provide several ideas we believe deserve further attention.

We recommend increasing penalties related to violence and threats against our law-enforcement officers.

For example, it's a Class C felony to cause serious physical injury to a police or peace officer with the intent to prevent the officer from performing a lawful duty, but there is no higher penalty if the officer dies.

We believe that, in such a case, the crime

should be Class B felony.

We also recommend that assault against a school safety agent or an auxillary police officer should be upgraded from a misdemeanor currently, to a felony, as has been done for other public servants, such as traffic-enforcement agents, train conductors, and social workers.

Regarding the unlawful wearing of a bullet-resistant vest, it is currently an E felony, but only if the offender wears the vest while committing a violent felony offense and being armed with a firearm.

We believe this prohibition should apply under other circumstances as well, where the offender has had a prior conviction for a violent E felony offense, or, where the offender possesses a deadly weapon, ammunition, or imitation firearm, or, where the offender is committing any degree of assault or reckless endangerment with a dangerous instrument.

With respect to general issues of officer safety, we have four specific proposals.

We recommend making it a Class A misdemeanor to disclose personal identifying information about a police officer or a peace officer for no legitimate

purpose, knowing that such conduct may cause reasonable fear or material harm. This would address the posting of officers' home addresses and details about their lives on the Internet as a threatening or harassing tactic.

We also recommend making the identity of an undercover officer confidential, under the Civil Rights Law, in creating a presumption that disclosure of an undercover officer's identify would endanger the officer or compromise the officer's effectiveness.

This would protect the under cops -- undercover officer's identify, and ensure that the officer would be able to testify under his or her shield number rather than having to provide his or her name.

One of the most dangerous aspects of conducting a car stop occurs when an officer cannot see inside the vehicle because of blacked-out windows. This is a particular pet peeve of mine.

We propose that the law prohibit the installation of window-tinting on vehicles exceeding lawful limits, with a further requirement that measurement of window-tinting be made part of the annual vehicle inspection.

I know there's concerns about, the inspection stations, presenting another burden on them, but from an officer-safety standpoint, the millions of car stops that are conducted by the thousands of officers in this city and this state, we owe them an additional level of security as they approach these vehicles. It increases their danger, increases their fear, significantly when they cannot see into that vehicle.

Also relating to vehicles, we recommend that the law be changed to eliminate the monetary threshold, currently $250, for a felony charge of criminal mischief when the vehicle damage is an emergency vehicle. Any intentional damage done to an emergency vehicle should receive a serious penalty, notwithstanding the cost of repairs.

And our last legislative proposal is a suggestion to protect not only law enforcement, but the general public.

We recommend enacting a law specifically protecting the confidentiality of information relating to the security or protection of critical infrastructure.

Blueprints and other information about iconic buildings and critical infrastructure should be

protected from disclosure.

Beyond these legislative proposals, we have identified several instances in which additional funding could help support our officers and enhance public safety.

As you work through the budget process, we would appreciate you considering these initiatives.

We are -- in the interest of time, I have additional testimony, but it has been provided to you in written form, and so I will close my remarks prior to reading the full content, and in the interest of allowing you to get to the questions I'm sure that you would seek to ask.

Thank you so much for the opportunity to present before you this morning.

SENATOR NOZZOLIO: Thank you for this outline, Commissioner.

Senator Golden.

SENATOR GOLDEN: Thank you, Commissioner, and thank you my colleagues, for being here today, and all in attendance in this room today.

This is going to be more of a dialogue between us and you, and how we can effectively help to move our departments here in the city and across the state, and give them opportunities, whether it

be on equipment, whether it be manpower, whether it be morale, whether it be some of the issues that have been pointed out in the different cases across the country where we have a divide within our city, or a perception of a divide within our city.

Within the New York City Police Department itself, where we have an inspector general, we have internal affairs, department of investigations.

And now we understand the opportunities in the Governor's package to put in a moving away from an area that would cause some, I think, a two-tiered system here in the state of New York: one for the cops and one for the bad guys.

But I understand we're moving closer to a monitor that is being talked about, that would be another area of oversight on [unintelligible] in the police department.

COMM. WILLIAM J. BRATTON: We have a lot of cooks in the kitchen.

SENATOR GOLDEN: Pardon me?

COMM. WILLIAM J. BRATTON: We have a lot of cooks in the kitchen.

SENATOR GOLDEN: Yes.

And, how do you build morale?

How does morale continue to build?

And if we have, the stop-and frisk is down, we see the racial-profiling bill, we see all of the cooks in the kitchen, how are we to build that morale?

And, how are we to build the community, and bring that divide together?

How are we to do that, Commissioner?

COMM. WILLIAM J. BRATTON: Morale is always of importance to our -- any police leaders. Certainly, it has always been foremost in my mind in my 40-some-odd-year career.

And, there's no denying that, for a wide variety of reasons, morale in the department, in general, is not where we would like it to be.

It does vary, officer to officer, assignment to assignment, that, the issues of the impending increased oversight.

The inspector general, who is already on board, has already begun to start working with us on policy-and-procedure review; the federal monitor relative to the "stop, question, and frisk" issues; some of the increased role of responsibility of CCRB; my policy, and that of the leadership team of the department, has been to work collaboratively with each of these entities, understanding that they

exist, they're not going away, and better to try to work with them so that the work that they do ends up beneficial to the men and women of the department and to the public we serve.

Those relationships at this time are actually very good. We have spent a lot of time over the last year working with them, giving them access to the department. And, I believe that there is the ability to work with them.

It's a fact of my life. I cannot change it.

I come to this position with the experience of the LAPD where I did have an inspector general. I had a police commission that I reported to.

I also had a federal monitor; the largest federal monitorship in the history of the United States for a police agency.

And those seven years ultimately ended up with significant benefit, although also significant cost, in terms of dollar cost, for the department.

So we will attempt to work with that oversight in a way that it builds morale rather than works against it.

To that end, I think that we are clearly seeing that, in recent days, that the city government is conscious of the need to support our

officers and the risks they put themselves to.

On Friday there was an article in one of the local papers reporting on a case, in which an officer who had been attacked by an individual with a machete, shot the individual.

Our internal investigation showed no wrongdoing. If nothing else, exceptional work performance on the part of the officers involved.

But the City, continuing a policy that had been in place for many, many years, the City Law Office, was considering that as a nuisance complaint, and settled it for $5,000.

I was outraged when I read that article.

The Mayor also what was.

And working together very quickly with the City attorney, the Mayor changed that policy very quickly; that there will be the hiring of 20 additional attorneys in the City Corporation Office, very specifically, to fight every suit that's levied against a New York City police officer.

SENATOR GOLDEN: We think that should have been done a long time ago, Commissioner.

COMM. WILLIAM J. BRATTON: It should have been done 20, 30 years ago.

SENATOR GOLDEN: We applaud you on that.

COMM. WILLIAM J. BRATTON: I addressed this issue 20 years ago.

SENATOR GOLDEN: It's cost this city already, and the State, it's just unbelievable, and it shouldn't have been to this point.

COMM. WILLIAM J. BRATTON: I'm using that as an example, Senator, of, I'm finding that, as we're going forward, that with the mayor I'm working for, hopefully, as we start dealing more with the City Council, as they mature, that we will be able to address a lot of the issues that are of great concern to our personnel relative to their indemnification --

SENATOR GOLDEN: The morale issue, though, going back to that for a second, Commissioner, we do have a problem, because we see a -- and I don't think it's the morale that's doing it. I just think you just see an increase in crime.

And I think the last 28 days on the CompStat show there's an increase in crime.

Now, if murder is going up, rapes are going up, robberies are going up, there's a problem. And it's not just in the morale, but it's also on our streets, whether it's the gangs or in our

communities.

But we have a definite problem.

Maybe you can expand on that a little bit.

COMM. WILLIAM J. BRATTON: We actually don't have a crime problem in New York City, I beg to differ with you, sir.

I know you represent the city, but we don't.

The murder and shooting increase that we experienced in January, as we're going into February, that increase is already decreasing; and, so, the figures that we reported as recently as last week are already down.

Crime in the city is at historic low levels. Has the potential to go even further.

So crime is not a significant issue in this city. Certain areas of the city it is.

But I think that would be -- to make that statement, it's a detriment to the hard work of the men and women of this department over the last 20-some-odd years.

SENATOR GOLDEN: That wasn't the intent of it.

COMM. WILLIAM J. BRATTON: No, I understand that. But the --

SENATOR GOLDEN: The intent of it was, the

last 28 days, the CompStat has gone up. Your crime has gone up, Commissioner.

COMM. WILLIAM J. BRATTON: You're making a representation that is not accurate, that this city --

SENATOR GOLDEN: Well, we had don't have -- the latest date that I have here is the last 28 days --

COMM. WILLIAM J. BRATTON: We have it as of this morning.

SENATOR GOLDEN: -- 1/25.

So we're going to be back here in March, so we'll -- hopefully, we want you to be right. We don't want you to be wrong. We don't want the crime to go up.

COMM. WILLIAM J. BRATTON: Well, believe me, on this stuff, I'm always right.

SENATOR GOLDEN: We want to make sure that the crime continues to come down.

COMM. WILLIAM J. BRATTON: And it will.

SENATOR GOLDEN: And that's why we're thinking and focusing on these different issues.

And another one is going to be your baby which was created, and that's the actual, you know, broken-windows theory.

The -- I don't know whose office that is, the IG or the -- is coming out with a report, that was supposed to come out in December, on the twenty-first-century broken-window theory.

Is there going to be a change in the broken-window theory, do you think? Or is the broken-window been a tremendous success over the years?

COMM. WILLIAM J. BRATTON: The mayor and I are both strong advocates and supporters of it.

The amount of it that's utilized varies, neighborhood to neighborhood, time to time, depending on circumstances.

I think some of the issue is, it's been confused with the "stop, question, and frisk" issue.

They're two very different areas of the law.

Stop, question, and frisk is reasonable suspicion.

Quality-of-life, "broken-windows," is probable cause, where an officer actually sees an offense being committed and takes a police action; summons, or arrest for that action.

Stop, question, and frisk is a lesser evidentiary standard.

So, there are those that were leading the

charge against stop, question, and frisk, that would like to co-join it with broken-windows, but they're two different issues, totally.

And the Mayor has been demonstratively supportive of continuing that.

And as long as I'm Police Commissioner of the city of New York, it will be a priority of this department to enforce broken-windows.

SENATOR GOLDEN: Stop-and-frisk does work, and you agree to that.

Stop-and-frisk, when you believe there is somebody that may endanger and give certain [unintelligible] or certain signs to a police officer that this person may be dangerous to him or to others in the community.

With the dropping in the stop-and-frisk, do you see a problem with that?

COMM. WILLIAM J. BRATTON: I do not.

I was one of those that, prior to my appointment, criticized the level of it. I felt it was too high --

SENATOR GOLDEN: We agree.

COMM. WILLIAM J. BRATTON: -- for the crime situation in the city.

I think my predecessor also supported that;

in that, during his time, Commissioner Kelly, starting in 2010, from when it peaked at 700,000.

Prior to his leaving last year, the numbers of stop, question, and frisk had declined by several hundred thousand already, while crime continued to go down.

Last year we had fewer than 50,000 stops.

Crime went down once again to historic low levels.

But interestingly enough, with fewer stops, the number of summonses and arrests that were being made increased, the percentage; so that we were stopping fewer people, but we were more frequently stopping the right people, as evidenced by the arrests and summonses we were creating.

SENATOR GOLDEN: Okay, I want to move over to one other area, because I want to give opportunity for my other colleagues here: the protests.

We talked about communities that believe they might be disturbed as well; and others that believe that our policy on allowing these protests is to leave the permanent area and to march through the streets, without being arrested, without being stopped.

There is a concern in communities that we

represent, that this is just going to be a practice that's going to continue.

Or, are we going to, under -- I understand, an announcement you made the other day, there's going to be a new unit established. There will also be a separate unit that will deal with the protesters.

Are we going to have a practice within NYPD that's going to, you know, keep these people within their permitted area?

And if they get outside of that permit area, are they going to be arrested?

And, if they cause injury to civilians and to police officers after they leave that permanent area, should we be looking at legislation that would increase penalties for people that would leave the permitted area and cause these injuries to civilians, and shut these businesses down, and shut down the city of New York?

COMM. WILLIAM J. BRATTON: I'll ask Chief O'Neill, chief of the department, that -- who was out every day during the period of time when the protests were very active, the various demonstrations, to speak to you relative to your question about the policies of the department, and

how we monitor and deal with demonstrations; the various demonstrations that are occurring in the city at any given time.

So, Jim, if I could ask you to speak to that?

POLICE CHIEF JAMES O'NEILL: Sure.

SENATOR GOLDEN: Thank you, Commissioner.

POLICE CHIEF JAMES O'NEILL: Hello, Senator.

SENATOR GOLDEN: Chief.

POLICE CHIEF JAMES O'NEILL: I was intimately involved in the process from November 24th, forward, and the policy we had was, we did use restraint.

It was our opinion that these protests were a little bit different.

I have handled many protests in the past.

I did the World Economic Forum. I did the RNC. I did some OWS.

But these protests, a lot of it was directed towards the police department, so we didn't want to be the flashpoint.

We did show a tremendous amount of restraint.

And we did have tremendous resources that we put towards these protests every night; upwards of 3,000 police officers on the very busy days.

The idea was, that people have an absolute right to protest. And as long as they were not --

there was no civil disorder, we were going to let them march. And then, at the end of the day, they would dissipate and people went home.

Absent a few -- a few: Staten Island Ferry, Brooklyn Bridge, and I think at 14th and 8th -- absent a few incidents, I think we did remarkably well. And there were no injuries -- very few injuries to police officers and very few injuries to the people involved in the process.

SENATOR GOLDEN: Should we look at legislation, though, that if they break outside of that perimeter and they cause physical injury, or serious physical injury, to a civilian or to a New York City police officer or other law-enforcement official, should we look to enhance penalties?

POLICE CHIEF JAMES O'NEILL: I think the penalties that we have with -- when we're dealing with assaults on police officers are fine, but they have to be -- the district attorneys have to fully prosecute them.

SENATOR GOLDEN: The last question, and then to my colleague: What is manpower on the street?

What is the actual number of police officers in uniform on the streets in the city of New York

today in any given --

COMM. WILLIAM J. BRATTON: I'll ask Jim to give you specifics on that.

There are not enough, being quite frank with you.

SENATOR GOLDEN: What is enough?

I remember when you were the commissioner, we had forty-something-thousand police officers, and that's not including rank.

COMM. WILLIAM J. BRATTON: Something that's not widely known or appreciated, that, right after 9/11, that the department was at a record high: 41,000.

When I was commissioner back in '95, we had 38,310. That was a direct result of Mayor Dinkins' Safe-Streets Initiative.

I'm currently looking at a workforce of under 35,000.

So something not widely recognized, was the department declined by over 6,000 officers over the last 12 years, even as 911 calls increased by a million, even as the new threats of terrorism exploded after 9/11.

We now have over a thousand officers. And I'm about to put 350 more into

counterterrorism-specific issues.

311 was not in existence prior to 9/11. That generates a significant number of calls for the department.

So we are in discussions that -- as we always are, with the political leadership of the city, the Mayor and the City Council, as to what a more appropriate staffing figure might be.

Chief O'Neill has been working, along with his people, on a very fine-tuned CAT scan, if you will, of the department.

We've already begun summary organization to maximize people we already have.

Before I go hat in hand looking for more, I need to be in a position to justify what I'm doing with what I already have. And I think we are in that position.

But, again, these are always ongoing discussions, and concerns with budget.

And at the same time, with the workforce we have, as we clearly saw last year, that we were able to continue the 21-year trend of reducing crime every year in the city. And we fully expect that will occur again this year with what we have.

SENATOR GOLDEN: So how many men do we have

on the street on a given day?

COMM. WILLIAM J. BRATTON: Jim, if you could speak to that, please?

POLICE CHIEF JAMES O'NEILL: At any one time, on any one tour, it's approximately 400 cars out.

We have 77 precincts, and each precinct turns out, roughly, between 5 or 6 cars.

SENATOR GOLDEN: If we have a protest, we pull from those precincts?

How -- what do we do with those --

POLICE CHIEF JAMES O'NEILL: There are other -- Senator, as you know, there are other personnel in the precinct besides the people that are assigned to sector cars.

So, if we do have a protest, we do pull people from the precincts, we do pull people from narco.

SENATOR GOLDEN: It's important that the protestors know that they're going to be arrested, so we don't keep on dragging this manpower into the city of New York or around the city, and that we get the ability to police the city in an appropriate manner.

I think you've done a great job, and you continue to do a great job, and I applaud you for

that, Commissioner, and your rank-and-file, but, we need to get more accomplished.

And I want to thank you for being here today.

I hope I get another chance to go around, but there's a lot of colleagues here today.

SENATOR NOZZOLIO: That's the concern that we've had: As you have to deploy more and more people to manage -- or, more officers to manage protesting, what does that do to dilute the strength of the police department?

I think that's certainly a concern.

One of the issues that I would like your opinion on is, currently before, let's say Legislature, discussions about upping the penalties for resisting arrest.

It's one aspect of protesting, certainly, to be arrested as part of the official protest.

Then it's another aspect of resisting arrest.

And, of course, we've had other issues regarding resisting arrest.

We're considering raising, currently, from a Class A misdemeanor, to a felony, for resisting arrest.

What's your opinion of that?

POLICE CHIEF JAMES O'NEILL: You know,

anything we can do to prevent our police officers from being assaulted I would definitely be in favor of.

We are in a process of doing a study on people we've locked up for resisting arrest and assaulting police officers, to see, actually, how they progress in the court.

SENATOR NOZZOLIO: It will be interesting to see how this training that the Commissioner mentioned, particularly the training for 20K and other types of other instruction to police officers, will be effective in encouraging people not to resist arrest, and, I guess, the issue of the cost.

Commissioner, do you have an idea of the cost of that additional training?

COMM. WILLIAM J. BRATTON: The training budgeted for this year, 2015, calendar 2015, is approximately $35 million, that will allow for the training of the approximately 22,000 officers who routinely work in the field.

Going back to your question about laws relative to resisting arrest, I'm very supportive of the idea of increased penalties; that there is no right to resist arrest.

The Mayor stated that. I've stated it quite

clearly.

And, we have many -- too many instances in which arrests are, in fact, resisted.

In 2014, out of 388,000 arrests, we had 1839 complaints of assaults on police officers, virtually the same as 2013.

I am going to be meeting with the district attorneys of -- the five district attorneys, however, that we're going start CompStat'ing that particular situation, because, in the vast majority of these instances, there are no charges filed. In some respects, it's a "get-out-of-free-jail card" to assault an officer.

We need to do a better job on our end, giving the district attorneys the evidence they need to help going forward with the prosecution, which we will attempt to do.

But at the same time, we are hoping that with that additional support from us, they are able to move forward on these approximately 2,000 individuals who, each year, assault our officers.

I'd point out that, in 2014, there were 7,058 instances of force used during arrest. That's a 16.5 percent drop from 2013. That force is

oftentimes to deal with people who are resisting us.

And, in 2014, there were 2892 officers injured during arrest, which was also a 15 percent drop from 2013.

So, we have several things going for us.

The officers are using less force when they are making arrests. They are being injured less frequently. But we still have too many people that are resisting arrest, potential of injury to themselves, as well as our concern of injury to our officers.

So an enhancement of penalty, and, on our part, an increased effort to work with our district attorneys to make better cases to protect our officers.

SENATOR NOZZOLIO: Commissioner, the numbers you cited earlier regarding crime statistics, in your response to Senator Golden's questions, if you would be so kind as to share those numbers with the Committee, and so that they can review. Senator Marcellino in particular wanted those.

Before turning this over to Senator Gallivan, I want to thank the additional Senators who have arrived since your testimony began.

On my far left is Senator Andrew Lanza. He

represents Staten Island. He is Vice Chairman of the Senate Codes Committee.

Senator Croci is Chair of the Homeland Security Committees.

Senator Ruth Thompson -- Ruth Hassell-Thompson.

Always nice to see you, Ruth.

And, Senator Diaz.

Question, Senator Gallivan.

SENATOR GALLIVAN: Thank you, Senator.

Good afternoon, Commissioner.

Thanks for being here, and thanks for the work that you and, of course, your entire department does.

The Governor recently had several "criminal justice reform" proposals that he put out in his State of the State.

And early on in your testimony, you talked about, and the phrase I think is a very appropriate one, is "there are too many cooks in the kitchen."

One of the Governor's proposals, though, adds another level of review: an independent monitor that would review all cases where a police officer uses deadly force against an unarmed person.

And I would like to hear your thoughts about

that proposal.

COMM. WILLIAM J. BRATTON: Well, in the case of the city of New York, we already have, as you've clearly articulated, a significant level of review.

We have five very highly qualified district attorneys who, in instances of this matter, are not shy about investigating.

We have two U.S. attorneys who also, if it rises to the level of a federal offense, are not shy about entering into it.

We now have the inspector general who has the ability to review all of our policies and procedures in all of these instances.

And, in the case of the federal monitor, that federal monitor has a pretty wide purview relative to issues arising out of our "stop, question, and frisk" practices.

So, what the Governor is appropriating, I'm not intimate with some the details of the initial proposal, but, for the case of the city of New York, that it would seem to me, initially on its face, that it's another level on top of what I would describe as already sufficient levels.

I also have a very aggressive and very skilled internal affairs and disciplinary system

within the department to handle a lot of these types of matters.

SENATOR GALLIVAN: Another proposal of the Governor's would require a municipal police-training council to establish a model policy on use of force, and then mandate that all departments, statewide, including NYPD, follow their use of force.

Of course, you can impose further restrictions, according to the Governor's proposal.

Do you have thoughts on that?

COMM. WILLIAM J. BRATTON: Once again, that those levels of oversight, each of them has that responsibility currently.

So what I would worry about is the dueling recommendations, even with the idea of the provision that the state one would be the overriding or compelling one. The feds may have some issues of concern with that.

I also think that the idea of, you need to leave some room for individual discretion at the local level; that one size does not necessarily fit all issues of all types of incidents.

SENATOR GALLIVAN: If we can go back to broken-windows, I know that you talked about it a little bit previously, but I'd like to talk about

it, and look at, in the past, and compare it to now.

So if we can go back in time to your first tenure as commissioner.

Of course, we all know the problems that New York City faces related to high levels of crime: people afraid to come here, people to walk across the street, the "squeegee men," and all of those different things.

So can you just talk about what the theory is. Go a little bit further than you did before.

Talk about what that was, and how you came to implement it in your first tenure 20 years ago.

COMM. WILLIAM J. BRATTON: The theory is pretty simple.

It's, oftentimes, we use the idea of a weed in a garden.

You have a beautiful garden. If you neglect to pull the weeds, eventually the weeds will kill even the strongest tree.

I would describe New York City as the perfect example of that.

In the '70s and '80s, that, as the city went through numerous fiscal crises, social-policy changes; in the '70s and '80s, reductions -- significant reductions in the size of the police

force.

For a period of time in the 1970s, the size of this police force was 19,000 officers.

I don't know how Bob McGuire, the police commissioner at that time, managed to deal with the craziness that was going on in that city at this time.

But just take one example: the subway car.

6,000 subway cars in the system.

Starting back in the late '60s, 1970s, somebody made the decision they were no longer going to deal with graffiti. And by the end of the decade, every one of those 6,000 cars was totally covered, inside and out.

Didn't make the passengers feel too safe or secure, the idea that nobody was protecting against that graffiti.

Bob Kiley, when he became head of the MTA, he and Ben -- Mr. Gunn, head of the transit authority, made it a very visible effort to get rid of that graffiti, and succeeded.

And to this day, you will almost never see graffiti on our subway cars.

If you do, by the time the train gets to the end of the line, it's pulled out of service so it's

cleaned.

They even went so far in the 1980s of having a 10-car train that was painted totally white as an example that you could, in fact, do that.

I can remember the sanitation trucks in the city in 1990, many of them which are painted white. You wouldn't know it because they were totally covered with graffiti.

So even the city entity responsible for cleanliness had succumbed to broken-windows; neglect.

And the one I dealt most effectively with, as an example, fare evasion.

250,000 people in 1990 not paying the fare.

A buck fifteen, theft of service, who cares? Why bother with it?

Well, that was $80 million of tax revenue lost to a desperately-starved-for-funding transit system, that could be used for station improvement or equipment purchase.

But just the sense that that gave, that nobody's in charge, nobody cares.

And the idea, technically, it's a victimless crime? A buck fifteen, theft of service --

I remember when the fare was a buck fifteen.

Now it's a lot higher.

-- who's the victim?

Well, it's the authorities, so who cares?

Well, the problem is, the community ends up the victim.

So that's why I'm such a strong proponent of it.

And something that needs to be understood, is the vast majority of the broken-windows policing that we do in this city, that I did in Los Angeles or Boston, is we are responding to calls for service; somebody who calls, "A group of kids hanging in my hallway, smoking dope," "There's a guy urinating in my front doorstep," "There's a prostitute working on my corner every night."

When you look at our 911 workload, and you look at the calls for service, the significant majority of them are quality-of-life incidents.

And if we don't take care of it, the police, who's going to take care of it?

So we go where people ask us to go. We address the issues they ask us to address.

And, ironically, where do we get the bulk of our quality-of-life calls?

In the poor minority communities that,

unfortunately, are afflicted most frequently by those broken-window types of crimes and offenses.

SENATOR GALLIVAN: Is the application of that theory the same now, 20 years later, or are there things different about it now?

COMM. WILLIAM J. BRATTON: Well, if you're --

SENATOR GALLIVAN: I'm sorry.

As practiced by the department.

COMM. WILLIAM J. BRATTON: -- if you're successful at it, there's less need to do it.

For example, we no longer have 250,000 fare evaders every day.

Actually, the transit authority stopped counting the number of fare evaders because it cost more to count them, because they became so few.

So that, today, you may see fare evasion in the subway system, but not like lemmings rushing to the sea, as we saw in the early 1990s.

So that the level ebbs and flows; that, depending on the complaints we receive or the conditions we're addressing.

The squeegee pests, for example, when we went after them in the 1990s, it took us all of about 2 days to get rid of them. There were about 90 of them, and there were 38,000 of us, so the odds were

in our favor.

You might occasionally see one on the front page of the "New York Post" that pops up from here to there. But, basically, as fast as they pop up, we're able to get rid of them; and, so, you don't see a tolerance for them that, eventually, they're all over the place once again.

SENATOR GALLIVAN: So you'd agree, I believe, and correct me if I'm wrong on that, that, if not the police, who?

So it becomes necessary to respond to the quality-of-life issues; whether it is the squeegee men, whether it is the selling of individual cigarettes, whether it's people yelling and screaming on the street, whether it's graffiti.

In the first instance, that's a call that goes to nobody but the police.

COMM. WILLIAM J. BRATTON: It has to go to the police.

There's a -- one of the City Council members had an editorial in the "Daily New" the day before yesterday.

I had a response today.

And one of his suggestions was that: Well, the police don't have to enforce this. Why don't we

have somebody else do it?

Well, the reason we have to enforce it is the nature of the offenses. That, you put an unarmed person, they're trying to correct that behavior, or, somebody that doesn't have the authority of power of arrest, you can imagine the response that they're going to receive.

The reason the police are asked to enforce these laws is, you are very familiar with it, you're lawmakers.

When you pass a law, you criminalize it, or, you make it something the police have to respond to, for the purpose that we have the authority, the power, the training, to enforce it, and to enforce it appropriately within the law.

If you don't like something, well, then, get rid of the law.

I'd like to have to do a lot fewer things than we currently do; but, since they are laws, and since people complain, we have to go and we have to deal with it.

SENATOR GALLIVAN: Should there be a time that the police do not enforce the law?

COMM. WILLIAM J. BRATTON: No.

There's a time -- if I may expand on that,

there's a time when, at all times, police discretion can be used.

In some instances, we cannot use discretion when mandated.

Domestic-violence incidents, for example; drunk driving; you would not want us to utilize discretion, which we did utilize in the past and oftentimes abuse.

So one of the reasons that a lot of our calls for domestic violence, the increase in arrests in that category is because it has been mandated that we make arrests there, which you would want us to do to try and deter that problem.

But what we give our officers is discretion. And quality-of-life, oftentimes, can be dealt with with an admonition.

Guy drinking the beer on the corner, you know, "Get rid of it."

But, you come back two hours later, he's back drinking again, well, you can move it then up to summons.

And if that doesn't work, well, then, you can move it up to arrest, eventually.

So we empower our officers, within the law, to use discretion.

And, effectively, I think a lot of what you're seeing at the moment, some of our summons activity is lessened. I think a lot of our officers are, in fact, using discretion to not address an offense always with the summons or an arrest.

We have a saying that I'm very fond of: That you kind of arrest your way out of every problem.

Arrest is appropriate.

Fare-evasion arrest was very appropriate back in the '90s when we were making tens of thousands of them.

Now we make thousands of them, but we have to make many fewer of them because the offenses are occurring much less frequently.

SENATOR GALLIVAN: The last area I wanted to touch on was the New York City municipal ID card; and I'm curious about it's ultimate impact on public safety.

The cop on the street being handed this, and concerns that you might have as it relates to public safety, with procedures that had to be put in place to ensure it doesn't compromise public safety or the safety of the cop on the beat.

COMM. WILLIAM J. BRATTON: We were very actively engaged in the many discussions and

meetings leading up to the issuance of that card.

Our concerns were addressed, to the extent that we were able to support the issuance of the cards, which are now in process. Not as quickly as it was initially hoped.

But those cards, eventually, will be helpful to us, in that, in many instances where an individual does not have identification on them, our officers have to make an arrest; versus, with the municipal ID card, now they will have the ability to accept that as an appropriate form of identification for a lot of the offenses that they would seek to cite someone for.

So I think, over time, it will be a great benefit to our officers in the sense of not requiring that they have to resort to arrest.

And it will be a great benefit to the hundreds of thousands of individuals who are applying for those cards that would not be subjected unnecessarily to an arrest.

SENATOR GALLIVAN: Thank you, Commissioner.

SENATOR NOZZOLIO: Senator Marcellino.

SENATOR MARCELLINO: Thank you.

Commissioner, thank you for coming, and I appreciate your time. I know you are extremely

busy.

I taught school in the city of New York for 20 years.

COMM. WILLIAM J. BRATTON: That's where the gray hair came from, I guess, huh?

SENATOR MARCELLINO: Yeah. A lot of it.

I had a mustache, it was dark. The hair was darker. The whole thing.

In that school was assigned a police officer: Officer Frank Martins.

I am sure Frank, he's an African-American man, I'm sure he is probably retired, and I've lost contact with Frank.

But Frank was an integral part of the staff of our school.

Our school was built for 3200 youngsters. At one time, we had 6600. We were on triple overlapping sessions in the city, and that was a problem.

Frank was an invaluable asset to keeping control, to handling the youngsters.

The school was predominantly White in a predominantly White area of Middle Village in Maspeth. And as a Black man walking the streets of that neighborhood 20 years ago, he was, I would not

excessively use the term "beloved."

The community loved him. The kids respected him and loved him. He was an asset to us all, on that.

I'm just wondering -- and I mention this because a lot of people don't understand it, and may not know, that police officers are in -- or were in high schools.

And I'm wondering, still are?

Are there still police officers assigned on a regular beat to the high schools, or other schools?

COMM. WILLIAM J. BRATTON: We have almost 5,000 uniformed school agents in our schools throughout the city.

We additionally have, I'm not sure the exact number, about 300-some-odd, I believe, police officers that are assigned to school-related functions; some of them in some of the schools.

But the bulk of the work that you're referring to -- trying to ensure public safety in the schools; ensure, in some instances, that weapons are not brought into the schools -- we rely on the school safety agents who are unarmed but in uniform, and are members of the NYPD.

SENATOR MARCELLINO: The asset of having a

police officer in the building, and around the billing, especially one of size. Our high schools are huge, compared to the ones that I represent right now on Long Island. My high school is, like, three times the size -- was three times the size of the average high school. It was bigger than some of the districts that I represent at this point in time, the school districts.

But Frank was there.

So if anybody knows of him, or still keeps in contact with him, I'd appreciate you giving him a shout-out and say "thank you" to him from --

UNKNOWN SPEAKER: He's in Florida.

SENATOR MARCELLINO: He is probably.

I wish him well, because he deserves it, every bit of it.

He made my job a lot easier in the school.

I am also concerned, if you would, and just to repeat what Senator Nozzolio talked about before, about the most recent statistics, if could you hand that up to us, or give that to us, when you're finished, or -- in whatever form. We could use that to look at the data that we have.

Can I ask you a question about the grand jury procedure that goes on?

Now, that seems to, in the most recent cases of notoriety that created some problems with the demonstrations, the release of grand jury data has been requested, and it hasn't been forthcoming because the law prevents, you know, that from occurring.

Would you like to see a change in that?

And if you're not comfortable with answering that, I would fully understand.

COMM. WILLIAM J. BRATTON: I think we could benefit by additional information being released from the grand jury.

I certainly would not want to interrupt or interfere with the secrecy component; particularly as it relates to witnesses, to encourage witnesses to testify freely in the grand jury process.

But in instances in which there would be the ability to give clarification, explanation, as to the decision that's reached, as to what the particulars of that would be, would have to be the result, I would assume, of a more significant discussion.

But, I think it would be beneficial, as we have seen in some instances here in New York, and some instances around the country, if we had a

better understanding of the decision that is arrived at by a grand jury.

And, oftentimes, the secrecy works against its original intent.

SENATOR MARCELLINO: I appreciate that.

Again, thank you for your time, and thank you for your service to the city of New York.

COMM. WILLIAM J. BRATTON: If I may just ask Chief O'Neill, just to briefly reference what we will provide to you; but also, going forward, how easy it is to access our crime-data information. That, Jimmy has a sheet in front of him that's posted each week on our department website.

So, Jim, could you just, very quickly, speak to how they might access that.

POLICE CHIEF JAMES O'NEILL: Sure.

COMM. WILLIAM J. BRATTON: But we can provide that information to you, in any event.

POLICE CHIEF JAMES O'NEILL: You can actually go on the NYPD website. And, the stats are a week behind, but I do have the stats for this week, ending February 1st.

So, we're down in overall crime, year-to-date, 12. -- that's felony index crime, the seven major crimes, we're down 12.3 percent.

If you want, I could go through each category, each one of the seven crimes?

SENATOR NOZZOLIO: Just submit it for us, for the record.

POLICE CHIEF JAMES O'NEILL: Sure.

Murder, we are up. We're up 6 raw numbers: 18.2 percent.

Rape, we're up 6 numbers: 115, to 121. That's 5.2 percent.

Robbery, we're down 5.6 percent.

Felony assault, we're down 17.4 percent.

Burglary, we're down 24.9 percent.

Grand larceny went down 9.1 percent.

And, GLA, we're down 6.9 percent.

We do have a rise in shooting incidents; from 80 last year, to 98 this year, which is an increase of 22.5 percent.

So, the three categories that were up are: Shooting incidents, rape, and murder.

COMM. WILLIAM J. BRATTON: In reference to what Jim reported to you, our CompStat information, as of what date?

POLICE CHIEF JAMES O'NEILL: February 1st.

COMM. WILLIAM J. BRATTON: Okay.

Each morning I get from the Chief of the

department, as of midnight the previous evening.

So as of midnight last night, to show how quickly these numbers can fluctuate, that, homicides, we have had two more homicides this year than last year.

I think you just reported six.

POLICE CHIEF JAMES O'NEILL: Right.

COMM. WILLIAM J. BRATTON: But it just shows how quickly those numbers can change.

So last year was a record low year for homicide.

And the increase of two into the second month of the year is not an issue of great concern, in the sense that, as far as trending, that we are working against extraordinarily low numbers from last year.

Even in the area of shootings, that, as of midnight last night, we have had an increase of 15 shootings, which is about a 17 percent increase, versus the 22 that Jim just referenced.

So the numbers ebb and flow, and we are very focused on them, so that we are continually, if we start seeing a spike, we move on that spike. And, we're very good at this.

I would also point out that the -- relative to the homicides and shootings, in New York City it

is more unusual than usual to have an individual who is shot or murdered in the city who does not have a significant criminal record. That the majority of people involved in committing the homicides have criminal records. The majority of those being shot are murdered.

With the singular exception of domestic-violence incidents, [unintelligible] the victim oftentimes have no record; or, in some instances, the perpetrator.

SENATOR NOZZOLIO: Commissioner --

COMM. WILLIAM J. BRATTON: When you're dealing with a population of violent people, that we're continually trying to focus on.

SENATOR NOZZOLIO: Commissioner, under your early watch, your first watch, your first tenure, I don't know what you call it, but your first tenure, we saw, and we watched your numbers, the most significant drop in vital crime that any state has ever experienced in the history of our country.

Congratulations for that. We applaud you.

We all, from -- Governor Pataki was governor at the time. It was a transition between administrations.

We just -- I was chairman of the Crime and

Corrects Committee.

We were just so pleased with the efforts.

And that we applaud you and everyone that was responsible for that drop.

It was quite a success story.

COMM. WILLIAM J. BRATTON: Especially the cops.

And, we also work with, in this city that I can I speak to --

SENATOR NOZZOLIO: We're just concerned --

COMM. WILLIAM J. BRATTON: -- the district attorneys' offices are essential to working with us on this.

That, can't do it without them.

SENATOR NOZZOLIO: Thank you for mentioning that.

And it -- but we don't want to see those numbers change back to where we were. We don't want to go back to the past.

And that's a big reason why this panel is conducting its business over the next few weeks.

And we have been joined by Senator Comer.

SENATOR COMRIE: Comrie.

SENATOR NOZZOLIO: And, Senator Lanza wishes to speak. After him, it will be

Senator Hassell-Thompson. And then Reverend Diaz.

SENATOR LANZA: Thank you, Chairman.

Thank you.

(Taps microphone.)

SENATOR LANZA: Thank you, Chairman.

Commissioner, it is truly great to see you, and thank you for your service to our city. I truly believe that, given these difficult times we face, you are the man for the job, and I have great faith in you.

You spoke briefly about the morale of the New York City Police Department, and you said that, in fact, it is a challenge, and you attributed it to a variety of reasons.

Is there one that stands out to you, one primary cause, for the challenging-morale situation here with the New York City Police Department?

COMM. WILLIAM J. BRATTON: Well, I think a significant mitigating factor in the -- December and January was certainly the demonstrations that were conducted nightly, that were directed against the police specifically. And within those larger demonstrations, some of the smaller demonstrations that were absolutely abhorrent, with demands to kill police, et cetera.

To police those demonstrations -- policing demonstrations -- crowd management, crowd control -- is difficult at any time, but when it's being directed against you, that it can have a wearing effect.

And, I'm very complimentary of the men and women of the department, and the extraordinary restraint that they exhibited.

And, also, the concerns that we all spoke about, about the -- that the fueling of this anti-police sentiment, and the result, the murder of our two officers, which clearly was a spin-off of those demonstrations in terms of the inspiration of the murderer in this instance.

So it's understandable that the morale of officers was impacted by feeling it.

So many members of the community were so distrustful of them, so angry at them, individually, and collectively, and from my own perspective, unjustifiably, that you can understand why morale, which ebbs and flows all the time, but particularly over the last several months, that was impacted in a very negative way.

I think on the other hand, the rebound was, coming out of the murders, the outpouring of

support; not only within the police profession, the two largest police funerals ever held in this country were held within two weeks of each other in the city.

So support from within the profession, but support from the many communities that do respect the police, that I think that helped to, I won't say level the playing field, but certainly appreciated by the men and women of the department.

SENATOR LANZA: I agree with you, Commissioner. I believe that those murders were a result of this anti-police climate that was created, and has existed, and I think contributed toward by many elected officials, not just here, but across the country, who are supposed to be leading, who I think contributed toward that, and have continued to contribute toward that climate.

You said in your statement that there's a perception among some who we serve, that they are actually -- that they are underserved.

Do you think that is an accurate perception?

Do you believe that there's anyone in the city who is not properly served by the New York City Police Department?

COMM. WILLIAM J. BRATTON: No, the irony is,

that the bulk of police services tends to be focused on that underserved population; "underserved," in the sense of, areas.

In our case, New York City, they're the most economically distressed. In a city that is doing so well economically, there are still distressed areas, clearly.

In our areas -- in our public housing areas, and specifically with some of the conditions they're dealing with.

You know, unemployment issues.

Some of the poor-rated schools.

That, if you start matching all of that up against where our violent crime is still occurring, where our most significant calls for service, quality-of-life or otherwise, come from, there are, quite clearly, areas in the city where they are underserved in many respects, in the sense that the -- despite many of the best efforts of the City and government, that, you know, levels of poverty, levels of unemployment, levels of poor schooling, quality of housing, all suffer.

SENATOR LANZA: Commissioner, as you know, I hail and I represent -- I hail from and represent Staten Island. And we, unfortunately, lived through

the terrible Eric Garner tragedy.

When the grand jury on Staten Island decided to hand up a no-true bill, the mayor of our city held a press conference, and you were there; and I listened to him.

And he is a colleague and a friend of mine.

It seemed to me, in his statement, that he clearly disagreed with that decision from that grand jury.

And to disagree with that decision, you would only do so if you had already prejudged innocence or guilt in that case.

So, it was clear to me that the Mayor believed that that police officer was guilty of a crime, and that's why he held that press conference and expressed disappointment in the decision.

Do you think it's proper for -- it was proper the Mayor to express that feeling; to tell the people of the city of New York, in essence, that he had prejudged the guilt of that police officer, and that's why he disagreed with the decision?

And do you believe that that press conference contributed to this anti-police climate and the low morale of the New York City Police Department?

COMM. WILLIAM J. BRATTON: Well, it's quite

clear you have your belief.

You have your belief about what the Mayor's beliefs are --

SENATOR LANZA: Whoa, whoa, Commissioner --

COMM. WILLIAM J. BRATTON: -- and I suggest you take it up with him.

SENATOR LANZA: What do you mean, it's quite -- what belief?

COMM. WILLIAM J. BRATTON: You quite clearly believe that he had an opinion.

SENATOR LANZA: Well, he said he did.

COMM. WILLIAM J. BRATTON: So you've expressed that, and I'm suggesting to you: That's your opinion, you take it up with him.

I'm not going to comment on it.

SENATOR LANZA: So then I'll ask this question: Do you believe that the statement made by the Mayor in that press conference contributed toward the anti-police sentiment in the city?

COMM. WILLIAM J. BRATTON: I personally do not, no.

SENATOR LANZA: During the protests, you said that police officers exercised restraint.

Were the police officers instructed not to make arrests for certain offenses they witnessed?

COMM. WILLIAM J. BRATTON: I will let Chief O'Neill speak to that since he was there every night, and you were not.

So I will let him, who was on those lines every night.

SENATOR LANZA: Commissioner, that's why I'm asking the question. I was not --

COMM. WILLIAM J. BRATTON: But I will let him address that line of questioning.

SENATOR LANZA: Thank you.

COMM. WILLIAM J. BRATTON: He will address it very aggressively.

SENATOR LANZA: Chief, I wasn't there, that's why I'm asking the question.

COMM. WILLIAM J. BRATTON: Well, that's why I'm having the person who was there every night, for 12 hours a night, address it for you.

SENATOR LANZA: Perfect, great.

COMM. WILLIAM J. BRATTON: Jimmy?

POLICE CHIEF JAMES O'NEILL: The instructions that were given to everyone involved in the protest and demonstrations over, again, November and December, was we were leaving it up to the field commanders on the ground. The decisions were made at a very local level.

If there was disorder, if there was criminal mischief, if there were assaults, obviously, we're locking people up. And we did.

We had, I think, and I may not have the number absolutely correct, that we made about 350 arrests during the course of those protests.

[Inaudible/non-working microphone] -- so anything that we saw that rose to the level of crime -- [inaudible/non-working microphone].

SENATOR LANZA: So police officers on the street were not told to ignore certain crimes that they may have witnessed?

POLICE CHIEF JAMES O'NEILL: [Inaudible/non-working microphone.]

No, they weren't.

SENATOR LANZA: Staten Island is the safest part of New York City, and there are a lot of reasons for that.

It's because of your police department.

It's because of the citizens who live there.

It's because we have I think the best city attorney in the city, Dan Donovan, who I see in the audience.

It's also because, I believe, we have more police officers who live on Staten Island than just

about anywhere else. And these are my neighbors and these are my friends.

And when we talk about police morale, in talking to my friends, there's a sense to me that they feel that the City doesn't have their back, in terms of the elected officials, the Mayor, and possibly brass.

Do you think the City has their back?

Do you think the Mayor has their back?

COMM. WILLIAM J. BRATTON: I personally do.

I think, and I can speak for the Mayor, I can speak for myself, I can speak for my leadership team: We do have their back.

In terms of actions that we have taken to address the many concerns that were voiced to me before I took over as Commissioner, and the many, many countless meetings that we had have had with officers, with their elected officials, their union representatives, this is a police-leadership team, a police department, that does have their back; is continuing to fight on their behalf for their issues and interests and concerns.

I believe strongly that this mayor does support them, as evidenced by many of his actions over the past year that I've worked with him.

Everybody is entitled to their opinions. And -- but I don't necessarily share those opinions as it relates to the department or the Mayor having their back, if you will.

SENATOR LANZA: And, Commissioner --

POLICE CHIEF JAMES O'NEILL: Excuse me.

I was lucky enough to have the privilege to be a precinct commander for 6 1/2 years, in Manhattan North and in the Bronx.

I was also lucky enough to be a vice commander, a narco commander. I was in the detective bureau. I was the chief of patrol.

Now I'm Chief of the department.

I unequivocally have the back of all of the brave men and women of this police department; and I think they know that.

SENATOR LANZA: I know you do, Chief.

And, I am the son of a former New York City police officer.

I was a prosecutor in the city, in Manhattan, in the Manhattan District Attorney's Office, for five years.

So, I have worked with our police department for many years.

And, Commissioner, the reason I asked these

questions, I know sometimes it's uncomfortable for all of us here, but, it's because I agree with you, that we have the best police department on the face of the earth.

And I was very disappointed, and disturbed, that for a period of time there, the people of the city were led to believe that we did not.

And we've got to make sure that we do all we can, as leaders, to let the people know that they are properly served, that they do have the best police department in the world.

And sometimes emotions run high, but we can't lose site of that view.

And so one last question, with respect to the grand jury proceedings: Do any of you believe that there should be different grand jury rules for police officers than we have for anyone else?

COMM. WILLIAM J. BRATTON: I don't quite understand your question.

SENATOR LANZA: Well, there have been proposals; for instance, by the Governor, and others, that, perhaps, when police officers are involved, we should have a special set of criminal-procedure law in terms of our grand jury proceedings.

Do any of you believe that we should have one set of criminal-procedure law for police officers, and another one for everyone else?

COMM. WILLIAM J. BRATTON: Well, the way you phrased that question is slanted toward your perspective, quite obviously.

That, in terms of, we're very fortunate in this city that we have five very capable district attorneys who have shown no reluctance, when appropriate, to move matters into grand juries.

Grand juries make decisions, and we abide by those decisions.

And so, in terms of the debate, you're all going to be engaged, based on the Governor's proposal.

You'll have input as you go forward, and from those district attorneys, as well as the police officers.

And I will be happy to engage in that discussion when the time's appropriate, when, in fact, we have hearings relative to those matters.

SENATOR LANZA: Commissioner and Chief, thank you. Thank you so much.

SENATOR NOZZOLIO: Thank you.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. Chairman.

Good morning -- or is it afternoon?

Commissioner, first let me compliment you.

You came up to the Bronx a few day ago and met with many of the clergy from around the boroughs. And I understand it was standing room only, and -- but it was an extraordinary experience.

Many of the clergy are people that I work with, not just in my borough, the Bronx, but across all five boroughs, particularly when it comes to policing issues.

As the Ranking Member, and after 14 years of serving on Crime, Crime Victims, and Corrections, I have become a lot more familiar with policing than I really ever wanted to be, obviously.

But these are some very troubling times.

And some of the questions that I will ask, I think just to -- are just kind of important for to us really understand, from a policy perspective: Where do we go from here?

And what kinds of things we ought to be doing in the State Legislature that ensures, that while people have a right to expect to be protected, that they also don't want their constitutional rights to

be violated in that process.

And so it's a very delicate balance that all of us try to achieve in order to prevent that from happening.

In your testimony, I had to read, because, unfortunately, I missed the majority of it, but I quickly saw that you referenced the 20K training, where officers are taught to take suspects into custody safely by using various escalating levels of force.

Could you elaborate on those levels of force, and how they're applied to a street encounter with a citizen?

COMM. WILLIAM J. BRATTON: I'm going to ask, if you don't mind, First Deputy Commissioner Ben Tucker, who, until recently, was the deputy commissioner for our training. Was very instrumental in the creation and development of the three-day course that's now being given to our officers.

And now, in his first-deputy capacity, has oversight over the police academy, so he will be still intimately involved with that evolution.

If I could ask him to basically speak to that, and the focus of what he developed there.

COMM. BENJAMIN TUCKER: Hello, Senator.

Good morning -- or, good afternoon.

So, with respect to the levels of force, I mean, the three-day training that was referenced prior to your arrival, that you referenced, is designed to focus on a variety of issues; but, in particular, to focus on the issue of use of force, and, also, on the use of the officer's ability to deescalate a situation before it gets to the point where force has to be used, or may be necessary.

So that's really the goal, and -- that we have.

I mean, but let me just preface by, having been a police officer, I was a police officer for 22 years, and I worked the streets in Manhattan, and also in Brooklyn, and spent some time out there, and you have to make these decisions about, you know, how you engage with the public.

And when you do, you do it in a manner that, always, hopeful, that if you have to make an arrest, you want to make that arrest, where the individual who has to be arrested is going to comply, and where you don't have to use force.

So that's always the principal goal, and that's the baseline from which I always worked, and

it's the baseline from which we ask our officers to work today.

And the training is designed to focus on it in that regard.

And so the training -- the three-day training focuses on the foundations of policing, as a reminder to police officers of why they became officers.

And, it focuses on tactics, which are important, to the extent that officers have to make those decisions. They make those decisions beginning, as I said, at the lowest level of use of force that may be necessary, and it escalates only as the circumstances might dictate.

And then the third day of training focuses on giving officers some tools that help them exercise their -- sort of be more resilient in the way in which they make decisions, and exercise their discretion as they take action, and determine -- help determine when they take action, how they take that action, and to be aware of the traps that sometimes get you into trouble, which all have to do with your ego, and not letting your ego get in the way of dictating what's reasonable under the circumstances; which sometimes happens with our

officers.

And so, being aware of that, we want to put them through, and put them into, what we call "scenario-based situations," that remind them of what the traps are.

And as they walk through those exercises, they get to make those mistakes, to the extent that they make any, as they go through the exercises in a setting that is not real, and it's not during street encounters with individuals that they come into contact with when they're on patrol.

So that's really the framework in which we're trying to remind our officers what's needed, and to have them recognize that the citizens have a right to expect to be treated with respect and -- as they do their job.

And in every encounter that's the goal.

Of course, the realities don't always allow for that as it relates to arrest circumstances.

And depending on the circumstances, the officers have to make decisions in split seconds about how they have to react. And then, in reacting that way, the goal is always to use the least amount of force that they think is necessary.

SENATOR HASSELL-THOMPSON: Would you say,

then, Commissioner Tucker, that the Blue Courage program also includes sensitivity training -- cultural-sensitivity training as a part of that?

COMM. BENJAMIN TUCKER: Well, we provide, Blue Courage focuses on that, and not specifically around cultural-sensitivity training, as much as it focuses on the exercise; putting officers in a position and having them sort of think about how to interact with any individual that they come into contact with.

We also teach conflict resolution as part of that discussion.

We also teach our officers, as they go through the academy, they get conflict resolution as well.

So what we want to do with Blue Courage is heighten their awareness.

And the other thing that Blue Courage does is, which I think is unique in terms of training for police officers, at least until recently, is this idea that we're trying to give them skills and give them information that speak to their own wellbeing as individual officers.

So I said, you know, I talked about foundations of policing, and why they joined the

police department.

And, typically, if you speak to officers and ask them that question, it always focuses on their ability to help the citizens that they're charged with policing.

That's their focus, and that's what they're interested in doing very often.

We try to remind them of that as they go through this training, and put them in situations where they get to test those skills and use those skills in that manner.

SENATOR HASSELL-THOMPSON: The question of cultural sensitivity becomes very important, because I know that the Mayor received a lot of criticism from people because of the comments that he made about his son.

But, you know, the world may not be aware of this, but every Black family tries to teach their Black son, and daughters, that their behavior in the street is seriously important and their life is always threatened.

And people think that's the anathema to what the relationship with the police department has been; but, historically, that's a place where we find ourselves.

And so there's not a parent who does not have those kinds of conversations with their children in terms of, how do you behave when you're confronted by the police department, and how you can behave that must be different from any other ethnic and cultural group.

So that's why it becomes important to us to understand how much of an emphasis is put on the cultural beliefs and biases that other ethnic groups bring to the encounter as well, which is very important out there in the field to understand.

COMM. BENJAMIN TUCKER: I don't disagree. I think you're right on target.

I mean, listen, I grew up in Brooklyn, New York. And, so, as a young African-American kid growing up on the streets of Brooklyn, I know exactly what you're talking about. You know, and my mother didn't have to have that conversation with me. I was old enough, as a teenager, and I saw it day to day.

So I can certainly relate to that, and understand the importance of it. It's not lost on me.

And we do build that into our training, and we do teach our officers about those issues.

Let me give you some examples of what we've been trying to do.

Working with -- as part of a -- in addition to our training platform, there's a program called "Cops and Kids," that you may or may not be familiar with.

It's -- Lenora Fulani, who is a psychologist, and who works with -- is sort of the creator of this program, recognized the point that you made.

And so, in 2006, she began these conversations with cops and kids; primarily, and almost exclusively, youngsters from communities of color and New York City police officers that work in their communities.

And it's been, I think, eyeopening for the officers.

And what it really is, is you have five officers and, typically, five cops, and -- from a particular neighborhood, policing a neighborhood, and five youngsters from that neighborhood, and they get together and, you know, have a conversation about the concerns that both bring to the table.

Cops sometimes don't understand what drives our young people, and why they make the choices they make. And sometimes the kids don't understand why

officers hassle them, as they say, and why they have to stop them, or tell them not to do this or not to do that.

So those conversations have continued.

And when I arrived in March of last year and learned of the project, we are -- you know, it has merit.

We're going to continue it, we're going to expand it, because those conversations seem to produce that understanding that you're referencing, and has an impact, I think, on those individual officers.

So we are seeking to expand that and make that part of the training, in addition to the training that we -- that they normally get through the four-hour recruits in the police academy.

And just this past Thursday, we had another session, where we take -- we had 450 of the most recent graduates of our academy, close to 900 officers who just recently assigned to precincts and PSA's and transit districts around the city, half of those officers were in one of these sessions, where, up at the Apollo Theater, in fact, is where it was hosted, and went through that exercise.

And so they had the opportunity to witness what I just described to you: Five officers, five youngsters, engaged in that sort of an exercise, overseen by Ms. Fulani.

Very effective. Very effective tool.

And it reinforced for those new cops what they learned in the academy, and they saw it in action, and had the opportunity, at least in the case of the five officers and those five individual youngsters, to actually see it up close and personal.

But even that's a very powerful message to send.

And all of the officers witnessed it, as well as a number of community members who were in the audience.

So that's just an example.

But I would agree that that's an important factor, and it is certainly -- you can rest assured, it is certainly something that we are paying close attention to as we train our recruits; but also in the 20 day -- the 20K training that we're doing for officers who are already on the streets and in service.

SENATOR HASSELL-THOMPSON: Thank you.

Commissioner, my final question to you.

Currently, the District Attorney controls the presentment of evidence before the grand jury.

Do you think, that in the case of unarmed civilian deaths, that a representative of the deceased should be able to offer evidence at the grand jury?

COMM. WILLIAM J. BRATTON: I'm not going to speak to that.

Again, you're going to be going into discussions.

I understand the Governor has proposed legislation, so I think that would be the more appropriate forum to, once I've had the opportunity to understand fully what's being proposed, to speak in a more informed way to the recommendations, or recommendations I might seek to make, as you look at potential legislation controlling this.

SENATOR HASSELL-THOMPSON: But I think you also fail -- sometimes people fail to recognize that, while the Governor may propose, the Legislature has responsibility for policy.

And this is the body that actually formulates that language, so it's helpful to us also, as we review any language that comes from the Governor, or

any other the source, when we're developing policies.

We are the policymakers, and sometimes people tend to forget that.

I don't allow people to forget that that's my primary role. That's what I'm elected to do.

And so as a policymaker, it's important for me to be able to ensure that the process of the grand jury is one that there is the apparent transparency without loss of vital information.

Certainly, as we look at the discovery law, as we look at Brady Law, and some of the things that we've been looking at, all of these become important because we want the public to have trust in the decisions.

I heard the discussion between you and Senator Lanza, and part of that discussion stems from the fact that people don't have complete trust.

That because of the role of the DA with the grand jury, and because there is so much closure, or closed-door discussion with the grand jury, that the grand jury comes away with the decision that's already presupposed without really having all of -- we believe, the kind of transparency that's necessary.

So not everybody is in agreement that what is being proposed by the Governor is, in fact, the best policy for the state of New York, and that's why the basis of my question.

I'm not asking you to get in the middle of that, but I'm trying to help you to understand why it's important for us, as the Legislature and the policy body, to ensure that as we look at legislation, we consider that transparency goes a long way toward making everybody feel much more comfortable that the process is open and in such a way, that when a decision is handed down, that there is no undue influence that is brought by any party on that decision. That it is a decision that's really predicated on all of the evidence, and everyone has the opportunity to present that evidence in a way that gives the grand jury the opportunity.

Thank you, Commissioner.

SENATOR NOZZOLIO: Thank you, Senator.

SENATOR HASSELL-THOMPSON: Thank you, Mr. Chairman.

SENATOR NOZZOLIO: Senator Diaz is next.

Commissioner Bratton and his team have been generous with their time.

I ask those that have asked to speak after Senator Diaz -- that's Comrie, Sanders, and Perkins -- to summarize what you would like to say.

Commissioner, thank you for your -- listening.

Senator Diaz, you have the floor.

SENATOR DIAZ: Thank you, Mr. Chairman, but, I have to object of what you're saying, because we in the democratic society, now you cutting our time, and you on the other side, you have all the time in the morning, so it is not fair.

Just for the record.

Commissioner, thank you for being with us.

I mean, we -- I heard today things talking about what started the anti-police feeling that ended with the death of two police officers.

I heard people say that "the Mayor said."

Some people asked the Commissioner, Do you agree with what the Mayor said?

The fact of the matter is, ladies and gentlemen, that when we all are guilty, especially also elected official, we're guilty because, when those riots started, and that rally, people chanting, "What do we want? A dead police officer. "When do we want it? Now," not one elected

official, including myself, not one single elected official, and I am not blaming anybody else, we were so -- we are so guilty of keeping quiet.

Nobody came out. No one could [unintelligible] those --

SENATOR GOLDEN: I was out there, sir.

SENATOR DIAZ: I don't know. I didn't see you.

SENATOR GOLDEN: I was out there. All right?

SENATOR DIAZ: Then I say my apologies. I stand corrected.

SENATOR GOLDEN: Then don't speak for the rest of us. Speak for yourself.

SENATOR DIAZ: I just said, I stand corrected.

But we cannot come here now and questioning everybody else, when we didn't do what we were supposed to do and came out.

If you did, congratulations.

SENATOR GOLDEN: Thank you.

SENATOR DIAZ: But the rest of us, I don't think we did. And that's something that we have to be ashame of. And I don't come here now to try and to blame everybody else for the --

SENATOR MARCELLINO: No, I'm going to call

this one, too, because I spoke out in my community and I spoke out as much as possible.

I do not feel guilty --

SENATOR DIAZ: After --

SENATOR MARCELLINO: -- in any way, shape, or form in taking action after that.

I condemned it. I didn't like those statements. They're outrageous. They should never have been made. Cast aspersions on one of the finest police departments in the state, and in the country.

So I spoke out. Whether the media covered it or not, that was their choice.

But we certainly spoke out against it. And I heard several other Senators on both sides speak out against it.

So, Senator, speak for yourself, and don't cast it on anybody else.

SENATOR DIAZ: Not everyone is defending themself. We are guilty of --

SENATOR MARCELLINO: You attack, you're going to get --

SENATOR DIAZ: That's okay, I live with that. I'm -- Senator, please.

I am grown enough that I know what I say, and

I always stand for what I say. And I put in writing what I say.

So we are guilty. Now we're going to say, Oh, I said it, I said it.

Okay, if you -- if you think that you said it, fine.

But when that demonstration came, nobody came out.

After the death of the police officers, we all came out.

But we got to be honest enough to be sure of what we're doing.

Okay, and next, Commissioner -- I just want to congratulate you and the -- you and your police officers; the Bronx, which I represent a section of the Bronx.

In 1963, '64, that was the last time when the -- [inaudible/non-working microphone] -- less than 100 homicide, two years in a row.

After 50 years, after 50 years, 2013, 2014 -- [inaudible/non-working microphone] -- gotten two year in a row, and it's less than 100 homicide.

That count for something.

I mean, less than 100, still much. But, after 1964, the homicide rate went to 700, 500, per

year in the Bronx.

Now, for the last two years in a row, I say you are keeping down.

Congratulations.

I'm not only a Senator. I'm also a pastor of the Christian Community Neighborhood Church in the Bronx.

I'm the president of the New York Hispanic [unintelligible] that is composed of more than 150 Hispanic minister in the city.

I also would like to thank you, because we had a problem that I learned because of the "Daily News."

The "Daily News" wrote an article, where the crime statistics in Rikers Island, committed by the inmates in Rikers Island, were being applied to the 41st Precinct in the Bronx, increasing the amount of crime statistic in the Bronx.

I presented in the Senate a piece of legislation to do away with that.

My colleagues didn't do anything about it.

But your department, you send -- I never got that kind of response for any other commissioner before.

You send a high-ranking staff commissioner

and high-ranking [unintelligible] to my office in the Bronx, and you did something internally to do away with that problem.

Thank you for that, and I appreciate that, on that.

On the other hand, we all know that crimes are committed in our neighborhood; Black and Hispanic neighborhood.

Crime are not committed in White neighborhood.

So the crimes is committed in Black and Hispanic neighborhood by Black and Hispanic peoples, so we are committing crimes on our own people. And because of that, it is -- it is -- it would be ironic not to say, that, Why you are arresting, or why you are stopping so many people in our community?

We are the ones committing the crimes, we are -- we are the ones committing the crimes, so, I am not one of those.

But I will join saying, Why are you stopping so many people in our community?

However, as a minister, as a pastor also, I will say that people would not get angry to be stopped, decent people, if they are treated with

decency, with courtesy. People would not be -- people would not get angry to be get stop, people would not object to that.

The only thing that people that I know are object to the searching or to the stopping is because in the way some police officers stop them and address them.

If they -- if there would be another kind of way in which people are addressed with decency and respect, I think that whole thing would change [unintelligible].

Congratulations on the issue on the ID cards. That's something to the Mayor's credit, to your credit. We welcome.

And to end my statement --

SENATOR GOLDEN: Thank you.

[Laughter.]

SENATOR DIAZ: -- let me say -- no.

Oh, no. I came here to say -- I also supposed [unintelligible].

I came here to say this: And I have to say that, every year, every year, we in my district, we do toy distribution.

I have to congratulate the police department, the Police Benevolent Association, with the --

Patrick Lynch and all his staff, because every year they come to the Bronx.

Every year.

Not now, because [unintelligible].

For the past, maybe five years in a row, they have been coming to the Bronx, taking care of children, bringing toys to the South Bronx, the worst part, like the people, to the South Bronx, to the Black and Hispanic children of the Bronx.

So I come here to say [unintelligible], thank you, Mr. Patrick Lynch; thank you, police department; and Mr. Commissioner.

Start again the squeegee program.

Thank you.

SENATOR GOLDEN: Thank you, Senator Diaz.

Thank you very much, very much.

Senator Comrie, please.

SENATOR COMRIE: Good afternoon, Commissioner.

I just wanted to -- I'm not going to go into a long soliloquy.

I want to just say that, as a new representative for the 14th District in the State Senate, I was honored to serve 12 years in the City Council in the community, and I was honored to

have a strong relationship with Queens South and all of the precincts that comprise Queens South. And that's the area that I still represent now.

I want to congratulate Chief Barrere and all of the precinct commanders in Queens South for everything that they've been trying to do to make sure that the community understands the relationship between the police and the community.

And I can say that our community, which is primarily a homeowner community, enjoys a respectful relationship with the police department. And as you have probably noticed, has done everything they could to show their support during these times.

I wanted to just bring up, and I don't know if anyone else spoke to it, but I read your statement. I'm sorry I was running late and I didn't hear the entire statement. But I would hope that we adopt all of your recommendations for additions and services and supplies that you needed, especially the upgrades to the bulletproof glass; as opposed to doing the bulletproof glass, the ballistic panels; as opposed to the other state funding that you're asking for, to make sure that we have -- just to go through your other issues that -- the escape hoods that you require; the issues of

making sure that, also, your weaponry that you need; and, basically, all of the supplies that you need to have, to make sure that you have not only the technical support, but the enhancements to the police departments as well.

At one point they had increased our money for capital upgrades for police departments.

I hope that that is still happening, because I know some of the station houses were in severe needs of just electrical upgrades to keep up with the technology. And I hope that that's going on as well.

I just wanted to really ask you one basic question, and after complimenting Queens South and Chief Barrere, and letting you know that people in our community want to be supportive of a real dialogue between the police and the community.

And while community affairs is trying to do as much as they can, anything that I can do to help install that and improve that, you have my support to make that happen.

We need to make sure that there's clear community dialogue, not just between the police and the 400 people that go to all the meetings, but the community people that reach down from the barber

shops, to the houses of worship, to the hair salons...everywhere that we need to go to ensure that the police can have had a real dialogue with the community.

I have one question for your consideration, and I would hope that every rookie police officer spends at least two weeks in a community-affairs position, where they could go out and meet the community one-on-one. As opposed to just going to a training or listen to some lectures, that they could at least spend some time in their new role, actively working with community affairs, going out and meeting all of the different locations in a community that people are aware of.

And I would hope that you would consider that as part of your training policy for new officers when they come in as well.

And since we're short on time, and this is -- I'm trying to be respectful of the Chair and be focused, I would hope that we had could delve into that more succinctly and more detailed at another time.

COMM. WILLIAM J. BRATTON: What I would suggest, sir, is probably a discussion between yourself and Commissioner Tucker would be

appropriate.

The program he's designed, that we're implementing for our new officers as they leave the academy, for their first six months out in the field, now they'll be assigned with specially-selected field-training officers, as well as working with community partners; volunteers who have volunteered to help assimilate them into the precincts.

They are no longer going to operation-impact assignments initially out of the academy. They're going right into precincts. And the most recent class of 900 are in all 77 precincts around the city, working with those field-training officers.

For two months they work days, for two months they work evening tours, and for two months they work the overnight tour, so that they do get a full feeling for all that goes on in the precincts.

So, effectively, what you're talk about we're already in the process of implementing. It's been designed by Commissioner Tucker.

So, that conversation I think would be beneficial to you.

I also would like to extend to the members of the Committee, this Committee, but also the other

elected officials, both Assemblymen and Senators, for New York City, the opportunity, as we have recently done for our City Council, two presentations:

One, to come out to the new academy, $750 million academy in Queens, to see firsthand the training that's underway out in that beautiful facility, the multiplicity of training. On my given day, we have 2,000 personnel in training at that academy.

And, in addition, that we recently gave a -- John Miller, our commissioner of counterterrorism, gave a presentation to the City Council on what we're facing currently with ISIS and other threats in the city.

So I would like to extend that offer to you, and we can coordinate it through the leadership, to have you come in for those two presentations. I think it would be very beneficial to all of you.

SENATOR COMRIE: I look forward to attending both presentations.

SENATOR GOLDEN: Following up on Senator Comrie's remarks there, I don't know if you've set the time to sit down and present anything to the Senate Finance Committee.

SENATOR COMRIE: [Unintelligible.]

SENATOR GOLDEN: Or have you sat with the Governor's people yet for finance for dollars for the NYPD?

Have you -- your finance team?

COMM. WILLIAM J. BRATTON: We have not.

Commissioner Grippo is here with me.

Vinny, I'm not sure if we have any of these meetings up at the state level.

SENATOR GOLDEN: I would do that as soon as possible, on both levels, and the Assembly level as well.

COMM. WILLIAM J. BRATTON: Thank you, Senator.

SENATOR NOZZOLIO: I serve as Chairman.

Senator Crocie, Senator --

SENATOR COMRIE: I'm sorry. I'm kind of new here. I'm not used to being cut off.

Is that a normal thing? Or is this --

SENATOR GOLDEN: No, Senator Leroy Crocie. I was just adding to your comments, that I believe that the Commissioner should have the opportunity to present to the Chairs in Albany and to the Governor for help in finances for the NYPD.

And I don't think you got the answer to that

question.

SENATOR COMRIE: No, I think I had started my statement by saying, I would hope that everything that he has proposed here is adopted by us in the State Senate, at least, and, hopefully, adopted by the Governor in the budget.

I think that making sure that he has all of the -- making sure the police department has all the technical equipment and supplies, and especially the list that the Commissioner stated here --

SENATOR GOLDEN: Thank you, Senator.

SENATOR COMRIE: -- I think is important. And I think we should all commit to making sure that that happens.

And if you haven't given dollars to all of these issues, to the respected Finance Department or the Governor's Office, I would hope that that is done quickly, and so that we can have it adopted for the budget, which we should be starting our process now, and bringing it to the co-committees and the other committees that are important.

But I would hope that -- and I'm saying that I'm committed to doing everything I can, as a new Senator, to try to make sure that everything on your list is in the budget for 2016.

And I would also just say that, you know, as we try to work to make sure that the department has what it needs, that we also work to make sure that the department has an opportunity to communicate effectively to the entire community, as I was saying earlier. And I would welcome the opportunity to talk to Commissioner Tucker about that.

I was proud to be in the council when we had voted for the new police academy, and part of [unintelligible] committee that did that.

And as head of the Queen's delegation at the time, making sure that the College Point facility was put in place was important to the whole city.

SENATOR GOLDEN: Is there a question?

SENATOR COMRIE: I'm trying to wrap up, but you guys interrupted me. And I was done, actually.

But, I just wanted to say that, at the end of the process, we need to make sure that there's no opportunity for other entities to try to interrupt a clear communication between the police and the community.

I think that's really what happened over the past few months. And if we can find ways to mitigate that on a regular basis, we could survive bad media.

Thank you, Mr. Chair.

SENATOR NOZZOLIO: Thank you, Senator.

Senator Sanders.

SENATOR SANDERS: Thank you, Mr. Chairman.

First, let me applaud the Chairs for this meeting; Commissioner, to your worthy staff.

I sit before you as a person who is no stranger to a uniform.

I am a Marine Corps vet, infantry; and, I have friends and family who have been in the police force, so I'm very sympathetic to the police.

I understand what it's like to walk a post, and have the joy of going home at the end of that tour.

So I certainly am no stranger.

Yet I also am -- I must admit, I'm flabbergasted by some in the city who feel that those who are saying that we have to clean up our ranks is somehow an attack on police.

I'm flabbergasted.

I understand that in any group that you have there's going to be some bad apples.

If you have priests, there's going to be some bad apples in the priests.

If you have preachers, you're going to have

bad apples.

If you have -- believe it or not, I know people don't believe this, but if you have politicians, there's going to be some bad apples in the group.

I know you don't believe it, but it is true, and that we also need to clean up our ranks.

I feel that the same is true with the police department. And I don't think that it's any shame to say that we need to police ourselves.

We need to find who is not obeying and upholding the highest standards that we set forth. And that anybody who isn't needs to be disciplined severely.

I think that it shows a sign of strength.

And so I'm really confused at people who are saying that -- coming up with one a false dichotomy: you either have to be police right or wrong, seemingly, or you hate the police.

And that doesn't give much room.

The forced dichotomy pushes it so that the really question that we have to answer in New York City, and America, is a question that I believe that you guys at that table already have committed to:

Can we obey the Constitution and enforce the law for everyone? Or is it that the Constitution must be a guideline when policing certain communities?

Now, I don't believe that there's a soul at that table who will say that the Constitution of this great country is one that we should just throw away whenever it is convenient.

I believe that there should be one law and everyone should obey it, either side of the great divide.

I'd never say that we should protect any type of criminal.

Indeed, my officers work very hard to root out criminals in our -- whenever we can.

But as one who has marched, who will march, and say that there must be one law, and that we need to figure a way to clean ranks, I urge everybody to pull back from this false dichotomy; a dichotomy of splitting people and saying -- that actually protects people who are not upholding the highest standard that we want.

I, too, have had to have a conversation with my son.

May I remind you that, my son, never been in

any trouble, except with me. A college grad. Great guy. Better guy than I will ever be.

Yet I have had to have a conversation with him, and tell him, Hey, man, here is how you have to behave in a -- when the police come up to you, because I want you home.

And this assumes that he is not doing any wrongdoing.

If he is, I will have been the first one to turn him in.

If he isn't, I will be the first one to stand with him.

But everyone -- to say that this is not a real conversation that we've had to hold with our children means that we're speaking from two different worlds.

So I -- respecting the Chair, and respecting your time, sir, which you and your staff have done, given so generously, I end with a question that is the question of the day; and that is: Can the Constitution of the U.S., can the rules and regulations, laws of this great state and city, be observed by all, and, can we have policing of certain communities? Or, is it that those rules must be thrown away when we police certain

communities?

I end with that question, sir.

COMM. WILLIAM J. BRATTON: A very brief response.

The basic -- [inaudible] -- for our officers always has been, is, and always will remain that you cannot break the law to enforce it.

The laws are there to be obeyed by everybody, whether it's the enforcers/police, or the public.

And that's what we would seek to insist: that police behave appropriately.

And the public also has an obligation to behave appropriately. That you cannot resist arrest. That a resolution of that issue is in the courts.

But we are committed to that, that we are not lowering any constitutional thresholds. Those thresholds have to remain very high.

SENATOR SANDERS: Thank you very much, sir.

You have warmed my heart to know that there are those who say there's one law in every side; whether it be people in the community; every side should obey the same law. And if you don't, you have to take what goes with it.

Thank you very much, sir.

SENATOR NOZZOLIO: Thank you, Senator Sanders.

Senator Perkins.

SENATOR PERKINS: Good morning.

And I want to thank Chairs Nozzolio, Golden, Marcellino, and Gallivan, and for this convening of this important hearing.

I know that the Chair is pressing us to take time into consideration, so I will.

But I just want to, first, commend you for the work you're doing so far.

And I want to especially commend you for how you handled the recent controversy, if you want to put it that way, between the Mayor, who I think is doing a good job and means well, and the police-department union.

You know, the Black community is not anti-cop, but there is some concerns, historically, and even presently, that have been raised about how that -- the community is being policed.

And so it's remarkable to me that the manner in which the differences between the police union and the Mayor were exercised in a way that they turned their backs on him. And it almost, to me, is not what I would want my child to even see.

I had -- like has been said by others, I had to teach my sons and my nephews, as well as other young men in the neighborhood, about how to handle themselves because of the police-community relations.

And that is an honest, I dare say, common concern of many folks in our neighborhoods.

And for us to ignore that or to assume that that is anti-cop is to miss the point entirely.

In fact, quite frankly, it is to aggravate the problem as opposed to addressing the problems.

So I want to commend you for the role that you were trying to play, to make sure that that disagreement did not get out of hand as it was heading to become, because it did get out of hand. And it wasn't the kind of thing, that no one would want to see young men, perhaps aspiring to be law-abiding, and maybe even become police officers, turning their backs on the Mayor.

You know, if the military turns its back on the President, that would be considered treasonous, mutinous.

So, I know there's a difference between a police department and a military; but, nevertheless, it seems to me that that kind of mutual respect and

that kind of cooperation is very, very important, especially from the perspective of the public perception.

We seem to be out of hand, and it was a great concern in the neighborhood that I represent to see that kind of behavior taking place.

It did not help police-community relations in the neighborhood. Quite the opposite.

And if it was intended to be helpful, it did quite the opposite.

So, I just want to hope that you will continue to move forthright in the direction that you're moving, and try to get that type of situation as part of our past, never to be repeated again.

Thank you.

SENATOR NOZZOLIO: Senator Squadron.

SENATOR SQUADRON: Thank you very much.

And, just briefly, thank you for all of your time, and for the tone you've been setting. I echo that.

We're here at a hearing on one side of this significant, sometimes tragic, sometimes horrific, issue: police safety, community relations.

One simple question: Do you have any advice for us, for the public, for the press, on how to

move this entire conversation forward, all aspects of it, productively, in a way that leads to a safer, but also a fairer city that feels better?

COMM. WILLIAM J. BRATTON: The suggestion is one that I have voiced the idea of -- what we all need to do is try to find some common ground, some platform, to have what you engage in, certainly as politicians and in your respective roles, the idea of, try to engage in dialogue rather than rhetoric.

To have the rhetoric move toward dialogue, where you actually find compromise or collaboration.

And so this is an issue that I think really cries out for, trying to find common ground, trying to find what I believe is, in fact, resolution of the many different points of view and perspective and life experiences.

And shame on us if we miss this opportunity.

Out of crises comes opportunity. I have always looked at it that way.

And, God knows, we have had a horrific crises over these last couple of months, and the peaking, certainly, with the death of our two officers.

So wouldn't it be wonderful if the legacy of their deaths was, in fact, to move this discussion forward to where we did find resolution, rather than

confusion or continued differences of opinion.

We in the police department are committed to that. That we are committed to fulfilling our roles and responsibilities, as difficult as they are.

And so the answer to your question is really: For all of us to try to find that common ground so that, as we remember Officer Liu and Officer Ramos -- Detective Liu and Detective Ramos, that their sacrifice, the sacrifice of their lives, will not have been in vein.

SENATOR SQUADRON: Thank you.

SENATOR NOZZOLIO: And with that, Commissioner, thank you very much, for you and your team. You have been extremely responsive to our questions.

Senator Golden.

SENATOR GOLDEN: One quick question.

You put it up earlier, Commissioner, on the ISIS.

Is there -- and you put a new team together only recently.

It would be malpractice for us to let you walk out that door and not to ask you: Is there any credible threats or credible conversations going on for, both, the creation of this new task force, and,

is there any chatter on -- for New York City or the country, that your office is listening or hearing to?

COMM. WILLIAM J. BRATTON: The continuing reorganization of the department and some of its units, which continue all the time in the NYPD, more in response to trending, and nothing at all in response to any specific threat known that's being directed against the city or any of its people or any of its facilities.

No, the ISIS threat is most significant in its inspirational capabilities, as evidenced by the hatchet attack on four of our young officers several months ago, that so-called "lone wolf," or, the increasing concern we have in a country that has so many firearms, the idea of the individual that might engage in use of firearms rather than a hatchet.

So, no, no credible threat at this time.

And we have, I think, as you're all well aware, a very robust counterterrorism capability.

SENATOR GOLDEN: Last and final quick question, we talked about the morale earlier.

Where is the contract negotiations?

Are the contract negotiations almost completed with the NYPD, or is that still ongoing?

COMM. WILLIAM J. BRATTON: We have, as you are aware, five unions that represent our various uniform members.

Three of those unions have reached agreement. One of the three has ratified.

The fourth is in, I believe, close to final discussions.

And Pat Lynch from the PBA is present here. His organization is in arbitration at the moment. He can speak more specifically to his issue.

SENATOR GOLDEN: Thank you.

SENATOR NOZZOLIO: Again, thank you very much, Commissioner.

COMM. WILLIAM J. BRATTON: Thank you for your attention. Appreciate it.

SENATOR NOZZOLIO: Members of the Committee, if I just may indicate that we have spent two hours discussing these important issues.

I certainly appreciate your passion and your participation.

We have 10 more witnesses, and that we ask you to focus your questions to the witness.

And with that, we welcome President Patrick Lynch, president of the Patrolmen's Benevolent Association of the city of

New York.

President Lynch, welcome to the Committee.

PATRICK J. LYNCH: Senator, thank you.

SENATOR NOZZOLIO: We have, as you could tell, a lot of questions that need to be asked --

PATRICK J. LYNCH: Fair enough.

SENATOR NOZZOLIO: -- and we appreciate your participation.

PATRICK J. LYNCH: And we appreciate the invitation here.

But before I start, let me just introduce the ladies and gentlemen that are with me as well.

On my right is Mubarak Abdul-Jabbar. He's our second vice president and our legislative director.

This is Mike Murray, from our legal division.

We also have Valerie Debas [ph.], behind me, also from our legal division.

We have Nancy Picknally with us as well.

And, Frank Tramontano, who's our legislative assistant as well.

Out of respect for them, I wanted you to know who was sitting in front of all of you.

And I have more extensive testimony that I passed up to each and every one of you, that you

can review at your leisure as you move forward with the keeping the time frame in mind here.

And we appreciate this.

But, nonetheless, I have some read testimony, and then, of course, I'll answer any type of questions that you may all have for me.

SENATOR NOZZOLIO: Thank you.

PATRICK J. LYNCH: Good afternoon.

I would like to thank you, Senators, and members of your respective Committees, for holding these hearings on these urgently important issues, and for considering my statement as well.

And I would also be submitting a more detailed version of my remarks into the record for all of your consideration.

New York City police officers perform their jobs today in an environment that is more difficult and dangerous than any in recent memory.

We recognize that today's discussion has come about because of the assassinations of Police Officers Rafael Ramos and Wenjian Liu, but their murder is only one tragic example of the recent wave of attacks on and the threats against New York City police officers, not only here in New York City, but also in our great state; but,

unfortunately, across the country and around the world.

These attacks have underscored the obvious need for the equipment, training, and increased staffing that will allow police officers to better protect themselves and the public from these threats.

I will share some of our specific proposals in this area with you as we move forward here today.

But I also believe that we must address these threats at their source, which is the current climate of hatred and violence directed at police officers.

So many of these recent attacks, including the murders of Police Officers Ramos and Liu, and the terrorist hatchet attack on four police officers in Jamaica, Queens, last October, have followed the same pattern.

The calls for violence against police officers find their way to the fanatical and unstable who, unfortunately, then carry them out.

We must put an to end these calls for violence. To do that, we must put an end to the anti-police climate in which they are able to circulate and, unfortunately, gain traction.

In New York City, as in many places around the country, some elected officials and activists have advanced the narrative that depicts police officers as racially biased and habitually abusive.

While we strongly disagree with this and the conclusions that have been drawn from it, police officers understand why this perception exists.

It is at least partially the result of policing policies that police officers have no role in creating, and many times we have actively opposed them.

The PBA, for example, pressed for state legislation in 2010 to make quotas for stop, question, and frisk, and all other types of police activity, illegal, which was passed with the assistance of many in this room and many others of your associates.

But numerically-driven policies that deprive police officers of their discretion, persisted. And in the past number of years, we have seen the predictable backlash in the form of court decisions, and legislation introduced at the local level.

But rather than address in the failed policies that are at the heart of the issue, these misguided reform efforts have invariably shifted the

burden onto the police officers on patrol on our streets.

The message behind all of these efforts is that police officers are bad actors and must be scrutinized, controlled, and punished so that they don't victimize the public.

And that's just wrong and misguided, I believe.

Some of our elected leaders may have repeatedly proclaimed their support for police officers, but their actions and policies have amounted to official support of those who spread a message of distrust and disdain for law enforcement.

Once that message has reached an unstable individual with the means and opportunity to attack police officers, it becomes an act of violence, unfortunately.

In order to prevent another tragedy like the assassinations of Police Officers Ramos and Liu, we must break this cycle, and we must break this cycle together.

We must treat threats against police officers as threats against our society as a whole, each and every one of us, as we're -- wears uniform, or are walking down our streets, and, we must punish those

who make such threats accordingly.

And we must provide our police officers with the resources they need to simultaneously protect themselves as we go out and do a dangerous job, but also the public in which we serve and we so want to protect.

At the same time, those who are responsible for setting public-safety policy must align themselves behind the clear mission and set broadly-supported goals.

It's widely acknowledged that the dramatic crime reduction we have seen in New York City has been to the keys to this city's current prosperity.

But now that we've restored public safety in this city, some have wondered whether the public-safety mission has changed.

If the public, through their elected representatives, decided that priorities have indeed changed, police officers need to have that message clearly communicated to them.

The current debate over the so-called "broken-windows" policing strategy is an example that needs some clarity.

Our leaders can't, on one hand, say that, "support broken-window-style policing"; while on the

other, are carve-out exceptions that swallow the original concept as it's been explained to the police officers.

It is no longer support -- if it's no longer supported, or no longer supported in its previous form, police officers need to know what remains, and must be provided with the coherent guidance on just how they should conduct themselves and the policies we should follow.

In our view, the twin objectives of protecting police officers and preserving our public safety can and must be addressed simultaneously.

We believe that these -- there are several specific actions that you can take, along with your fellow legislators, in order to help further these goals, and I'll put some of them on the table, and they are also in the longer version.

Number one: Declare a moratorium on local legislation in the area of criminal justice and police procedure.

Criminal-procedure law, particularly those laws that impact certain police practices, has historically been a function of the state government.

Recently, however, some local governments,

including New York City, have attempted to usurp the State's traditional role through ill-considered local legislation that is fashioned and enacted in a response to the latest headlines without any consideration for its long-term public-safety impact or its relationship to the surrounding body in law that should be included.

Importantly, issues of criminal justice deserve more careful, deliberate, and reasoned consideration, and we believe that the Legislature's statewide purview leaves it better equipped to play that role.

For that reason, we will seek a law, specifically consigning the area of the state -- to the State Legislature, effectively declaring a moratorium on all local legislation impacting criminal or policing procedures, and invalidating any existing law or legislation of this type.

Two: Protect due process for police officers.

Police officers spend their entire careers protecting the rights of those we serve.

We must be afforded the same legal processes that are guaranteed to the civilian population, especially where liberty interests are implicated.

As the U.S. Supreme Court has said, in quotes, Policemen, like teachers and lawyers, are not relegated to a watered-down version of constitutional rights, end quote.

Recently, we have heard calls for changes to the way the criminal cases involving police officers are handled.

Many of those proposals would effectively place police officers in a separate justice system with the express purpose of indicting police officers on charges that would not stand under normal operational law.

This is a blatantly unjust and inequitable concept.

We urge you to oppose any legislation that may come before you, that we would create a separate justice system for police officers, who are also citizens of our great city and state.

Three: Increase penalties for threats and assaults against police officers.

As I noted earlier, an attack on a police officer is an attack on society as a whole, and the penalties for such attacks or threats of attacks must reflect that.

For that reason, the PBA is calling for four

changes to existing law.

The first change would make it a B felony to assault a police officer and cause physical injury while at a public assembly, making it punishable by up to 30 years in prison.

The second change would make it a D felony to menace a police officer with a dangerous instrument, strengthening a statute that currently covers only threats with a deadly weapon.

The third change would make it a D felony to encourage imminent violence against a police officer.

A second component of this charge would make similar threats against police officers, issued in connection with the terrorist group, a C felony, punishable by up to 15 years in prison.

Our hope is that these four changes will not only serve to punish the perpetrators who may carry out these threats and attacks, but will help prevent such threats from happening in the first place, which would stop violence in the future.

Four: Increase NYPD staffing.

Since 1999, the NYPD's uniform headcount has declined by roughly 7,000, while the city's population has grown by almost 1 million.

These cuts have been most deeply felt in the local precincts and patrol commands that provide the basic police services that New Yorkers rely on every day in our neighborhoods around the city, as an increasing number of police officers have been drawn away from patrol to fulfill critical counterterrorism needs.

The PBA has warned for years that the -- this reduced staffing level is a -- is detrimental to public safety, and also puts our members at risk.

It was also one of the key factors that led to the aggressive quota-driven policies that I referenced earlier in my statement.

As the city's population and demand for police services continue to grow, our policing-policy resources are already approaching the breaking point.

We believe that the Legislature can play a role in ensuring that the situation never occurs.

Accordingly, we ask for legislation that mandates a return to the NYPD's 1999 staffing levels, as that sets a minimum threshold for staffing that will rise with the city's growth in the future.

This restoration in police staffing could be

funded by a targeted tax similar to those that funded similar staffing increases under the "Safe Streets, Safe Cities" program in the early 1990s which was very effective.

Five: Provide steady funding stream for bullet-resistant vests.

The City Council's recent decision to allocate additional funds to purchase new bullet-resistant vests for some police officers who are currently wearing outdated or expired vests is a good first step, quite frankly, but it has also highlighted the need for a steady stream of funding to guarantee that replacement vests will be purchased on a routine basis moving on into the future.

The risk posed by worn-out or ill-fitting vests, or vests with outdated technology, as well -- is well documented, and the law requires an employer to provide, in quotes, reasonable and adequate protection to the lives, safety, and health of its employees, end quote.

That's our members.

For that reason, the PBA is planning to seek legislation that will compel the City and the NYPD to pay the cost of issuing bullet-resistant vests

with the latest technology and maximum coverage, as well as the cost of replacing any vest that's damaged, does not fit, or that has passed a given expiration date.

Six: Fund an anti-terror assault kit for all New York City police officers.

Recent events have demonstrated that active-shooter-style attacks are becoming a preferred tactic for terrorists around the world, and they have already been a grim reality of American policing, unfortunately, for some time.

The NYPD and many other departments now instruct police officers to engage the suspect as soon as possible to end the threat and prevent any further loss of life.

This means that the first police officers on the scene, usually our patrol officers equipped only with handguns and standard bullet-resistant vests, are expected to confront a heavily-armed shooter, or even, many times, multiple-shooter situations.

That is why the PBA has called, for many years, for the NYPD to equip all police officers, both those on patrol and those stationed at fixed locations, with an anti-terror assault kit consisting of, at the very least, an assault rifle,

tactical body armor, including a ballistic helmet, for our members.

Today their need for this equipment is even more urgent, and we intend to seek legislation that would provide funding for this equipment, and compel the NYPD to provide it to all its members and train them in it.

Seven: Equalize line-of-duty disability benefits.

All of the measures I have discussed so far are aimed at proactively protecting police officers and ensuring their safety, moving forward, and nothing should diminish that focus.

But New York City and New York State also has a moral obligation to care for those police officers who have been seriously injured in the line of duty, whether through direct attacks, or any variety of other hazards that we face on our job.

As you may be aware, New York City police officers and firefighters hired after July of 2009 have been placed into the Tire 3 pension plan as an unintended consequence of former Governor David Paterson's veto of the Tier 2 extender bill.

Tier 3 includes a reduced accident-disability

pension benefit for all of those who are permanently disabled in the line of duty. That benefit is significantly less than the benefit provided to their more senior colleagues under Tier 2, and that benefit afforded to every police officer and firefighter in New York State under Tier 5 and Tier 6.

Tier 3 police officers who were recently injured in the line of duty may be subjected to this diminished benefit in the near future, unfortunately.

It is not only a matter of basic fairness to protect them and their families against the financial risk that they may incur on our behaves, it is also a matter of public safety.

I ask you to put yourselves in the position of New York City police officers and firefighters who are unsure whether they will be able to provide for their families if they are hurt on the job.

Would you hesitate to put yourself in harm's way knowing that may well happen?

The PBA will continue to back legislation that would give New York City police officers the same level of line-of-duty disability benefits as all other police officers in our great state.

This legislation already has strong local support.

As of today, 35 members of our City Council have signed on to a resolution in support of such a change.

And I hope that you and your colleagues in the Legislature will give it your support as well.

I would like to conclude my remarks today by stressing once again, that protecting our police officers, and ensuring that they are treated fairly, are essential components to the safety of the city, and New York State as a whole.

Public safety must remain a top priority, and how we go about implementing that priority is ultimately the decision of policymakers, like yourselves.

But we believe that it cannot be maintained by a government that does not support its police officers; that procedures them with criticism and ill-considered oversight; that subjects them to unprecedented and unwarranted levels of discipline, and relegates them to a different and more burdensome system of justice than the rest of our fellow Americans.

Most importantly, we cannot expect our police

officers to effectively protect us unless we do everything in our power to protect them as well.

We have seen some hopeful signs recently that our leaders in New York City may begin to move in that direction, but our police officers still need the words of support, which we appreciate, to be backed up by more meaningful and consistent actions.

We believe the proposals and measures we've outlined will serve to maintain and increase the safety of police officers, and enhance public safety as a whole.

And I ask once again that you give all these proposals your support.

And I thank you, with all respect again, for hearing and considering my testimony here today, and I would gladly answer any questions you may well have.

SENATOR NOZZOLIO: Thank you, President Lynch.

PATRICK J. LYNCH: Thank you, Senator.

SENATOR NOZZOLIO: Senator Golden.

SENATOR GOLDEN: Thank you, Mr. Chairman.

Thank you, Pat Lynch, for being here today.

And the group that you're with here, your leaders in the PBA, thank you for being here as

well.

We heard the Commissioner speak earlier about crime, and it was focused in the last 28-day report that crime was up in murder, rape, and robbery.

And in the last week, which we're not privy to that, but we should be privy to, we get it -- I think we got it now, that, actually, robbery is not up any longer, but murder and rape are still up across the state -- across the city.

What is the -- what is your feeling on the street?

And, do we see an increase in crime continuing?

And we're going to ask, two areas: (a) morale, and (b) manpower.

We understand that the Mayor has announced a new organization, a new group out there, that 350 men. That's 350 men that's coming from another -- from the street again, so that's less men and women on the street.

I believe we need that 350-man operation to be able to go out there and to deal with the ISIS, and other high-potent issues that may affect the city.

But those two areas, right there, morale, and

manpower, do we have -- what are we going to do, and what can we do about it?

PATRICK J. LYNCH: I think they're intricately connected, quite honestly.

Staffing, we're down between 6,000 and 7,000 New York City police officers on our streets. That makes it more dangerous for our members as they go out and do their job, and also for the public as well.

And then it requires for us to makeshift, or Band-Aid, to go to different neighborhoods where there's spikes in crime and put out the fire, and then move to someplace else.

The CompStat program was a creative program that's effective.

It knows where crime is.

You give the commanders the responsibility to go after that crime, and hold them responsible for it, but also giving them the staffing that they need.

So one piece of that puzzle is now missing: the staffing that we need.

We're down 7,000 police officers.

So every time there's an event, whether it could be a festival or a parade or something joyous,

or something more dangerous, God forbid, happens in the city, the police officers that are pulled to police that issue are pulled from our neighborhood precincts.

That makes it more dangerous for us, and makes it more difficult for us to keep those crimes down. And one crime is too many. A spike in murder is one life too many.

And our strive should be, always, to make sure that there's none.

I'd rather have my members bored because there's not crime than both the public and the police officers in danger.

So we need to fix that staffing problem.

Also, that staffing problem I believe led to, and we were very vocal on this, so the quota-driven system that led to the problem with the stop, question, and frisk.

We were one of the first groups to come up and say, there's a problem.

It's polluting our relationship in the neighborhoods, because there's a certain numerical number or a goal or quota put on each individual police officer to come in with a certain number of stop, question, and frisk, as we call "250s," or,

arrests, or summonses.

It takes the discretion away from the police officer, who know the folks in the neighborhood, know the good folks in neighborhood, and, unfortunately, also know who may be a criminal.

But if you drive them to come in with a certain number, and punish them if they don't meet that, what they call "productivity goal," I call it "a quota," that creates and pollutes the relationship in the neighborhoods.

So with the help of many in this room, we passed legislation to make quotas illegal.

We want to make sure that numerical problem does not continue, because, again, it pollutes every aspect, and also to go to the morale problem.

Our police officers want to go out in the street and feel supported.

They also noted, a policy that says you need to bring in five collars, or five arrests, or five UF-250s, they know that pollutes the relationship with the public we're serving. That affects morale, because our members truly believe in truth, justice, and the American way. We want to go out and do our job, and make it safe for everyone.

So the staffing problem has tentacles that

reaches into all the different issues that we're speaking of here today.

SENATOR GOLDEN: Is the broken-windows theory -- what is the broken-window theory today?

PATRICK J. LYNCH: To go after -- what I'm concerned with, is that there's a clear message of what we're going after, and, what are those crimes?

Look, we want to go out and do our job effectively, but we can't go out and do our job and go after a crime, and, then -- with police officers, there's never a script for a police officer. Things don't always go exactly as they should. It's not all written in a book. You're dealing with circumstances that are fluid on the street all the time.

And then, after there may be a tragedy or a question, then to blame the police officer for the policy we have no ability to control, but we're sent out there, because the community complained, or the department sent us out to do it, we cannot walk away at that point.

So, if the policy is not to go after a certain crime in this broken-windows theory, articulate that to us so we know what we should be doing. But, certainly, don't hold the individual

police officers who didn't create that policy responsible for it.

SENATOR GOLDEN: So would a change in broken-windows, with the stop-and-frisk on a downturn -- considerable downturn, racial-profiling bill, all these add to -- I believe, a lower arrest process here in the state -- in the city of New York, and, a morale situation that is untenable right now?

PATRICK J. LYNCH: Well, it creates the morale issue because, what happens is, if you look at many of the pieces of legislation and discussions that go on, it always ends up with "discipline the police officer."

Now, we are not the ones that create the policy out in the street.

If there's a problem with the policy, go after the policy, and hold the policymakers responsible.

But what we find, the discipline always falls on the individual police officer standing on the corner, rather than those that made the policy.

SENATOR GOLDEN: Do you think there are too many cooks in the kitchen as well?

PATRICK J. LYNCH: I have to agree with the

Commissioner.

Too many cooks in the kitchen that, again, puts the focus on the individual cop on the corner, rather than the policymaker.

Look, if the policy is changed, we'll follow our orders and do our job effectively.

SENATOR GOLDEN: I had remarked at earlier about the crime statistics, but when you see crime going up in the coldest days and snow storms, that's not a good sign.

Crime should be down in the month of January; not going up.

PATRICK J. LYNCH: That's right.

SENATOR GOLDEN: That, I think is a serious problem.

PATRICK J. LYNCH: And it is, because it's pulling the police officers. We're already short-staffed.

We have the increased threat of terrorism that is real here in New York City. Then all the circumstances that happen on a regular basis, those police officers are pulled, and it makes it difficult for us to do our job.

Look, we need and want the resources to effectively do our job.

I've been a police officer for 31 years. It was a much different neighborhoods out there. I was assigned to the 90th Precinct, the Williamsburg, Brooklyn. It's a place now where our members can't afford to buy a home.

When I had gotten there, we would be standing on the corner in full battle regalia. That's how crime had eroded everything that we do, the tax base, all the policies that we make.

We don't want to slide back to doing that.

But the problem in policing is this: If the problem gets ahead of you because of the staffing problem, you cannot ramp up a police department by just saying, Go ahead, hire them up.

You have to test them, train them, recruit them, six months in the academy, six on the -- six months on the street, before they're effective police officers.

So once the problem gets out of control, it can't be stomped down too quickly. It's not like an assembly line.

We need qualified police officers who want to do this job, to go out in the street, and we need help doing it.

SENATOR GOLDEN: The CompStat here, you can't

tell a drug arrests. I don't know how drug arrests and how drugs are dealt with in CompStat, but I do know that we've seen the number of summonses, the number of arrests, on marijuana use is down.

But I do know, in the communities across my district, and across the state of New York, we see an increase in opium and heroin deaths, which we have to go to the Department of Health to get those numbers.

And we need to get more of those numbers.

Are you seeing more drug sales on the street --

PATRICK J. LYNCH: We are, we're seeing many of our neighborhoods, the increase in heroin and the like, and the calls that we have for overdoses.

And that sort of thing is a better question for the department on those statistical numbers.

But, yes, we're doing that.

But more importantly, the issue is not just the numbers. It's also the feel on the street, the perception on the street, of, it's not safe.

Now, we can look at the numbers and say, Well, the numbers say it is.

But if you're on the street corner and you're not feeling safe or supported, that permeates every

aspect of the life that we live here in this great city.

And as the Commissioner said, we're part of the -- 60 percent of my members live in the confines of New York City.

I was born and reared here. I reared my family here.

We're part of the communities that we serve as well.

So we want to have effective policing, but we need help in staffing to get that done.

SENATOR GOLDEN: Want to change the hat quickly.

PATRICK J. LYNCH: Sure.

SENATOR GOLDEN: Binding arbitration.

Where are you in binding arbitration?

And is there an opening here for the --

PATRICK J. LYNCH: We're in binding arbitration to resolve our contract.

SENATOR GOLDEN: What date --

PATRICK J. LYNCH: We're waiting for dates to get that done, but we're in the process.

But the unfortunate part here is we haven't learned from history in the past.

In the past, New York City police officers

were given zeroes. It was called a "zeroes for heroes" contract.

That created many of the problems we had, where we couldn't recruit qualified candidates to stay on this job. Senior-veteran-experienced officers to remain on this job, and pass that along to our younger veteran officers.

And that created all the problem, and, unfortunately, sometimes scandal as well, when you didn't have the resources.

So it's unfortunate that, once again, the City of New York is offering New York City police officers 18 months of zeroes.

We've lived through that. Been there, done that; it doesn't work.

We have a responsibility to our members to pay them so that they can live in the communities that they serve, but we also need to make sure we're recruiting qualified candidates to come on this job.

How you do that, is by paying a market rate of pay.

Because, what's happening now, and has happened in the past, when we're not at a market rate of pay, we recruit the police officers, we train the police officers, we put them on the

streets for six months, they pack their bags, and they move to a different community where they can pay for their family, educate their family, and also do it in safety.

And I think that's unfair, and I think it's short-sighted.

It should be a reasonable pay for police officers for the difficult job we do.

SENATOR GOLDEN: Because of the number of members that -- and I have one last question -- I want to ask my last question.

The -- and I think it's important that you focus -- you talked about equalizing the line-of-duty disability benefits.

Could you just put that into a focus, on the two officers that ran into a fire in Coney Island.

Or, if there's a better --

PATRICK J. LYNCH: Well, we have a number, unfortunately.

We have the police officer, Rosa Rodriguez, that ran into that fire in Coney Island. Unfortunately, her hero partner lost his life.

She is a wonderful woman, a family woman, a police officer, lives and resides here in this city and serves the city, but she can't walk very far

without hooking herself up to oxygen.

But the reality is, two police officers in that same circumstance, if you were on the job before July of 2009, if you're in that disability -- and no one wants that. It's not a benefit. Your life has changed. -- you'll get three-quarters, and maybe you'll be able to take care of your family.

But the police officer that's right next to them, in Tier 3, will get $27 a day. Won't be able to take care of their family.

It's not just that.

We had a terrorist attack in the middle of a shopping district in South Jamaica, Queens, in the 103rd Precinct, where a madman following the climate that I spoke of earlier, hit a police officer in the head with a hatchet.

Police officer -- when we talk about serving the community, four police officers that were standing there, having their picture taken by the community, interacting with the community, and while they were doing that, this madman, with absurd ideas in his head, came and hit that police officer in the head with a hatchet.

That police officer, and we hope, and we pray, that he comes back to full duty, and full

capacity, but he's a long way to do that from getting out of the hospital and all the rehab.

That police officer will be in Tier 3, won't be able to take care of his family, or any other police officer.

It's a matter of fairness.

If we're both in the -- if Mubarak Abdul-Jabbar and myself are in the radio car and we're responding to that same danger, and we get injured, we should be treated the same.

All we ever asked for in any of these issues, as police officers, and our union, is fairness.

We're asking for fairness.

This is not right.

SENATOR GOLDEN: Senator Hassell-Thompson and myself are partners in a police radio car.

And if she were in Tier 5, and she were to get hurt, she would get a disability.

And if I were to get hurt in that same car accident, or, responding to a crime, and we got into a shooting, and both us, unfortunately, may succumb to some of our injuries, or -- well, let's not go that far; not succumbed -- injured in the line of duty, I would get $27 a day, to be able to pay my rent --

PATRICK J. LYNCH: Exactly.

SENATOR GOLDEN: -- or my mortgage, or my kids for school --

PATRICK J. LYNCH: Right.

You'll get 50 percent of your salary.

SENATOR GOLDEN: [Unintelligible] three-quarters today --

PATRICK J. LYNCH: But, also, look at the job that we're in. It's a very young job. Most people are not even at top pay.

So it's based on the level of pay that they're at at the time. So that brings it down.

And we use the example of the $27. Those are the newer police officers that have got injured.

If you go out, there's not a lot of gray hair out there on street. It's a young, vibrant police department.

We have a responsibility to take care of them so they can take care of their family.

But we have a moral obligation.

We're asking them to go out and put themselves at risk? We have a moral obligation to take care of them.

There's a pact between society and police officers, saying, Put yourself at risk.

And we're willing to do that.

But with that pact comes, if you're injured and disabled, we will help you take care of your family.

These young police officers will not be able to take care of their family, will not be able to live in the city that they serve. And in many times, gave up the life they that knew, moving forward.

And, again, it's a matter of fairness.

SENATOR GOLDEN: The majority of the people on the street today are those guys today.

That's why another piece of morale is down.

I would like to go on, but I can't.

I think -- I thank you again for coming out here today and pointing out some facts to us.

I got to tell you, the stuff you have in this document, is tremendous.

PATRICK J. LYNCH: Hopefully it's helpful, sir.

SENATOR GOLDEN: And we are definitely going to look at it.

My colleagues, in each one of our different settings and our different committees, we'll take a look at this and see what, in fact, we can, and work

with the Assembly to get passed this law here in the state of New York.

We think this is a good piece of legislation.

PATRICK J. LYNCH: And I respectfully thank you.

SENATOR NOZZOLIO: Senator Gallivan.

SENATOR GALLIVAN: Thank you, Chairman.

Good afternoon, President Lynch. Thanks for being here.

PATRICK J. LYNCH: Thank you, Senator.

SENATOR GALLIVAN: And thanks -- thank you, and all of your members, for the work that you do to help keep the city safe.

PATRICK J. LYNCH: Thank you, sir.

SENATOR GALLIVAN: Your testimony was very extensive, and answered many of the questions that I had, so I'll forgo those.

But it was quite interesting, the one that I hadn't anticipated, or even thought of, is your recommendation for a moratorium on local legislation in the area of criminal justice and police procedure.

So, I completely understand it from the perspective of the law, the criminal-procedure law, and how, essentially, that governs the -- well,

governs arrest procedures after arrest warrants, and so on.

The Governor had a -- one of the Governor's recommendations in his so-called "criminal justice reforms," he called for a statewide use-of-force policy, where it would require the municipal police-training council to establish a model policy on use of force, and mandate all departments statewide to follow that.

Does your recommendation on calling for the moratorium on the legislation on the laws extend to policy issues?

And --

PATRICK J. LYNCH: It should.

And, of course --

SENATOR GALLIVAN: Get specific to --

PATRICK J. LYNCH: And it could. And you have to look at each specific law.

We don't want to broad-brush every proposal that any legislator or governor puts forward.

So you have to look at the detail. The devil's in the details always.

But you have to look at how it affects New York City police officers, and all of these -- and we speak about oversight, and the like, and I'm

sure we will, moving forward, as well.

It puts police officers, that they're in a different justice system than anyone else, where, if we don't find what we need here, we move to another --

SENATOR GALLIVAN: Clearly, let me just jump -- clearly, you've articulated that well. That was an area I was going to ask about, that I don't need to.

But just this one specific policy that the Governor has called for, regarding a statewide uniform use-of-force policy.

PATRICK J. LYNCH: Yeah, well, it ignores -- well, I would be against it, and I'll tell you why.

It's -- it doesn't -- it's a solution in -- and looking for a problem, as they say.

The New York City Police Department is the best trained in the country. We have the best training. We're the most restrained in the country. We're the most interactive with the community of any place in the country.

So, to say there needs to be a standard as if we're doing something wrong, and that's the problem that runs through all of the pieces of the legislation and proposals that we're talking about,

it starts from the point of view that police officers are doing wrong on a regular basis.

And that's just not the facts, and the numbers don't speak to that, at all.

You can go across the country and try to compare other departments to the NYPD.

We're -- we're --

SENATOR GALLIVAN: Point well-taken, so let's move on for the sake of time.

PATRICK J. LYNCH: Fair enough.

We're meeting that goal.

Thank you, sir.

SENATOR GALLIVAN: One other area.

PATRICK J. LYNCH: Yes.

SENATOR GALLIVAN: We all -- I think it's safe to say that all of us up here, in the room, the Commissioner testified a little bit to it, you alluded to a relationship with the public, have a concern about police-community relations.

In your view, sitting there representing the officers across all the boroughs of the city, where do police-community relations now stand, in your eyes?

And, can it be better improved? And if so, how?

And going one step further, how can we be helpful?

PATRICK J. LYNCH: It can always be improved.

Every -- every issue can always be done better and improved.

But the community -- police-community relations are at a good place, and it has always been at a good place, and you can always improve on that.

I come from a background in community affairs as well, in Williamsburg, Brooklyn.

And what you do is, you'll hear the dialogue that goes on, when demonstrations that go on that are trying to paint police officers as anything but good.

And that kind of permeates how people are thinking.

But then when you go from community to community, and we would go to community council meetings, and you would -- you would speak to the folks, the community, and it's made up of community members, you would say, Oh, there's -- they would say: Oh, there's a problem in the NYPD. Well, not with my cops in my precinct. They're terrific.

Then you move to next neighborhood, the next

precinct, the next community council, and they'd say the same thing.

So then when you finally take all those neighborhoods in which we're proud to serve, and put them together, you'll say, You know what? They do support New York City police officers. There is good police-community relations.

The community in every neighborhood, whether it's a wealthy neighborhood or a difficult neighborhood or a financially-difficult neighborhood, each one of those people in each of those neighborhoods deserve to walk down the block in safety.

You know, we as police officers, and I teach this myself to the police-academy recruits, saying:

Let's not get jaded when we're standing on the corner dealing with that drug dealer, or, a criminal on that corner. Don't be jaded and think everyone's like that, because they're not.

Think of, while you're focused on that person, think of the person that just left their apartment, walked behind you, walked to the subway, went off to work, they're trying to put food on the table just like we are. Spends their day at work. You don't seem them till the 4-to-12. They walk

back from the subway, back to their family, back to their apartment.

Those people? They appreciate New York City police officers, because while they walk behind us and we're dealing with that criminal, they realize we're standing between the good hard-working people in every one of our neighborhoods and the criminal that tries to destroy what we're doing.

So that's what we find when we talk to the folks out there in the neighborhood.

The poorest communities need the police the most to make sure they're safe. And they are entitled to it.

SENATOR GALLIVAN: Thank you.

PATRICK J. LYNCH: Thank you, Senator.

SENATOR NOZZOLIO: Thank you very much for your very helpful suggestions.

That the members of this Joint Legislative Committee decided to go about and conduct these hearings for the very purposes that you're mentioning.

First and foremost, when we talk about the precipitous, significant drop in violent crime of New York City, and New York State, of any state in nation, you were likely to be Officer Lynch at the

time.

And I want to thank you, your colleagues; and please convey that message from our State Legislature, to you, and to your organization.

PATRICK J. LYNCH: Senator, thank you. And I appreciate those comments.

SENATOR NOZZOLIO: We're here to let you know that we appreciate the job you've done.

We want to provide you with the tools to make sure you're safe as you make the public safe.

And that is, first and foremost, the mission of this Task Force.

PATRICK J. LYNCH: And we appreciate it.

We look forward to a dialogue, and working with you on it.

SENATOR NOZZOLIO: I won't belabor questions, all of my colleagues want to ask, but let me focus on one question; and that's, whether you support or reject, and, articulate if you reject it, the concerns that you may have regarding the Governor's proposal of establishing what's so-called "independent monitor" over grand juries that investigate police-officer conduct.

And I'm not talking about internal-affairs conduct.

I'm talking about in-the-line-of-duty conduct.

PATRICK J. LYNCH: We oppose that.

And the reason for it is, there's oversight upon oversight, that New York City police officers.

There's no profession, and there's no department within that profession, that has the number of and amount of oversight that New York City police officers have.

If the citizens feel like they're not being served, there's a number of different areas in which they can go to to complain.

And we went over, in earlier testimony with the Commissioner, the different levels of monitors and IGs and federal monitors, internal affairs, the district attorneys. On the federal level there's a number of levels there.

It's duplicative.

And all we ever ask for is fairness in the process.

If there's a problem with that process, let's fix it. Let's not just try to solve it by putting more oversight and more process on it that doesn't get to the core of the issue, when we already have that.

Plus, it also creates a problem with priorities.

Each one of these become a cottage industry that needs money to create, to rent, to hire. And that takes money away from the city coffers that can be better used in helping New York City police officers protect them, and other priorities which I believe are more important.

SENATOR NOZZOLIO: And the issue of closure, and I don't want to belabor this issue, but, to me, that was something lacking here as well: that the officer really doesn't know when the case is closed.

PATRICK J. LYNCH: That's right.

And they feel like, even though, technically, maybe not, they feel like it's double jeopardy.

We go through this process, and we may be exonerated, or unsubstantiated, then there's another level.

It feels like it's a "gotcha."

We have to get rid of the "gotcha" discipline.

Investigate it. We're not saying don't investigate an allegation.

Investigate that allegation. Do it fairly, because we're citizens as well. Don't put us in a

separate justice system, or separate rules for us.

We want the same rights that we protect on the street every day for everybody else.

SENATOR NOZZOLIO: Thank you.

PATRICK J. LYNCH: Thank you, Senator.

SENATOR NOZZOLIO: Based on the list we have, Senator Marcellino, Senator Sanders, and Senator Hassell-Thompson.

Anyone else wishing to speak?

SENATOR LANZA: [Raises hand.]

SENATOR PERKINS: I had made a request earlier.

SENATOR NOZZOLIO: Senator Perkins. And, Senator Lanza.

Seems like our entire Panel.

Senator Marcellino.

SENATOR MARCELLINO: Thank you for coming down.

PATRICK J. LYNCH: Thank you, Senator.

SENATOR MARCELLINO: My voice to the people who -- thank you to the men and women of the New York City Police Department.

For that matter, I represent Nassau, so I have to take those police departments into consideration as well.

Anybody willing to put their lives on the line on a daily basis to protect their neighbors I think are in line for our credit and our support.

The Commissioner raised an issue about extra equipment that they want to put with the police officer on the beat.

He mentioned, obviously, iPhones that we're going to go into, and he mentioned cameras that are going to be worn, and probably are being worn at the present time by some police officers. He's talking about computers that can be removed from cars and taken with them.

And it went on, the list.

Is that just too much?

PATRICK J. LYNCH: You know, it -- there's nothing that prevents crime better than a New York City police officer standing on our street corner.

We cannot make crime go away with technology.

Some technology is extremely important, and we understand that and we support that. And we always support the training aspect of it.

But if we don't have the police officers, it doesn't replace.

For instance, a camera on the corner or on

your chest doesn't stop a crime. It may solve a crime down the road, but our police officers are [unintelligible] present.

We want to stop the crime before it happens.

We need to do that. We should be focusing on the staffing, and the training of our members. Not for issues that try to cover up for the fact we don't have enough of us on the street to effectively do the job, back to Senator Golden's, where you see those spikes going on.

It may just -- a few numbers, they say. It's just a few numbers.

Well, that's a few lives, it's a few rapes.

Well, that's a few people that were sexually assaulted.

Those few, those numbers, are our family members.

So we need the staffing there.

The most effective crime-preventer is a New York City police officer.

The most effective community-relations person is a fully trained police officer on the corner.

So I think we need to focus on that first, and then look on the other issues.

SENATOR MARCELLINO: Your concerns, or your

consideration, for the recommendation before, about bulletproof glass in patrol cars.

The Commissioner wanted panels -- bullet-resistant panels put in the doors.

PATRICK J. LYNCH: Right.

SENATOR MARCELLINO: The union's concerns?

PATRICK J. LYNCH: Yeah, we're all about the safety. We look at all of those aspects.

We think the more layers of safety we have in protection the better we are from it, so I think we should try to go about doing both -- both of them.

What we -- we always look at in the police department, is if it's a budget piece.

I think that it's important that we realize that the public safety and police officers on the street is what puts the money in the coffers of the city, and the state as well.

That safety factor you cannot overestimate.

One time there was -- tourism was down in the city, for obvious reasons.

It's not now. That brings money.

Businesses that want to do business here, residents that want to live here, that's all goes to the tax base.

So I think we should do everything we can to

make our police officers safe so we can effectively serve the public as well.

And I think that also goes to the bottom line, so we shouldn't always look at, it a will cost this much, we can't do it.

Well, because the dividends will be paid moving forward if we do equip and train our police officers, to help them be safe, so we can help you to be safe, Senator.

SENATOR MARCELLINO: I appreciate your comments.

And I just wanted to state for the record, that Senator Golden had mentioned before, that if he was in a police car with Senator Hassell-Thompson, that they might be -- I have no doubt that Senator Hassell-Thompson would have protected Senator Golden.

[Laughter.]

PATRICK J. LYNCH: It was at your expense.

SENATOR NOZZOLIO: Senator Perkins.

SENATOR PERKINS: Thank you.

I want to acknowledge, as you pointed out earlier, that we are here today with memories of Officers Ramos and Liu in our hearts.

PATRICK J. LYNCH: Yes, sir.

SENATOR PERKINS: But I would also like to say that we remember with equal passion and solemnness so many that have died as a result of excessive actions of police officers, such as Eric Garner, Sean Bell, Amadou Diallo, Abner Louima, Patrick Dorismond, Tony Baez; and in particular, I am concerned about those who were a part of the "Central Park Five."

My neighbors, who -- young men that were falsely accused of the "Central Park jogger rape" case.

And it turns out that, having suffered the false confessions; and, therefore, imprisonment, those young men spent a lot of time in prison. And, ultimately, evidence proved that they were coerced into confessions of guilt.

So incidents like that, especially, do a lot to harm the community's perception of the good work and the good intentions of the police.

It's hard very often to restore that kind of faith and concern and support.

I believe that, in some instances, those confessions should be videotaped; so that, therefore, they can come with some integrity; and, therefore, help restore some of the confidence and

trust that the community wants to have and should have by those who are -- [unintelligible].

So I wanted to understand your position about the videotaping of interrogations as a tool, that could be, I believe, an opportunity to bring some faith and some trust in terms of the techniques and tactics of the police.

PATRICK J. LYNCH: First off, we'll respectively agree to disagree on some of your statements, sir.

But the part of videotaping confessions is better asked of those that -- detectives.

I represent police officers, white-shield police officers, on the street that really aren't in that realm.

So someone else might be better able to answer that particular question.

SENATOR PERKINS: You don't think that that process has any bearing on people's perception of the police --

PATRICK J. LYNCH: But anytime with a perception, the perception and reality, whether it's true or not, and I don't want to give a false answer to something that I'm am not an expert in, quite frankly.

There's others that do that job, and they may have a better answer, and a policy might affect their members more than mine.

SENATOR PERKINS: Okay, thank you.

PATRICK J. LYNCH: Thank you, sir.

SENATOR NOZZOLIO: Thank you, Senator Perkins.

Senator Sanders.

SENATOR SANDERS: Thank you, Mr. Chair.

Good to see you; good to see you all.

PATRICK J. LYNCH: Good afternoon, Senator.

SENATOR SANDERS: I also want to throw in the name Clifford Glover. I don't want young Clifford Glover to be forgotten.

First let me say that, I, in my local community and other communities, we actually aid to police; not just by word, but we're out there on the front line with you guys.

PATRICK J. LYNCH: And that's important.

SENATOR SANDERS: I have helped people turn themselves in. And, I have helped identify folk who should have been brought to justice. And I make no -- I'm not ashamed of that. I'm very proud of that.

PATRICK J. LYNCH: Nor should you be.

SENATOR SANDERS: I think that anyone who breaks the law should take whatever goes with it.

My sympathies are for the victims.

I have very little sympathy for people selling poison. I very little sympathy for people hitting grandmothers upside the head, and doing all this other stuff.

I -- you know, perhaps it's my Marine Corps background.

PATRICK J. LYNCH: No doubt, honorably.

SENATOR SANDERS: Yeah.

So we -- you know, so I'm not your run-of-the-mill liberal.

There is a problem with the police and the community, my friends.

If we don't see that, we are -- what we're doing by this is allowing criminals shelter. We're allowing them to hide behind bad feelings that have been come about, and people won't speak.

This "broken-window," this stop-and-frisk, I agree with you, we're -- maybe at a point they were smart strategies, but after a while, the point of declining value was reached. It became stupid strategies, where, if you take any hundred people and turn them upside down, five or six of them,

something's going to come out of their pockets that shouldn't be there.

However, however, you made 95 guys who are saying that "I was mistreated."

It's a bad policy.

A better policy, we do have to attack the question of adequate policing, which I agree with you is at the basis of much of this.

It forces the police department into what I call "drive-by policing"; where, you drive by, you see a group of people, you grab them, you shake them up because something's going to come out of one or two of their pockets, et cetera.

But, we really have a problem.

Let me ask you -- first of all, let me say, I am so in agreement with you on most of the things that you said, sir, and we'll come back to that point of agreement.

But let me go a step further.

In days gone by, I have been endorsed by the PBA, and I look forward to being endorsed again.

So I'm not here as an anti. I'm here with great love and admiration.

But at the same time, the truth is the truth, and we all should figure out what it is and obey it.

Maybe by asking two or three questions, we can come to certain truths.

PATRICK J. LYNCH: Fair enough.

SENATOR PERKINS: And this -- this myth of, Pat Lynch, the bad guy, we're going to dissolve that myth today. We're going to do it right here in this place, because we're going to give you a chance to really state who you are, and what you believe in.

Let me start with this one, easy question: Are there any bad apples in the NYPD?

PATRICK J. LYNCH: The NYPD is no different than any other profession in any other world, in any other country, in any another city.

SENATOR SANDERS: Including politicians?

PATRICK J. LYNCH: In -- well, okay.

Yes.

Every, every occupation has them.

But, with politicians, it's wrong to say that all of you are bad.

SENATOR SANDERS: I agree.

PATRICK J. LYNCH: And it's also wrong to say that all police officers are bad.

And it's also wrong to blame the individual police officer for a policy that we didn't have a hand in creating.

And that's what I think part of the problem is.

And we've been very vocal. Sometimes it gets lost in the discussion. Sometimes it gets lost in those may want to discuss it as something different than it was.

But we were the first to come out and say this policy will pollute. The policy is not the stop, question, and frisk, because that's a real tool.

Stop, question, sometimes frisk, is a real tool, and we're not afraid to articulate why we made that stop, and we should articulate that reason.

But, when you put a quota on it and say, "Kid, we need five; and if you don't, you're disciplined," that's the problem.

And that didn't get addressed.

SENATOR SANDERS: All right, I --

[Technical difficulties/video and audio lost.]

-- that many people in this city felt that, when many police turned their backs on the Mayor, that it was, in essence, felt like they were turning their backs on the city, or many parts of the city.

And, incidentally, as a marine, if we turned

our backs on the commander general, we would be breaking big rocks into little rocks.

I can't even dream of turning my back on the commanding officer.

But are you aware -- this is not the Marine Corp, I can see this -- are you aware, sir, that many people felt it was that, those police, and not all police, but those police were turning their backs on a whole segment of the community which felt in a different way.

PATRICK J. LYNCH: I can see, and I understand, that that may be that perception, but that's not the reality or the message that was intended that day.

That message was, those who attack New York City police officers, those that label New York City police officers. Not those on the street that are going about their business, doing their job, in any segment of any community across the city.

That was not any intention or thought whatsoever.

It's a very emotional time, and we do have a right, also, to express ourselves.

Some folks think -- and I'm an advocate for police officers, and I proudly do that job whether

I get criticism or not. That's my job. And our members have a right for me to speak on their behalf.

So when I'm speaking, I'm speaking on their behalf, to be able to say: There's a problem here. We need to draw attention to it.

The dialogue needs to say, that: Folks are safe because of police officers. Folks can walk down the street and the city is not what it was because of police officers. And it's because of police officers working with our communities out there, each and every day.

And that still goes on, and has gone on.

SENATOR SANDERS: I was going to add that last point, that -- we're safe because the police and the community have joined hands against crime.

And that is the danger I was suggesting that this is happening; that those hands are not joined as firmly as we need them to.

Let me take an issue that some people have raised.

10,000 people marched. 50 people made stupid, harmful, disgusting statements; and, yet, the whole crowd is branded as -- 50 people, perhaps, say, "Kill the police," or whatever they were

chanting; and, yet, that whole crowd of 10,000, or whatever they are, are branded as wanting to kill the police, or whatever.

Would that be -- wouldn't that be as wrong as if a few cops do something wrong and all police are blamed?

PATRICK J. LYNCH: Well, police officers, every day, police demonstrations by the thousands.

No other group, no other department, does it like New York City police officers do. And we protect the right.

Most demonstrations that we're policing, we may not agree with the message that's there, but we pride ourselves on policing it.

But with that, we need our leaders to be able to say, "those statements are wrong."

And we want, we came out and said, those statements must be condemned. And they weren't.

We said the atmosphere on the street is getting dangerous for police officers. And it was.

And we said this may happen.

SENATOR SANDERS: I actually did make statements --

PATRICK J. LYNCH: I'm sorry, no, and I don't go down an individual line any more than, and

I don't expect you to come down the line of my members either, quite frankly.

But we warned that the atmosphere was getting polluted, and we warned that police officers were going to get hurt, and it fell on deaf ears.

And you know what happened? Police officers got hurt.

Whether it was on the Brooklyn Bridge, or, God forbid, and it did, it went to a further thing in Woodhull Hospital that day.

So, that's what we warned against.

It wasn't listened to.

It wasn't spoken out against by all. Not painting anyone with a broad brush, of course.

But it should have been every one of us.

No matter what end of the spectrum, political or otherwise on, we should not be calling for anyone to be killed.

No one; whether we agree or not.

We should be strengthening our laws to make sure when there's threats against police officers, that it's stopped.

There's a case that happened yesterday, where there's pictures of police officers with guns to their heads. And then they didn't get disciplined

for it.

We have defenders in the Bronx whose job is to be officers of the court, that are in videos, with guns to a police officer's head, calling for their death, in actions, as well as words.

That needs to be condemned.

That wasn't condemned. That was funded.

That needs to be disciplined, and it wasn't.

Those are the things I'm talking about.

I'm not speaking about the honest, good, working person, of any color, in any neighborhood, of any economic status, in any neighborhood.

That's not what we do as police officers.

But it is our role to say, This is happening. It needs to be stopped.

And I'm speaking on behalf of my members.

SENATOR SANDERS: Isn't it also a fact, or could it -- let me use it a different way.

Couldn't it also be said that the lack of apparent discipline to police are also driving a type of extremism?

And I quote the CCRB, which gave a report, and the inspector general who also came up with a report, saying that there is little discipline coming in certain cases.

In certain cases.

Those reports are new.

This is not me saying this.

PATRICK J. LYNCH: I strongly disagree.

We are the most disciplined department or agency in this city.

Look at the numbers.

When you're disciplining police officers all the time, that happens.

That's part of the morale problem that your previous colleague spoke of, also.

SENATOR SANDERS: Then are you aware of what the CCRB reported?

PATRICK J. LYNCH: I am. And it's a short report that doesn't effectively look at all of it.

It talked about the chokehold policy.

And we can debate whether it was a chokehold or not in Staten Island.

But it looked at some cases that weren't completed. It wasn't a complete investigation.

So then to take that investigation and say, "Well, there's a problem," I think it's wrong, and I disagree.

SENATOR SANDERS: Well, I will respectfully differ with your disagreement, sir.

I think that the CCRB has been almost toothless in their -- and until recently did not have the powers necessary to go further.

Now we have a new CCRB. We will see where this comes.

We will see what the inspector general, or whatever his title is, we will see these things.

Now, let me end with agreements with you.

Agreements.

You gave seven different things. And, I see agreement with 3, 4, 5, 7.

Especially 4.

Possibility of 6 in there, Number 6.

But especially 4, that we certainly need to look at staffing.

You couldn't possibly have community policing. We don't have enough police to do it.

PATRICK J. LYNCH: Right.

SENATOR SANDERS: And somebody should say, we couldn't possibly do it in New York City.

So all of those who want that, you either have to increase the amount of cops and change the policy, or at least stop talking about it, because you simply don't have the staff to do it.

I would add with this: I differ with you

that an inspector general, or an inspector over the police, would be a separate criminal justice system.

I think that very -- no organization should police itself. And the DAs, even with my friend being in here from Staten Island, the DAs are simply too close to the police. And that we certainly need an independent monitor.

Again, the points of agreement that we have, let's first things first: Get a real number of police here, and continue the dialogue of, what do we mean by fair policing, good policing?

These are good arguments that we should have after we establish a basis of what -- put your money where your mouth is.

If you say that you want community policing, then give enough cops so that we can police the community.

PATRICK J. LYNCH: And I agree.

And the best, when we have the proper staffing, we have police officers that staff the radio cars, we have police officers that staff our post in our schools, and the like.

And that is the best community-relations officer because, we're in the street, we know the community, good and bad, and that's important.

But we also, on the second point, where we'll disagree, we can't just look at it as one agency and one oversight.

We have to look at all the oversight that we have.

We can't take one report from one agency and say, Ah ha, there it is, and then say there's not enough oversight, when we have layer upon layer of oversight, and people recommending more, sir.

And thank you for your service in the Marine Corps, sir.

SENATOR PERKINS: Thank you.

Thank you, sir.

Thank you, Mr. Chair.

SENATOR NOZZOLIO: Thank you, Senator.

Senator Hassell-Thompson.

Following Senator Thompson will be Senator Lanza.

SENATOR HASSELL-THOMPSON: Thank you, Mr. Chairman.

President Lynch, I'm a little bit confused, and I hope you will help me clarify this.

In your statement, on page 2, you allude to the fact that the person responsible for the police murders was deranged; and, therefore, you understand

that -- you understand that set of circumstances.

But then you go on to say, "But no matter how mentally unbalanced he may have been," you later infer that "narratives by elected officials and some others," you almost infer that we're responsible for helping to drive that.

And I resent it; I have to tell you that I do.

PATRICK J. LYNCH: I understand.

SENATOR HASSELL-THOMPSON: And I resent it because, those of us in the elected body have called for a review of stop-and-frisk, not because we don't believe that it's a good tool, but it is very difficult for us to believe that, with 55,000 arrests, that the numbers of verified incidences are so minuscule, that 55,000 Black and Brown young men being arrested, having ongoing police records, is not a good enough tool to be able to advance what the police department believes is an accurate tool.

So we're not saying that you throw out the baby with the bath water.

But we're saying, somehow, the use of that tool is disadvantaging some ethnic populations within the city that you're responsible for protecting.

Also having said that, your concerns that you raise about the policy, the illegality of your requirement to reach quotas as a result of that is what's driving, because that's what you also infer, is driving police officers to come down on these numbers in the manner that they are.

But it's interesting to note that nobody voiced the illegalities of those until after the Legislature called for this investigation.

There's no way that we can know that you're being forced to carry out a policy that even you believe is driving you in a direction that is helping to foster the very atmosphere that you're trying to blame everybody else for today, and negate to include your police officers in that atmosphere.

PATRICK J. LYNCH: Ma'am, we were one of the first ones to come out and say the quota is the problem and it needs to be addressed.

That police officers are being made to make a numerical number of stops, and being disciplined and their livelihoods threatened if they do not meet.

We were the first ones to say that. And we were the first ones to say that it's polluting the relationship in every neighborhood that we serve.

So, I respectfully say my words were spoken

towards that quota, strongly, when no one was listening.

And then we finally, with the help of many in this room, got that law passed.

And that was the issue in the stops.

The stop, question, and sometimes frisk is a tool. It should be used in policing. It should be used constitutionally.

We believe that, and we should articulate why we make that stop. We're not afraid to do that.

But when the police officers are constantly beaten down and made to get a number, and it's not just on the stop, question, and sometimes frisk. It's also summonses, it's also collars. That polluted the thing.

So I think we agree on some, and disagree on others, ma'am.

SENATOR HASSELL-THOMPSON: The other thing, the other piece I think that is somewhat disturbing, too, is that when you -- I think earlier we heard the Commissioner talk about, and somebody raised the question, of the relationship of a police officer and attitude.

It was more about attitude of the police officer when they make a stop and they make an

arrest.

And I continue to hear the brass say that -- or give the impression, that the police officers were within this right to make the stop and whatever.

And while I may not disagree with any of that, my concern is, I get too many reports in my office, when you are stopped, you are not told why you are stopped.

What in your -- what in the Constitution, what in your book of rules, disallows you from telling the citizen why they're being stopped?

Because, in most of the incidences, it's: I can do what I want to do. I can stop you and you can't -- you can't do anything about it, you can't say anything about it. I don't have to tell you why you're stopped.

And that's part of what ignites the kind of disrespect and disregard that you see.

And I know that this is the case.

I've been personally involved. And, certainly, the reports that I get in my office are stemmed from that kind of attitude and behavior.

Nobody questions it if you're wearing the badge. You're the sheriff, nobody questions that.

What we do question is the constitutionality of whether you have a right to stop me when it appears that I have done nothing to break the law, and where is my right to ask you, and expect a response, when you do stop me?

PATRICK J. LYNCH: Some folks do question that we're the sheriff because we have the shield on our chest, and that does happen on the street as well.

And it then goes back to that quota system that polluted that relationship, the climate we're working in which makes things turn into confrontation rather than discussion and dialogue.

And that's what I've been talking about throughout this thing, is about the climate that creates problems on the street.

And then policies or laws that don't address the core of the problem, but look at everything else and then try to have it land on the individual police officer.

SENATOR HASSELL-THOMPSON: You cannot have it both ways, President Lynch.

PATRICK J. LYNCH: But we can have a dialogue on what problem is and how we solve that problem.

SENATOR HASSELL-THOMPSON: And I want us to

continue that dialogue because, certainly, as somebody who is supportive, I mean, I have five precincts in my senatorial district. I am known to all of my commanders and to most of my officers.

I make it my business, when the new commander is assigned, that I make it clear that I am supportive of the work that they do in the community.

But I am also very clear that I will not allow, in the performance of their duty, the constitutional rights of my constituents to be violated.

And so that, in order for us to come to the meeting of the minds, I do everything that I can to foster those kinds of relationships, but it continues to be very difficult for me when the police officer is the bad sheriff.

And in certain precincts, the numbers of bad sheriffs are higher than they are in other precincts.

PATRICK J. LYNCH: And I think --

SENATOR HASSELL-THOMPSON: And I want to tell you that it is hard for us to believe, for those of us who represent large ethnic populations, to

believe that that is accidental.

I happen to represent a community in the city of Mount Vernon with one precinct, 92 different languages.

And I keep repeating this because it is important for people to understand that almost every culture, every language, across the world is being spoken in my neighborhood every day.

And I know that there are people who run the gamut of respect for, as well as fear for, the law that enforces that community.

PATRICK J. LYNCH: And my department, which I proudly serve and work, also speak those same languages, also live in those same neighborhoods; 60 percent in the neighborhoods, and all the police officers don't look like me. But they're out there serving the communities, color-blind.

And that gets lost sometimes in discussion that's there.

It gets lost sometimes, again, it's looked at the police officer.

When another agency or policy doesn't work, it lands on the shoulder of the police officer to deal with on the corner.

We need to equip and support them, and

understand, also, the atmosphere and the climate in which they're working, ma'am.

SENATOR HASSELL-THOMPSON: Thank you, Mr. Chairman.

PATRICK J. LYNCH: Thank you, Senator.

SENATOR NOZZOLIO: Thank you, Senator.

Senator Lanza.

SENATOR LANZA: Thank you, Chairman.

Great to see you, Mr. Lynch; President Lynch.

It's always difficult to follow my good friend, Senator Hassell-Thompson. She is such an intelligent and articulate member of this body.

President Lynch, there's been discussion today concerning the incidents with police officers turning their back.

And, I respect the conversation, and the fear with respect to what message that may have sent.

And without commenting on that, I want to say this:

I have talked to many police officers, many of whom, as I've said before, are close personal friends.

There was this feeling that certain city leaders turned their backs on them first.

And I have to tell you, as an observer,

that's what I saw too.

And so I'm concerned that that sent just as dangerous a message as what the police officers did.

And, so, that is why I think this dialogue is important, because there are some who see it only one way, and there are some who see it only the other way.

And I think it's important for all of us, as elected officials, and the police department, and that's what you've offered to us, is to continue this dialogue and this discussion with the Mayor and the elected officials, and that's vitally important.

So I want to thank you for that.

PATRICK J. LYNCH: Thank you, Senator.

SENATOR LANZA: Your comments concerning the quota system, and the fact that they polluted or created a wedge between the police department and the community, is very -- it makes a lot of sense to me, and it's something I've heard before.

And, I listened very attentively to what Senator Hassell-Thompson said about it.

And that's something that I think that we need to understand and appreciate as we go forward with respect to those issues.

And what's fascinating to me about that is,

every single mayor has always denied the existence of quotas. Not a single one, Republican, Democrat, has ever said they are in effect.

They have all said, "They do not exist."

And, of course, every one of us living in this city, every one of us, knows that that is not true.

So I'm not asking for a comment. Don't want to get you in trouble.

PATRICK J. LYNCH: I'm going to give one anyway.

SENATOR LANZA: That's a fascinating part of that issue.

PATRICK J. LYNCH: It certainly is.

And I have 31 years on the job, and there's been a quota.

They can call it "goals" and "productivity goals," they can call it what they like, but if you don't come in with a number and you're disciplined, or your evaluations are bad, or you're transferred from one tour to another, or one neighborhood to neighborhood, that's a quota. And that's what we've had.

SENATOR LANZA: And I think that's -- that [unintelligible], that is consistent with what

people living and breathing in this city every day know to be the truth.

Two more comments.

The Commissioner said to this Panel that there was no instruction, there was no directive, to the police department, to the police on the streets during those demonstrations, not to make arrests in the face of offenses being committed.

He said that did not happen.

You don't have to comment.

But that seems to run contrary to things that I have heard, and runs contrary to things that I have been told by people who were there on the street.

And so that's something that I ask this Panel, and that I will continue now, after hearing that denial, I want to look further into that.

PATRICK J. LYNCH: And that's fair enough.

And then when you look at folks taking over the Brooklyn Bridge, and folks taking over the FDR Drive, and name the road on the West Side Highway, it asks that question: Why?

SENATOR LANZA: And I think we need to continue to ask that question, and I'm going to do that.

And, finally, I just want to say, remind you, as always, I look forward to working with and your members as we go through the, both, budgetary and legislative process in Albany, to make sure -- and all my colleagues are united here on this, to make sure that we have the criminal laws, and the police have the resources, to ensure the safety of both the police and our citizens across the city.

So, thank you.

PATRICK J. LYNCH: Thank you, Senator.

I appreciate that.

SENATOR NOZZOLIO: Thank you, Senator Lanza.

Senator Squadron, to close.

SENATOR SQUADRON: Thank you very much.

And, thank you for being here.

And, thank you to your members for what they do for our communities or neighborhoods every day.

PATRICK J. LYNCH: Thank you, sir.

SENATOR SQUADRON: I'm just going quote, actually, a little bit of your written testimony, so, I hope you don't blush too much.

[Laughter.]

SENATOR SQUADRON: But, "In New York City, as in many places around the country, some elected officials and activists have advanced the narrative

which depicts police officers as racially biased and habitually abusive."

I'll skip a little bit.

"While we strongly disagree with the conclusions that have been drawn from anecdotal examples around this, which, in many cases, have been misconstrued or mischaracterized, police officers understand why this perception exists: It's at least partially a result of policing policies that have been questioned by the communities we serve.

"Police officers had no role in creating these policies. In many cases we have actively opposed them."

The reason I ask, is we have here some proposals from you that we're going to look very seriously at on the issue of police safety.

And, you know, certainly, the horrific murder and the tragic loss of life of Detectives Liu and Ramos demands that we do so.

There is also this piece of what's going on in the conversation that you referenced in your testimony.

So I wanted to really -- I know we talked about quotas, some, but I wanted to really ask

specifically: What policies do you think can change that perception in communities where it's strong, or among, you know, elected officials or activists, as you point out, who you think are sort of stirring the pot?

PATRICK J. LYNCH: It should go -- first, it should go back to the way it was when I came on the job, where the discretion was left in the hand of the police officer.

Whether it was a summons or an arrest or some other type of action, or a UF-250, where, you went out and saw an issue, sometimes that issue can be resolved with a conversation. It doesn't have to be a summons.

Most times, in my particular precinct, it was 2.7 miles wide.

So if you were able to say to a kid or someone that may have made a bad choice: Kid, this one's on me. Tomorrow it's on you.

So you let that kid go or that person go, without a record, without a summons, without a problem.

Now, of course, if you see that same person doing something on your next tour or the tour after that, then so be it; then you'll take that step

because it didn't work.

But when it's made to be just a number; you need a number, a productivity goal, which is a quota, and you're disciplined, you're taking that discretion away from the individual police officer and they're forced to write that summons, write that 250.

If we leave it in the discretion of the police officer, they'll do the job.

How do we know that?

Because that's, effectively, how we have done the job for many, many years.

Again, it also goes back to our staffing issues, where you have to keep crime down, but if you don't have the staffing, you can't get it done.

The commanders are held responsible.

They come down on the police officers, and they're sent out on the street.

Use the CompStat process the way it was intended:

Know where the crime is.

"Cops on the dots," as the Commissioner says.

Give the responsibility to those police officers and the commanders.

Give them the resources and staffing that

they need.

That's where it's broken, and then it forces them to go into this quota-driven policy because no one wants to have a number that's lower.

I say, if the number is lower, but the problem is solved, so be it.

We're in the problem-solving business.

We're not there in the numbers or the revenue business.

The police department should not be looked at as a revenue-gatherer.

We should be going out to solve the problem.

If we can do it with a discussion, so be it, problem solved.

If it takes further action, so be it, we'll take that action.

But it should not be looked at as a number, and we surely shouldn't be looked at as, we need to bring in revenue.

SENATOR SQUADRON: So let me ask, then: You know, as we see the 250s -- stop, question, and frisk, stop-and-frisk -- go from a high of high hundred of thousands down to less than 100,000 last year --

And I want to just be very clear about this,

because it's inconsistent with what some of what I've read. Of course, you're here to speak for yourself, which is good.

-- so you think that's a positive change?

PATRICK J. LYNCH: Sure.

I think the change should be left, again, to the discretion -- as my previous answer -- to the discretion of police officers.

We're not afraid to say: I see the problem, I'm going to make this stop, and I'm going to articulate why we made that stop.

That's where it's supposed to be.

First off, we came out against the quotas first, and that got lost in the mix as well.

We also came out on the 250s, when these laws were being passed, saying: Police officers, do it constitutionally.

We said that.

That gets lost as well.

So, it's easy to demonize me or the organization for speaking out for my members.

That's okay, that's what we do. It's part of the process.

But in reality, if you actually look back, we spoke out against them.

SENATOR SQUADRON: And do you think that those of us who spoke out against those extraordinarily high numbers that you got to at the end of the last administration, those numbers are way down, crime --

PATRICK J. LYNCH: Yeah, I think the problem -- the numbers should be based on the problem, whether it's high or it's low.

SENATOR SQUADRON: Let me ask another question.

PATRICK J. LYNCH: Sure.

SENATOR SQUADRON: Do you think those of us who did that were -- I'd like to turn to another part of your quote here.

You say that, "Those parties" -- talking about elected officials and leaders -- "stir up emotions in the street in order to further their own agenda."

Do you now, do you believe, sort of looking at -- the point that you make, that makes a lot of sense to me, about the kind of neighborhood policing, the ability to say, "Look, that's crazy, don't do it again," as opposed to entering people into the criminal justice.

Now looking at what's happened with

stop-and-frisk, do you look at those of us who highlighted the problem of those extraordinarily high numbers "as stirring up emotions on the street in order to further our own agenda"?

PATRICK J. LYNCH: I think part of is yes. And part of is, too, is looking at the individual police officer.

If we look at a lot of the dialogue that's gone on back and forth and the vitriol that's gone on back and forth, it always ends up with "discipline the police officer."

We don't make the policy.

Have we ever seen -- we see numbers and -- huge numbers of police officers getting disciplined, and I believe unfairly many, many times.

Do the policymakers ever get disciplined?

Do those that put that policy, and put folks on the streets to that follow that policy, are they ever disciplined?

That's all I'm asking.

Any of these processes, when I speak out on any of these issues, is about fairness.

My members are entitled to due process and fairness; not separate due process because it's for a cop.

It shouldn't be that way.

The system should be: Make -- there's an accusation, investigate, and then prove it.

Not accusation, investigate, prove it. If we don't get what we want, let's change the law.

SENATOR SQUADRON: I mean, look, the idea that you have officers our there, given a directive, risking their lives in the first place, and also trying to save their career, and then they get personally attacked for it, I think it's every bit what you've described it as.

PATRICK J. LYNCH: And that's exactly the reality.

SENATOR SQUADRON: So, I just really want to get into the core of this, because I think finding a little common ground, here, you know, I asked the Commissioner what he would advise. And he used words like, "common ground," and "dialogue, not rhetoric."

In fact, today, you used some of those words, too, and I appreciate that you have.

And it seems very wise, that advice.

It seems like there's common ground, that, the idea that officers on the street were required for years to go out there and stop-and-frisk up the

wazoo, to the extent that we had nearly a million stop-and-frisks in a year, something that, you know, these elected officials and activists that, you know, clearly, prior statements, your testimony today, you've got a problem with.

You, I mean, sitting here talking about the "quota" issue; certainly, communities out there on the street, you know, most importantly, those who are impacted by this, officers and communities; all agree that was bad policy.

It put an unfair burden on officers.

It turned communities and officers into opposition where they needn't otherwise be.

So can we agree, just, again, in the interests of a little common ground today, that the vast reduction in those 250s being issued is a mutual step in the right direction that we all think is positive?

PATRICK J. LYNCH: I think the numbers should relate to the crimes that's going on.

So you can't say it's too low or it's too high.

What I'm saying, do it constitutionally to solve the problem.

So whether it's high or low, it shouldn't be

based on a quota. And none of it should be based on the "blame the cop that doesn't do the policy."

SENATOR SQUADRON: I'm not sure we quite got to common ground there, but --

PATRICK J. LYNCH: That's okay.

SENATOR GOLDEN: You didn't get your answer.

PATRICK J. LYNCH: You didn't get the answer you want.

SENATOR SQUADRON: Out of respect for my colleagues, I will not try again, but, I do hear what you're saying here.

I would say, that the policies that you proposed, as I said, critical that we take a look at and take seriously, for all of the reasons that have been discussed today.

PATRICK J. LYNCH: And I look forward to discussing them with you.

SENATOR SQUADRON: And I appreciate that.

PATRICK J. LYNCH: Thank you, Senator.

SENATOR SQUADRON: It is also critical, though, that we hear from those on the ground who know what they're being pushed to do that is stirring the pot, to use your words, and how to fix that practically.

And that, sometimes, a criticism of the

department from an elected official or an activist isn't a criticism of the officer.

You know, it's always surprising to me that you can't have an elected official, an activist, and an individual officer, or the president who represents them, together saying: Don't put us in that position.

Don't put us in that position in communities, especially where young men of color were just rampantly targeted.

Don't put us in that position as officers who need the trust and relation with the community to be safer.

Don't put us in that situation with elected officials who are just beating up anyone we can, just so we can get listened to.

I mean, don't you agree with that statement, anyway?

PATRICK J. LYNCH: And, you know, a lot of this, too, is also, when I speak out and we speak out, you have to realize that we're speaking out, going back to the feeling that Senator Lanza spoke of, but also the avalanche we see coming of the criticism.

We can't look at the oversight as individual

oversights, we can't look at the criticism as individual criticism, because the police officer on the street is standing on the corner saying, What now?

And we can't blame the cop.

But in all these discussions it comes down to "discipline the police officer."

30 years on the job, I'm 16 years the president, it always comes down to the discussion as, "we need more discipline."

SENATOR SQUADRON: And, look, and maybe that's the other side of it.

Maybe it's, these policies, [unintelligible] the department, especially under the former administration, was driving these activities shouldn't happen. And, when they do, or when they drive people into bad circumstances, we should look at the department and not the individual.

That's an important point.

I would just conclude by saying, I know that you believe that there's a certain stirring of the pot that happens from folks like those of us on the Panel and others in elected life.

In my experience, for better, and sometimes for worse, those of us in elected life respond to

what we're hearing from our constituents, and don't create it.

So I do think that there's a real danger in suggesting that some of these -- some of what we've seen out there comes from the mouths of elected officials, were that folks listen to us that much.

And I don't think --

PATRICK J. LYNCH: And sometimes, and many times, union presidents also are voicing the opinions of the members who elected us, and we have a responsibility to speak for them as well.

So while you're speaking for your constituents, as am I.

SENATOR SQUADRON: And I think that's actually a really important point. I appreciate you making that.

PATRICK J. LYNCH: Thank you, Senator.

SENATOR NOZZOLIO: Thank you, Senator.

And, President Lynch, you've been extremely demonstrative in your discussion.

We look forward to working with you.

Your proposals are concrete, and we will be addressing those, and that we look forward to working with you in the future to achieve the mutually-shared objectives.

Thank you very, very much.

PATRICK J. LYNCH: And thank you for considering my testimony.

And thank you for the discussions that we had.

And thank you for putting this joint meeting together.

SENATOR GOLDEN: We're very happy to hear that Senator Squadron will be on all these bills as we pass them around.

SENATOR SQUADRON: I look forward to a collaborative effort, Senator Golden.

SENATOR GOLDEN: Oh, it will be collaborative, all right.

[Laughter.]

SENATOR NOZZOLIO: Our next presenter is Edward Mullins, president of the Sergeants Benevolent Association.

President Mullins, good afternoon, and welcome.

Please, for the record, identify the people that you have brought with you at the table.

EDWARD D. MULLINS: Thomas Gearon, counsel with the SBA. Teresa Shall [ph.], assistant with the SBA.

Mr. Chairman, I know you're running behind on time.

If you would like, I could skip reading through the statement. I could save you some time for questions.

SENATOR NOZZOLIO: Your testimony, which looks very extensive, we will submit that in its entirety for the record.

And if you would be so kind as to summarize your concerns.

EDWARD D. MULLINS: Several concerns.

We all have discussed, we talked about, summons quotas, stop-and-frisk, terrorism.

As you know, right now, the city of New York is being confronted with the public report that was issued by Police Commissioner Kelly in the past.

It was thrown out of federal court by a federal court judge, obviously, who found no wrongdoing on behalf of the NYPD.

The report made reference to home-grown terrorists and threats, and now there's a debate whether it should be kept on a website.

I think this is an area that this Committee needs to look at.

The report serves several different purposes.

It supports the concept of, if you see something, say something.

And it helps to educate the general public, and information from one of the largest police departments in the world that can be shared with police departments throughout the country.

Something to consider.

The topics of profiling and racial profiling, it has been a long debate of stop-and-frisk.

I think it needs to be noted that the NYPD is not a racist police department, contrary to the beliefs of Judge Scheindlin.

He have members in this department who were born in 106 different countries.

After 11 years of police in this city under the Bloomberg-Kelly administration, the department had a 70 percent approval rating.

In the past year, that approval rating has gone down to 59 percent.

Now, that's not to say that there shouldn't be consideration given to the feeling and the perception that's occurring within the communities and the city. There's ways to address those issues.

But this has had an impact on policing, and it's created an atmosphere of concern for both the

police and the community.

There's a topic within my presentation that addresses the issue of Google, who has an app known as "Waze."

If you look at the app, it identifies the location of police officers.

Now, this is a traffic app. It's a pretty helpful app to identify areas of heavily backed-up roadways.

But on that app it identifies the locations of where highway patrols or police officers may be, and it has the ability to identify whether the police are invisible or visible.

It serves really no purpose when you think about that if the overall concept is to provide information to traffic.

But we would be kidding ourselves to disregard the belief that that information is exposed to criminals, terrorists, and members of the public who are trying to get away with, you know, roadway infractions, speeding.

They are harmful to public safety and the police.

The issue that -- I'll just skip through real quickly.

We talked about terrorism.

In France we saw terrorists with heavily-armed body armor, assault rifles, firing away at police officers backing up down the street who did not have the firepower to withstand such a terrorist threat.

I think we need to explore the safety of police facilities should they be overrun, the readily-available weapons of assault rifles to members of the NYPD to address incidents that we have seen in France.

Now, this is a sensitive topic because, really, what you're doing is you're arming police with higher-powered weapons.

But, the flip side of it is, that we need to suppress an immediate threat, and that may not be readily available to the first responding officers that are on the scene.

Most recently during this attack in France, you know, our secondary cycle of sending personnel to backup the emergency-service personnel and the counterterrorism people, their job is to suit up, heavily weapons, and to go to the gun lockers and get those assault rifles.

Well, unfortunately, the policies in the

police department, certain people have keys, and if they're not available, you don't have access to those weapons.

So, in many ways, we're creating a false sense of security to the members of the public.

We talked a little bit earlier about, and I forget how it was presented, you know, home-rule messages and local legislation.

What's occurring, and I believe it's occurring, is that, within City Council, and I'm sure in other areas of the state, the ability to create law that circumvents state penal laws and criminal-procedure laws needs to be watched carefully, because what it's doing is it's throwing off the overall concept of what the State is proposing for all law enforcement to follow throughout.

A police officer from Albany who engages in any kind of action here in New York, are they falling within the guidelines of the City Council profiling bills?

We don't know, but they're not aware of that up there in outside counties who respond to the city.

So I think this is something where state

legislators can keep an eye, and watch what's occurring. And, you know, if it's good policy overall, then it's good policy overall, but it shouldn't be designed to work around state criminal-procedure laws and penal laws.

The issue of bail needs to be looked at, also.

We see too many cases where judges are just releasing criminals and it's walking out the door. You see them on a consistent basis, just walking out.

California has a system of bail to which there's guidelines.

If you are a person who set a fire, for example, you may be an 18-year-old kid who set a fire, there's a different level of bail, as compared to if someone got hurt, several people got hurt, or if police officers are involved.

It needs to be looked at, and you may want to take a look at what's existing right now in California and see if it's feasible to implement here in New York.

Overall, I think a lot of the issues that have been confronting the NYPD, Pat Lynch did address.

These areas I think that have been left out, and if it's helpful in any way, I'd be happy to take questions in the interests of your time, or work with this Committee going forward to look at some of these areas.

SENATOR NOZZOLIO: President Mullins, I have some questions.

Thank you very much for your participation, and your patience for waiting through the three hours-plus we've had so far of our hearing.

First and foremost, please convey to your officers and members of your association that our purpose in creating -- the four Chairs of the Senate Investigations Committee, Crime and Corrections Committee, Civil Officers and Employees Committee, and Codes Committee -- this Task Force was to let our police officers know, including our sergeants, that we respect the job you do; appreciate the fact that the greatest drop in violent crime in any state in the history our union was here in New York State, and it was, in large part, because of the efforts of the men and women in your organization, and the organization of other police officers throughout the city in particular, but also New York State.

So thank you for that.

EDWARD D. MULLINS: Thank you.

SENATOR NOZZOLIO: Your comments and suggestions are well-taken.

We will look to the Legislature in addressing them in certain ways.

I want to ask you a question I asked the president of the patrolmen, that, the issue of proposal that the Governor has to place an independent, or so-called "independent," monitor on grand jury proceedings involving police officers.

You may have heard President Lynch discuss his opposition to this proposal.

What is your opinion?

EDWARD D. MULLINS: I think it's an area that we can explore.

I know it's probably not a popular decision, but the concept of the public not having faith in a criminal justice system, law enforcement, or the district attorneys is an issue that needs to be addressed.

When I hear the issue of police being too close to the district attorneys, in many ways it's somewhat offensive.

When you look at law, and you look at the integrity that it's brought into the

district attorney's office, we're in some ways undermining them and their credibility and their integrity.

But should a lawyer from another county come down to process a case, he still has to deal within the fundamental basics of law.

It's not a science, but certain aspects of law, whether it be for searches and hearings and interrogations, all apply.

The rule of evidence applies throughout the state of New York.

But I think that it's a topic that's open for great debate.

I would be interested to sit and discuss it further.

And if it's something that is going to be implemented, I'd rather be part of the solution to it than to oppose it without a voice.

I think that we need to speak to the district attorneys, even throughout the state, to get their opinions of it.

SENATOR NOZZOLIO: One of our prominent district attorneys, Dan Donovan, from Richmond County, is here.

He's been waiting, he'll be testifying next,

and we certainly will ask him that question.

I guess the fact that any disciplinary proceeding for a police officer, particularly in a violation of law, potential violation of law, through internal affairs, goes through that process, but then is prosecuted by that same district attorney.

The district attorney does not claim to be biased then.

I guess that's why I raise the question, because we're trying to seek opinion on this, the Panel wants to know. And we appreciate your opinions, and we look forward to your insights as this develops further.

EDWARD D. MULLINS: Senator, my 34 years in the NYPD, I have worked under various district attorneys throughout the city of New York, and the relationships with the district attorneys is no way cushy and cozy.

Each district attorney's office has prosecutors who specialize in prosecuting police.

And the pulse and the feeling amongst the NYPD and those members is one of fear, in many ways, so the concept that's in place does work.

I think that the issue is really the public

perception of it, and maybe we need to either fix it or educate everyone.

SENATOR NOZZOLIO: I appreciate your suggestion and point.

Last question.

EDWARD D. MULLINS: Yes.

SENATOR NOZZOLIO: What I wanted to ask President Lynch about, recidivism, and the ability to retain good people in our police department.

Now, you represent those officers that have risen to supervisory positions.

Do you see any change in recidivism rates -- I don't mean recidivism -- attrition rates?

Attrition rates, that -- of people leaving the force as soon as they can, or, just simply being fed up with the position.

There are some demographics here as a population aging out, as well.

Any scope of attention that you've given on the attrition --

EDWARD D. MULLINS: Yeah, I think that's a problem.

I don't feel that the members of the NYPD stay in this job. I don't think that they value the job in their heart of hearts.

You know, when I listen to the United Marine Corps, they're always a former marine. They always say, "I'm a former marine."

And in their recruitment materials, never once do they say "join the marines," but yet they have the highest amount of people signing up to enlist, even in wartime.

Within this department, the politics and the bureaucracy wears down the members of the NYPD.

I always describe it as an atmosphere that, after a while, you don't believe in what you do. You want to do the job, but you're being prevented so many ways because you're constantly scrutinized for it.

And the NYPD is like playing for the Yankees. It's an honor that, no matter where you land in the world, you're a topic of conversation, you're Hollywood movies, you're all kinds of TV shows.

But, yet, the members of the NYPD don't feel that, so what they do is, they move on. They move on to other jobs to get second careers, and to move on with their everyday lives.

And that's a problem.

It's a problem that can be fixed, but it's going to take direct effort.

SENATOR NOZZOLIO: Thank you very much.

EDWARD D. MULLINS: Thank you.

SENATOR NOZZOLIO: Any other questions?

Senator Golden.

SENATOR GOLDEN: Thank you, President Mullins, for being here.

I thought it was, "Once a marine, always a marine." No such thing as a former marine.

That's what it is.

So I've got to tell you, that's Semper Fi.

That's what the NYPD should be.

You've got NYFD in the back there.

NYFD, they turn around, it's 30, 35 years, 40 years on the job. And there's nobody running off that job, because they turn around and they respect the job that they have.

And they're going to be up here testifying very, very shortly.

But that job has changed, too, over the years. But that used to be a real career job, where people stayed on it for many, many, many years, until 9/11, until we seen the tragedy of the losses of 343 firemen and 37 New York City police officers, and court officers, and so on.

So we started to see lives and families

change, and lives change, and we've seen laws change, and city councils change, and it becoming a much tougher job today on both PD and FD.

That's why we see large numbers leaving PD, I believe, is because of the low morale.

What is your ratio to -- sergeant-to-police officers?

EDWARD D. MULLINS: Probably about 11-to-1. There's reduced numbers.

SENATOR GOLDEN: What should it be?

EDWARD D. MULLINS: 12 years back we had nearly 5500 sergeants.

We're down to about 4600 right now, so we're down nearly 1,000.

The ratio of supervision should be higher, in a sense.

Ideally, it's 1-in-8; one sergeant to every police officer.

The department will likely tell you that it's 1-in-8, but there are numerous shortages on patrol, numerous shortages when you see details. You're supervising a lot more.

And there's a difference between supervising and leadership, that will help change the culture of the department in a lot of ways.

So the training and the sergeants that you implement, where that ratio decreases, could help to change a culture overall.

SENATOR GOLDEN: Now, with everything going on, and you pointed that out, especially when we have seen this past 35, 40 days, where we had a number of protests, and a number of high point for tourists in the city of New York through the Christmas season, so there was a high need for manpower on the street, are your men burnt out, as well as low morale?

EDWARD D. MULLINS: The morale -- I'm not going to say that they're burnt out, but morale is terrible.

After 34 years, this is probably the peak that I have seen for the worst morale in the NYPD, and this has been brewing for the past two years.

It started back with the whole stop-and-frisk issue. It's built up into the, you know, mayoral campaign, followed by the events with the protests. And, you know, eventually, the death of Police Officers Ramos and Liu. That was the boiling point to everything.

SENATOR GOLDEN: And you also believe it's too many cooks in kitchen?

EDWARD D. MULLINS: I think that there should be a clear policy.

I really think that leaders need to step up and be leaders, and to say that "These are the policies. This is why we do it"; and to call it what it is.

And that's lacking. That's clearly missing right now.

SENATOR GOLDEN: I seen you point out to Ebola in your testimony.

Are we prepared for Ebola here in the city of New York?

EDWARD D. MULLINS: I don't think so.

You know, I sit through many of these meetings.

I went to Washington, D.C., to discuss the topic of Ebola with the federal government. Sat with the Centers for Disease Control. I got information from them, and their information was far more accurate.

And at the very same time that it was occurring, we had an event right here in the 30th Precinct.

So, we were lacking at the time.

My organization purchased almost 6,000 masks

and gloves to furnish to our members because we didn't have them from the department.

SENATOR GOLDEN: The municipal ID cards, have your men been trained for that?

EDWARD D. MULLINS: Not yet, no.

SENATOR GOLDEN: Is there any expectation they will be training for that?

EDWARD D. MULLINS: Yep. There will be training.

SENATOR GOLDEN: There's a piece in there that says that the ID will be destroyed at six months. After it is held by the New York City, they're going to destroy that; meaning, that somebody can get one, two, three, four, five cards.

I don't know if you've studied that yet, but you should take look at that one piece of it.

EDWARD D. MULLINS: Okay.

SENATOR GOLDEN: If they're going to take the identification, identification should stay on record and should be available for NYPD for the future, so that we can track out these ID cards.

And, we'd like to know when you are trained and members are going to be trained.

And, if there's any specific training for the Ebola or the ID cards, we'd look to know about it.

EDWARD D. MULLINS: Yes.

SENATOR GOLDEN: Are you part of the new group? Have you been updated on the new 350-man unit that the Police Commissioner has put together?

EDWARD D. MULLINS: Yes.

SENATOR GOLDEN: And your role will be, you'll have --

EDWARD D. MULLINS: Well, it's one of awareness.

Basically what we're doing is taking manpower from one place and moving them to another place. There's no additional manpower.

If you go back in time, it's the old task force the NYPD had back in '70s and early '80s.

They're just changing the name, offering some additional equipment, but you're really not changing anything as far as additional manpower goes. It's manpower that's being allotted to doing something else right now.

SENATOR GOLDEN: So your guys respond to -- obviously, the supervisory manpower respond to all shootings.

So you would be -- shootings are up, murders are up, rapes are up; so -- and that's, every one of those issues, are large -- are 49s or large

communications --

EDWARD D. MULLINS: They continue, yes.

SENATOR GOLDEN: So, therefore, each one of your men and women have to respond to each one of those issues; correct?

EDWARD D. MULLINS: Correct, yes.

SENATOR GOLDEN: And are they -- have you -- have enough manpower to do that?

EDWARD D. MULLINS: We're down almost 1,000 sergeants from where we were 12 years ago.

SENATOR GOLDEN: Where are we on tests? Is there a test coming up? Or are they promoting more --

EDWARD D. MULLINS: There was a test.

They're still promoting. There are classes that are being promoted.

But, your promotions sometimes just make up for the attrition, so it's not where you're really building up the numbers.

So, ultimately, numbers are going to get built based on budgets that will provide for the additional numbers to --

SENATOR GOLDEN: What is your retirement the year? Do you know?

EDWARD D. MULLINS: I'm sorry?

SENATOR GOLDEN: How many people are getting out of job as sergeants?

EDWARD D. MULLINS: Our numbers are pretty frequent for retiring.

I don't know the exact number of what's walking out the door right now, but our personnel does not stay.

They get to their pension, and for the most part, they may do a year or two more, but then they leave.

SENATOR GOLDEN: The last question: The -- they were talking about deadly physical force in the -- a new communication by the Governor in his legislative package, to create a council that would create a set goal across the state of New York on what "deadly physical force" and "physical force" would be, and how it would be used.

And they would -- there was some expectation that cities, towns, villages, and counties would adhere to the rules and regulation of the new council. And if they did not adhere to the new rules and regulations of this council, that they would have to come up with their own set of guidelines equal or better than.

I would imagine most cities, towns, villages,

and counties already have a criteria for stop-and-frisk -- not stop-and-frisk -- but for deadly physical force and physical force.

Have you had any time to take a look at that legislation, and --

EDWARD D. MULLINS: Yeah, most departments have guidelines already in place.

To be quite honest, I look at that proposal as a feel-good.

We are scrutinized --

SENATOR GOLDEN: Did you read the -- feel-good; do you feel that he could --

EDWARD D. MULLINS: I think it's feel-good for the public opinion.

SENATOR GOLDEN: -- the legislation [unintelligible] that it could actually say no chokeholds across the state of New York at no time?

EDWARD D. MULLINS: Yeah, but, it's -- I don't agree with it.

When an officer's fighting for his life, he has the right and the ability to hit you with a chair.

And that's not listed anywhere.

He needs to win for the purpose of protecting his own life. He also needs to win for the purpose

of making the arrest.

Felons don't have the opportunity to say, I'll make an appointment and turn myself in next week.

So what we're doing is really disarming the police and creating hesitancy, to which, in turn, will put officers in danger as we go forward.

SENATOR GOLDEN: So when that guy's out there at 2:00, he's with his partner at 2:00 in the morning, and he has a confrontation, the closest response may be two precincts away, he or she and a partner, or if he or she is by themself, they have to defend themselves as best they can to make sure that they protect life, liberty, and property.

EDWARD D. MULLINS: That's correct.

SENATOR GOLDEN: Correct?

EDWARD D. MULLINS: That's correct, yes.

SENATOR GOLDEN: So you would have a definite problem with that legislation?

EDWARD D. MULLINS: That's correct.

I mean, there's reasons for everything, there's balance to everything.

But in the situation where we're going to restrict, you know, deadly physical force, the only person who is able to make that decision at that

time is the one that's in the middle of it, using it.

And our system in place goes on for months, second-guessing and judging it.

So if there is any wrongdoing, there's an ability to hold people accountable.

SENATOR GOLDEN: Thank you, Sergeant.

EDWARD D. MULLINS: Thank you.

SENATOR NOZZOLIO: Sergeant, thank you very, very much.

We appreciate the testimony, we appreciate the testimony, we appreciate your written testimony and suggestions, and look forward to working with you in the months ahead.

EDWARD D. MULLINS: Thank you.

SENATOR NOZZOLIO: Thank you.

EDWARD D. MULLINS: Have a good day.

SENATOR NOZZOLIO: District Attorney Dan --

SENATOR PERKINS: Wait, wait, wait, Chairman? I have one quick question.

SENATOR GOLDEN: Sergeant Mullins, can you return to the table for just a second.

SENATOR NOZZOLIO: Your district attorney has to leave.

SENATOR PERKINS: I won't be long.

I just wanted to get some clarification on this question of the chokehold.

Is that a -- is that -- that's a deadly tactic?

EDWARD D. MULLINS: No. It's actually a tactic.

What we have all witnessed, as far as a chokehold goes, and this could be the great debate, whether it is or isn't, my training for a chokehold was done with a baton applied to the carotic artery of a neck.

SENATOR PERKINS: The "what" artery?

EDWARD D. MULLINS: The carotid artery of your neck. The side of your neck.

SENATOR PERKINS: Will that kill me?

EDWARD D. MULLINS: It will make you pass out within 10 to 15 seconds.

SENATOR PERKINS: How long before I die?

EDWARD D. MULLINS: Well, generally, you don't die.

SENATOR PERKINS: Okay?

EDWARD D. MULLINS: Generally, you don't die.

And we'll reference the Garner case.

SENATOR PERKINS: Under what circumstances will I die?

EDWARD D. MULLINS: I'm sorry?

SENATOR PERKINS: Under what circumstances does one die?

EDWARD D. MULLINS: Well, you can die if it's done improperly.

You can die, that if you crush a windpipe, there's no ability to breathe.

You can die, you know, from the fall if you hit your head.

There's a lot of circumstances that could lead to that.

But a chokehold is not part of the everyday policies of the police department.

SENATOR PERKINS: Okay.

EDWARD D. MULLINS: But in the situation, should your life be dependent upon it and you're not under the guidelines of the police department, human nature would be to fight and do whatever you could to protect your life.

And in circumstances where you're involved in a life-threatening incident, that may be the only thing you have.

So to create an overall ban and prohibit it, in many ways, would be detrimental to providing a safe atmosphere for police.

SENATOR PERKINS: Thank you.

EDWARD D. MULLINS: Thank you.

SENATOR NOZZOLIO: Thank you very much.

District Attorney Dan Donovan, from Richmond County.

Thank you for your patience. You've been here over four hours waiting for this.

I know we all were awaiting your testimony.

I appreciate you being here.

Cyrus Vance, the district attorney of New York County, was also here for about three hours, could not stay, but he has submitted testimony for the record.

Welcome. District Attorney, thank you very, very much for your participation.

DA DANIEL M. DONOVAN, JR.: Thank you very much, and thank you for your concern about our justice system, holding this hearing.

And we're all here, I think, pretty much, the same purpose.

I don't have a prepared testimony.

I would rather answer your questions, I guess, because it was my office that did the investigation into the death of Mr. Garner, that maybe I can give you some insights or some opinions

about the grand jury proceedings, in general.

I am prohibited by law from speaking about the specifics of the case.

I have reviewed some proposals that have been made since the decision of the grand jury, on how to have some transparency in our grand jury system.

I heard some of the members of the Committee, as well as some of the members of the testifying group here, talking about the concerns, that we have to be cautious of about due-process laws and equal protection.

I think the folks here are trying to have a well-thought-out conversation.

I'm sure that you will do many more debates about proposals before anything is voted on.

I think the three proposals that I would like to speak of, and I'll speak about anything you'd like:

One is the ability that's being proposed now for a prosecutor to issue a grand jury report after a grand jury votes a no-true bill in a case.

The proposal, as it stands now, applies to only cases involving a police officer and the death of a citizen in custody.

Again, I think we would be cautious to see if

that violates any due-process laws.

If it's an ability for a DA to issue a report in any case where there's a no-true bill, I think we eliminate the due-process problems and the equal-protection problems.

And I certainly would have loved the opportunity to tell the public more about the case in which my office investigated, but I was prohibited by law.

So I think that's something, a good proposal, if it's done properly.

SENATOR NOZZOLIO: If I may interrupt?

DA DANIEL M. DONOVAN, JR.: Certainly.

SENATOR NOZZOLIO: Current law, then, Mr. District Attorney, limits you.

And the limitations deal with what specific items?

DA DANIEL M. DONOVAN, JR.: Yes, anything I can say, the entire grand jury procedure is sealed upon a no-true bill.

I needed the Court's permission to tell the public that there was no-true bill.

Could you imagine, if I didn't get the Court's permission, that everybody knew that the grand jury proceeding was over and I was prohibited

by law from saying anything? It's like, Okay, we did it.

So, I have to seek the Court's permission just to tell the public the result of the grand jury's vote.

So, what the proposal for the grand jury report is, it would allow to us summarize some of the evidence without identifying the identities of witnesses, identifying identities of grand jurors.

I think one of the difficulties that certainly the public might have difficulty understanding the grand jury procedure, is nobody makes movies or television shows about grand jury proceedings.

They make them about trials, where a prosecutor stands in front of a jury and tries to convince them, one way or another, how they should conclude evidence, what evidence they should find credible, what evidence they should find incredible.

That's not how a grand jury proceeding takes place.

We present evidence, we walk out.

We don't argue. We don't sum up.

And then the grand jury decides.

We're not there during the deliberation

process.

And I think one of the things that maybe a grand jury report would help us to do is explain to the public, not only the results on why a grand jury may have reached that result, because the report would come from the grand jury, not from the DA.

The grand jury would vote to issue a report.

It would be written by the DA's office, or a prosecutor who did the presentation, but then the jury would take it, read it, redact, edit it, and then they would present it. They would vote to present it.

So that may be a good thing, to give some transparency to proceedings that, right now, the public doesn't understand; and they don't understand it because of the secrecy of it.

The fact of a monitor, I think, again, we have a problem with due process and equal protection if we're going to do this only in police-officer cases.

We already have monitors in grand jury proceedings when a true-bill is voted on.

A supreme court judge reviews that evidence, reviews that transcript, to make sure that it's legally sufficient for the charges that the person

has been charged with.

We could do the same thing with a no-bill, allow a judge to look at it.

Having a politically-appointed person to do that will cause us headaches that we can't even imagine right now.

So I do not think that that -- although a monitor -- I don't like to use the word "monitor."

Someone reviewing the proceedings, like a supreme court judge, as they do in the case of a true-bill, having a supreme court judge review a no-true bill may be a better way to go, in which somebody has oversight in the proceedings to make sure nothing was done erroneously; and at the same time, preserve the secrecy of the proceedings.

The third thing I would like to speak about, in fact, nobody's really spoken about it, is the "immunity" issue.

One of the things that a lot of the public has been talking about, is when we put someone in the grand jury, if you're compelled to testify, we immunize you. You are cloaked with transactional immunity. We cannot charge with you that crime.

A lot of times we have to decide, if you and Senator Golden, we don't know which one of you is

the bad guy, we have to choose which one of you to put in the grand jury.

We may immunize the wrong guy.

The federal government, and many of our states, use "use immunity"; meaning, we can compel you to testify, but we can't use anything that you testified about against you. But, you don't get transactional immunity. We can still charge with a crime.

So that's something that's been proposed.

I was the president of the State DA's Association back in 2009, I believe it was, and that was one of our number-one concerns: getting use immunity rather than transactional immunity.

And I think a lot of the people who -- I can't talk about who testified in the grand jury that investigated the death into Mr. Garner, but, if there were police officers who did testify, or civilians, when they're compelled to testify, when they're issued a subpoena to come in and testify, they're compelled to testify, they are cloaked with immunity. You could not charge any of those people with a crime.

So that's something I think I would like the Panel to discuss, and maybe look into, the Senate as

a whole body.

So I think that's some of the things that I could offer to you.

And I'll answer any questions, and talk about any other issues that you would like to.

SENATOR NOZZOLIO: Thank you.

Are there any procedures that you yourself engage in, when you have to deal with an element where a police officer is involved with it directly, as you had in the case you mentioned, or, other disciplinary cases before a police officer?

Is there any type of extra hash marks you have to put into your equation to be able to ensure the integrity of the process?

DA DANIEL M. DONOVAN, JR.: Well, Senator, I think -- I'm not sure if Pat Lynch spoke about it, or Eddie Mullins.

Each of our offices has a public-integrity bureau that specifically is segregated from the rest of our office.

The reason why it's segregated, when I worked for Mr. Morgenthau in the Manhattan DA's Office, our public-integrity bureau was actually out of the building, it was in a different building, because, many times, the people who testify against police

officers are other police officers. And no one would come into the DA's office and walk into a door over there that says "Public Integrity" in front of other police officers.

My office has a public-integrity bureau.

And, so, each of us has that, and each of us have indicted police officers.

I know -- I think Pat was talking about what people think is a cozy relationship between the DA's office and the police department.

I think someone even said there's a fear.

I hope there's not a fear of police officers with the DA.

But we've all indicted police officers. We've all prosecuted, we've all convicted, police officers.

So we take those precautions and handle those cases, not differently under different laws or different procedures, but we take precautions because sometimes it's more difficult.

It is difficult to get people to testify against anyone these days.

It's even so much more difficult to get police officers to testify against other police officers.

SENATOR NOZZOLIO: Senator Lanza.

DA DANIEL M. DONOVAN, JR.: You aren't ready.

SENATOR LANZA: I can get ready, quickly.

Thank you, Chairman.

Dan, District Attorney Donovan, let me just say that your expert and very reasoned suggestions to this Senate Panel, as we move forward to address and consider the many suggestions that have been made with possible legislative changes, is very valuable to us, and I want to thank you so much for that.

DA DANIEL M. DONOVAN, JR.: Thank you.

SENATOR LANZA: And if I could take personal privilege here as a Staten Islander, I just want to say, Dan, thank you, every day, for the work you do making the people of Staten Island safe.

DA DANIEL M. DONOVAN, JR.: Thank you.

SENATOR NOZZOLIO: Thank you very much.

Senator Sanders.

SENATOR SANDERS: Thank you, sir.

Good to see you, sir.

DA DANIEL M. DONOVAN, JR.: Good to see you.

Thank you for your service to our country.

SENATOR SANDERS: Thank you, sir.

Two questions, and I then I'm done, sir.

The first one is, you mentioned that there are few police officers who would testify against other police officers.

My --

DA DANIEL M. DONOVAN, JR.: I said it's difficult, Senator.

SENATOR SANDERS: Oh, difficult.

DA DANIEL M. DONOVAN, JR.: It's very difficult.

SENATOR SANDERS: "Difficult," I'll use that word.

Just the law of averages, say, that if you have a large organization, a certain amount of people are not going to uphold the finest tradition of any organization. Just, law of averages, whether it's 5 percent, 10 percent, who knows what the percentage is.

I also know that if you let a bad apple go, it's going to start riding and spreading to others.

Why is it that so few police officers come and testify against, if you wish -- not so much against -- for the department, if you will, I would argue, for the department, for the highest level, for the highest standards, of the department?

Why are there so few people who are coming

forward to stand up for the standards that we all believe in?

Is it the so-called "blue wall of silence"?

DA DANIEL M. DONOVAN, JR.: I think it's similar to what you said. It's probably true in every organization.

There's probably very few Senators who would want to testify against another Senator.

So I think it's just the nature of that, we're all in this together.

A lot of the police officers -- when I worked for Mr. Morgenthau, and I do it now as the DA, we used to go speak to incoming recruits and the graduating classes at the police academy. We used to tell them:

Most people get jammed up, not because of something they did, but because of something in that car; that happened in that car by the person who you're sitting with. And you have to make a decision then. Is your family, your salary, your pension, your health benefits for your wife, your children, your husband, your kids, at risk? Because the police department will dismiss you for failure to report.

So I think a lot of members of one

organization put their fellow members in a very awkward, difficult situation.

There's a lot of talk now, Senator, about reviewing testimony that occurred in the grand jury.

And we give people who are testifying before a grand jury assurances: that no one will know they were there, no one will know who they are, and no one will know what they say, unless, of course, we have to go to trial.

Those assurances are also given to police officers.

We have given police officers those same assurances; police officers who have had to come into a grand jury and testify against another cop.

SENATOR SANDERS: What can we do to encourage -- and I'll take that for the Senate or any other organization -- what can we do to encourage people to understand that we have -- we have taken an oath as a high tradition that must be defended?

What can we do to encourage people to break with a "blue wall of silence," or whatever wall that the Senate has, or any other government has, whatever color wall that we may have, what can we do to encourage good people to come out and say: I am

not going to stand for what's wrong. I am going to stand for what's right, and I'll take whatever goes with it?

DA DANIEL M. DONOVAN, JR.: Yeah, that's a wonderful question.

I'd like to know how we do that with the police department. I'd like to know how we do that with the public.

We have this stop-snitching mentality.

I had a baby, a 2-year-old, shot in the eye in a courtyard at 1:00 in the morning with hundreds of people around. The mother's screaming, "Somebody come forward." No one would testify of who shot her baby.

So it's not just the police department.

It's this whole mentality that you're the bad guy if you actually took your oath seriously and came forward.

And that's true with the police department, it's true in all of our communities, this stop-snitching attitude.

Maybe people call it the "blue wall of silence" when you're talking about police officers.

Some of the people call it "stop snitching."

We have people that show up in court wearing

shirts when somebody's about to testify, saying "Stop Snitching."

So I don't know how we break through that.

98, 99 percent of the members of the police department, 98 percent of the members of our communities, are good law-abiding people.

I worked in the Manhattan's DA's Office when mothers used to put their babies in the bathtubs to sleep at night so a stray bullet wouldn't come through their window and hit their kid. It was during the crack epidemic.

So i don't know how we get past that, that -- the good guys.

Years ago, if looked out your window and saw somebody breaking into your neighbor's car, and that person turned around and saw you, they'd be afraid of you and they'd run.

Now the person looking out the window is afraid that that person saw them.

That whole tide has got to change, and the police department has got to change, and our communities have got to change in the world, Senator.

I don't have the answer, but I know that the problem exists, and it's got to change.

SENATOR SANDERS: I think that as I conclude, Mr. Chair, I think one of the steps toward a better police-community relationship, is when we see more "Serpicos," if you wish. If we see more guys who are going to come out and say, You know what? I'm going to do what's right.

And when that filters down to everyday people on the ground, when they see folk who say, "I'm going to do what's right, regardless," they will do it.

I know for a fact, I ran against an incumbent, who I'll be kind, I will be kind --

DA DANIEL M. DONOVAN, JR.: Andrew is not as kind to his opponents.

[Laughter.]

SENATOR SANDERS: Well, no one is as -- well, I'll be kind to Andrew.

But I know that it takes people coming forward and saying, breaking with the, whatever tradition, whatever we call it, and say: You know what? Something is wrong here. It's not right, and we're going to stand against it.

You let average police do that and I guarantee you folk on the ground will throw away whatever problem they have and we will flock to the

police.

Let real folk come up and say, You know what? There will be no shelter for anybody who doesn't uphold these grand traditions.

DA DANIEL M. DONOVAN, JR.: One of the difficulties dealing with police officers and the public, I protect. I've spent millions of dollars in protecting witnesses who were courageous enough to come forward, particularly people who weren't involved in the incident or had no relationship to the victim, but just came upon and it saw it.

Spend millions of dollars.

I don't know how you protect a police officer who ends up doing the right thing; how that officer can work in that department again, and be useful, and actually feel good about it.

So I don't -- it's almost easier with civilians than it is with police officers.

SENATOR SANDERS: I guess it's the same way we would protect a Senator.

[Laughter.]

SENATOR SANDERS: Thank you, Mr. Chair.

DA DANIEL M. DONOVAN, JR.: Thank you.

SENATOR NOZZOLIO: Senator Gallivan.

SENATOR GALLIVAN: District Attorney Donovan,

thank you for being here --

DA DANIEL M. DONOVAN, JR.: Good to see you, Senator. Thank you.

SENATOR GALLIVAN: -- and, of course, for the work that you do.

I represent all of four -- all or part of four counties out in Western New York, one of which is Erie County. The current president of the association comes from Erie County, of your association.

I'd like to continue the conversation that you just had about the notion about reluctant witnesses.

Whether it is DA Sedita or the other DAs that I have spoken with, they talk about their number-one problem that they have, is that notion, the very real reality, of reluctant witnesses in all kinds of cases, in all kinds of prosecution.

And I know that you talked a little bit about -- I mean, we focused on police, and some police are unwilling to come forward, Senators are unwilling to come forward.

And you talked about the problem is much wider than that.

DA DANIEL M. DONOVAN, JR.: Yes.

SENATOR GALLIVAN: So without -- without providing -- thinking of a way to try to solve that problem, the concern that I have, as we talk about the grand jury report, as we talk about perhaps increasing the level of transparency of the grand jury process, do you have concerns that that could negatively impact -- could we see even more reluctance in witnesses?

And how can we protect the safety of those that come forward?

DA DANIEL M. DONOVAN, JR.: Without the assurances that we give witnesses in grand juries, that no one -- unless the case goes to trial -- we're bluntly honest with people, unless the case goes to trial, no one will know who you are, no one will know you were here, and no one will ever know what you say.

And a lot of times, when cases are pled out after an indictment, a lot of times, one of the reasons, or in the calculation of whether or not to plead a case out, is to protect -- [lighting on goes out.]

Is my time up?

[Laughter.]

DA DANIEL M. DONOVAN, JR.: -- is to protect

the integrity and the identity of witnesses.

If we start revealing, exposing, what happens in a grand jury publicly, you won't get anybody to testify, Senator.

SENATOR GALLIVAN: Thank you.

DA DANIEL M. DONOVAN, JR.: You're welcome.

SENATOR NOZZOLIO: Anyone else on the Panel wish to ask a question?

SENATOR PERKINS: I have a quick question.

SENATOR NOZZOLIO: Senator Perkins.

SENATOR PERKINS: Thank you for your testimony.

Earlier in your testimony you mentioned your association with District Attorney Morgenthau.

DA DANIEL M. DONOVAN, JR.: Yes, sir.

SENATOR PERKINS: He was a very good district attorney.

He overturned the "Central Park Jogger" case and freed the falsely-convicted "Central Park Five."

And he did that on the basis of understanding that the confessions were coerced; and, therefore, were not valid, were not worthy.

And in response to that, it has about recommended that we do videotaping of interrogations.

Have you had any thoughts on that?

DA DANIEL M. DONOVAN, JR.: Yes, sir.

We actually do them on Staten Island.

SENATOR PERKINS: Can you explain how you --

DA DANIEL M. DONOVAN, JR.: They're done in one particular precinct.

Anybody who is going to be videotaped is brought to the 122 Precinct in Staten Island, and that's where, actually, our borough command is located.

We have a separate room where it's done, and it's done only by detectives.

And right now, in the experimental stage, Senator, it's only done for certain crimes. It's not done widespread yet because we're still trying to roll it out.

Any prosecutor would love to have a confession on tape. It removes all of those concerns, as you spoke about earlier, and I forget, actually, who you were speaking with, but I remember you asking that question before.

And it eliminates a lot of that, was someone coerced? not given water? were they browbeaten?

So any prosecutor, and any police officer accused of any of those things, any detective would

love to have that videotape -- that confession on videotape.

A lot of the discussions on it is, like: When does an interrogation begin? When do you start rolling the tape?

A lot of interrogations actually begin on the street before you ever get that person into a police station or an interview room.

So a lot of the debate is, like: When does it begin? When do you turn the camera on?

But it's actually going on now in certain areas. The police department is experimenting with it now, with our office.

SENATOR PERKINS: How many areas, or how many experiments, so to speak, are you doing it?

DA DANIEL M. DONOVAN, JR.: We're doing it in the 122 Precinct. It's done by detectives only, not police officers; people who are trained in interrogations. And, it's only for certain crimes right now, until they see how it works. And then they're going to probably -- I suspect we will roll on it for any crime.

Right now, it's only limited to certain crimes, just because we're trying to work out the kinks.

SENATOR PERKINS: Can you share what the certain crimes are?

DA DANIEL M. DONOVAN, JR.: One is a homicide. I believe we're doing rapes and burglaries.

I think it's the three crimes; three out of the seven majors.

SENATOR PERKINS: And do you -- and you say that's only in one precinct?

DA DANIEL M. DONOVAN, JR.: But it's -- it's one precinct, Senator, but it's anyone on Staten Island. They're just brought to the one precinct.

SENATOR PERKINS: Oh, okay.

DA DANIEL M. DONOVAN, JR.: So we don't have a room -- we have four police precincts on Staten Island, so we don't have a room at each precinct if someone's going to be videotaped.

We used to bring them, and we still do a lot of times, bring them to my office, because it's more convenient and we have video capability in my office.

But for that pilot program, anyone arrested, if you're arrested in the 120, 121 Precinct, you're brought to the 122 Precinct to have it done. But,

it's limited to just crimes happening in that precinct.

SENATOR PERKINS: And do you have a sort of budgetary idea --

DA DANIEL M. DONOVAN, JR.: It's actually the police department's budget, sir, so I don't know.

SENATOR PERKINS: Has it increased that budget, and to what extent?

DA DANIEL M. DONOVAN, JR.: I think it's a funded mandate.

SENATOR PERKINS: It's a funded mandate.

DA DANIEL M. DONOVAN, JR.: I believe it's a funded mandate.

SENATOR PERKINS: Do you know what the funds amount might be for --

DA DANIEL M. DONOVAN, JR.: I don't, Senator.

I know, in my case, we built my predecessor, Bill Murphy, actually built the room; and, so, the only funding that it costs me when we do it in my office is the staffing.

SENATOR PERKINS: So if you could find some of that -- if you can get me some of that information, I would appreciate it.

DA DANIEL M. DONOVAN, JR.: Will do.

SENATOR PERKINS: Because we're looking at

that, and it might be something --

DA DANIEL M. DONOVAN, JR.: I know -- because, again, when I was the president of the State DA's Association, one of the things about doing it statewide, is we have 50,000 people that worked in the New York City Police Department.

Some of my colleagues upstate, there's a DA and a part-time DA. You know, there's a small police force. And so in some places in our state it's more difficult to do.

It's much easier for us to do.

SENATOR PERKINS: Right.

So I guess, in your state, you have to -- you're suggesting some sort of customization per --

DA DANIEL M. DONOVAN, JR.: I just hate the idea of, a good friend of mine was the DA up in Franklin County. It was himself and, you know, two part-timers, and a handful of police officers that worked in there.

For them to do that in the radius of the area that they covered, and not to have the funding for it --

SENATOR PERKINS: I guess they could have done it with an iPhone.

DA DANIEL M. DONOVAN, JR.: Yeah, I guess so,

but I think, actually, that was even before they were around.

But we could get you the information about what we're doing on Staten Island --

SENATOR PERKINS: I'd appreciate that.

DA DANIEL M. DONOVAN, JR.: -- if that would be helpful.

SENATOR PERKINS: Thank you very much.

DA DANIEL M. DONOVAN, JR.: You got it.

SENATOR NOZZOLIO: Thank you members of the panel.

Especially, thank you District Attorney Donovan.

We appreciate your patience.

We appreciate your --

DA DANIEL M. DONOVAN, JR.: I'm just blaming Jerry Kassar, so don't worry about it, Senator.

Thank you.

SENATOR GOLDEN: Someone's got to blame him.

DA DANIEL M. DONOVAN, JR.: Thank you.

SENATOR GOLDEN: Thank you, Dan.

SENATOR NOZZOLIO: Professors O'Connell, O'Donnell, and Jenkins, please come forward.

SENATOR GOLDEN: Sorry for the delay, gentlemen. It's just been one of those afternoons.

SENATOR NOZZOLIO: Who did we lose?

SENATOR GOLDEN: O'Donnell. He's coming out now.

PAUL E. O'CONNELL: He will be here momentarily.

SENATOR NOZZOLIO: Good afternoon, gentlemen.

I should say, good evening now.

Thank you very much for participating in the hearing, for waiting until this scheduled hour, at this hour, to testify.

We welcome your testimony.

First, for the record, if you could each identify yourselves as to, who you are, where you're employed, and what you do, briefly, and then, if you would be so kind, we'll submit --

Did all three of you submit testimony?

We have two.

The third will be -- each of your submissions will be a part of our official record.

So, feel free to summarize what you have, and then let's engage in a dialogue on the issues you present.

EUGENE O'DONNELL: Good afternoon, Senator.

Eugene O'Donnell, from the John Jay College of Criminal Justice, Department of Law and Police

Studies.

PAUL E. O'CONNELL: Good afternoon.

Paul O'Connell. I'm a professor of criminal justice at Iona College in New Rochelle, New York.

DR. MICHAEL JENKINS: Hello.

Michael Jenkins, assistant professor of criminal justice, sociology, criminology, at the University of Scranton.

SENATOR NOZZOLIO: Welcome, gentlemen.

And as I said, if each of you could summarize your testimony, and then we'll address questions as we get going.

PAUL E. O'CONNELL: Thank you very much.

I think I'll proceed.

First of all, it's an honor and a privilege to be invited here today.

Allow me to just give a very brief overview of my full testimony that you just received.

Our job today, as I see it, is to move cautiously and thoughtfully, to ensure that only necessary reforms are made, rather than drastic change made for purpose of appeasement or political expediency that will do nothing more than create unnecessary new layers of bureaucracy that would compromise the functioning and the integrity of the

criminal justice system; or, more importantly, interfere with the balance of safety and justice in this state.

The question of the day is: How do we improve the safety of both the public and the police who serve them?

Allow me to attempt to answer that.

First, with regard to the grand jury, the thought of creating yet another stratum of bureaucracy to review police-involved cases that do not result in indictment, or the proposal to more dramatically revise the grand jury process, is, in my opinion, both foolhardy and deserving of very little consideration.

"Broken-windows."

Broken-windows has been proven to work. The results speak for themselves.

Critics suggest that broken-windows policing simply serves as a hyperaggressive form of policing that is designed to further harasses citizens.

That is not the case.

We must recognize that broken-windows has now become an integral part of community policing.

If we abandon broken-windows, we will abandon community policing; indeed, we will abandon our

citizens.

It is wrong to assume that the police have an inflexible program of enforcement that they're seeking to aggressively impose upon the community.

In reality, the community has a great deal of input into formulating these strategies, and the police, with the community, share the responsibility to engage on this.

These are the issues that emerge at community board meetings.

Communities provide the police with the issues that concern them most, and it is up to the police to listen to them and to frame an appropriate response.

Broken-windows is that response.

It is not an offensive form of policing that is maliciously or gratuitously imposed upon a community; rather, it is a unique form of responsiveness that I believe must continue.

"Stop-and-frisk."

This is an issue of officer safety and public safety, plain and simple.

There is nothing whatsoever wrong with the stop-and-frisk procedure.

What deserves scrutiny is New York City's

former "stop-and-frisk program," as it has come to be known.

As I see it, the real problem began when stop, question, and frisk became a key performance measure for the NYPD.

As Silverman and Eterno found in their 2010 study, police managers experienced significant pressure to produce numbers. Many succumbed to this pressure, and a very large number of needless stops were apparently made.

You see, and this is a very important point, in order to be lawful, stops must occur naturally. They cannot be mandated or created artificially without severely compromising civil rights.

Now, the analogy that I provide my students at Iona is this: Officer O'Connell, being instructed to prepare five vehicle accident reports during his eight-hour day shift.

If the traffic accidents do not occur, I cannot make or force them to happen.

I can, however, manufacture stop-and-frisks if I am pushed hard enough or far enough.

The NYPD itself, I believe, is well aware of this, and I believe well on their way to correcting these prior deficiencies, but, as long as police

officers are called upon to respond to and to investigate violent crimes, they will continue to have street encounters with some very dangerous persons.

Stop-and-frisk is a vital and a necessary tool for all police officers throughout this state; a safety issue, plain and simple.

Today I issue a challenge, for developing, not simply more training, but different training, with better training, more-effective police training.

The training-versus-education dichotomy has been discussed and debated among academics and professionals for many years.

There's a subtle but a very real difference between these two terms.

"Training" is primarily used in organizations, like police organizations, to impart basic core skills to new employees.

Police departments across this country, I believe, have been fooling themselves into thinking that ethics, or the topic of police-community relations, are appropriate subjects for training.

Ethics, as I'm sure you can see, is a topic

for "education." It really requires a deep conceptual understanding.

We need to engage a person's higher-level thought processes if we are ever to expect to make them agree to explore their core personal beliefs, and to internalize their learning, and then to conform their personal behaviors while policing the people of this state.

Traditionally, police training in America has been delivered in a somewhat disjointed, rather haphazard manner.

Stand-alone training modules are often delivered randomly, based largely upon an officer's work schedule, with little thought to curriculum design, or an overarching departmental training plan, or the possible interactive effects among different lessons. But lessons can no longer be delivered or understood as discreet topics.

Training must be interactive, it must be scenario-based, it must be dynamic, and above all, it must be realistic.

Many departments in this state have made great strides in this area, but more needs to be done.

Civilians, I believe, should be used to

supplement police actors during scenario-based training.

I believe that all training academies in this state and most of our larger police departments should have curriculum advisory committees that would be made up of civilian educators, clergy, and community leaders who can serve an advisory function when developing and delivering police training.

We should also examine the notions of developing the next generation of citizens' police academies.

And I think, also, encouraging properly-trained police officers who currently serve as school resource officers to actually stand in front of the classroom and deliver street-law classes to the youth of this state, to prepare them for encounters with the police, by explaining constitutional protections, as well as expectations for personal conduct.

I believe we must make every effort to improve the overall quality of police training and education in the state of New York.

There are indeed costs associated with this, but the costs of inaction are far greater.

From a risk management and a

community-relations standpoint, it is the only logical way forward.

This is the common ground.

In closing, let me say that our goal is clear, and I think it is, indeed, within reach.

Despite all the rhetoric, police departments in this state do not have to dramatically revise their procedures, or, devise a strategy for policing African-Americans, or, a plan, a specific plan, for policing Koreans or Haitian people.

Rather, they need to treat all people in this state with the same degree of respect and professionalism.

It's the Golden Rule: Do unto others.

Policing is a very noble profession, and the men and women drawn to it each have a moral compass that will guide them.

Police officers need to be instructed and actively encouraged to treat the people they encounter each day exactly the way they would wish their family members to be treated.

What we ask is that our officers retain or acquire that degree of mindfulness to consider, perhaps, that the homeless man sleeping under the overpass might, in fact, be a war veteran with

two bronze stars, or, that the emotionally-disturbed woman on the subway platform might be a mother of three who is simply off her meds.

So the key, as I see it, is to reframe police training, to make it more transparent and to make it more inclusive, to allow and encourage our officers to be who they already are: decent people who strive to help others and to do the right thing.

Thank you.

SENATOR NOZZOLIO: Thank you, Mr. O'Connell.

Mr. O'Donnell.

EUGENE O'DONNELL: Thank you, Senators.

And let me first acknowledge my friend and neighbor, Chairman Golden.

And, also, on the other side, Senator Perkins. We were co-workers and co-colleagues in the Dinkins' campaign 20-some-odd years ago.

So I don't want to talk ideology, and I'll speak very briefly.

I think a lot of what we should be talking about is civics, really.

And over the past few months, we've had a lot of misinformation. I wouldn't call it disinformation.

So any reforms we're talking about have to be

built on truth.

And the DA on Staten Island just alluded to one of the truths that's involved.

The grand jury is an important device, and it is not simply police people that escape indictment in the grand jury.

That was said, and resaid, over and over this summer. It's not true.

It is not unusual for ordinary citizens to go into the grand jury, assert that they acted in self-defense, and no-true bill will be returned.

Indeed, in this city, people go into the grand jury and claim they were unlawfully searched, drug- and gun-possession cases, and they're no-true billed.

So this issue that could you indict a ham sandwich, and that only a police officer can escape indictment, is simply not true. And the DA alluded to that.

Also, obviously, with the grand jury, it's very important to protect witnesses.

In a police shooting, I've investigated them as a DA, we are looking, always, for individuals on the street who have no connection to the incident.

And in this environment where there is

intimation, we want to give every assurance to witnesses they will not be intimated.

I think there was some good-faith commentary made about NYPD this summer.

I don't need to revisit the bad-faith commentary made about NYPD.

I would just simply ask everyone across the partisan divide:

I come from a school where young people are thinking of a police career.

Surprisingly, not a lot of young people are thinking about running for office. I wish they would. They're not.

Think of the implication of saying some of the things that were said this summer.

And I think what we heard this summer, it's of absolute importance, when mistruths are said, to stop people; and particularly in light of the NYPD.

This is an organization of 35,000 people that have 5 million recorded 911 calls, uncountable numbers of other interactions.

This is a police department that has 48 shootings a year.

Okay?

Almost invariably in those shootings, there's

a weapon found. The weapon has been brandished.

Also really importantly, we do have to dissect the fact of cases.

You hear sometimes people referring to Garner, Louima, Diallo, Curly. That's really not fair to the organization. These are all different situations.

Louima, obviously, is a brutal, unjustifiable attack on someone, where somebody is doing a tremendous period of incarceration.

But to lump these together, not only is it a disservice of trying to get to the truth of what the police do, but then you create a narrative. Just, here comes another NYPD example of abuse.

And it's just simply not, I don't believe, borne out by the record. And we could go over that in some great detail.

I think the roots of the Garner case is the failure to recognize that police ultimately do use force on people.

We don't recruit them on that basis.

We don't really want to train them on that basis.

We're not comfortable with the topic.

We don't go to the Gleason's Gym and get big

bruisers on the job. I don't think most of us would want that.

But, really, the roots of the Garner case, as I read it, in the absence of malice, unless somebody sees malice that I don't see evidence of, is really bungling and ineffectiveness and inability to -- and the Commissioner acknowledged this by talking about retaining.

I'll be brief. This is just a couple other things I want to say.

DA Donovan, just to go back to the grand jury, said something very useful, I think, in terms of reform.

I actually believe the DAs themselves, rather than presenting cases -- some of these police cases to the grand jury, or, if they do present cases to the grand jury, there should be a report.

The Kiko Garcia case in New York City in 1992, some people may remember that case, radioactively hot. The Manhattan DA issued, I think it was a 78-page report, after the Kiko Garcia -- basically demonstrating that the allegations made against the police in that case were completely unwarranted.

Nobody was in the dark.

Some people will remember that. It was a very hot time in the city.

I'm sure some of the Senators will remember that.

And, actually, once the evidence was laid bare, that case sort of went away.

Not that, ultimately, some people might not have thought it was an injustice, but the evidence was simply not there.

Finally, because I'm going to go real quickly, I'm going to make an appeal to the Senate today, and the Legislature.

And I think -- again, I think DA Donovan, because I heard him allude to this, there's a tremendous amount of lack of understanding what the police do.

Again, this wire form should not be based on disinformation.

In red states, in blue states, in our state, coast to coast, police officers don't get indicted for on-duty events, because when police officers do their job, they're acting differently than other people.

No matter how you change the model, I don't think you're going to change that result.

And that's a sobering reality people have to think about when they are law-making, because when we put the police forward, inevitably, and the lawmakers know this, under Article 35, the police have very broad, sweeping powers to defend themselves and defend others in connection with that.

And I'll stop now.

I want to make this appeal to the Legislature:

I believe the Legislature could help.

We should create a high school program, perhaps with a video, across the partisan divide, of people explaining what the police do; the powers they have; why it is that those powers should not be challenged on the street by people; why the legislators, in their wisdom, have given the police these powers; and how difficult it is to unwind this; and, also, that the laws are made in their name.

SENATOR GOLDEN: When would you do that?

EUGENE O'DONNELL: I'm sorry?

SENATOR GOLDEN: What age group would you do that with?

EUGENE O'DONNELL: Well, we did a program at

John Jay for -- I would say high school.

But I would like to see you guys do it, because you're the architects of the system.

And this ownership of the system, this idea that the system just floats out on its own, we have a Legislature that creates more laws every year, pushes the police forward every year. Your offices are hot beds of people calling up and making requests to the community.

We can talk about remedies for police abuse. That should be part of it.

But I would respectfully ask the Legislature, and now I will stop, to consider doing it.

Across the partisan divide, demographic divide, that you, face-to-face, own the system that you're the architects of, on behalf of the people of the city.

And I'm happy to help with specific ideas about how that should be done.

But continuing this idea that something is wrong because the police have powers that they're given repeatedly by the Legislature, is not true.

And, again, going off to reform, when we don't get our facts correct, will inevitably lead to bad reforms.

Thank you.

SENATOR NOZZOLIO: Dr. Jenkins.

DR. MICHAEL JENKINS: Dear members of the Joint Committee, I am honored to have the opportunity to address you today, especially alongside the two esteemed professors and former practitioners whom I join.

The safety of the police and the public is an area of civic life that should be at the forefront of every mind concerned with ensuring more vibrant and healthy communities.

The trend for violent interactions between police and citizens is generally downward.

Police use force in just 1.5 percent of police-citizen interactions nationwide each year.

The use of what a citizen can perceive as excessive force is even less common.

However, police-involved homicides of citizens have been increasing, and the number of law-enforcement officers killed by firearms in the line of duty jumped 56 percent from 2013 to 2014.

The determinants of police-citizen encounters gone bad are many. They range from inadequate police selection, training, and supervision, to organizational elements that focus on quantity over

quality, to ingrained disdain for the police by some, and, economic, educational, and criminal justice systemic failures that go far beyond the bounds of policing.

At the heart of our grappling to understand the many potential dangers of abuse by or of police is the impossible mandate that police face; a mandate that gives them the authority to infringe upon individual rights, even to take one's life; while at the same time, calling them to protect an individual's due process rights and to practice the utmost restraint.

An officer must equally and fully meet these two opposite ends of the spectrum every time they interact with a citizen.

The circumstances surrounding the deaths of Eric Garner and Michael Brown demonstrate the inherent difficulties in finding that balance in neighborhoods like those in which the two lost their lives.

We must acknowledge three realities that make the seemingly mundane encounter turn deadly.

First, a history that affects the situation at hand;

Second, police professional or individual

culpability;

And, third, the responsibility of the community or citizen involved.

The aftermath of the Michael Brown incident revealed that, by most calculations, positive relationships between the Ferguson police and their community were historically nonexistent. Policing was a one-way street: the police policed Ferguson.

This does not seem to be the case here with the NYPD, although the conversation surrounding the ruling in "Floyd versus City of New York" may suggest otherwise.

Second, there is no doubt that, in some cases, police overstep the boundaries defined by legal or departmental authorities.

It is not difficult for many of us to imagine situations where police might curse at or disrespect a citizen.

We must consider, then, what effect such salutations have on any ensuing citizen cooperation, or lack thereof.

If such interaction is possible, then we must train and hold accountable police officers for treating citizens in ways that increase police legitimacy and ensure procedural justice.

In the Eric Garner video, even those of us not trained in such areas can likely think of many other ways the officers could have handled that situation without using physical force.

Furthermore, NYPD officers had had multiple interactions with Garner prior to the fatal encounter on July 17th.

Were these lost opportunities to prevent the problem from arising in the future?

Did police learn information from Garner in his actions that affected the decisions they made on July 17th?

Either way, we must ask ourselves: How have our previous actions gotten us into such life-threatening situations in which the killing of an unarmed person could be legally, and maybe even morally, justified?

The fact that an officer might ultimately be justified in the use of deadly force does not excuse the many prior decisions that got him or her to a point where deadly force was viewed as a reasonable option.

Milwaukee Police Chief Edward Flynn recently affirmed such thinking in his determination to fire an officer, not for using excessive force, but,

rather, for the choices the officer made in the moments leading to the shooting death.

How could we have precluded these negative exchanges from arising in the first place?

The use of technology to gather, analyze, and disseminate relevant information aids police in working with the community to define neighborhood-specific problems and to create realistic solutions that will likely include multiple stakeholders in which only, in certain circumstances, will rely solely on arrests.

We must also be honest about the responsibility of the community or citizen involved.

We must recognize those citizen behaviors that may contribute to their poor relationships with police or to the application of force against them.

When people repeatedly disrespect the police or when police are faced with the stop-snitching mantra as they try to gather information to solve robberies, shootings, or homicides, it is not surprising that officers might become jaded, suspicious, or defensive.

By all accounts, in both the Brown and Garner cases, the decedents failed to abide by the lawful commands of police officers.

We must look beyond individual-level explanations to understand why this seemed like a reasonable response.

In the history police-and-community equation, the police contribution must be weighted most heavily.

The police are those individuals whom we commission to serve the public good, and to whom we should give great respect in line with the power we grant them.

Finally, let me conclude with a caution against the suggestion that some reformers are positing, that police ignore lower-level offenses and give up on broken-windows policing.

I'll skip over some of the comments that I had prepared, and I just echo support that Professor O'Connell offered in his statements.

But let me just add, that taking police attention away from these problems of disorder would turn back the proverbial clock to a time when police viewed themselves as professionally-remote crime fighters, instead of the guardians and caretakers of our communities that we want them to be.

Communities plagued by the root causes of criminal behavior often lack the informal controls

necessary to deal with such quality-of-life offenses.

The police, traditionally seen as the defenders of status-quo-maintaining systems, would only further damage their legitimacy by turning their back on the so-called "minor offenses" that most often concern citizens and that diminish their quality of life.

Police attention to broken-windows, in the case of Eric Garner's selling of loose cigarettes, did not cause his death.

Turning the focus toward an assault on a proven policing practice will only further compromise the safety of neighborhoods and stifle the necessary changes police should make.

Thank you.

SENATOR NOZZOLIO: Thank you.

Gentlemen, questions from the panel?

SENATOR GOLDEN: I'd like to (a) thank the Panel for coming forward. Thank you for staying this afternoon.

And, obviously, this is a little bit belated and we would like to have gone on.

But, all of the testimony you've given is a good testimony that we will all take into

consideration as we write new legislation.

But I will tell, you talk about a case that went back in 1992.

You don't remember, there were 2245 homicides that year in the city of New York.

This year it will be 300 -- I think -- what did they finish up, 320 homicides last year.

And, right now, homicides are up, and so are rapes.

We're hoping -- and shootings.

But it's early in the year, and we're hoping that that gets corrected, and, God willing, it does.

But that all comes down to the broken-windows theory, it comes down to policing, it comes down to the ability for the police to go out there and do their job, and to do it and feel safe, that they're doing it with the support of the community.

You know, we talk about -- you talked about the thinking [unintelligible].

Was that the "beacon" program, when the "beacon" programs came into effect?

There's the perfect example of where we had 2245 homicides in 1992, and now we have 320 or so.

We did a tremendous, tremendous, and I got to give Police Commissioner Bratton his due, and, of

course, Police Commissioner Kelly as well, their due in continuing to bring crime down under those two administrations.

But I got to tell you what we did not do, was keep up with the number of beacons that we had across the districts, across our city.

We didn't keep up with the after-school programs that we had, and should have had.

We didn't keep up with PALs. I don't know if any PALs in the communities, or across the districts, and across the our city.

Big Brother, I don't see any of them out there in a lot of communities where they should be.

I seen us cut back at City Council and state level when it came to funding, where we could have done something that you pointed out here, and that's called "education," bringing police and communities closer together.

I'm hoping some of this stuff that we hear today from the three professors here, that we will be able to coalesce around legislation that will bring our communities closer together, and give the police departments the ability to do their job, the district attorneys to do their jobs, without imposing legislation upon legislation upon

legislation.

Now, there's legislation on the books since the beginning of time. It never comes off; it just keeps mounting up.

It's not about legislation in a lot of cases.

It's just about common sense, and working together with our communities to make that happen.

So I want to thank you all for being here.

And you pointed about shootings.

Shootings go down in a split second and you got to make a decision.

You may take, you know, 10 years, 15 years in a police department, and, in a split second, you got to make a decision on life.

So, it's very troubling to some, but that's what they're trained for, that's what they've been trained for. And we should allow them the ability to do what they do.

And we should go to the training factor, and combat -- not combat -- but paramilitary training within our institutions, so that our police officers are better trained, as you seen the increase in the number of police shootings across the country. Not just here in the city of New York, but across the country.

So I want to thank the three of you for your service, and thank you for coming out here today to give us what I believe is great information.

PAUL E. O'CONNELL: Thank you, Senator.

SENATOR NOZZOLIO: Senator Gallivan.

SENATOR GALLIVAN: Thank you, Chairman.

Thank you gentlemen, all, for your testimony.

Dr. Jenkins, because you happen to, in your written testimony, answered the question that I had in my mind: the broken-windows theory.

And I appreciate everybody's testimony about that.

Critics have suggested that it hasn't been proven with research, with empirical data, that it's a successful practice.

And, you made reference to three different researchers that, essentially, have examined it.

And I'm just asking if you would be able to provide us -- we can get your information afterwards -- provide us with that reference of those particular studies.

DR. MICHAEL JENKINS: Sure, I'd be happy to.

SENATOR GALLIVAN: I would be very interested in looking at it.

DR. MICHAEL JENKINS: It goes back as early

as the 1960s.

SENATOR GALLIVAN: Just a little bit of homework for you, not a question.

DR. MICHAEL JENKINS: My pleasure.

SENATOR GALLIVAN: Mr. O'Donnell, the notion of, the one thing that you had asked us, about a high school curriculum, I don't know how it's been lost, but, the whole notion of parents teaching their kids civic responsibility has been lost in some communities.

And, I think that's a great suggestion, that I would be interested in further conversations as well.

EUGENE O'DONNELL: If I could just say, really briefly, because I mention it in here, we also need to reignite a conversation about civility. We shouldn't be trying to intimidate people into being respectful to the police.

But over the last year or two, or however long it's been, we have this notion that it's okay to be actively disrespectful and combative with the police in a way we wouldn't tolerate with judges, in a way we wouldn't tolerate with prosecutors, and I hope with lawmakers we wouldn't tolerate it either. That there's a respect for the office.

UNKNOWN SPEAKER: It's tolerated with lawmakers.

[Laughter.]

EUGENE O'DONNELL: Well, I know it's tolerated with lawmakers, but I don't think you would tolerate disruption here very long.

I mean the idea is, and it shouldn't be imposed at the point of handcuffing people.

But, we have police officers, for example, who work demonstrations, that get yelled at for eight hours. You know, the most vile things are screamed in their face.

And it's a First Amendment right to do what you got to do, but maybe to reorient that conversation as part of civics.

You can do it. Should you do it?

Is it helpful to us as a society?

SENATOR GALLIVAN: I look forward to more conversations about that.

And, finally, now you really get to answer a question.

You -- I don't know if it was your direct testimony, but you seemed to imply school resource officers will help to improve police-community relations.

Can you expound on that?

I mean, do you believe that they would?

And how would that actually take place?

PAUL E. O'CONNELL: I've actually studied police departments now, I think, in 20 different states, and I've seen a spectrum of duties associated with the SRO title.

Some, literally, are just bodyguards.

After New Town, I would say virtually every community in this nation experienced the angst and the terror, and the knee-jerk reaction was: Put a cop in every school.

But beyond that, you know, the DARE officer, the DARE program has diminished dramatically, probably for good reason, over the years.

But as that diminished, the police had this law-enforcement role.

And what I'm suggesting is, if they're there already -- I mean, when I went on the job, I had a teaching degree. I was -- I had certification, grades 7 through to 12.

I got pulled off patrol and sent down to the academy to teach recruits, but I could just as easily have been sent to Bryant High School in Astoria to teach seniors, because I was certified.

There's a lot of extremely talented men and women in the NYPD. You know, we have people who are doctors, attorneys, and teachers.

If you could just get them out there to have these conversations that we're having today with the kids, and to get them early enough -- and I agree, you know, probably freshmen in high school throughout -- and get the communication.

This is all about communication.

It's not about restructuring the architecture of the criminal justice system.

You know, maybe I'm naive, but I'll stake my reputation on this: It's about teaching respect.

And once you -- you know, I would suggest -- much like the District Attorney said, I would suggest that, in this state, probably 15 or 20 percent of the population really understands what a grand jury is.

A grand jury is designed as a screen or a protection to guard against a runaway criminal justice system, and it has to be understood as such.

And the question is, how do you do that?

And I think it's taking these professionals who do put their lives on the line, have them go into the class and sit down with these kids, and,

you know, respect them and open the communications.

I know in my heart of hearts it will bear fruit out on the streets, and it's going to diminish the risks both for the public and for the police, going forward.

SENATOR GALLIVAN: Thank you.

SENATOR NOZZOLIO: I just have a couple of comments and questions.

The first is a comment.

When Professor O'Donnell was indicating that educational process, Senator Gallivan and I think it's a great idea. We've reviewed your testimony and I think it makes all the sense in the world.

I remember my Cub Scout den mother taking her little pack of Cub Scouts, at the 9- or 10-years-old, to the local police department to see what it was all about.

And that kind of education is very important. It instills something in a young person to respect law enforcement, to understand the role of law enforcement. To see a lock-up. To see the fact that you can be involved in those kinds of issues as a young person; understand what they are all about, or try to understand.

And that's -- that education process is part

of -- I think, is essential to our democracy.

And I'm glad you raised it, and it's something we want to pursue.

Professor O'Connell, I'd like you to address two subjects.

The first is the training issue.

I think you're right on target regarding one size doesn't fit all.

The type of training is important, as anything. And just simply training something, coaching in a way that teaches you the wrong play or the wrong role is counterproductive.

Have you analyzed -- earlier, Commissioner Bratton talked about the new programs that they're establishing.

Have you had an opportunity to look at any of those?

PAUL E. O'CONNELL: I have not, but I can tell you this: Everything I've read, and, certainly, what I heard from the Commissioner this afternoon, suggests that Commissioner Bratton understands this issue intimately, and that he's moving a very large organization that -- I did my doctoral dissertation on CompStat, and its development in the NYPD. And the one thing

I learned is police organizations change slowly. They're quite resistant to change.

Cultural changes take time.

I think we're running out of time, and I think the Commissioner understands that.

So everything I've read, including the new proposals that, literally, are just coming out today, about a new patrol-staffing plan, and really getting cops back out of the police cars.

You know, I personally don't believe that bulletproofing the police cars is the right direction to go.

I think it's getting the cops out to converse with individuals.

That's where the --

UNKNOWN SPEAKER: Good luck.

PAUL E. O'CONNELL: Well, yeah.

But I believe Commissioner Bratton understands this.

So, no, I apologize, I have not examined it in detail.

SENATOR NOZZOLIO: No need to apologize.

If you ever -- those kinds of things will certainly be tested in time.

PAUL E. O'CONNELL: Absolutely.

SENATOR NOZZOLIO: I didn't get a total price tag. I think he mentioned a multimillion-dollar program in his testimony.

But the fact is, what types of resources should we be deploying towards that training objective?

And, it's one that this Committee has been trying to grapple with.

Lastly, the "grand jury" issue, all three of you touched on it in a variety of different ways.

We're going to be presented with a very specific request.

We already have been.

Others have said they oppose it; diametrically oppose it.

Others say they think it's an intriguing idea.

Others have said they support it.

Have you -- and particularly you, Professor O'Connell, addressed in your comments directly -- all three of you, I would appreciate your thoughts on that subject.

PAUL E. O'CONNELL: I'd like to distinguish between the proposal to make the process somewhat more transparent, and then the process to create

another layer of review.

The latter I would dismiss out of hand.

As far as shining a light into the inner workings of the grand jury process, again, to educate the public, because, again, I would suggest most people really don't understand it.

The District Attorney, if he's in favor of it, if the -- I would be guided by what they say. They're the people doing it.

If they think that more, you know, knowledge is power, more information would benefit the process, by all means, who am I to stand, you know, in between that.

But as far as creating another layer of review, it's -- you know, it's the old saying, "Don't raise the bridge, lower the river."

We're making far too much out of it.

I think the process can be efficient, can work as it was intended, with a little bit more information provided.

EUGENE O'DONNELL: Can I just quickly add, one of the reasons I was suggesting that the legislators be involved with this, Article 35 in this state requires that if you claim self-defense, it has to be disproved beyond a reasonable doubt.

Now, I spent a summer talking to the press, with all due respect, and because of the format of news reporting, we've had conversations about police work that never involved the law.

Okay?

Whether it's hard to describe to people or it bores people or it's seen as inside baseball, the law is dispositive in these cases the more doubt you have about whether somebody is or is not justified.

When a police officer says, unless you have some reason to doubt the officer, "That I believed at that moment, my life or somebody else's life was in danger, somebody was in peril," unless a prosecutor can, basically, put that beyond doubt, then the defendant, ultimately, if he's in a criminal trial, must be found not guilty.

That's not trivia. That's central to the conversation.

Rolling off on reforms without stopping and explaining that to people, is crucial.

Any prosecutor will tell you, when a case comes in, civilian or police, and it's a self-defense case, that is, inherently, going to be a difficult case.

When it's a police case, it's almost going to

be an impossible case.

Again, coast to coast, red state, blue state, no matter who the demographics are, the police are vested with broad powers. It's very hard to tamper with that.

And, again, this is why these cases, why DAs should be explaining this in a, perhaps, written document.

It may not get any attention because the emotion overrules this, but the law is what points you to what happens in these cases. And the law is, basically, a very high standard for a prosecutor to prove somebody not justified beyond a reasonable doubt.

Very high standard.

SENATOR NOZZOLIO: It's an important standard.

And, I had a number of police officers, we all have, but, this week in the state Capitol, we were visited by a number of police organizations, individual officers, and not just from big-city police forces, but small town -- relatively small compared to New York City -- town offices. And each of us was visited by them, and this was an issue of great concern to them, because it -- the finality of

the process is so undetermined under what's being suggested.

Having another review puts, certainly, another whole layer on the process that doesn't necessarily have a timeline or a definitive conclusion.

At least, it can be, in effect, putting an individual's conduct in limbo for years.

So, it's something that we're all trying to weigh.

Dr. Jenkins, did you have anything to add?

DR. MICHAEL JENKINS: I would just add to the point that, you know, perceptions do matter with these circumstances. And, if there's a perception that a grand jury is not proceeding in a just way, that affects relationships.

And that's what we're trying to talk about here, are relationships between police and the community.

And so, practically speaking, logistically speaking, and in terms of the law, we have to talk about that, but we have to be mindful of the perceptions that the community might be getting if a grand jury process is not viewed as just.

SENATOR NOZZOLIO: Senator.

SENATOR SANDERS: Thank you.

Thank you very much, Mr. Chair.

First let me say that I think that problems with the police departments certainly existed -- police and community existed before these policies came about.

These policies, I would argue, have made things worse to some degree, but existed before them. And it would be unscientific just to say that these are -- were it only that simple that we can say, These are the problems.

And I wish that the world were that simple.

I would just urge everybody, that I'm sitting here, and it seems that we're talking about two different worlds.

Two different worlds, my friends.

And I have the privilege, and the responsibility, of communicating to both of these worlds, to say that there are things that -- well, I am reminded, of course, of the philosopher Disraeli who spoke of statistics.

And all of you remember that he said, "There are three types of lies: Lies, damned lies, and statistics."

And, there's a thing called "group memory."

Group memory, it's related to history. It's basically history.

And I'm telling you of a group memory that says there were very few people who believed that there would be an indictment.

And there are -- and that group, that number, is declining, not increasing.

My friends, that is not a good thing. It's going the wrong way.

We have to figure out what to do with it.

If fewer and fewer people believe that there is justice, then, sadly, no amount of conversation is worthy as conversation is going to be.

You could do a pizza party, you could do a basketball game, you could do whatever you wish, people need to see a type of justice.

Now, we all will have to wrestle with what does this mean, this word "justice"?

I mean, you know, from Russo to Mills, say all of these guys, we've been wrestling with this idea.

What does this mean? And what does this mean in this context?

Now, concretely, with all due respect, I will certainly take issue with, that the broken-windows

equals community policing.

I had a very small role, very, very small role, in Safe Street, Safe City program.

I actually was in the Department of Youth Services, and we helped design, Senator, the beacon schools.

I was one of those functionaries way down in some basement that helped design that part of it.

So I understand that community policing does not necessarily equal the broken-windows theory.

You can certainly do it without that.

And, the stop-and-frisk, which is a legitimate policing practice, can be abused. That you can make vast abuse of this; and, therefore, counteract it.

I mean, if we say that broken-windows was a working philosophy, and, frisking got stopped and frisked, the counterargument is, then, with the decline of stop-and-frisk, crime should be spiking through the roof.

And, the counterargument to broken-windows is, during the police slowdown, or whatever, we haven't given it a real name, crime should have spiked through the roof.

We did not see these things; therefore, there

is more afoot. There must be more afoot.

It may be a part of the truth, but it's not the whole truth. There must be more to this.

So, therefore, there may be other ways.

There are other cities, large cities, that do not use these policies; and, yet, are bringing down crime.

Crime in the nation, of course, is going down.

We should point those things out.

Now, I will -- to respect time, I will ask each of you a question, and then I will stop.

And I'll ask the questions first, and then you can answer them.

To Professor -- Lecturer, I'll be kind -- Lecturer O'Connell, can you explain what I just said about broken-windows and why there was no spike?

If this policy was so central and critical, then why is the information counters -- well, I'll let you do that.

To Professor Jenkins, if you would be kind enough -- well, not kind enough -- that's a -- let me do it a different way:

How can we -- what can we do to weed out and -- or -- weed out and/or -- to more effectively

weed out and change, if need be, latent racism within an institution?

What can we do about that?

And, of course, to Professional O'Donnell, your civil rights -- your video is very interesting -- your civic video is very -- to call it something, I trust that it will take into account that -- Thoreau, Gandhi -- that just because you have an authority doesn't mean that it is moral, and that there must be a way of challenging immoral authority?

And, of course, I understand, the Gandhi and Martin Luther King, there's a responsibility, and a way of doing things, and things that go with things.

But, if you're going to do a video about respect, or civic virtues, you should -- you couldn't do it fairly without including that, if an immoral authority has the authority, that it is beholding on people -- isn't that Thomas Jefferson? -- that it is beholding on people that they have to challenge such an authority?

We can argue of how to go about it.

And I'll stop.

SENATOR NOZZOLIO: Senator, could we get to the question?

SENATOR SANDERS: I stopped, sir.

SENATOR NOZZOLIO: Thank you.

SENATOR SANDERS: They have their questions.

PAUL E. O'CONNELL: If I could, the broken-windows issue, a very insightful question, Senator, about crime rates and stop-and-frisk.

Once again, I would suggest that everybody make the distinction between stop-and-frisk program, which I believe has been discontinued, and stop-and-frisk as a necessary procedure, which, again, I feel quite strongly of.

SENATOR SANDERS: Agreed.

PAUL E. O'CONNELL: Now that the program has been discontinued, would you expect to see some change in crime rates?

The answer is yes.

I would expect to see more at the misdemeanor level and the violation level, as opposed to violent-crime levels and the UCR levels.

But I still think it's still somewhat too soon to make any definitive judgment on this.

I think it should be monitored, going forward, because I think it's a very legitimate question that you have here there.

SENATOR SANDERS: Okay, worthy to monitor.

DR. MICHAEL JENKINS: If I may add about broken-windows, too, it's important not to conflate broken-windows policing with stop, question, and frisk.

And I think you're right, that a lot of individual police officers, as well as police departments, do make that assumption.

And I think Professional O'Connell is right, is that it is more in line with the community policing model of engaging with the community and working with the community to define the problems that they think are problems to them.

And, then, how are you going to prevent those problems from arising?

And it shouldn't rely on arrests specifically, and, it should engage other groups in that community.

I agree that, you know, you can't make -- you can't draw conclusions about the current history of the stop, question, and frisk and/or reduction in broken-windows policing and it's effect on crime. It's too soon, statistically, to tell that.

But I think we need to keep in mind, too, that the connection -- or, the relationship between disorder and crime, as it comes out in the research

and in practice, is that this is kind of a longer-term process in which the mood is set for the types of behaviors that are going to be deemed acceptable in a certain area.

So that's what I would like to add about broken-windows.

Do you have any questions? Or I can move on to the --

SENATOR SANDERS: I will be kind and respect the Chair.

DR. MICHAEL JENKINS: Okay.

And then, your specific question to me about latent racism in an institution, I think one of the themes that's arisen here is that communication and empathy go a long way.

And it's the face-to-face positive interaction between the police and the community that, for so long, did not interact in positive ways, and did not have understanding of where the other group was coming from.

You know, both groups have wronged the other.

Both groups have done wrong.

And it's time to acknowledge those wrongs and to move past those wrongs.

And we are seeing that done in some

communities.

Specifically, I'd like to mention David Kennedy's work in police legitimacy, and what he is doing with community groups and law enforcement.

EUGENE O'DONNELL: I'll just be mercifully brief, I hope.

But this -- the idea of broken-windows is not something that I'd subscribe to.

But having said that, on Staten Island, through 311, it was community people that asked the police to do that.

So this is the problem with -- again, I'm asking lawmakers to, respectfully, own the system they create.

Okay?

And the idea that we are going have reforms, I think Senator Golden mentioned this, it's pretty notorious, every year the Legislature adds laws, every year they may very well add some of the PBA's requests, because it's a complicated topic.

But to ask people to basically dump this on the street cops, to get frontally into the face of police people, that's not right, that's disingenuous, when lawmakers, again, are the

architects of the system.

So I got what you're saying, I got the Gandhi stuff, it's absolutely correct, and it's legitimate.

But, the district attorneys, if we have in the room, five of them, they can explain why it's so hard to indict the police. They should do that.

Before we go forward with a reform package, five DAs, we can have DAs -- we have DAs -- I think we have an African-American DA in Albany County -- we can have the DAs come in. It's not really a "pick a side" thing.

It's a legal issue, and it's very hard to indict police officers. And it's always going to be unless somebody comes up with something different.

That's why it's so uniformly --

SENATOR NOZZOLIO: But to be fair, Mr. O'Donnell, that you heard one of the district attorneys today suggest that he indicted and convicted a number of police officers for misconduct.

EUGENE O'DONNELL: Misconduct.

SENATOR NOZZOLIO: He didn't say that was difficult. As a matter of fact, he said it was pretty straightforward.

I asked him the question of, what type of

special hash marks are necessary in that process?

And he indicated none. It should be the same process it is for every citizen.

So I don't know if that's really -- I mean, you said that it's so extraordinarily difficult to convict a police officer.

EUGENE O'DONNELL: I meant use of force, Senator. I didn't mean for criminal corruption. That's not --

SENATOR NOZZOLIO: You meant, in the performance of their duty --

EUGENE O'DONNELL: On-duty use of force.

Off-duty improper stuff, that's an easy indictment.

On-duty use of force, where there are surrogates being sent into uncertain situations, no matter where you are in the country, that's a hard indictment to get.

SENATOR NOZZOLIO: Point well-taken.

Thank you very much for all your inputs, gentlemen, and we appreciate your time very, very much.

PAUL E. O'CONNELL: It's an honor to be here.

Thank you very much.

SENATOR NOZZOLIO: Stephen Cassidy is president of the Uniformed Firefighters' Association, and, Israel Miranda, president of the Uniformed EMTs, Paramedics & Fire Inspectors.

First and foremost, President Cassidy and President Miranda, thank you for your willingness to come together as opposed to individual.

The hour is late. You have been waiting here for the longest time, and we thank you for your patience.

And, if we can, we're just changing the name tags.

If we could have assistance in changing name tags?

Great, thank you, Rodney.

And for the record, gentlemen, if you could just state your name, and your --

STEPHEN J. CASSIDY: Sure.

SENATOR NOZZOLIO: Also, there's another gentlemen. We don't have your card, but thank you for introducing yourself for the record.

STEPHEN J. CASSIDY: This is Bob Unger, my lobbyist.

Steve Cassidy, president of the Uniformed Firefighters' Association.

Thank you for taking the time, this important topic.

I'm not going to read my testimony.

I'm going to summarize two points that I think are critical for firefighters and for public safety in the city of the New York.

The first one, we just marked the 10th anniversary of the Black Sunday fatal fires, where six firefighters were forced to jump out of a window in the Bronx because of an illegal conversion of an apartment.

It is rampant in New York City.

The housing shortage has forced people, some with good intentions, but many landlords with bad intentions, to turn a single apartment into an SRO where three or four or five bedrooms now exist.

It is a hazard for the people who live there.

It's a hazard for the people who live in the building.

And it is certainly a hazard for New York City firefighters, because, when you crawl into a burning building and you have zero visibilty, you can't see where you're going, and you are really in a maze now that's been reconstructed.

What was a one-bedroom with an open-floor

plan is now four bedrooms.

It's a nightmare.

It's what happened in the Bronx.

It happens time and time again.

It's a challenge for New York City firefighters.

I would like the Senate to take a look at my testimony on this topic, and any assistance you can give us on this is critical.

The real problem and challenge is access.

How do we get access to review these apartments?

How do we get to file, hear complaints, and get in and say: This is unacceptable. You've turned a one-bedroom into a four bedroom.

They're artificially inflating rents throughout the city of New York because they can get more money.

And, so, some of it is greedy landlords, but it's a real challenge for safety for firefighters.

The second is something that's critical.

Since 2009, when then-Governor Paterson vetoed the Tier 2 extender bill, all New York City firefighters and police officers were dumped into Tier 3.

There are no disability benefits in Tier 3.

It was an unintended consequence.

I spoke to Governor Paterson several times about it. He had no idea that that was a part of what was going to happen.

So all New York City firefighters and police officers hired after 2009 do not have real disability benefits.

When I say "real disability," I mean, they get $27 a day for a new probationary firefighter if he's injured in the line of duty.

They come out of probie school, 18 weeks, and they run into burning buildings to earn their paychecks.

They're willing to risk their lives, but they need to have the benefits that everybody else has.

They need to know that if they're seriously injured that someone will take care of them and their families.

And that's the way it has always been.

This is not some massive benefit.

And by the way, I view it as a public-safety component.

The people throughout the city of New York do not want a firefighter getting off an apparatus,

looking up at a burning building, and saying to themselves, "Oh, my God, I better not get hurt today. Who's going to take care of my family?"

That thought has never been in our minds.

We took this job. It's a dangerous job, we're willing to risk our lives.

But we cannot have to be worried about what-if?

What if I get burned?

What if I get hurt?

You know, it's a bad policy. It needs to be corrected.

We are having some challenges with the City Council on this, although we do have some momentum.

And I certainly would like the support of the Senate and the Assembly.

We're going to need a bill to get this resolved.

And, maybe, if we don't have the support in the council for what I view as some possible political reasons, there's some unhappiness, this needs to be done for firefighters and police officers in the city of New York.

And it absolutely is something they deserve.

You can't have some firefighters get off a rig, look at a burning building and not be worried about anything but doing their job, and some getting off and saying, "Oh, my God, if I get hurt, who's taking care of my family?"

So that's my testimony today.

SENATOR NOZZOLIO: Points well-taken.

Any questions?

SENATOR GOLDEN: Real quick, yes.

SENATOR SANDERS: The man is right.

SENATOR GOLDEN: He is absolutely right.

But you know what? I believe that we can take a look at doing a statewide bill, versus waiting for a home-rule message here, because this is a universal issue across the state of New York; so, therefore, it hits every county.

So, therefore, I think we, as four Committees, should take a look at a statewide bill on that disability bill, so that those officers, both police and fire, have the ability to get that disability.

There's only one county, I think, that is not in sync in the entire state of New York, and I believe that might be Nassau County. And I believe that that can be corrected in this

statewide bill.

So, if we can't get that from the City Council, we should, as a Senate body, seriously look at this, and see how we can put a statewide bill forward.

That's number one.

Number two, the illegal conversions that have cost those six firemen their lives, they forget, the people, the memories are short here in the city of New York, when you lost another five firemen over in Brooklyn on Flat Bush Avenue. That was not an illegal conversion. That was a supermarket fire.

But, again, we lost large numbers of firemen over the years.

When it came to 9/11, a captain looked at the men on that truck as they were running into that building, and he looked at the men and he looked them in the eye and said, "Some of us are going to die here today."

Not one of them, not one of them, turned their back. Every one of them ran into that building and ran up that stairs, and, some of those men on that truck died.

So they went in there for a reason: to protect life and property.

And we have to make sure that those officers don't have to second-guess, when they're going into a fire, if their family, and that police officer that's going out that night on patrol, that their families are not going to be taken care of.

It's wrong, and we got to make sure we do the right thing.

STEPHEN J. CASSIDY: Well, thank you for your comments on that.

SENATOR GOLDEN: The other areas that we would like to talk to you, is if there's anything else that we can do for the fire department, if there is anything that you need to talk to our finance people about, besides this three-quarter bill, I would suggest you do it quickly, because it's important that it get done quickly.

STEPHEN J. CASSIDY: Okay, I will.

And let me just add one thing.

The New York City Fire Department is going through, after a federal lawsuit and court challenges, a new hiring process.

They hired a company to come up with a new exam. That new exam has yielded much more diversity.

The last graduating class of probie school

was, two-thirds of the probationary firefighters were Black, Hispanic, or women.

That's never happened before.

It's a good change for the department.

They need to reflect the diversity of the community, as long as they continue to recruit good people, which they are.

I've been an advocate for the standards, but now that we are getting diversity in the fire department that so many people have wanted, they have second-class benefits.

It's a disgrace.

I'm not going to let it happen. It's going to get resolved.

I want to have all of your help.

But we are not going to have -- we're not going to have two separate groups of people running into buildings, and some saying, "I'm okay if I get hurt," and the new kid saying, "I'm not okay if I get hurt."

It's unacceptable.

SENATOR GOLDEN: The unfortunate reality in the New York City Police Department, the morale is desperate.

In the NYFD, on the other hand, you see

firemen wanting to stay on that job 30 years.

When you're a police officer, you see them counting the days and hours to get out on a 20-year retirement.

It's unfortunate that we have that.

So we need to be able to change that dynamic, and to find out how we can make this job a real career job and keep these people on the job longer, and do as you said, make these officers feel that they have the support of the people of this state, in making sure that there are benefits, as well as the police department.

But you are a model for keeping people on the job.

Keep up your good work.

STEPHEN J. CASSIDY: Thank you.

SENATOR NOZZOLIO: President Cassidy, your testimony will be submitted in its entirety for our record.

We want President Miranda to have the same opportunities.

Your testimony, President Miranda, will be part of the entire record.

If you would be so kind as to summarize your major points.

ISRAEL MIRANDA: Yes, I'll keep it as short as possible.

Thank you.

First of all, I'd like say, on behalf of the firefighters and police officers, they're 100 percent right about those benefits, and I support that 100 percent.

You know, this is a no-brainer. They should have their three-quarters.

Everybody who puts their lives on the line should have those benefits.

But now I'm going to get to my issues. Okay?

First of all, I thank you for the opportunity to testify today.

My name is Israel Miranda. I represent about 3500 EMTs and paramedics. We do about 1.6 million emergency calls a year.

That's about 4,000 a day.

Unlike our brothers and sisters in law enforcement, we do not respond to emergency calls expecting possible confrontation.

So what's been happening is, my people have been getting assaulted, unfortunately. They continue being assaulted at a higher rate than any group in the 911 system.

Nationwide, assaults is the number-one injury suffered by emergency medical personnel.

52 percent of reported non-vehicular injuries are assaults.

Based on the size of my workforce, our statistics reveal that emergency medical-service field providers are, at most, twice as likely to be assaulted in the line of duty than a police officer or correction officer.

Many of these cases go unreported.

Under the current law, which is Penal Law 120.5, assault in the second degree, which is a Class D felony, the language of this law is problematic.

Prosecutors in the court in pursuing a felony conviction have a hard time with it.

Terms such as "physical injury" or "impairment" or "intent" can be very subjective, and vague, in the court of law.

Many violators receive community service.

We've had many members who have been pummeled, and members with broken bones, and the assailants were prosecuted to minor penalties with no jail time.

I have attached stories that you can look at.

These assaults are not considered serious or permanent in the eye of the law.

Unfortunately, the psychological aspects of this encounter will affect this provider every time they are in the back of the ambulance for years to come.

Irrespective of whether such assault leads to impairment or serious physical injury, we must strengthen the existing law to protect our front-line protectors.

When it's Ebola, or anything else, my people are on the front line.

We need to protect these first responders so they know that the law works for them.

You know, they say that you can indict a ham sandwich. Right?

I heard that said here earlier today.

Then why is it that we can't indict someone who punches a paramedic and pummels him, and he's out six weeks, for performing his duty?

I don't understand it.

I'm asking this Joint Committee to include in your legislative package some real language that protects the best EMS professionals in the country.

I thank you, and I will answer any questions

you may have.

SENATOR GOLDEN: You have that bill?

UNKNOWN SPEAKER: Yes, we do.

SENATOR GOLDEN: Yes, okay, so now we got to get it passed. It's that simple.

I think it's the important thing for the paramedics that are out there protecting our city, that they have the protections of this great court system --

SENATOR NOZZOLIO: And we pass this in the Senate every year.

SENATOR GOLDEN: Yes, we pass it every year.

We can't get it passed in the Assembly.

SENATOR NOZZOLIO: It's important to mention that.

SENATOR GOLDEN: We cannot get this passed in the Assembly, and we have to get it passed in the Assembly, and we got to get the Governor to sign it.

And I think that's the problem, one of our problems.

But we have new leadership in the Assembly, and, hopefully, the individual that's taken over leadership will see the value of this bill and get this bill passed in the Assembly this year coming up.

But it's an important bill, and I hate to see anybody get hurt.

You're very important in your work.

ISRAEL MIRANDA: I want to thank you, guys.

Just like we have been here all day, you've been here all day. And I want to thank you for your patience, and staying here all day with us, just to hear what we had to say.

SENATOR NOZZOLIO: Thank you, Israel.

Israel, these clippings you showed were terrible. Just absolutely terrible.

There are laws on the books that can be prosecuted.

We are trying to get more of them in Senator Golden's bill.

We have other bills, where there's the indignity of individuals using their bodily fluids as weapons.

The indignity to firefighters, to EMTs, other emergency medical personnel, and police officers, where individuals have just done the unspeakable to people that are trying to help them.

And, we want to continue.

Thank you for putting your comments on the record because we share your concerns.

We'll do everything we can, and we'll continue to push for these measures.

SENATOR GOLDEN: One quick question.

On the Ebola issue, are you guys well-trained on the Ebola?

ISRAEL MIRANDA: Actually --

SENATOR GOLDEN: The police department, they came up and made comments earlier that they're not that well-trained.

ISRAEL MIRANDA: Actually, I think that the process that we put together, because we have members that were trained to respond to these type of calls, based on their -- it's being followed all over the country now.

Obviously, if it wasn't for these people in place, working with the firemen, we don't know, we could have had another Texas, or somewhere else over here, where they were unprepared.

STEPHEN J. CASSIDY: The Fire Commissioner did a great job.

The Fire Commissioner did a great job getting firefighters prepared.

So, we're happy.

ISRAEL MIRANDA: We're very happy.

SENATOR GOLDEN: Thank you.

SENATOR NOZZOLIO: President Cassidy and President Miranda, thank you very, very much.

ISRAEL MIRANDA: Thank you.

STEPHEN J. CASSIDY: Thank you.

SENATOR NOZZOLIO: Last, but certainly not least of our testifiers, is Michael Palladino, president of the Detective's Endowment Association.

SENATOR GOLDEN: A man of great patience.

MICHAEL PALLADINO: The gentleman with me is Philip Karasyk, general counsel to the detectives' union.

Senator, before I speak, you mentioned before about the difference between the police and the fire.

The distinct difference, over the years, is that instead of asking, "Hey, how much time do you have on the job?" they ask, "How much time do have you left?"

SENATOR GOLDEN: That's sad, though, isn't it? It's a sad comment.

SENATOR NOZZOLIO: It's almost like a sentence.

MICHAEL PALLADINO: All right, if I may start --

SENATOR NOZZOLIO: Please.

MICHAEL PALLADINO: -- my written statements are brief.

Starts out with, "Good afternoon," but I think I'll change it to, "Good evening."

SENATOR GOLDEN: It will be "good night" soon, too.

MICHAEL PALLADINO: Good evening members of the New York State Senate, and thank you for permitting me to testify before you today.

Being last in the lineup, there is not much left to say that hasn't already been said, but I would like to re-enforce some key points.

In our post-9/11 world, law enforcement's role has become even more essential as our daily duties now include counterterrorism to go along with proactively policing our neighborhoods against traditional crime.

The brave men and women of law enforcement strive each and every day to ensure a safe society for all members of the public in a fair and democratic way, pursuant to our Constitution.

As many of you already know, I hold two positions.

I'm the president of the Detective's Endowment Association, which represents

17,000 active and retired detectives of the NYPD.

At the same time, I hold the position of president of the New York State Association of PBAs, representing approximately 75,000 active and retired law-enforcement officers throughout the state of New York.

Equally important to me, though, I'm in my 36th year as an active member of the NYPD and very proud of every minute served.

The NYPD is a magnificent agency charged with the awesome responsibility of protecting this city from crime and terror.

I know I'm preaching to the choir when I say that New York City is the economic engine for our great state, and maybe the world.

I do believe the energy source for this engine is the public safety provided by the NYPD and the other local, state, and federal law-enforcement agencies operating in New York State.

The hard-working men and women of the NYPD put their lives on the line every day for the people of this city.

All we request in return is a little support and respect.

I am before you today to discuss a few

important issues regarding the upcoming budget as it relates to the NYPD and law enforcement.

The first is a request for funding to assist the City of New York in increasing the NYPD staffing, and to improve much needed equipment, including up-to-date bullet-resistant vests.

The second issue is the Governor's proposed legislation, bill Senate 2011, as it pertains to law enforcement; specifically, an independent monitor.

With respect to the NYPD headcount, pre-September 11, 2001, the NYPD's total headcount was approximately 41,000, and of those, 7100 were detectives.

Today the headcount is barely 35,000, and the detectives have been reduced from 7100 down to 5,000. That's almost a 30 percent reduction.

This reduced-staffing model is going on at a time when the world is in turmoil and our city remains the number-one terror target.

The rank of detective has also been spread quite thin due to the counterterrorism duties in addition to investigating traditional crimes.

For instance, a precinct detective squad is really considered the patrol force of the NYPD's famous detective bureau.

The detectives assigned to those squads investigate all the crimes occurring in their respective commands; and more importantly, they deal directly with the victims of the crime in a one-to-one relationship.

The victims come to know their investigators quite well during the course of an investigation, and they rely heavily on them to investigate their cases and bring them to a successful conclusion.

Needless to say, because the precinct detective squads are so short-staffed, assigned detectives are carrying caseloads far greater than they once handled.

As a result, delivery of service to the crime victim gets delayed by no fault of our detectives.

In addition, technology has created new leads and new avenues of investigation that are quite helpful in developing a case and tracking those responsible.

However, you still need the warm body, the human being, to chase down those leads.

It is extremely time-consuming, and detectives can spend an entire day accessing technological information and reviewing videotapes on just one fraud investigation, so they can easily

get backed up on their other investigations.

Now, despite being short-staffed, too often, detectives are reassigned from their active investigations to police parades and demonstrations.

In the most recent series of demonstrations following the Eric Garner case in Staten Island, detectives were regularly reassigned to police those demonstrations, putting their active investigations on hold, while still catching new cases, even though they were standing out in uniform working the demo.

Having worked in a Bronx detective squad myself for 11 years, I can tell you firsthand that the last thing a victim wants to hear is that you could not work on their investigation because you were at either a parade or a demonstration.

But this is common in a busy detective squad that's understaffed.

And having said that, I would welcome any funding that the State could provide, of course, for equipment and bullet-resistant vests.

But what is really needed is for the budget to include funding to restore the NYPD's overall headcount to at least 38,000.

So I respectfully ask the members of the Senate to consider that because it is in the best

interests of your constituents and mine.

Second issue I would like to discuss is the Governor's proposal for an independent monitor to review a grand jury decision not to indict police officers when deadly physical force is used against an unarmed individual.

I respectfully submit to you that it's unwarranted, redundant, and it creates, at the very least, a double-standard just for cops while eviscerating their constitutionally guaranteed right to equal justice under the law.

Sp I respectfully request that the Senate reject the idea of the independent monitor.

The idea, obviously, emanated from the Eric Garner controversy in Staten Island last summer. The grand jury decision was not to indict the police officers involved.

Legislating an independent monitor would suggest that the integrity of Mr. Dan Donavon, his assistant DA who presented the case, as well as the integrity of every single prosecutor in this state, is suspect.

It also implies that the 23 grand jurors who were peers of Mr. Garner were being influenced by their own prejudice and disregarded the evidence,

the eyewitness accounts, and testimony of expert witnesses when they voted to clear the officers involved.

I think it's simply absurd and could not be farther from the truth.

In my 36 years in law enforcement, I have found that our criminal justice system works very well.

My experience with the district attorneys in the five boroughs and the surrounding counties in New York State tells me that they perform the duties of their elected positions in a fair and even-handed manner.

In my capacity as a union president over the last 11 years, I can tell you firsthand, that if one of my members was involved in criminal activity, either on or off duty, they were prosecuted and received no special treatment.

In 2006, three of my detectives were indicted in the death of Sean Bell in Queens.

The case received global publicity and media coverage consistent with controversial deaths in police custody.

Death in police-custody cases receives so much attention that a district attorney would have

to be out of his or her mind to give even the appearance of special treatment to the police involved in such a case.

When the detectives were indicted, I disagreed with the indictment, but I didn't condemn the justice system, nor did I call for legislative reform, because I didn't get my way.

I accepted the indictments and I prepared for the next phase in the system, because I believe in the system, I trust the system, and I respect our criminal justice system.

The independent monitor is unnecessary because there presently exists two avenues to review a grand jury's decision not to indict.

One is under the criminal-procedure law.

The other is provided by the executive law, and already authorizes the governor to replace a local district attorney with a special prosecutor if he feels an injustice has been committed.

So I am opposed to the appointment of an independent monitor for a number of reasons.

It can be easily construed to be a mandate to indict police officers in controversial situations when the facts do not justify an indictment.

Speaking realistically, no one wants to be

scrutinized or second-guessed, especially by a politically-appointed monitor.

I feel the specter of the monitor looming over the district attorney could have a chilling impact on the impartiality of the prosecutor's presentation to a grand jury.

A strong possibility would then exist that a prosecutor could be inclined to indict simply to avoid the monitor and the negative publicity accompanied with it.

An independent monitor could pervert the system by substituting political considerations in place of the facts and the law, resulting in a police officer being denied his or her due process.

On any given day in this city, there are about 10 million people, between the commuters, the tourists, the residents; and at the same time, there are about 35,000 police officers in the city that cross paths with the public.

That equates to hundreds of thousands of interactions a day.

On rare occasion, there's an encounter that generates intense media attention.

However, the controversies are miniscule in comparison to the overall number of interactions

between the public and the police.

What occurred in Staten Island was tragic, but it is unfair to condemn the NYPD and deprive dedicated police officers of their right to due process.

New York City police officers are the most restrained officers in the country.

Annually, we effect about 400,000 arrests per year, and despite the countless number of encounters with armed felons, we discharge our weapons far less per capita than other departments in other big cities.

The Governor's proposal for criminal justice reform misses the real point and focuses only on the police.

The proposal fails to address the underlying problem that led to the Eric Garner incident, and that's resisting arrest.

So how do we train for, and what do we do in a situation, when an unarmed suspect verbally resists and does not offer any physical resistance?

Should we be expected to simply walk away?

And even though resisting a lawful arrest is a crime, many district attorneys rarely prosecute defendants for resisting unless the officer receives

a serious injury.

Many assistant district attorneys view resisting arrest as simply a cost of doing business and they decline to charge the suspect.

Effective criminal justice reforms should mandate stricter penalties for resisting arrest and require that district attorneys prosecute offenders to deter them from committing resisting arrest.

In closing:

In recent weeks, the Governor has been quoted, reminding the public, to "Trust and respect the justice system."

Well, I agree with the Governor, as long as that trust and that respect extends to the men and women of law enforcement who risk their lives every day.

I would be happy to answer any questions.

But, being that Senator Perkins isn't here, if I may, you know, fill in the blanks with respect to the interrogation questions, the videotaping questions, he asked.

Quite a few years ago, when Commissioner Kelley was in charge of the NYPD, working along with me and the DEA, we put a pilot project together, and that pilot project was to

commence videotaping in the 48th Precinct in the Bronx, the 67 in Brooklyn, the 122 in Staten Island, and the 113 detective squad in Queens.

And the original pilot project was the videotaping of simple assaults. And, I think we were just videotaping the suspects.

As a result of the pilot project, it was expanded slightly to include now homicides.

And, we're going to start including assaults -- I mean, burglaries and robbery, first and second degree.

And we also are finishing out the 71 Precinct interview room and getting that ready for videotaping as well.

So that's where we are right now with that pilot project.

I like pilot projects.

That's why I agreed to it with Commissioner Kelley, because it gives both labor and management an opportunity to examine the issue, work the kinks out, see if it works, and, see what's good and what's bad.

SENATOR NOZZOLIO: What have the results been so far?

MICHAEL PALLADINO: The results have been

pretty good so far.

You know, it was limited to the crime of assault. They're going to expand it a little bit.

I have been on the record quite a bit over the years with respect to the videotaping.

My concern is that, you know, it works in some of these smaller police departments, but I think the issue that we are going to have in the NYPD, especially, you know, with short-staffing and the detective squad and the caseload being so low, is that the volume of cases that we handle in a detective squad, I don't know if one interview room is going to be enough.

And, I foresee it being, you know, an overtime bonanza for detectives.

But, certainly, it's going to be difficult, I think, for the police-department budget and the City Council to fund the overtime that's going to be had by detectives, you know, sitting in an interview room. Or, you know, some detectives have 10, 12 detectives in a squad catching cases, and I could see them lining up, just waiting for that interview room to free up.

And you can't say, Well, the 48, let's send them over to the 52 up in the Bronx and let them use

their interview room, because the 20 detectives in the 52 are going to be lining up to use that interview room as well.

SENATOR NOZZOLIO: I'd like to take you to another point, President Palladino, the issue of -- that you addressed, and we've asked others to address as well; and that is the issue of upping the penalties for those who are resisting arrest, again, as an effort to protect those officers, particularly line officers who are making the arrests.

The proposal, or suggested proposal, is to take it to a Class E felony.

Your opinion?

MICHAEL PALLADINO: Well, I think a stricter penalty would be helpful.

And, certainly, I think that it has to be a commitment by the district attorneys to charge it, though.

So, they have to go hand in hand.

SENATOR NOZZOLIO: With a misdemeanor, there's less of a reason, I think, for district attorneys, we find it, generally, that if an issue rises to the level of a felony, they're more likely to prosecute them on a measure such as that, as opposed to a misdemeanor.

MICHAEL PALLADINO: Yes. And, once it rises to the level of a felony, then it has to be presented to the grand jury as well.

SENATOR NOZZOLIO: So that's something we are certainly going to be considering as a recommendation, and your endorsement of that is an important element to us.

The other issue you recommended was, basically, to oppose the so-called "monitor" proposal to add an additional layer of review.

Elaborate on that just a bit.

MICHAEL PALLADINO: Well --

SENATOR NOZZOLIO: And maybe to be helpful, District Attorney Donovan suggested he already has a monitor when he has to present a case, and that's a supreme court judge.

Isn't it different, if you have a supreme court judge having to decide not to report a case [unintelligible] negative --

MICHAEL PALLADINO: As opposed to a monitor.

SENATOR NOZZOLIO: -- as opposed to a monitor reporting a case?

Yes.

In effect, that adds the additional layer, regardless.

In effect, you have, in order not to prosecute a police officer, you have to have an additional layer, as you would today, if there's no-bill, there's no-bill by the grand jury.

Here, under the proposal, if you had no-bill, you would have to have another review, and that being that of the supreme court judge.

That was District Attorney Donovan's suggestion.

I think the Governor has another so-called "independent" review process that he's proposing.

MICHAEL PALLADINO: Well, my understanding of the law that I read, I guess the CPL, and that's with respect to the CPL, that if a no-true bill is voted, then a second grand jury can be convened, if, there is new significant evidence. And the other reason would be, if there was some type of procedural error.

SENATOR NOZZOLIO: Let me be more clear.

That we're not talking about the mechanisms today.

MICHAEL PALLADINO: Okay.

SENATOR NOZZOLIO: What we're talking about is the proposals that some are making, to say to the grand jury process, if a police officer is involved,

that, in effect, another review, above the grand jury, or on top of the grand jury, has to be established.

I think you in your testimony indicated that you thought that that was inappropriate.

MICHAEL PALLADINO: Oh, we're against that, yes. I think it's redundant, and I do not think it's necessary.

I mean, you know, realistically speaking, the district attorneys, they lock us up all the time. You know, there's no special treatment that's given to us.

And, you know, to suggest that either Dan Donovan, or the assistant who presented, or even the 23 grand jurors, just, you know, abandoned their civil duty just to give the cop a break, I mean, that's absurd.

This is 2015 in the United States. It's not the 1960s.

It's quite different time.

And you have videotaping that's out there, too.

So, you know, I just do not think it's necessary.

I think it was, you know, just a political

response by the Governor, you know, due to the marches, and due to -- let's face it, I'm sure that it ran parallel with Ferguson, what happened out in Ferguson, Missouri.

And I think that, you know, running parallel with that, there was a lot of emotionally-charged feelings there.

And I don't think it's necessary at all.

SENATOR NOZZOLIO: Senator Golden.

SENATOR GOLDEN: I think your testimony was outstanding.

And I want to thank you for putting in the time here this evening and being here, and giving us your testimony. And that's why you are the president of the greatest detective unit in the country.

But I got a question for you.

The -- you see the number of detectives that you have today, and you see the impact on these different events that going on around the city of New York, and how you have to participate, and how you are pulled out of the precincts to go to do these different events, and how it puts a drain on manpower.

Then we talk about having video on the

violent crimes, we'll say.

So we're are going to video them, so that's going to be more work that your men and women are going to have to do.

And then, of course, what's brought into it is technology.

Technology is -- has become a tremendous friend of the police department; but, obviously, that is immensely time-consuming. And that, again, takes the men and women from case to case, and it takes them a long period of time.

So how many men and women do you effectively need to be able to run your unit, especially with the -- or the detectives here in the city of New York, especially coming up, as the Commissioner has announced, that he has another new unit coming out of which I'm sure you are going to be part of?

MICHAEL PALLADINO: Well, in my testimony I said that, if we can bring the headcount up to 38,000, and I don't mean a one-shot deal.

We have to continue to hire above and beyond to offset the amount of retirements and to keep the NYPD head count at around 38,000.

I say 38,000.

You know, I don't know what the -- you know,

what the Commissioner would say.

But, 38,000. And we get, about 15 percent of the headcount is of the rank of detective.

So that would give us probably another 450 to 500 detectives, and that will help us staff the understaffed detective squads.

SENATOR GOLDEN: The redefinition of -- not the redefinition -- but the focus of the Governor on deadly physical force, you didn't mention that in your testimony.

What is your -- since we haven't seen the language on the bill, so, that is very concerning.

But, do you believe that the council that he wishes to create, where you have deadly physical force, a council that would create a legislation on deadly physical force on a statewide level?

And then if you did not adhere to what the council -- the way I understand it, that you did not conform to the council, that you would have to come up with your own independent "deadly physical force" legalization, which all counties, cities, towns, and villages already do across this state.

Do you see a problem with that?

MICHAEL PALLADINO: Well, yes, I do.

I guess what the Governor is proposing

that -- with whatever "deadly physical force" policy he comes up with, that would be the bare minimum that departments around the state would have to employ.

Well, you know, without seeing the legislation, or exactly what he is talking about, it's very difficult to really weigh in, but, you know, I find that really problematic.

I think what we have done here in New York City, I think it works, it has worked.

And as I said, the controversial police incidents that we have, when you compare them to the hundreds of thousands of encounters a day that the police have with the public, they're really miniscule.

So I think the Governor is trying to address an issue that, really, it doesn't exist.

SENATOR GOLDEN: I want to thank you.

No, that's all right, we're finished. We're finished.

I want to thank you for coming here today, for putting in the time.

But I also want to thank the Senate staff, from all of our offices, that came down from Albany, and the Mayor's people that are still here, and,

Kelly Comings [ph,] and all of the -- Beth and Garvey, and all of the staff, and Adam, for putting in this extra-long day.

There's is no overtime for this.

So we want to thank you guys for doing all the great work that you do.

Thank you very, very much.

MICHAEL PALLADINO: Thank you, gentlemen.

(Whereupon, at approximately 6:06 p.m., the public hearing held before the four New York State Senate Standing Committees concluded, and adjourned.)

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