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

JOINT LEGISLATIVE HEARING

In the Matter of the
2023-2024 EXECUTIVE BUDGET ON
PUBLIC PROTECTION

Hearing Room B
Legislative Office Building
Albany, New York

February 7, 2023
9:40 a.m.

PRESIDING:

Senator Liz Krueger
Chair, Senate Finance Committee

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

PRESENT:

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

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

Senator Brad Hoylman
Chair, Senate Committee on Judiciary

Assemblyman Charles D. Lavine
Chair, Assembly Committee on Judiciary

Senator Jamaal T. Bailey
Chair, Senate Committee on Codes

Assemblyman Jeffrey Dinowitz
Chair, Assembly Committee on Codes

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PRESENT: (Continued)

Assemblyman Erik M. Dilan
Chair, Assembly Committee on Correction

Senator Jessica Scarcella-Spanton
Chair, Senate Committee on Veterans, Homeland Security and Military Affairs

Assemblyman John T. McDonald III
Chair, Assembly Committee on Governmental Operations

Senator Kristen Gonzalez
Chair, Senate Committee on Internet and Technology

Assemblyman Steven Otis
Chair, Assembly Committee on Science and Technology

Senator Andrew Gounardes

Assemblywoman Jenifer Rajkumar

Senator Zellnor Myrie

Assemblywoman Dr. Anna R. Kelles

Assemblyman Joseph M. Giglio

Senator Shelley B. Mayer

Assemblyman Alex Bores

Assemblywoman Jo Anne Simon

Senator Michael Gianaris

Assemblyman Anil Beephan, Jr.

Assemblyman Tony Simone

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PRESENT: (Continued)

Assemblywoman Karen McMahon

Senator Jessica Ramos

Assemblyman Philip A. Palmesano

Assemblywoman Catalina Cruz

Senator Kevin Thomas

Assemblyman Michael Tannousis

Assemblyman Harvey Epstein

Senator Anthony H. Palumbo

Assemblyman Charles D. Fall

Senator George M. Borrello

Assemblywoman Rebecca Seawright

Assemblyman Michael Reilly

Assemblywoman Alicia Hyndman

Senator Rob Rolison

Assemblyman William Colton

Senator Steven D. Rhoads

Assemblywoman Monica P. Wallace

Assemblyman Michael Durso

Assemblywoman Mary Beth Walsh

Senator Patricia Canzoneri-Fitzpatrick

Assemblyman Angelo J. Morinello

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PRESENT: (Continued)

Assemblywoman Latrice Walker

Senator Jacob Ashby

Assemblyman Ed Flood

Assemblyman Jake Blumencranz

Senator Daniel G. Stec

Assemblyman Chris Burdick

Senator Patrick M. Gallivan

Assemblyman Kenny Burgos

Assemblyman Michael J. Norris

Senator Peter Oberacker

Assemblyman Demond Meeks

Senator Dean Murray

Assemblyman Ari Brown

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CHAIRWOMAN KRUEGER: Good morning, everyone.

If you're a Senator, we're going to ask -- or an Assemblymember, we're going to ask you to take your seats. And if you're anyone else, we're also going to ask you to take your seats, or at least try to be a little bit more quiet.

And if people during the day do have conversations they must have, of course you're welcome to take them outside and have them, including what always happens around here -- once a witness is finished testifying, everybody runs down to talk to them. Everybody, take it outside. Because whoever is leaving, somebody else is coming to that table for us to continue.

We are in the Public Protection hearing today. I am Liz Krueger, the chair of the New York Senate Finance Committee, and cochair of today's budget hearing with of course Helene Weinstein from the Assembly Ways and Means Committee.

Today is the second of 13 hearings

conducted by the joint fiscal committees of the Legislature regarding the Governor's proposed budget for state fiscal year '23-'24. These hearings are conducted pursuant to the New York State Constitution and Legislative Law.

Today the Senate Finance Committee and Assembly Ways and Means Committee will hear testimony concerning the Governor's proposed budget for the Judiciary, the State Commission on Judicial Conduct, the Office of Indigent Legal Services, New York State Division of Homeland Security and Emergency Services, New York State Office of Information Technology, New York State Division of Criminal Justice Services, New York State Department of Corrections and Community Supervision, and New York State Division of State Police.

Following each testimony there will be some time for questions from the chairs of the fiscal committees and other legislators who are on the appropriate committees.

And for those of you who are

listening, you will see pillows and blankets coming down at a certain time because this is going to be a very long hearing.

And by the way, because it's going to be a very long hearing, the Senate and the Assembly have attempted to establish some very strict rules for these hearings this year. One, government witnesses get 10 minutes to testify. If somebody has 12 or 15 pages of testimony, please don't try to read it because there's no human way for you to get through it. Just point out the key bullet points. All of us and all of you in the public can read the full testimony online. So again, bullet points only, 10 minutes maximum.

Nongovernmental witnesses -- which we will get to a long time from now, because there are so many government witnesses -- will get three minutes.

For legislators, the chairs of the relevant committees get 10 minutes of questions, and a second round -- and they're the only ones who get a second round -- of

three minutes. Rankers get five minutes. All other members get three minutes, no second rounds.

And it's important to let either Assemblymember Weinstein or myself know if you wish to ask questions, depending on are you an Assemblymember or a Senator, for each witness and panel of witnesses, and we will add you to lists. Please note that the list will close for that witness panel once their opening remarks have been completed.

So basically we're saying to legislators you need to be here to listen to that specific panel, or in this case individual person, if you're going to ask questions of that panelist. You unfortunately can't bop in later on, perhaps after 17 other people have asked the question.

We do understand that there's committee meetings happening so some people may have to run in, run out, but we really do hope that with the exception of a committee meeting, if you're not here for the full

panel discussion, you're not going to be allowed to ask questions of that panelist.

Nongovernmental witnesses, everyone only gets three minutes to ask questions -- chairs, rankers, whoever.

And finally, no PowerPoint presentations, placards or signs are permitted in the hearing room either by people who are coming to testify, people who are simply here listening, or legislators themselves.

That may or may not be a new rule, but that's the rule we are going by this year, and no one else can reference one Senator showing bread and eggs at a hearing at one point in history.

With that, I would like to introduce members of the Senate Majority who are here. Then it will go to the Assembly, and we'll make sure to then also go to our colleagues.

And of course I should have already introduced him, Tom O'Mara, the ranker on Finance in the Assembly -- ranker in Senate. Oh, my goodness, ranker in the Senate.

SENATOR O'MARA: It's early.

CHAIRWOMAN KRUEGER: It is early. I haven't had coffee yet. Ranker in Senate.

So just to start out so far, we have Senator Gonzalez, Senator Bailey, Senator Mayer, Senator Gianaris, Senator Thomas, Senator Hoylman, and Senator Myrie.

I'm going to turn it over to Helene to introduce her members.

CHAIRWOMAN WEINSTEIN: Thank you.

So we have with us Assemblyman Dinowitz, chair of the Codes Committee; Assemblyman Lavine, chair of the Judiciary Committee; Assemblyman McDonald, chair of Government Ops; Assemblyman Dilan, chair of Corrections; Assemblyman Otis, chair of Science and Tech. Those are the committees that are relevant to this hearing.

We also have Assemblymember Bores, Assemblymember Burdick, Assemblymember Burgos, Assemblyman Epstein, Assemblywoman Kelles, Assemblyman Simone, Assemblywoman Simon, and Assemblywoman Walker.

I just wanted to alert both the Assemblymembers and the Senators, the end seats on the lower dais are for members -- in case we have members who don't have -- are sitting in a place where there isn't a mic. So those seats will be rotating for people if they need a microphone.

Now I'd like to ask Assemblyman Ra to introduce the members of his conference.

ASSEMBLYMAN RA: Thank you. Good morning.

We have with us Assemblyman Morinello, who is our ranker on the Codes Committee, Assemblyman Tannousis, our ranker on the Judiciary Committee; Assemblyman Giglio, who is our ranker on the Corrections Committee; and Assemblymembers Beephan and Flood.

CHAIRWOMAN WEINSTEIN: And now I'm going to turn it over to Senator O'Mara to introduce his members.

SENATOR O'MARA: Thank you, Chairwoman.

Joining us so far today we have Senator Patricia Canzoneri-Fitzpatrick,

Senator Dean Murray, and Senator Rob Rolison. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

All right. So for people who have the agenda, you'll see that we have a long list of testifiers. And again, after each panel, there will be a question-and-answer period with an opportunity for members of the Legislature to ask questions. And then when we complete the government presenters, there will be opportunities for the public who have submitted testimony and been approved as getting a slot to testify, to come and testify.

People who were not able to schedule being a testifier -- because there were many, many people we had to say no to -- please know you can still submit your testimony in writing, and all of it will go up on both legislative websites and will be provided to all of the members of the committees, so there are more opportunities for you to submit your concern as member of the public.

With that, I would like to introduce

our first testifier today, the Honorable Tamiko Amaker, Chief Administrative Judge of the Office of Court Administration, with 10 minutes.

Good morning.

ACTING CHIEF ADMIN. JUDGE AMAKER: Good morning. It's really my pleasure to be here. So good morning, Chairperson Krueger, Chairperson --

CHAIRWOMAN KRUEGER: Can you pull the microphone a little closer?

ACTING CHIEF ADMIN. JUDGE AMAKER: Oh, yes. Can you hear me better now?

CHAIRWOMAN KRUEGER: Yes.

ACTING CHIEF ADMIN. JUDGE AMAKER: Okay. All right. So good morning, Chairperson Krueger, Chairperson Weinstein, Chairperson Hoylman-Sigal and Chairperson Lavine. It's really, as I said, my great pleasure to be here. And good morning to all other committee members participating today.

I am Tamiko Amaker. I am the acting chief administrative judge for the Office of Court Administration for the Unified Court

System. I'm pleased to appear this morning to discuss the Judiciary's budget submission for the 2023-'24 fiscal year.

I begin with a brief summary of our budget. Once approved, this budget will enable the courts to continue to fulfill their mission of providing justice to the people of the State of New York. The budget calls for 3.3 billion in state operating spending, including 2.47 billion for court operations and local assistance needs as well as 836.4 million for required fringe benefit obligations of the Judiciary.

Among its principal purposes, this budget will permit the Unified Court System to fund the 20 new Supreme and Family Court judgeships authorized by the Legislature last session, as well as a boost in the number of retired Supreme Court justices certificated for continued judicial service by the Administrative Board of the courts. The increase will also enable us to establish new judicial positions in the courts needed to support trial court operations and the

payment of benefits negotiated by represented non-judicial employees for fiscal year 2024.

Finally, the increase includes a 3 percent cost-of-living adjustment for civil legal service providers.

Let me speak for a moment about the Judiciary's priorities for fiscal year 2024. Number one, and most important, is restoring full court operations.

Since 2010 the number of nonjudicial court employees has steadily declined. This decline was greatly exacerbated during the COVID-19 pandemic when hundreds of employees retired or left judiciary service for other reasons. In 2020 and 2021, this employee exodus was accompanied by a year-long hiring freeze adopted to help the state meet the budgetary shortfall that followed in the pandemic's wake.

Together, the loss of so many employees and the inability to hire to replace them seriously diminished our --

CHAIRWOMAN KRUEGER: Excuse me, I'm so sorry. I'm getting complaints that for some

reason we can't all hear you. So up in the control room, can you try to increase the volume for the judge? Because I think she's holding it quite close to her.

ACTING CHIEF ADMIN. JUDGE AMAKER: Right.

CHAIRWOMAN KRUEGER: It might be that there's a second microphone on your table that might work a little better. I'm so sorry.

ACTING CHIEF ADMIN. JUDGE AMAKER: Okay. All right. Is this better?

CHAIRWOMAN KRUEGER: Yes, it is.

ACTING CHIEF ADMIN. JUDGE AMAKER: Okay, excellent.

CHAIRWOMAN KRUEGER: Thank you.

ACTING CHIEF ADMIN. JUDGE AMAKER: Do I get the time back?

(Laughter.)

ACTING CHIEF ADMIN. JUDGE AMAKER: All right, I'll read quickly.

CHAIRWOMAN KRUEGER: Give her another minute.

ACTING CHIEF ADMIN. JUDGE AMAKER: All

right, thank you. I'll read quickly.

So restoring full court operations. Since 2010, the number of nonjudicial court employees has steadily declined. This decline was greatly exacerbated during the COVID-19 pandemic when hundreds of employees retired or left judiciary service for other reasons. In 2020 and 2021, this employee exodus was accompanied by a year-long hiring freeze adopted to help the state meet the budgetary shortfall that followed in the pandemic's wake.

Together, the loss of so many employees and the inability to hire to replace them seriously diminished our workforce and produced real challenges to maintaining necessary court operations. In fact, at its low point at the end of 2021, our nonjudicial staffing level dropped to under 14,250 employees, a loss of almost 2900 employees, or around 17 percent of our staffing over the preceding 13 years.

Our hiring freeze was lifted in April 2021. Since then, every effort has

been made to fill vacancies to return to pre-pandemic employment levels. Funding for the additional positions in our budget submission is an important part of this effort. These positions are vital to our ability to meet our responsibilities, which have grown ever greater over recent years.

Collective bargaining. First, I want to thank each and every one of you for passing our pay bill and for allowing our more than 13,000 represented employees to have their raises. A week ago this proposal was signed into law as Chapter 1 of the Laws of 2023, and I can't tell you how ecstatic our unions are. Chapter 1 will permit the Comptroller to implement the collective bargaining agreements before April 1st and the start of the new fiscal year, ensuring that employees begin receiving their benefits at the earliest possible time, and also permitting the 130 million retroactive cost of these benefits to be charged against the Judiciary's 2023 available cash.

Civil legal services. I know that's a

very important issue for many of you, and it is for us as well. In 2023 the Judiciary will continue its strong support for state funding of civil legal services. Our budget requests 116 million for this purpose. This amount includes funding for both the Civil Legal Services Program, long administered by the Judiciary, and for suballocation to the Interest On Lawyer Account fund, the IOLA fund.

Today the Judiciary's program supports 82 providers across the state. Their caseload encompasses a broad spectrum of services to meet the legal assistance needs of persons of limited means, including tenants, workers, immigrants, and refugees, domestic violence victims, the physically disabled, and families.

Recognizing the vital role this program plays in the community, our budget request includes a 3 percent increase in its funding to account for inflation and the state's growing commitment to the legal needs of indigent persons.

Court system of the future. We have long sought to apply the best available technology to help streamline and improve the delivery and quality of justice services in the courts. This has included reliance upon the e-filing of court papers, which has now become a regular part of the practice of law in our major civil trial courts. E-filing is also being introduced in Family Court, where in the next fiscal year we aim to build upon the expanding e-filing pilot programs established in counties both inside and outside of New York City.

Our commitment to the use of modern technology goes beyond e-filing. The pandemic, as you all know, presented an unprecedented challenge: How to keep the courts functioning during a public health crisis that dictated physical separation to reduce contagion. This inspired us to make use of virtual court proceedings with participants at locations remote from one another and from the courthouse.

Through such use, we saw clearly that

virtual proceedings could do more than protect public health. When applied in appropriate settings, such proceedings could facilitate greater access to justice, expedite disposition of court caseloads, and reduce litigation costs. Today we expand our ability to use virtual court proceedings through our Court Modernization Initiative.

Family Court. In Family Court, especially in New York City, we've taken many significant steps during the past fiscal year to improve court services. Several of these new initiatives involved expanded use of technology. First, e-filing is being introduced in courts for custody, visitation, guardianship support, paternity and parentage petitions in pilot programs begun in New York and Richmond counties. In 2023 we aim to expand e-filing into Family Court in other counties around the state. Outside the city, we have already set up e-filing pilot programs in Fulton, Saratoga and Suffolk counties.

We are expanding our Court

Modernization Initiative in Family Court. Prior to 2022, nine courtrooms in New York City have been furnished with enhanced equipment, permitting the court to host virtual and hybrid proceedings. Last year seven more courtrooms in the city were similarly furnished. Although not fully outfitted with all of this enhanced technology, the city's remaining Family Court courtrooms have access to portable equipment so that they too can conduct virtual proceedings.

Outside the city the situation is much the same. Many if not most Family Court courtrooms have access to portable equipment.

I see that my time is running out, so I'm going to summarize the rest of my remarks.

With regard to diversity and racial bias, we continue to implement the recommendations of the 2020 Jeh Johnson report, with our constant goal to provide the people of New York with a court system free of bias and discrimination.

With regard to housing initiatives, despite significant operational changes implemented by the Judiciary to the pandemic to address Housing Court backlogs and delays and to assist pro se litigants, pandemic moratoria and stays pursuant to the Emergency Rental Assistance Program have caused significant delays in the processing of housing cases and increased case backlogs.

This problem is particularly acute in New York City. Complicating matters, pro se litigants there face the limited availability of counsel under the city's Right to Counsel program, which aspires to provide low-income tenants with attorneys.

The 18-B reform. I'd like to remind you of the Judiciary's continuing advocacy for an increase in compensation for attorneys for providing legal services as County Law Article 18-B panel attorneys and as attorneys for the Child and Family Court.

And one other thing, with regard to our gun initiative. We have been doing our part to help stem gun violence by

prioritizing and expediting the resolution of gun cases.

So I close by emphasizing that the courts remain committed to assuring the fair and prompt administration of justice.

Thank you, and I'm happy to answer any questions.

CHAIRWOMAN KRUEGER: Thank you very much, Judge. I know 10 minutes is an incredibly short time.

Our first questioner is the chair of Judiciary, Brad Hoylman.

SENATOR HOYLMAN-SIGAL: Good morning, Judge. Good to see you.

ACTING CHIEF ADMIN. JUDGE AMAKER: Good morning, Senator.

SENATOR HOYLMAN-SIGAL: Yup, we're on.

First just let me thank you for being so accessible over the last few months. I do appreciate it particularly in connection with local issues -- Manhattan, Midtown Community Court mainly.

I wanted to start around the issue of our pretrial criminal reforms that this

Legislature has passed and of course they've been signed into law. As you know, they've been a major policy item in several of the last state budgets. And as we've improved the law, many of our colleagues are concerned -- and we've spoken about this -- that judges may not be keeping up with the relevant changes. In fact, the former administrative judge of the Queens Criminal Court I would say blatantly misrepresented the law in an op-ed in a major newspaper.

And it's my understanding that every judge sitting in a criminal part in New York City undergoes annual training to review changes to the criminal justice laws. Is that correct?

ACTING CHIEF ADMIN. JUDGE AMAKER: Absolutely.

SENATOR HOYLMAN-SIGAL: Is it mandatory for every judge every year?

ACTING CHIEF ADMIN. JUDGE AMAKER: It is mandatory for every judge in New York City Criminal Court. Because in addition to being acting chief of administration, I am also the

New York City Criminal Court administrative judge, and I have always made it mandatory for every judge that sits in criminal court.

The overwhelming majority of judges do attend the summer conferences as well as Lunch & Learn programs, and there has been a real, you know, plethora of training that has been done. I mean, it's just really staggering how much training has been done for judges.

SENATOR HOYLMAN-SIGAL: How about outside New York City?

ACTING CHIEF ADMIN. JUDGE AMAKER: Outside of New York City, absolutely. I mean, we invite -- we've invited those judges outside of New York City to attend any virtual Lunch & Learns that we've had. It's also accessible through the --

SENATOR HOYLMAN-SIGAL: Is it mandatory outside of New York City?

ACTING CHIEF ADMIN. JUDGE AMAKER: It's -- it's -- it's not mandatory, but for judges outside of New York City, they attend the summer conferences --

SENATOR HOYLMAN-SIGAL: Do you think you should make it mandatory?

ACTING CHIEF ADMIN. JUDGE AMAKER: Well, the overwhelming majority of judges attend. Judges who don't attend this --

SENATOR HOYLMAN-SIGAL: What about those few who don't attend?

ACTING CHIEF ADMIN. JUDGE AMAKER: Well, the judges --

SENATOR HOYLMAN-SIGAL: Those are the ones we're concerned about.

ACTING CHIEF ADMIN. JUDGE AMAKER: Right. The judges who don't attend, you know, we have -- in our summer conferences we have three sessions. And in those three sessions pretty much every judge around the state is able to make one of those three sessions.

If a judge has a health issue -- you know, they may be hospitalized -- or if a judge for some other reason can't make it, we do make all of these -- all of these materials available to those judges. These materials -- and there are, as I said, a

great deal of material. There's a SharePoint site that has decisions from judges all around the state --

SENATOR HOYLMAN-SIGAL: No, and we spoke about that, and I appreciate that.

Do you audit effectively whether they do attend or not? I mean, is there some sort of way that you certify their attendance?

ACTING CHIEF ADMIN. JUDGE AMAKER: Yes. If judges attend, they sign in and out of every session. So if they are in attendance, then they sign in and out of every session at the summer conference.

SENATOR HOYLMAN-SIGAL: Would you be willing to make that information available to the public?

ACTING CHIEF ADMIN. JUDGE AMAKER: I don't know that that information is retained. I mean, it's -- it's usually just so that we can figure out, you know, who's attended for how many meals we're going to have, to make sure that, you know, we have housing for those judges.

So I don't know that that information

is retained beyond -- because judges, unlike lawyers, do not require CLE credits. So if you require CLE credits, then it has to be recorded so that there can be some sort of record.

SENATOR HOYLMAN-SIGAL: Well, I would just posit that given some of the comments that judges have made in conflict with the law, the training would seem to be not -- not always effective.

And how do you measure whether the training is effective or not?

ACTING CHIEF ADMIN. JUDGE AMAKER: Well, I mean, we don't necessarily measure whether the training -- I mean, we provide pretty clear training. As I said, you know, the summer conference where they received over three hours of training just this past summer. And in the past, when there have been other updates and when the initial bail reform came -- came about.

As I said, there's been hour-long virtual trainings, there have been bench books, there have been lists of qualifying

and nonqualifying charges that each judge is given. They're -- all of the forms associated with bail reform, both recent and prior bail reform, are all available.

There's an FAQs SharePoint site where, if an individual has a question, they can send that into the --

SENATOR HOYLMAN-SIGAL: Would you be willing to share those training materials with members of the State Legislature?

ACTING CHIEF ADMIN. JUDGE AMAKER: Well, those training materials are really internal. They're -- they're made by judges for judges. And like pretty much any other organization, if there are internal --

SENATOR HOYLMAN-SIGAL: Would you be willing to consider to share those materials with the State Legislature?

ACTING CHIEF ADMIN. JUDGE AMAKER: (Laughing.) You are very persistent, Senator, and --

SENATOR HOYLMAN-SIGAL: You know, we have concerns, as I'm sure you've heard, and as we --

ACTING CHIEF ADMIN. JUDGE AMAKER: Yes. I think --

SENATOR HOYLMAN-SIGAL: -- discussed.

ACTING CHIEF ADMIN. JUDGE AMAKER: You know, I think that I can perhaps clear this up a little bit, because -- and you and I have had these discussions offline.

The reality is this. I mean, I as a criminal court judge, have probably done -- I've done thousands and thousands of arraignments. And when a judge is doing arraignments and they're -- they know the law, right, but you're making an individualized determination of the facts and circumstances of that particular case before you.

And I think even if you can set bail -- and I think that this has been the overarching concern and the overarching question for the Legislature -- is why in certain instances when a judge could set bail, they're not setting bail. And I think that that's because it really just depends on the circumstances of that specific case.

That just because you have the ability, just because it is a qualifying offense and you can set bail doesn't mean that you will.

And even if -- you know, everyone looks at that and kind of Monday-morning-quarterbacks it after the fact. Sitting in that seat and listening to the parties before you, who may give you very compelling reasons why bail shouldn't be set --

SENATOR HOYLMAN-SIGAL: Final question on this topic, thank you.

ACTING CHIEF ADMIN. JUDGE AMAKER: Okay, yes.

SENATOR HOYLMAN-SIGAL: Would you be willing to consider requiring all judges statewide to take part this in training?

ACTING CHIEF ADMIN. JUDGE AMAKER: I think that, as I said, the overwhelming majority take part --

SENATOR HOYLMAN-SIGAL: Why not just make it mandatory?

ACTING CHIEF ADMIN. JUDGE AMAKER: I mean, we -- I suppose that we could, but I think the overwhelming majority of judges do

participate. And it's not just bail reform, it's every other area of the law -- whether it's housing law, whether it's family law, the overwhelming majority of judges do participate in our conferences and do access the Lunch & Learns and do access the SharePoint sites.

SENATOR HOYLMAN-SIGAL: Thank you for considering that.

I just want to move on quickly to the Family Court issue, which is obviously --

ACTING CHIEF ADMIN. JUDGE AMAKER: Absolutely.

SENATOR HOYLMAN-SIGAL: -- an enormous problem. And we know that the pandemic exacerbated the longstanding issues in Family Court, especially in New York City. The Jeh Johnson report on racial equity in the courts and a recent report by the Williams Commission specifically called out the situation in Family Court as in dire need, dire need of reform.

How do you think the budget proposal advances that goal?

ACTING CHIEF ADMIN. JUDGE AMAKER: Well, the budget proposal will assist us in many ways -- increased compensation for attorneys. As I said, there's the 3 percent increase. And the hope is that as attorneys are compensated better, they will -- we will be able to continue to attract capable, efficient and effective attorneys to represent these families.

SENATOR HOYLMAN-SIGAL: In your testimony, just to quote, you say, quote, Civil parts of Supreme Court and felony courts and the New York City Family Court remain high and above pre-pandemic levels of backlogs.

Could you be specific and let us know how big the backlogs are in those courts in terms of the numbers of cases specifically in New York City? Do you have those numbers?

ACTING CHIEF ADMIN. JUDGE AMAKER: I don't have the numbers for each and every court.

I can tell you, off the top of my head, in New York City Family Court it's

about 81,000 cases. I can tell you in New York City Criminal Court it's about 21,000 cases. I can tell you in New York City Criminal Supreme it's somewhere around 12 -- 11,000 to 12,000 cases. And we are diligently working at reducing these backlogs each and every day.

SENATOR HOYLMAN-SIGAL: Thank you.

ACTING CHIEF ADMIN. JUDGE AMAKER: Did you want me to respond further about Family Court or --

SENATOR HOYLMAN-SIGAL: No, I have just 30 seconds, and I just want to ask one more round of questions, which is who voted for the acting chief judge this summer? Do you know -- do you have that information? Because the tradition had been that the most senior judge would assume the position of acting chief judge, but that didn't happen this summer.

And I think the public, and frankly my colleagues too, deserve to know who actually cast the votes for whom.

ACTING CHIEF ADMIN. JUDGE AMAKER:

Well, Senator, unfortunately -- I mean, as acting chief administrative judge, I really wasn't privy to what occurred at the Court of Appeals. I really -- you know, we don't have any oversight, I as the acting chief administrative judge, I have no oversight over the Court of Appeals and I don't know what happens in their proceedings.

SENATOR HOYLMAN-SIGAL: Do you think that that should be a public vote?

ACTING CHIEF ADMIN. JUDGE AMAKER: You know, I really don't take any position and the Judiciary as an institution doesn't take a position. But as I said, I have no oversight and I really have no knowledge of what occurred.

CHAIRWOMAN KRUEGER: Thank you.

SENATOR HOYLMAN-SIGAL: Thank you very much.

ACTING CHIEF ADMIN. JUDGE AMAKER: You're welcome, Senator.

CHAIRWOMAN KRUEGER: Thank you, Senator.

Assembly.

CHAIRWOMAN WEINSTEIN: We've been joined by Assemblyman Colton, Assemblywoman Seawright.

And we go to the Assembly Judiciary chair, Assemblyman Lavine.

CHAIRWOMAN KRUEGER: And as Chuck is about to speak, we've also been joined by Senator Ramos. Thank you.

SENATOR O'MARA: And Senator Steve Rhoads.

ASSEMBLYMAN LAVINE: Thank you.

This is on, I take it?

ACTING CHIEF ADMIN. JUDGE AMAKER: Yes. I can -- well, I can hear you.

ASSEMBLYMAN LAVINE: Good to see you this morning, Your Honor.

ACTING CHIEF ADMIN. JUDGE AMAKER: Good to see you as well.

ASSEMBLYMAN LAVINE: So the budget sought is three-plus billion dollars.

ACTING CHIEF ADMIN. JUDGE AMAKER: Yes.

ASSEMBLYMAN LAVINE: Of those dollars, a sizable proportion are spread throughout

the entire State of New York.

ACTING CHIEF ADMIN. JUDGE AMAKER: Absolutely.

ASSEMBLYMAN LAVINE: What kind of oversight is there with respect to how those dollars are actually spent?

ACTING CHIEF ADMIN. JUDGE AMAKER: Well, you know, there is a very complicated process. You know, as you -- you probably all have our budget, which I have here. It's extremely detailed. It details the spending for pretty much down to the penny of how each and every dollar, every one of the state residents' tax dollars are spent for the Judiciary budget.

And our Division of Financial Management, they are laser-focused on ensuring that all expenditures are accounted for and that everything is justified and that -- I mean, I can't tell you how often I communicate with our Division of Financial Management, our budget director. She is extremely exacting and really doesn't allow for even a penny of waste. So there's

a great deal of oversight.

ASSEMBLYMAN LAVINE: Now, I know that there are specialized weapons parts, I guess referred to more commonly as Gun Parts in New York City. And is there a plan to expand these outside of the City of New York?

ACTING CHIEF ADMIN. JUDGE AMAKER: So the Gun Parts, they continue to be really a model of efficiency. I didn't get to talk too much about the gun initiative, but essentially the gun initiative, as I started to say, was in response to the fact that there was a great deal of gun violence in New York City. And about a third to a quarter, depending on the county, of all cases were regarding -- had some form of gun possession in Supreme Court back in 2021, in August of 2021, when the gun initiative was started.

So we established dedicated Gun Parts in Supreme Court. We had very specific procedures. Those procedures required short adjournments, they required early discovery to be turned over, they required that there

were never any wasted adjournments that weren't consent adjournments, which is a term that we use where one party can say, all right, this time isn't going to be chargeable to 3030, which is the dismissal clock for charges under the Penal Law.

And so what we found was that by expediting these cases and having early case assessment, in many instances we saw the early resolution of these cases. So we had about 2600 cases that were resolved just from April of 2022. And during the life of this --

ASSEMBLYMAN LAVINE: May I interrupt you just for a moment.

ACTING CHIEF ADMIN. JUDGE AMAKER: Yes, absolutely.

ASSEMBLYMAN LAVINE: Did the judges assigned to those courtrooms receive specialized training?

ACTING CHIEF ADMIN. JUDGE AMAKER: They did. They did receive specialized training.

They were -- they had -- there were

panel discussions. There are in fact continued panel discussions and continued training to ensure that they're following all of the procedures, that they understand ways of doing very -- very fast case resolution and how they can really push the parties to resolve these cases as quickly as possible.

ASSEMBLYMAN LAVINE: So I would personally hope that OCA would consider expanding this program. Because while guns -- weapons, really -- are a problem in New York City, it's -- they're not restricted to New York City, and this is part of a national pandemic of violence.

So I do want to ask you a question about the 18-B rates, the assigned counsel rates. So they would now, under the proposal, go up to 158 an hour in the metropolitan area and 119 throughout the rest of the state. Who ends up paying for that?

ACTING CHIEF ADMIN. JUDGE AMAKER: Well, right now the localities are paying for that. You know, when it comes to AFC, attorneys for child in Family Court, you

know, we are paying for that.

So yes, I mean I -- I think that it's an incredibly important program because, you know, we have these backlogs. And the majority of our backlogs in Supreme Criminal Term are homicide cases, and the majority of individuals who represent those individuals are 18-B attorneys.

Also, obviously, in Family Court, attorney for child, we're had a huge shortage, and that's impacted our backlogs, that's impacted our ability to really, you know, move through these cases and resolve these cases because we don't have enough lawyers.

ASSEMBLYMAN LAVINE: So as a former public defender and someone who did assigned counsel work -- at much lower rates in the old days -- I understand why we don't have enough qualified attorneys to handle these challenging matters.

But let me ask you this. At 158 an hour, which is a respectable amount, if someone's on trial for two weeks and it's

35 hours a week, which is not unusual for a trial, they are then over the $10,000 limit that is anticipated to be the cap. How is that going to be handled in a case where someone's on trial for three weeks or six weeks?

ACTING CHIEF ADMIN. JUDGE AMAKER: That's going to be an issue.

You know, the Judiciary as an institution doesn't take a position on it. But, I mean, I can just say that clearly that is something that has to be examined. The case caps absolutely would need to be reviewed in order for an individual to be able to, you know, continue to provide adequate if not superior representation.

ASSEMBLYMAN LAVINE: So it's a tragic indictment of the days in which we live that judges are now the targets of assassins. And I'm speaking specifically with respect to Judge Esther Salas in New Jersey, whose son was murdered by a bizarre, bizarre lawyer.

So the federal government has now adopted a program which will allow judges to

have their personal records or at least personal references to addresses sealed or obliterated or erased from social media. We have a couple of bills or a couple of proposals in New York State, and Senator Hoylman and I have discussed this matter.

What's the impact on the judges of these terrible, terrible instances of violence visited upon them for absolutely no reason whatsoever?

ACTING CHIEF ADMIN. JUDGE AMAKER: It has a huge chilling effect. I've had judges who have called me because they are -- they've been stalked at the courthouses, they've been stalked in their personal lives. They've called me on the weekend because there were letters found outside in their trash can saying that they're going to be killed. I've had judges who are just -- you know, they're -- they're really frightened.

And the level and the volume and the number of judicial threats has been escalating. From 2020 to 2022, it's gone up 40 percent. I get a report every week on

judicial threats that's about eight pages, and that's just for the courts outside of New York City.

So this Judicial Protection Act that would remove our personal information from -- so that the public would no longer have access, I think that would be something that judges would be very supportive of.

Last night I got a phone call from a representative from the Supreme Court Judges Association, and I told him that I was coming today to testify and that I desperately wanted to mention judicial security to all of you. And we would really ask -- actually, you know, beg you to support the Judicial Protection Act. It's something that we think is incredibly important not just to all of us but to our families.

And I think that it does have, as I said, a chilling effect on judges. And I think it makes people think twice about whether or not they even want to enter the judiciary and put their families at risk and put themselves at risk, especially since

there is very, very limited judicial protection at this point.

ASSEMBLYMAN LAVINE: Thank you so very much.

ACTING CHIEF ADMIN. JUDGE AMAKER: Thank you.

CHAIRWOMAN KRUEGER: Thank you very much.

Our next questioner will be our deputy leader, Mike Gianaris.

SENATOR GIANARIS: Thank you, Judge. Our time is limited, so I'm going to get right to it.

There's been significant coverage in the news of the security detail provided to the former chief judge. Who approved that?

ACTING CHIEF ADMIN. JUDGE AMAKER: Our Department of Public Safety makes the determination as to whether or not security is required.

SENATOR GIANARIS: But who? Can you give me a name? Who approved that security detail?

ACTING CHIEF ADMIN. JUDGE AMAKER:

Well, we have a chief. Our chief is Michael Magliano. There are several other chiefs who were involved.

The chief of the Court of Appeals also has -- there's a security individual there, Chief Thomas --

SENATOR GIANARIS: I understand. I'm not -- didn't mean to interrupt you, but I do have a very limited amount of time, so I'm going to get to it.

What I'm trying to get at is who is the final decision-maker. Is it Mr. Magliano, is it yourself? Obviously you've only been there a couple of months, but your predecessor. Is it the chief judge or the acting chief? Who made that decision?

ACTING CHIEF ADMIN. JUDGE AMAKER: The decision is made by the Department of Public Safety. And it may be approved by the chief administrative judge, but it's made by the Department of Public Safety.

SENATOR GIANARIS: Right. But ultimately the acting -- the chief administrative judge or the acting chief can

approve or deny that recommendation.

ACTING CHIEF ADMIN. JUDGE AMAKER: Yes. But we very often follow their recommendation because --

SENATOR GIANARIS: I understand. Thank you.

ACTING CHIEF ADMIN. JUDGE AMAKER: -- they are the experts in that area.

SENATOR GIANARIS: Thank you. Is that security detail still ongoing?

ACTING CHIEF ADMIN. JUDGE AMAKER: Senator, I unfortunately can't answer that.

But what I can tell you is this --

SENATOR GIANARIS: Why not?

ACTING CHIEF ADMIN. JUDGE AMAKER: Because I think that that would put the former chief judge in grave danger.

SENATOR GIANARIS: On what basis does a former employee have any right to security provided by the Office of Court Administration?

ACTING CHIEF ADMIN. JUDGE AMAKER: Well, let me give you a little bit of background. I think this is something that

all of you are probably very interested to hear. I think there's been a tremendous amount of misinformation that's been given to all of you as well as the public at large with regard to what exactly happened.

The former chief in 2016, when she joined the Court of Appeals, she came from -- she was the DA of Westchester County. And there had been threats against her life which necessitated a security detail at that point.

So in 2016 there was an assessment done by the Department of Public Safety, and they made the determination that she required security, but at that point it wasn't 24-hour security. So --

SENATOR GIANARIS: Judge, if I may. And I want to hear your answer unfold, but maybe I could ask the chair to not count this long -- lengthy explanation against my time.

CHAIRWOMAN KRUEGER: (Mic off; inaudible.)

SENATOR GIANARIS: Thank you. No, I understand, but I have one more round of questions beyond this.

I'm sorry, Judge, please.

ACTING CHIEF ADMIN. JUDGE AMAKER: Okay. So in -- in -- in 2018 -- so -- so I also should -- should indicate that there have been over 50 either inappropriate communications or judicial threats that have been investigated by our Department of Public safety against the former chief judge.

So in 2018 when she was at her vacation home, an individual showed up -- she was at breakfast with her husband. An individual showed up at the table next to her. He was a litigant who was really irate, approached her. And when there was an investigation done, it was determined that he had stalked her and had come out to not just follow her around so that he could find out where she was having breakfast -- (time clock noise).

CHAIRWOMAN KRUEGER: (Mic off; inaudible.)

ACTING CHIEF ADMIN. JUDGE AMAKER: Okay, thank you.

SENATOR GIANARIS: So just -- if I

may, just to -- because I understand you --

ACTING CHIEF ADMIN. JUDGE AMAKER: I just wanted to give the background so that everyone understands, because I think that everyone is very interested to hear this.

So in 2018 he came out to her home and -- came out to where she had her vacation home, and he was standing in the middle of the street screaming "Where's Janet, I need to see Janet" at the top of his lungs.

And when an investigation was done, it was determined that he had been following her to her dry cleaner, he had followed her to this restaurant, and that he had been hiding out with a hat on and -- and out on the parking lot --

SENATOR GIANARIS: Judge, if I may, again, I think we get the point. You're talking about instances from five and seven years ago --

ACTING CHIEF ADMIN. JUDGE AMAKER: Well, I did -- I did want to just give the full -- because I think that the problem here, Senator --

SENATOR GIANARIS: Well, Judge, if I may, my question was: On what basis does a former employee get this protection from the OCA? If someone is under threat, law enforcement has protocols for any New Yorker, particularly prominent New Yorkers, who are under threat. Why is the OCA making a decision for someone who longer is a member of the judiciary to receive this kind of protection?

ACTING CHIEF ADMIN. JUDGE AMAKER: Well, I --

SENATOR GIANARIS: Never mind that you're citing incidents five and seven years ago without telling us whether it's still an ongoing threat or whether it's necessary.

ACTING CHIEF ADMIN. JUDGE AMAKER: I understand, Senator.

So, I mean, I just want everyone to understand the background of where this all came from, because these were ongoing and continuing threats.

And then in 2020 I think everyone is well aware of what happened with

Judge Salas's son, and that individual also had the chief judge's photo in his car as well as her address --

SENATOR GIANARIS: Judge, you're not answering my question, with respect.

ACTING CHIEF ADMIN. JUDGE AMAKER: No, but I am, Senator. I want to give you the full picture so that you understand why this occurred.

And then in 2021 there was another threat to her entire family that an individual said he was going to kill her and her entire family. And -- and so these threats were ongoing and they were escalating.

And at various points there was an assessment done of her security so that at each stage, if additional security was required, there was additional security. And after Judge Salas's son was killed and that individual had her photo and her address in his car, that's when the State Police did an assessment. And when the State Police did their assessment, they joined the chief

judge's detail.

And so, as I said, in 2021 her entire family was threatened. You know, there was a threat to kill her and her entire family.

And so when she retired in 2020 {sic}, at that point there was -- the threat hadn't subsided. The threats continued. Because as I said, I'm talking about the specific threats but I'm not talking about the other 47 in --

SENATOR GIANARIS: Judge, again, you've not --

CHAIRWOMAN KRUEGER: Senator, I'm sorry --

SENATOR GIANARIS: -- you've not answered my question.

CHAIRWOMAN KRUEGER: -- I'm going to have to cut you off. I'm sorry.

SENATOR GIANARIS: And I'll just -- if I could -- I barely have had the chance to ask any questions.

CHAIRWOMAN KRUEGER: I know, but we gave you the deference beyond the clock.

SENATOR GIANARIS: She's filibustering

like a very effective legislator.

Okay, I'll move on from that one. Give me one -- one more minute, if I may, Madam Chair.

CHAIRWOMAN KRUEGER: No. I'm sorry, Mike.

CHAIRWOMAN WEINSTEIN: No, no, no. Sorry, Mike.

CHAIRWOMAN KRUEGER: Sorry, Mike.

SENATOR GIANARIS: I will just say this in closing, that the court system has a real problem. In just the few minutes I've been here, they have provided no answers to questions of who receives training, what the training materials are, what the vote for acting chief was, whether there's still an ongoing expense of public resources for the safety of former judges.

I don't know if you saw the story from Franker Runyeon in Law360 today, but --

ASSEMBLYMAN LAVINE: Time's up.

SENATOR GIANARIS: -- but in fact there is a serious corruption problem within the Court of Appeals where judges are

receiving public benefits and not reporting them --

(Overtalk.)

ASSEMBLYMAN LAVINE: Your time is up.

CHAIRWOMAN KRUEGER: I'm sorry --

SENATOR GIANARIS: -- of $2.5 billion. I think there's a serious problem, Judge.

CHAIRWOMAN KRUEGER: Thank you. Sorry. He will be available in the hallway for any press who would like to follow up with him.

Assembly.

CHAIRWOMAN KRUEGER: We go to Assemblyman Dinowitz for a real 10 minutes.

ASSEMBLYMAN DINOWITZ: Good morning, Judge. How are you today?

ACTING CHIEF ADMIN. JUDGE AMAKER: Good morning. Good to see you, Assemblymember.

ASSEMBLYMAN DINOWITZ: So I'll try to talk fast, because I want to get everything in in the appropriate time.

So I guess it was pretty much at the

worst time during the pandemic that OCA and the chief judge thought it was a good idea to purge or fire 47 70-year-old judges. Now, some of them of course were restored, ultimately, after a long time, but we lost a lot of judges at the worst possible time, which undoubtedly exacerbated the backlogs even more.

And although we added some Supreme Court judges by law over the past few years, I think we're still short.

My question to you is, do you think it would be a good thing -- money being available, of course -- if more judges for -- you know, Supreme Court judges, Civil Court judges and other judges were added to the bench to help deal with what I think is probably a crisis in terms of case backlogs?

ACTING CHIEF ADMIN. JUDGE AMAKER: Well, Assemblymember, you know, we would never say no to more judges.

We just ask that -- if we can have a conversation offline just so that I think hopefully we'll be on the same page as to

where those judges are most needed. Simply because, you know, we just want to make sure that there's enough, you know, supportive lines -- that being court reporters, court officers, court interpreters -- so we can open courtrooms for each and every one of those new judgeships.

And we would also humbly ask the Legislature for an additional appropriation for any -- for -- because it costs about a million dollars for each and every new judgeship, if you count not just the court attorney and if they're entitled to a secretary but, as I said, all of those other employees that are necessary just to open the courtrooms, so -- and the judge's salary.

So we would just ask of the Legislature if you would please just -- just consult with us. I mean, obviously you don't have to consult with us, but we just think it would be helpful just in terms of our plan going forward for court operations.

ASSEMBLYMAN DINOWITZ: Well, we'd love to consult. I'm sure we would leave it up to

the experts -- at least I would -- to determine where judges, if they were available, would be assigned.

I should point out, though, as I have in the past, that when those 47 judges were fired, a very heavy disproportionate number of them happened to be from the Bronx, arguably the county which has the greatest needs of all 62 counties.

So in another area, regarding provisions relating to bail and securing orders, the Executive Budget proposal would remove the standard to which a judge must adhere when imposing a securing order for the statutorily defined qualifying expenses, requiring only that the court explain its choice of securing order.

So my question is, what information is OCA statutorily required to report on with respect to that?

ACTING CHIEF ADMIN. JUDGE AMAKER: I'm sorry, I -- I couldn't -- I couldn't hear your question. Would you mind repeating it?

ASSEMBLYMAN DINOWITZ: Sure. As long

as we're adding to my 10 minutes.

ACTING CHIEF ADMIN. JUDGE AMAKER: I'm sorry.

ASSEMBLYMAN DINOWITZ: So the Governor's proposal would remove the standard to which a judge must adhere when imposing a securing order for the statutorily defined qualifying expenses -- offenses. In other words, she's making that -- what she would call a small change, others may not call it a small change to bail. And it would require only that the court explain its choice of securing order.

So my question is, do you have -- do you keep data on all that?

ACTING CHIEF ADMIN. JUDGE AMAKER: Well, I mean, we keep data -- and I think that you had a pretty extensive hearing with regard to the data that we keep.

We keep data on judges -- you know, whether or not they're setting bail, whether or not they're RORing or releasing on recognizance, which means there's absolutely no conditions and that person is released.

Or if they're released under supervision, which would be -- in New York City, that would be supervised release and they may have to call in or report in person. So we keep data with regard to that.

And, you know, I think that that data is pretty comprehensive. There have been a number of reports that have been done by Vera, by John Jay, by -- it was the Center for Court Innovation, now it's the Center for Justice Initiatives. So there's been a great deal of analysis of that data.

But yes, absolutely, we do keep that data.

ASSEMBLYMAN DINOWITZ: Okay. And I assume it's readily available.

ACTING CHIEF ADMIN. JUDGE AMAKER: To me right now?

ASSEMBLYMAN DINOWITZ: Not to you right now, to us whenever.

ACTING CHIEF ADMIN. JUDGE AMAKER: Oh, yes, all of you, absolutely. You can just go to our website and look at it at any point. Absolutely.

ASSEMBLYMAN DINOWITZ: On the issue of marijuana expungement, sealing, so in 2021 New York fully legalized cannabis and expanded upon marijuana expungement and sealing as well as providing for the resentencing of individuals who were incarcerated for marijuana-related offenses.

Do you have an update on those efforts relating to expungement?

ACTING CHIEF ADMIN. JUDGE AMAKER: The -- our IT department is continuing to ensure that those expungements are occurring. This is something that we think is incredibly important, and we put a great deal of resources into that effort.

And so, as I said, it is continuing. I think we're just about done with ensuring that all of those expungements have been -- have been recorded.

The thing is that I think in some instances, you know, we have -- in some of the courts outside of New York City it may have been done more by hand, and it might have taken a little bit longer. Inside of

New York City I think there was a lot more automation that was able to be done just because of the types of databases that we have.

But I think there was some discussion at the last hearing about the town and village courts and about their databases and how they're being updated, and that our hope is that in the next year or so those databases will be completely 100 percent or at least close to 100 percent up to the standards that we've set in other parts of the state.

ASSEMBLYMAN DINOWITZ: Mm-hmm. Okay, I have a few minutes left, but I'm not going to go on because I want to set a good example for my colleagues here who I know will almost assuredly follow my example by not using every last second and even going beyond.

So thank you very much.

(Laughter.)

ACTING CHIEF ADMIN. JUDGE AMAKER: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you,

Chair Dinowitz.

I just want to -- before we go to the Senate, we've been joined by Assemblymembers Wallace, Durso and Walsh.

Now to the Senate.

CHAIRWOMAN KRUEGER: Thank you.

Next is Chair Jamaal Bailey of Codes.

SENATOR BAILEY: Thank you very much.

Jeff, I'll take those two minutes and 30 seconds very kindly.

(Laughter.)

SENATOR BAILEY: I would echo the sentiments of Chair Dinowitz in that, you know, the Bronx has been disenfranchised as far as judges go. We did lose the most judges when the decertification issue came up a couple of years ago.

So I would implore -- you know, I would implore those of us who are in the -- with the power to do so, if we consider thinking about judges, I would -- it may seem selfish, but we were disproportionately affected by that. So I just wanted to lead with that.

Thank you, Judge, for coming. Thank you for appearing before us today. I want to begin my questions along the lines of what Senator Hoylman-Sigal was speaking on in reference to bail reform. It is a conversation that is not an easy one, obviously. It's one that has been -- and multiple dynamics. But in terms of the uniformity, the nature of the uniformity. And I just wanted to -- I just wanted to ask about that. Right?

So we've made a couple of different changes to the bail law. So how quickly after each change to the bail law or the justice law that we've made have -- was new information disseminated to the respective judges?

ACTING CHIEF ADMIN. JUDGE AMAKER: So after each change -- you know, initially in 2019 we did have extensive summer conferences, and we had hours and hours of instruction. And that was prior to the actual effective date in January.

And, you know, as I said, we had the

FAQs mailbox so that people could send in questions, and they were published on our SharePoint site. There were bench books, there were bench cards, there were additional Lunch & Learns. All the forms were published. There were lists of qualifying as well as non-qualifying offenses that were given out both for -- both inside of New York and outside of New York.

So, you know -- and I'm just summarizing. So all of this was done in 2019. And when the bail reform was reformed in July of 2020, those additional changes were made and they were added. There were additional virtual sessions that were done.

And then on May 9th of 2022, when the last, most recent set of changes were made, again, everything was updated and there were about three hours' worth of instruction at the summer conference. And, you know, as I said, the qualifying offenses were updated, the bail books were updated, everything was updated. And prior to it actually taking effect -- because since it took effect

May 9th, before the summer conference -- on May 6th there was a virtual Lunch & Learn, which was mandatory for all criminal court judges to attend. And they --

SENATOR BAILEY: And, I'm sorry, I don't mean to cut you off here, Judge, but the reason why I ask is because there's been considerable consternation in relation to the last change that we made concerning the specific provision that's been colloquially referred to as "harm on harm," right?

ACTING CHIEF ADMIN. JUDGE AMAKER: Yes.

SENATOR BAILEY: And there has been -- and there has been a lot of discussion about whether judges are properly understanding of or applying that.

So I just wanted to make sure that when we -- when this information comes out, that it is -- that it was transmitted to the judges, those individuals who are making the decisions, complex totality of circumstance-based decisions already -- already always in context, as always.

But I just wanted to make sure that how quickly after we passed that budget -- those changes, were judges aware of those changes immediately?

ACTING CHIEF ADMIN. JUDGE AMAKER: Yes, they were. So yes, they took effect on May 9th. May 6th we had an extensive training. But prior to that, back in April, there were additional updates to all the bail books. There were summaries that were distributed to all the judges. So the judges were aware.

SENATOR BAILEY: Okay. Because again, it's -- you can't -- everything that's out there in the ether, so to speak, isn't always what the reality is.

But I just want to make sure that when the changes that we've made, contemplative changes that this body, that these bodies in the Legislature have made after lots of decisions and lots of conversations that were made that make sure judges are aware and applying the law properly.

A question about 18-B. You know, as

the sponsor of the bill in the Senate for the raise, you know, what's in the budget, what you've requested, do you believe that it's going to be sufficient enough to support the needs of these hardworking attorneys who have been underpaid for God knows how long?

ACTING CHIEF ADMIN. JUDGE AMAKER: Yes, our budget request will be sufficient, because we're making a specific request but then we're asking for an appropriation. So if it should pass, that that rate increase will -- if it does pass and if it is signed, then we're asking for an appropriation for I believe it's an additional $43 million for the Unified Court System so that we would be able to cover that rate increase.

SENATOR BAILEY: Okay, excellent.

A question on diversity. Every year I ask OCA about diversity and the commitment to diversity. I was often one of -- if not the only Black attorney in the courtroom when I was in the practice of practicing. And diversity on the bench is important, but I guess -- what is OCA's commitment beyond the

legal program? And we've spoken about the legal program quite often. And to your credit, you know, the ranks of OCA have diversified, and we can continue to do better in terms of diversity.

But what is OCA's commitment going to be going forward to make sure that the bench and the attorneys practicing look more like the State of New York?

ACTING CHIEF ADMIN. JUDGE AMAKER: So, you know, as you all know, when it comes to judges, we don't appoint judges. The only group of judges that we appoint are the Housing Court judges. And by the way, they are the most diverse group of judges in the state. But otherwise they're either elected or appointed by other entities, not by OCA.

But what we are committed to doing is we have been doing everything in our power to ensure that the administration, the supervising administrative judges, that they look more like the communities that we serve. In fact, the level that's right below the chief administrative judge, which is -- I'm

the acting chief administrative judge -- are deputy chief administrative judges. And that is also a title I still hold as -- but that's another story. So three out of the four deputy chief administrative judges are judges of color.

And below that title are administrative judges. We are extremely committed. There are a number of administrative judges who are judges of color, as well as supervising judges. And not just judges of color, but judges who are LGBTQ candidates, judges who are disabled. We look for racial as well as ethnic and gender diversity. And we're extremely committed.

I mean, I know that you and I, Senator, have had conversations about other ways of making sure that the bar is diverse. And there is a judge, Judge La Tia Martin, who has the Scales of Justice Academy, which is an academy for young women. She primarily has young women of color in that academy, and they are high school students, about 50 of

them. Every summer she brings them to all of the different areas of the court system.

They would always come to see me in criminal court. I would educate them not just about the criminal justice system, but also educate them about what opportunities exist -- not just lawyers and not just judges, but also I would have them -- someone who is a court officer come in and explain how you can become a court officer, what training is required, court reporters, court interpreters, court attorneys, so that they know that there are all of these options and all of these possibilities.

We have also partnered with the City Bar with regard -- and other bar associations, to participate in programs for how to become a judge. I know I personally have participated in a number of those programs.

I've also -- and I know that many of my colleagues have also -- we've nurtured and encouraged diverse candidates to apply for judgeships and tried to coach and mentor --

SENATOR BAILEY: I just have a minute-thirty left, Judge. I just want to -- a couple more things.

I would agree that and I would hope that the efforts to recruit court staff, court clerks, throughout -- interpreters, language access is a huge issue in the courts that we don't have enough of a conversation about as much, so I want to make sure that I put that on the record, not just in terms of interpreters, but at every level of the court system.

My last question is a question that I did ask at the -- at the data hearing, and I got an answer, but I thought this might be a better venue for the answer. It's not about the data, so to speak, but it's about judges who make outlier decisions, right?

In the event that there is a judge that makes an outlier decision -- and you've talked about the aggregation of data that you have in your significant data. If a judge is making decisions that are woefully out of step with -- out of lockstep with what,

quote, unquote, should be done, or based upon the totality of the circumstances, what is OCA -- what can they do, what will they do, and what should they do about that?

ACTING CHIEF ADMIN. JUDGE AMAKER: Well, I mean, first and foremost, you know, judges are not employees. You know, we can't tell them what to do in terms of their decision-making. We can tell them where to be, their assignments. We can talk to them if they're making decisions that are out of step with the rest of their colleagues. But we can't make them change their minds.

But, listen, if we get a report that a judge is either implicitly or explicitly engaging in bias, we certainly look into it. I mean, there are -- there's the IG, our inspector general, which does investigations. And any supervising or administrative judge who gets that type of notification, we'll certainly look into it.

SENATOR BAILEY: I would say, just -- thank you, Liz.

And I would just say, just to follow

up, it is really important to make sure that even if you can't specifically hold someone accountable per se because they are independent employees, it's important that we as the public know that if you're getting the instruction, if you know that these decisions are made, and you're making decisions that are outside of the scope of what you are trained on and what you should know, that there should be some sort of either publication or a conversation with the public that, you know, the judges are designed to -- required and expected to uphold justice for, that they're doing so.

Thank you, Your Honor.

ACTING CHIEF ADMIN. JUDGE AMAKER: Thank you, Senator.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Tannousis, the ranker on Judiciary, for five minutes.

ASSEMBLYMAN TANNOUSIS: Can you hear me? Perfect.

Thank you, Judge Amaker, for coming in today to testify. I'm going to spare you the questions on bail reform and all the other political questions that you were asked.

The one question I do have for you is the issue we're here for. I just -- you touched upon it in your testimony, and I just wanted you to elaborate a little bit, if you can. What type of effects did the COVID-19 pandemic actually have on the judiciary, and how has that affected your request for funding today?

ACTING CHIEF ADMIN. JUDGE AMAKER: So the COVID-19 pandemic -- I mean, I think it was really tragic for everyone, right -- I mean, I think every agency, every entity, every area of society. And as a result of the pandemic, we were not able to -- we were open and we migrated to a virtual platform. Certainly in the worst days of the pandemic the New York City Criminal Court was one of the first courts that had to certainly migrate, and we did that in a matter of days to ensure that we could provide virtual

arraignments. And at each and every step of the pandemic, we pushed forward and tried to provide more and more services to our court users.

But because of regulations requiring social distancing, and prior to vaccines being available, prior to Paxlovid being available, we had to take certain precautions. We had to have the 6-foot rule once we were fully back in person, and then that eventually went down to 3 feet and then zero feet. But when it was at 6 feet and 3 feet, it limited the number of trials that we could have.

And as anyone who's a practitioner either -- in any type of court, we have to have the necessity for trials. We had a great deal of resolutions without trial, but there are certain cases that have to be tried or at least there has to be the threat of trial for the parties sometimes to get to any meaningful resolution or disposition of a case.

So it did have a great effect. As a

result, there are significant backlogs that still exist in many of our courts, especially our courts that are for -- that serve lower-income New Yorkers and certainly in -- certainly other communities of color.

And so we are working diligently to try to resolve those backlogs in all of those courts. And we've really increased our ability to resolve cases. Last year we had over 2 million filings, I think it was 2.1 million filings, and we resolved nearly that many, 2.1 million cases. So we are really pushing through, but certainly there is more to do.

And with this budget we'll be able to hire more employees so that we can really continue to seriously and efficiently attack the backlogs.

ASSEMBLYMAN TANNOUSIS: Thank you so much for your answer.

And just one final question for you. If there is an increase in crime in this state -- and I'm not asking you to answer whether there is or not. But if there is an

increase in crime, does that mean that there is an increased cost to the Office of Court Administration to adequately do its duties in this state?

ACTING CHIEF ADMIN. JUDGE AMAKER: Well, I mean, listen, if we have -- if there's an increase in crime and there's an increase in cases, whether it's criminal cases, whether it's civil cases, whether it's Family Court cases -- any increase in cases, you know, the more hands we have to work on those cases the better, quite frankly. Because if we can attack the backlogs and hopefully if we can get those cases resolved as they're being filed and they're coming in the door, once we reduce the backlogs we won't have additional backlogs.

So with regard to really any court, not just criminal court, but if there's an increase in filings, we absolutely would need more resources in order to deal with whatever -- whatever court receives additional filings.

ASSEMBLYMAN TANNOUSIS: Thank you very

much. Thank you for your time.

ACTING CHIEF ADMIN. JUDGE AMAKER: Thank you, Assemblymember.

CHAIRWOMAN KRUEGER: Thank you. Senator Fitzpatrick.

SENATOR CANZONERI-FITZPATRICK: Thank you. Thank you. Hope you can hear me.

Where do you see the most backlogs in various courts throughout the state?

ACTING CHIEF ADMIN. JUDGE AMAKER: Thank you for that question, Senator.

I mean, we have backlogs in pretty much every court. But I think that the most serious backlogs are probably in the Criminal Term Supreme Court and Superior Courts where individuals are incarcerated in.

We also see big backlogs in Family Court as well, and I think that those cases that affect families are all across the state. Those are incredibly important to us.

We see backlogs in the Housing Courts, which affects the stability of housing for New Yorkers all over the state. And those -- again, those backlogs are incredibly

important.

We see backlogs in Surrogate's Court where, unfortunately, there were a fair number of individuals who passed away, a fair number of New Yorkers who passed away as a result of the COVID-19 pandemic and related reasons.

So we see backlogs in pretty much every court, and --

SENATOR CANZONERI-FITZPATRICK: Where do you expect to focus your attention initially? I apologize to cut you short, but we have limited time.

ACTING CHIEF ADMIN. JUDGE AMAKER: That's okay.

SENATOR CANZONERI-FITZPATRICK: How do you expect to handle those backlogs in the most serious cases?

You know, for instance, I practice in the Surrogate's Court. And as you stated, when an individual passes away and you can't sell a home or get into a home, those are critical situations that need attention.

I know that the Judiciary has asked

for 28 million for new funding for capital projects, and I know that there's plans to hire additional staff. I'm just trying to understand, what's the plan to implement and address these backlogs as efficiently as possible?

ACTING CHIEF ADMIN. JUDGE AMAKER: Well, we have plans for each and every court.

I mean, to your point about Surrogate's Court, we have -- we're starting a pilot in Queens because we really want to make sure that all of those families can have a resolution as quickly as possible. It's something that I personally have been working on.

But I've also been personally working on addressing the backlogs in Criminal Term Supreme Court for individuals who have been incarcerated for long periods of time, and in Family Court. Of course, I mean, Family Court is incredibly important.

So, I mean, we have plans and we are already addressing those backlogs, but we're always looking to find new and innovative

ways in order to continue to attack those backlogs until they're at zero.

SENATOR CANZONERI-FITZPATRICK: Do you think with the change in the legislation that proposed that we now have certain crimes we're not permitted to set bail for, has that improved efficiencies within the criminal court system?

ACTING CHIEF ADMIN. JUDGE AMAKER: You know, that is a bit of a politically charged question.

So, you know, I think the Judiciary doesn't really take a position as to, you know -- with regard to anything having to do with that type of policy question.

But, listen, the backlogs exist in criminal court, they exist in Criminal Term Supreme Court, and we're doing everything that we can to resolve those backlogs.

SENATOR CANZONERI-FITZPATRICK: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: We go to the

ranker on Codes, Assemblyman Morinello.

ASSEMBLYMAN MORINELLO: Hello. Thank you.

Do you keep statistics from before and after bail reform on judicial diversion programs?

ACTING CHIEF ADMIN. JUDGE AMAKER: We -- I mean, we do have statistics on judicial diversion programs, absolutely. I mean, I think -- you know, we have a number of treatment courts around the state. I think we have like 342 treatment courts around the state, the overwhelming majority of which are drug treatment and opioid courts. And they are very well used courts.

The courts, you know, unfortunately in -- over the pandemic they weren't as well used, unfortunately, because those courts for the most part do require individuals to be in-person.

We did continue with some of those treatment courts, but I think now they're starting to rev up and get back to hopefully pre-pandemic levels.

I know I've had conversations actually with Senator Hoylman-Sigal about us moving cases into Midtown Community Court. It's become the misdemeanor mental health court as well as an emerging adult court. Those are courts that we think are extremely important.

Emerging adult courts service individuals 18-25, and really assist those young people in dealing with issues in terms of, you know, if they need counseling, if they need just their -- other -- as the mother of a teenager, I understand that they have impulse-control issues. I understand that these young people, they just sometimes need a little bit more direction, they need different programming than adults.

ASSEMBLYMAN MORINELLO: I don't mean to interrupt, but I'm very -- I sat on that court for 10 years. Okay? And I handled it. That's why I was just wondering whether there was a comparison, pre and after.

And I would assume your answer will be the same for Raise the Age --

ACTING CHIEF ADMIN. JUDGE AMAKER:

Yeah.

ASSEMBLYMAN MORINELLO: -- whether there was an increase or a decrease in those adolescents that are now being put into the 16-, 17-year-old category.

One of the issues that has come up is -- and this is under Raise the Age. Once adjudicated, Family Court records are sealed and cannot be accessed by criminal court judges, which prevents any form of a criminal record. The Sheriffs Association, many police associations are having difficulty. And I don't know if you've been requested to review this, on if they find a perpetrator that is over 18, they have no way of knowing the history, they have no way of knowing the dangerousness because of the Raise the Age.

Is that something you may have found?

ACTING CHIEF ADMIN. JUDGE AMAKER: Again, I mean, you know, we -- the Judiciary can't take a position with regard to that.

But what I can say with Raise the Age is that -- I mean, we have seen the juvenile arrest rates do continue to decline. One

issue that we have seen is even though these arrest rates are declining, the incarceration rate is remaining the same. And we've asked all of our judges in the Youth Parts to really laser-focus on this issue and to make sure that they prioritize incarcerated young people so that we can move these cases through the system as quickly as possible.

ASSEMBLYMAN MORINELLO: But is there a vehicle that an arrest after 18 can determine the dangerousness that a judge can look at for before 18 under the new rules?

ACTING CHIEF ADMIN. JUDGE AMAKER: Well, judges are not allowed to consider dangerousness. I mean, you know, under any law, quite frankly. And that's always been the law in New York State. I mean, you know, especially if we're talking about bail.

That's not a bail reform issue, that was a pre-bail reform issue that's always been in the law, that judges can only determine if an individual will return to court in order to determine whether or not they're likely to return to court, and

consider those issues. So dangerousness is not really something that judges would or can consider for Raise the Age or really for any purpose.

ASSEMBLYMAN MORINELLO: Is it true that New York State is one of the few that the judges do not have that full discretion when they have all the facts in front of them?

ACTING CHIEF ADMIN. JUDGE AMAKER: I mean, that is my understanding, that New York State is -- is one of the few states.

But, again, you know, the Judiciary doesn't take a position with regard to dangerousness and --

ASSEMBLYMAN MORINELLO: And you were talking about 20 new Supreme and Family Court judges in your written statement and in your testimony.

If the budget provides, do you feel that this is something that can be accomplished in this year to help alleviate the backlog that we have?

ACTING CHIEF ADMIN. JUDGE AMAKER:

Well, we did receive from the Legislature -- we received 14 Supreme Court judges, six Family Court judges last year. And the year prior, I believe we received 14 Supreme Court judges. And yes, they have absolutely been put to work in resolving the backlog.

ASSEMBLYMAN MORINELLO: Would more assist?

CHAIRWOMAN WEINSTEIN: Thank you, Judge. Thank you, Judge and Judge.

(Laughter.)

CHAIRWOMAN WEINSTEIN: Senate. Sorry.

CHAIRWOMAN KRUEGER: Senator Kevin Thomas.

SENATOR THOMAS: Hi. Good morning, Judge. And thanks for being with us today.

I wanted to ask you about judgment interest. Back in 2011 a bill of mine was signed into law lowering the 9 percent judgment interest for consumer debt matters to a new rate. Do you know what that new rate is?

ACTING CHIEF ADMIN. JUDGE AMAKER: I don't know off the top of my head. I'm

sorry, Senator.

SENATOR THOMAS: It's 2 percent. All right?

I have been receiving a number of complaints from advocates who have been defending litigants in Housing Court that although the law was changed back in 2011, 120 days to it being effective, judgment interests are still being applied at 9 percent.

I would highly, highly recommend that you rectify this miscarriage of justice and look into those cases. They are specifically in New York City, and there are a number of other cases around the state as well.

So please rectify it. I will most likely contact your office after this hearing to figure out what the best way to do this is.

ACTING CHIEF ADMIN. JUDGE AMAKER: Well, thank you, Senator. I mean -- and thank you for bringing this to my attention. I'm definitely going to look into this immediately. That -- that is very important,

extremely important.

I mean, Housing Court is extremely important to I'm sure everyone here, and certainly important to me. I recently went to visit Housing Court in New York City, both in Brooklyn and in the Bronx, because of course I had heard many reports, but I wanted to be there on the ground and have an opportunity to speak not just to the judges and to the supervising judges and the staff, but I even spent some time talking to the litigants to ask them --

SENATOR THOMAS: Because time is running out and I've got two more questions, all right?

ACTING CHIEF ADMIN. JUDGE AMAKER: Sure. Absolutely.

So the second question is should a judge recuse themselves if in a matter that they are adjudicating the counsel representing a party has contributed a donation to their campaign account?

ACTING CHIEF ADMIN. JUDGE AMAKER: You know, I think that with regard to the recusal

rules, judges --

SENATOR THOMAS: Yes or no?

ACTING CHIEF ADMIN. JUDGE AMAKER: Well, I mean, I think it's a slightly more nuanced answer than yes or no. I think that --

SENATOR THOMAS: It should be yes. All right?

ACTING CHIEF ADMIN. JUDGE AMAKER: Okay, Senator.

SENATOR THOMAS: Third and last -- I only have six seconds left -- in federal court, jurors are given a number and their real names are not used when they're in trial or asking about the verdict. Right? However, in New York State that isn't a case.

Would you prefer or would you mind if we changed the law to make it such that jurors have a number and not their real names exposed?

ACTING CHIEF ADMIN. JUDGE AMAKER: I mean, I think that's an interesting proposal. It's something I'd have to think about. I think it certainly would protect juror

identities. But it's definitely -- it's an interesting proposal. It's something I'd be happy to talk to you about more offline.

SENATOR THOMAS: Well, my office will be in contact with yours. Thank you so much.

ACTING CHIEF ADMIN. JUDGE AMAKER: Absolutely. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Assemblywoman Simon.

ASSEMBLYWOMAN SIMON: Thank you. Good morning, Judge.

ACTING CHIEF ADMIN. JUDGE AMAKER: Good morning.

ASSEMBLYWOMAN SIMON: Thank you for your testimony. I have a couple of questions that I'd like to ask.

And one is I notice in your testimony you talked about technology in the courts and also ADA access in a somewhat limited way. So one issue I would like to bring to your attention is at least in judge school in the old days when I taught judge school for ADA,

it was never one of the hot tickets, and so not enough people went to those trainings. And I think that there's still some significant issues in the way the judges address those needs for both attorneys who need accommodations.

So because of my work I've been approached by a number of attorneys who can't get their own accommodations in court. So I'd like to at some point talk to you further about what we can do to train the judiciary to allow, for example, remote proceedings for an attorney who has cancer, who's particularly protected.

And the other issue is the access to data on extreme risk protection orders. I passed that bill. It took me six months to get any data at all, and we can't get very much data, and that is clearly a much more topical issue these days.

I'd like to ask about what you can do to make it easier for legislators to get the data they need from the court system.

ACTING CHIEF ADMIN. JUDGE AMAKER: So

I'm going to answer your question first with regard to ADA accommodations. There is a session during judges school with regard to ADA accommodations. It is new-judges school.

I'm glad that you're telling me that you believe and you've heard that judges who are maybe judges who have been practicing a little bit longer -- you know, we do our best to keep everyone up-to-date on ADA accommodations, especially post-pandemic. It's something that I personally, you know, have really instructed my judges that we have to listen to individuals' requests for ADA accommodations because if they have some preexisting condition or some comorbidity issue, then we certainly want to hear that and make the necessary accommodation.

And in fact immediately post-pandemic I was personally doing it for a court that I was supervising because I wanted to make sure that everyone who needed that accommodation was given that accommodation. So that is something I will certainly stress with our judges.

Now, you were saying with regard to witness protection orders -- your question was what can you do to make those -- I mean, I think that the law is pretty clear at present. If there are specific instances where you think that there were issues with decision-making or an overarching issue that you think is a problem, I encourage you to please reach out to me. I'd be happy to talk to you about that more so that we can get into the specifics.

ASSEMBLYWOMAN SIMON: Thank you, I appreciate it.

ACTING CHIEF ADMIN. JUDGE AMAKER: Thank you, Assemblywoman.

CHAIRWOMAN WEINSTEIN: Thank you.

Senate?

CHAIRWOMAN KRUEGER: Thank you very much.

Senator Ramos.

SENATOR RAMOS: Thank you, Senator Krueger.

Good morning, everybody. Good morning, Judge.

Can you tell me in your budget how much money is there for diversion courts?

ACTING CHIEF ADMIN. JUDGE AMAKER: For diversion courts we have -- I think it's about -- I think it's about a little over $2 million, if I recall correctly.

SENATOR RAMOS: Did you know that for another 15 million we could actually expand diversion courts out of Brooklyn and Ontario counties, the only ones where they really function, so that the rest of the state could also enjoy diversion?

ACTING CHIEF ADMIN. JUDGE AMAKER: Well, thank you for giving me that information.

I can tell you, Senator, that, you know, we are very committed to diversion courts and, you know, we do have a --

SENATOR RAMOS: How committed are you if you're not proposing an expansion in your budget?

ACTING CHIEF ADMIN. JUDGE AMAKER: Well, the --

SENATOR RAMOS: Do you not think that

they work very well?

ACTING CHIEF ADMIN. JUDGE AMAKER: No, I -- well, here's the issue. If we make our budget request based on current usage -- and we have seen somewhat of a decline in usage of our problem-solving and our diversion courts. We are doing everything that we can. In fact, you know, I have been working with --

SENATOR RAMOS: Why is there a decline?

ACTING CHIEF ADMIN. JUDGE AMAKER: You know, I think --

SENATOR RAMOS: Are you not encouraging judges to use diversion courts?

ACTING CHIEF ADMIN. JUDGE AMAKER: We're encouraging judges but --

SENATOR RAMOS: Do you want to throw people in jail?

ACTING CHIEF ADMIN. JUDGE AMAKER: No. We're encouraging judges to use diversion courts, but the parties have to be interested in taking a diversion resolution. If the parties are not interested, the judge can't

make them do it.

And so when the parties are interested, we absolutely --

SENATOR RAMOS: But all judges don't offer that option where relevant.

ACTING CHIEF ADMIN. JUDGE AMAKER: Well, certainly -- certainly in New York City we do have that option in every court.

Outside of New York City, as I said, we have I think 342 treatment courts around the state, and we're opening more each and every day. We're doing everything we can to encourage individuals to go into those --

SENATOR RAMOS: You're opening more each and every day?

ACTING CHIEF ADMIN. JUDGE AMAKER: We're opening more constantly. We're constantly pushing to open -- in fact, we opened four mental health, misdemeanor mental health courts in the last year in New York City because this is something that we think is incredibly important.

But what I can also tell you, Senator, is that as we move forward with these

diversion courts, if there aren't enough resources that are allocated in the budget we can move resources around to accommodate, to increase the budget for each and every one of those courts if --

SENATOR RAMOS: Well, I would like to see you be more ambitious in expanding diversion courts during the rest of your tenure as our acting chief judge. It would actually save us a ton of money. You know, when people are incarcerated we end up spending slightly more than half a million dollars. And, you know, that's money not very well spent if -- especially for the slim cost of expanding our courts, you know, we could actually be keeping people safe.

Thank you, Judge.

ACTING CHIEF ADMIN. JUDGE AMAKER: Thank you, Senator.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Assemblyman Bores.

ASSEMBLYMAN BORES: Thank you, Judge.

It's tough being color-blind with these red lights.

Thank you, Judge. Appreciate your testimony here, and especially in your opening testimony about court modernization and allowing for more virtual hearings.

Sometimes modernization can take very simple steps. Some of the courts in New York my understanding is still do everything on paper. Some actually use the computers that have already been allocated. Could you just talk a little bit about what the status is of actually getting judges to use the computers that we already pay for in order to speed up proceedings?

ACTING CHIEF ADMIN. JUDGE AMAKER: So, I mean, I think every judge is using their computer in some way, form or fashion. I mean, they're certainly using it to address the motions -- motion practice and make sure that those decisions are written and gotten out as quickly as possible.

But you're absolutely right. I mean, There are some courts that are fully using

our electronic system for filing, and then there are other courts that are not.

We've expanded that pilot program into Family Court so that individuals can file electronically. And for the courts that don't necessarily have electronic filing -- which is called NYSEF, is our electronic filing database. But there are courts that can use another filing method, which is called EDDS, another -- it's not quite as fully formed as NYSEF, but it is another alternative.

And we're certainly using virtual appearances. That's one of the positives from the COVID pandemic, is that --

ASSEMBLYMAN BORES: If I may --

ACTING CHIEF ADMIN. JUDGE AMAKER: Yes, absolutely.

ASSEMBLYMAN BORES: What I've seen and what I've heard is that Family Court has really accelerated the use of the actual electronic records, as has Supreme, but criminal court is still very much done on paper and arraignments are still very much

done on paper.

Is that your experience as well?

ACTING CHIEF ADMIN. JUDGE AMAKER: Arraignments -- you know, there's kind of a divide. We do have a program called New York Bench, and I think that some of our judges are using New York Bench all the time, and then there are other judges who may use it some of the time.

Our plan is to migrate everyone to New York Bench so that it is electronic, which is very helpful because if a judge happens to be sitting on arraignments in, say, Queens, they can look at New York Bench and see what the records are for an individual from the Bronx and see exactly what's happening.

So this is something that we certainly plan to do, we certainly plan to move forward with --

ASSEMBLYMAN BORES: Are there any obstacles in your way that the Legislature could help with?

ACTING CHIEF ADMIN. JUDGE AMAKER: No,

there are no obstacles that the Legislature can help with. It's really just a matter of making sure that we have sufficient programmers to move forward.

I mean, we -- you know, we have been doing our best to retain programmers, and my hope is that with this reduction, over 200,000 individuals who were in Silicon Valley who no longer have jobs, my hope is that that will spread over to the courts and we'll be able to have more programmers and more individuals in our IT department.

ASSEMBLYMAN BORES: Thank you.

ACTING CHIEF ADMIN. JUDGE AMAKER: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Next is Senator Rolison.

SENATOR ROLISON: Good morning, Judge.

ACTING CHIEF ADMIN. JUDGE AMAKER: Good morning.

SENATOR ROLISON: And thank you for your helpful testimony today.

I have a question. I just concluded seven years as the mayor of the City of

Poughkeepsie that, like many communities, has been affected by a rise in gun violence, especially the younger population being more involved. And on several occasions individuals were taken into custody as a result of gun violence, brought before a Family Court judge and wanted to be secured in a secured bed, which were not available statewide. And we know that has been a challenge even prior to Raise the Age, but has certainly increased because of that.

Does OCA keep data as it relates to Family Court judges who are unable to find a location within the state for a secured bed for an individual that the judge deems needs to go there?

ACTING CHIEF ADMIN. JUDGE AMAKER: Yeah, I know that this has been an ongoing problem, especially for the courts outside of New York City. And it's something that we've been extremely focused on.

You know, I can check and see if we are keeping data on it. But I can tell you that is something that our deputy chief

administrative judge for justice initiatives, who also was in charge of implementation for Raise the Age for the court system -- I know that she is laser-focused on the number of individuals who are incarcerated, getting that number down, as well as ensuring that there are sufficient beds.

Because I know I've heard of so many different instances where individuals have had to be transported from, you know, not necessarily Poughkeepsie, but maybe out to Long Island or have come from fairly far away in order to find a bed and in order to find appropriate housing for an individual who is a young person and is subject to the Raise the Age laws.

SENATOR ROLISON: I would love, if that data was available, to be able to see it, because it is a challenge with Raise the Age. That those beds, you know, need to be available and they need to be available essentially immediately.

In one particular case, after a juvenile had been involved in three instances

of gun crime, electronic monitoring was used and was not successful, he actually was finally -- he was remanded to the county correctional facility on one-on-one 24-hour observation in a part of the jail that was not used by adults, so he was separated. But that currently was not what Raise the Age wanted.

So I'd appreciate that. And I'll look forward to talking with your staff about it. Thank you, Judge.

ACTING CHIEF ADMIN. JUDGE AMAKER: Absolutely. Feel free to reach out to me offline. I'll look into whether or not -- I'm pretty sure we have some data. But certainly the larger conversation is something that concerns all of us, and thank you for bringing up that issue.

SENATOR ROLISON: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRWOMAN WEINSTEIN: In the Assembly we've been joined by Assemblywoman Cruz, Assemblywoman Hyndman, Assemblyman Reilly, Assemblyman Fall.

And we go to Assemblyman Burgos.

CHAIRWOMAN KRUEGER: One more Senator to be added.

SENATOR O'MARA: We've been joined by Senator Gallivan.

ASSEMBLYMAN BURGOS: Thank you, Madam Chair.

Thank you for your testimony, Judge.

So I think the Governor's proposing -- well, she is proposing a $121 million increase to the courts. And let me open up by saying I commend that. I have this crazy belief that government agencies should be funded by government.

So I want to talk to you today about mandatory court fees and surcharges. What I understand now is in the State of New York, for a single violation, there's a mandatory fee of $95. For a misdemeanor, there's a mandatory fee of $175 and, for a felony charge, a mandatory fee of $300. And this is obviously for every single charge, so it can add up to quite a lot of money.

The New York City Comptroller in 2017

reported that New York City Criminal Court imposed about 139,000 mandatory surcharges, totaling nearly $19 million. Now, it's my belief that this is really going to fuel a cycle of poverty, and it just creates barriers to reentry for people who are going through incarceration and coming back into our neighborhoods.

And obviously, you know, sometimes putting these fines on people can cost more than, you know -- I'm sorry, jailing people can cost more than these fines themselves, and it's my understanding that it's very difficult for the courts to even recover these fines many times.

So my question, how much is levied in mandatory court charges per year? How much is actually collected? And how much does the court system -- how much does it cost the court system to actually collect this money?

ACTING CHIEF ADMIN. JUDGE AMAKER: So I can't tell you how much is not collected. I can tell you how much is collected. And that's with all fees, not just criminal, but

also civil fees --

ASSEMBLYMAN BURGOS: Traffic charges.

ACTING CHIEF ADMIN. JUDGE AMAKER: All fees. It's about $500 million in fees are collected.

ASSEMBLYMAN BURGOS: What was that? I'm sorry.

ACTING CHIEF ADMIN. JUDGE AMAKER: It's $500 million in fees are collected.

ASSEMBLYMAN BURGOS: And these are all in the mandated surcharges, right, not the -- not the fines themselves.

ACTING CHIEF ADMIN. JUDGE AMAKER: Well, I -- you know --

ASSEMBLYMAN BURGOS: I'm focusing simply on the mandatory fees. Because many times, you know, a judge can say we're not going to impose a fine, but there is a mandatory court fee.

ACTING CHIEF ADMIN. JUDGE AMAKER: Yes. I mean, I -- that number may be with fines and fees. That may be fines and surcharges as well. I can certainly double-check and get back to you on that.

But I know that if you count fees, and I think fines as well -- and that's across all courts, not just criminal court -- I think it's $500 million.

ASSEMBLYMAN BURGOS: I would really appreciate the number. Because, again, I don't want to -- I don't think New York should move into a system where we're relying on government to operate based on these kind of fees.

You know, the DOJ investigated the courts over in Ferguson, Missouri, and they found some really alarming reports that, you know, the courts there were literally almost what was quoted as "policing for profit." In order to keep their courts alive, they had to kind of mandate these fees and were constantly funneling people in and out of the court system to keep the courts open.

So I would love to have these numbers to understand them a lot better from your agency. Thank you.

ACTING CHIEF ADMIN. JUDGE AMAKER: I mean, the one comment I can make is that -- I

mean obviously our budget is not dependent on our court fees. I mean, that's why I'm here today.

ASSEMBLYMAN BURGOS: But some jurisdictions may.

ACTING CHIEF ADMIN. JUDGE AMAKER: But, I mean, our budget isn't dependent on the court fees. I -- I -- you know, we as the Judiciary can't take a position with regard to that legislation. But I certainly understand the points that you're making and the issues that you're bringing forth.

ASSEMBLYMAN BURGOS: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

To the Senate.

CHAIRWOMAN KRUEGER: Thank you.

I believe I'm the next Senator.

To go back, Judge, to an earlier Q&A with one of my colleagues, when you explained that it wasn't -- you didn't have a role in making the decision on who would be the acting chief judge --

ACTING CHIEF ADMIN. JUDGE AMAKER: Right.

CHAIRWOMAN KRUEGER: -- when we needed one. Can you help me understand, who does have the authority to make those decisions?

ACTING CHIEF ADMIN. JUDGE AMAKER: So, you know, the way that I understand it -- and, you know, I unfortunately am not a scholar with regard to what happens at the Court of Appeals, because I have no oversight and I really have -- you know, other than reading your decisions --

CHAIRWOMAN KRUEGER: You know, you answered that one. I guess, who is the person who does?

ACTING CHIEF ADMIN. JUDGE AMAKER: So, you know, my understanding is that that is -- that is something that is decided at the Court of Appeals. The Court of Appeals, the judges -- and I don't know all of the rules that -- that, you know, influence how they make decisions about the actual running of the Court of Appeals.

But my understanding is, you know, that was something that the Court of Appeals, that they made that determination, that

they -- the judges of the Court of Appeals voted and made that determination.

CHAIRWOMAN KRUEGER: So who is the Court of Appeals ultimately accountable to?

ACTING CHIEF ADMIN. JUDGE AMAKER: You know, the Court of Appeals, as you know, is the highest court in the land in New York State. So the Court of Appeals -- you know, I -- I would assume that, you know, they're not -- they're not -- there's no oversight by any lower court and certainly not oversight by the chief administrative judge.

So, you know, their proceedings and their internal decision-making process and whatever their rules are -- I mean, I -- you know, I think that they -- for the most part, they make their determinations, they make their decisions. And, you know, they are a separate entity. They're a separate court. You know, they fall under the Unified Court System, but they are not -- they're not subject to our oversight, to the oversight of the chief administrative judge.

CHAIRWOMAN KRUEGER: And then

following up on a different question I believe that was asked about -- probably a couple of different people's questions about some legislators' frustration that judges don't always seem to read the new laws that we pass. And that, as you explained, they don't necessarily have to go to the trainings scheduled.

Who can make them go to trainings? Anyone on the court system?

ACTING CHIEF ADMIN. JUDGE AMAKER: Yeah, I mean, we do -- we encourage judges, and I --

CHAIRWOMAN KRUEGER: No, is there any mandatory training that can be assigned by the court system?

ACTING CHIEF ADMIN. JUDGE AMAKER: Well, I mean, I -- I think I might have made it clear that when the bail laws were passed and every change to the bail laws -- and really actually any law -- I make it mandatory for the judges of New York City Criminal Court to attend those trainings.

And, you know, as I said, the

overwhelming majority of judges do attend -- there are about 1300 state-paid judges, and I think well over a thousand judges attend these summer conferences. So as I said, the overwhelming majority are attending. As well as, you know, we do have Lunch & Learns and other virtual opportunities to learn.

So, you know, I -- I would say yes, the office of the chief administrative judge or the individual administrative judges can certainly make it mandatory for a judge to attend training.

CHAIRWOMAN KRUEGER: So your description was for the New York City criminal courts but not necessarily for the entire state system, correct?

ACTING CHIEF ADMIN. JUDGE AMAKER: Well, I was -- I was not in a statewide position when bail reform took effect, so I only had authority over the New York City Criminal Court at that time, and so I made sure that all of those judges received training.

I mean, I'm a big proponent of

training. I think that training is so incredibly important. But I think that there is a lot of discussion about training, but again, I don't think that most judges have an issue understanding the law. I think it's just that they may choose in some instances, if they listen to both sides who are making arguments, if they look at the facts and the circumstances and make an individualized determination about each and every case, it may be that they still choose not to set bail in a specific instance.

So I think that -- just like any other area of the law or any other area of criminal law, I think you're going to have divergent opinions. But it doesn't mean that judges don't understand or haven't been taught or don't understand what their options are. It just may be that they've chosen, based on the factors and circumstances of that specific individualized case, to make a different determination.

And I think that that tends -- you know, that happens in every case. It's just

that in those cases where it may get media scrutiny, I think there are questions that may be asked after the fact why a judge made a specific decision. But again, it really depends on the facts and circumstances of each individual case.

CHAIRWOMAN KRUEGER: So certainly in our judicial system decisions get made based on the evidence before them. I think, though, the broader question is that many of us are concerned that actually judges aren't getting the correct training in the actual laws, so they're making their determinations without knowing the current laws.

And I will just highlight probably many of them do take the trainings and many of them do understand the law. But the assumption that because they're a judge, they know it, is a wrong assumption.

The vast majority of us, I would argue, never go near the lines of ethical violations or harassment violations, but we are mandated to do training each and every year as legislators in those laws. And I

think it's been very valuable that we are.

And I guess I would make the argument that I think it is time for us to actually have mandates on the education and training that our judges have, and that it would go a long way to decreasing the confusion and even the requirements to have to go to appeal on so many different cases. And that we should stop just assuming that because you've been elected a judge, you actually know and keep up with all the laws.

We make doctors and lawyers do continued required training, and we take away their licenses if they don't meet the mandates. So it's pretty standard, I think, in today's world for people in almost every profession to have to meet licensing and updated requirements on education, and you actually have to prove you took the courses and passed the tests.

So I think personally, it's not so much -- although it was a question if you'd like to answer it -- I think that is the right model for us to look at with the

judiciary as well.

Do you have an opinion on that?

ACTING CHIEF ADMIN. JUDGE AMAKER: Well, I mean, there are certainly mandatory -- you know, we do have certain mandatory trainings. We did make implicit bias training mandatory for every judge -- and not just every judge, really every employee around the state. We do actually, as you indicated, have sexual harassment training which is also mandatory.

The thing I think is that with regard to -- it seems to come back to bail reform as opposed to any other area of the law -- you know, judges who are surrogates or judges who work in Housing Court or in Family Court. And I do think, as I said, that the -- that the overwhelming majority of judges did take the training. And I do think that, you know, there were these additional materials that were available, the bench books, the videos of trainings, the lists of qualifying and nonqualifying offenses.

And I think that this really does go

to the heart of judicial decision-making, and I think it goes to the heart of judges' discretion. So if a judge chooses not to set bail in a specific instance -- and I know it really comes back to that. And I keep repeating I just don't think it means that they don't understand that they could set bail.

And I don't think that the majority of judges who make these decisions don't understand what their options are. I think that they're just looking at the specific circumstances that are before them and making their determination based on that judge's life experience, that judge's professional experience, and that judge's understanding of what the facts and circumstances of that specific case are.

CHAIRWOMAN KRUEGER: I wasn't making my point specific to bail, to start.

But also, I know you've said multiple times you think you know that judges know things and make their decisions based on things. But we don't have any evidence of

that because there's not actually data, there's not testing of judges to see how they would actually do if they had to be tested on these laws.

So again, I'll go back to my point I think it's a point in history where it's time to actually have required educational upgrades and training on an ongoing basis for judges. Because we sit up here and we spend our lives changing the law. Some people like the way we change it, some people don't. It covers an awful lot of territory, but it affects every decision that's made in our courts -- civil, criminal, family, housing, the whole gambit.

And I'm not convinced -- sorry, I know I'm out of time -- that we've actually done enough to make sure that the judges in our courts actually know the laws and are following them.

And my time is up, so I'll turn it over to the Assembly.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to Assemblywoman Walker, three

minutes.

ASSEMBLYWOMAN WALKER: Thank you.

Thank you, Judge. Good morning.

ACTING CHIEF ADMIN. JUDGE AMAKER: Good morning.

ASSEMBLYWOMAN WALKER: A couple of quick questions.

Are you aware that the Bail Reform Act of 1966 reinforced the sole purpose of bail was to assure court appearances, and that the law favored release pending trial? In addition, the act established a presumption of release by the least restrictive conditions, with an emphasis on nonmonetary terms of bail?

ACTING CHIEF ADMIN. JUDGE AMAKER: I wasn't, Assemblymember Walker. I mean, I think that that is interesting. And thank you for bringing that to my attention.

ASSEMBLYWOMAN WALKER: Thank you.

Additionally, the court in Salerno, in 1987 -- Justice Rehnquist said, in his interpretation of the Bail Reform Act of 1984, he noted that, in his opinion, "In our

society liberty is the norm and detention prior to trial or without trial is a carefully limited exception. A judicial officer should be required to use the least restrictive means to assure appearances in court and protect the public."

Are you aware of that, in the Salerno case?

ACTING CHIEF ADMIN. JUDGE AMAKER: Yes, I am.

I can tell you, Assemblymember, that, you know, as you know -- I mean, you were part of the Legislature that did pass bail reform, and I know that that continues to be -- least restrictive means is something that judges are certainly considering.

ASSEMBLYWOMAN WALKER: Thank you.

In addition to that, are you aware that there is a least restrictive means test in the Mental Hygiene Law?

ACTING CHIEF ADMIN. JUDGE AMAKER: I -- I -- no, I wasn't aware. I mean, I haven't practiced with Mental Hygiene Law in the past.

ASSEMBLYWOMAN WALKER: Okay.

ACTING CHIEF ADMIN. JUDGE AMAKER: But thank you for --

ASSEMBLYWOMAN WALKER: Additionally, on the Office of Mental Health's website there's a "Rights of Inpatients" booklet which indicates the least restrictive means test regarding the use of restraints.

Additionally, in the juvenile justice system there is a least restrictive alternative to meet the person's rehabilitation needs test in Family Court, which dates back to the 1960s.

Additionally, in the Special Education Law there is a requirement of the least restrictive environment.

In judges' interpretation of the law -- of those other laws, have they mentioned that they were confused about the least restrictive means?

ACTING CHIEF ADMIN. JUDGE AMAKER: I -- I haven't heard that judges have mentioned that.

And I don't know, as I said, that

judges are confused about it with regard to bail reform. I don't know that judges are confused.

I think that the instances that we discuss, I mean that -- or that show up in the media, I think judges have just made their decision that for whatever reason that the least restrictive means may be ROR or release on recognizance, or it may be supervised release.

Or even if bail is eligible, it's an ineligible crime, a judge may just make that determination based on the arguments that are made before him or her or --

ASSEMBLYWOMAN WALKER: Thank you. Thank you. So just -- I just want to posit that the Governor did mention that judges are confused with respect to the least restrictive means interpretation. And I would encourage the training also include information regarding this well-settled and age-old tenet of the law.

Thank you very much.

CHAIRWOMAN WEINSTEIN: Thank you.

We go now to the Senate. Senator Hoylman for a second round, three minutes.

SENATOR HOYLMAN-SIGAL: Thank you, Madam Chair.

Hello, Judge. Nice to see you again.

ACTING CHIEF ADMIN. JUDGE AMAKER: Good to see you again, Senator.

SENATOR HOYLMAN-SIGAL: As you know, in New York City we have a right to counsel law. And I note that you say in your testimony that there is currently a Housing Court Workgroup -- which includes representatives of various legal providers, the New York City Office of Civil Justice, and New York City -- to address and resolve concerns related to the high demand for counsel.

The problem is many of my constituents and I think many of my colleagues' constituents are going to Housing Court and being evicted without an attorney, notwithstanding the law in New York City.

When can we see results from the Housing Court Working Group on this dire

issue?

ACTING CHIEF ADMIN. JUDGE AMAKER: So just so that everyone else understands it, the Housing Court Working Group is working on caseload determinations for the attorneys in Housing Court. And they are making that determination. I mean, I think they meet regularly. I can certainly circle back to you to give you information as to when they believe that they'll have those caseload numbers.

But I can tell you that in Housing Court right now there are a number of programs that we're working on to try to assist -- I know also back in the fall about 70 attorneys were hired to provide tenants with much-needed representation in Housing Court in New York City.

But, you know, there's a Human Resources Administration pilot program which is paying tenants rent early, very early in the case, so that the case really doesn't --

SENATOR HOYLMAN-SIGAL: So there's no date when -- when the --

ACTING CHIEF ADMIN. JUDGE AMAKER: I don't have a specific date. But I can tell you they're working diligently.

SENATOR HOYLMAN-SIGAL: I would love for that.

ACTING CHIEF ADMIN. JUDGE AMAKER: And you know I'm always in contact with your office --

SENATOR HOYLMAN-SIGAL: Yes.

ACTING CHIEF ADMIN. JUDGE AMAKER: So I will certainly pass that information on to you.

SENATOR HOYLMAN-SIGAL: And obviously the sooner the better, given the circumstances.

You know, last year we created four new Family Court judgeships in --

ACTING CHIEF ADMIN. JUDGE AMAKER: Yes.

SENATOR HOYLMAN-SIGAL: -- New York City and several outside the city. Have those positions been filled?

ACTING CHIEF ADMIN. JUDGE AMAKER: Well, we've -- there were six Family Court

judges who are being appointed as we -- well, not as we speak, but they will be -- there's a public hearing for them on February 15th, so next Wednesday.

And I think that there are a number of judicial vacancies -- not just in New York City. But around the state. And yes, I mean, the Office of Court Administration would certainly love to see all of those judicial vacancies around the state filled, because they would be very helpful in assisting us in addressing the backlogs across all of our courts.

SENATOR HOYLMAN-SIGAL: In my last 10 seconds, you said in your testimony that the courts now have sufficient judicial resources to meet their needs. But the Williams Commission recently put out that the court that -- it calls for new Family Court judges statewide.

Just a quick question. Did you consult with the Williams Commission before putting together your budget testimony?

ACTING CHIEF ADMIN. JUDGE AMAKER:

Well, I read the Williams Commission report and I've certainly had conversations with the Williams Commission. And, you know, my predecessor as well as other -- the administrative judge for Family Court and the deputy chief administrative judge for justice matters, we've all had repeated conversations with the Williams Commission.

You know, as I said previously, we always welcome more judges. We just ask that we, you know, be consulted to discuss it, to determine where those judges are most needed.

In this past year -- and I'll speak very quickly -- we had -- we added 25 between quasi-judicial positions. And I don't know that that was -- that might have been pre the Williams Commission report being written. And those were both magistrates, court attorney referees. They've been doing quasi-judicial functions.

So, you know, we do continue to attack that backlog in Family Court. But, you know, as I said, we always welcome additional judges as long as we have the space in the

courthouses and as long as we get the additional appropriation for the supporting staff to ensure that those judges can have courtrooms and can move forward with addressing the backlog.

CHAIRWOMAN WEINSTEIN: Thank you, Judge.

We go to Assemblyman Epstein.

ASSEMBLYMAN EPSTEIN: Thank you, Chair, I appreciate it.

And I know you've been here a long time, so I'll be quick.

So we've seen the funding for civil legal services really flat-line over the last five years. I saw that it went from 115 to 116 million. I'm wondering why such a small increase when we see that the needs of low-income New Yorkers have really greatly increased and the access to counsel is still limited around the state.

ACTING CHIEF ADMIN. JUDGE AMAKER: We're definitely committed to access to justice and ensuring that everyone who needs access to justice will get that assistance.

You know --

ASSEMBLYMAN EPSTEIN: Judge, not to do it with any disrespect, but the majority of New Yorkers who need access to a lawyer don't get it, even with the 115 million that we already have and the 116 you proposed. So the vast majority of low-income New Yorkers still don't have a lawyer.

So I'm wondering why you proposed a 3 percent increase instead of a substantial increase when we've seen the rates of poverty and legal services need really go through the roof for low-income New Yorkers.

ACTING CHIEF ADMIN. JUDGE AMAKER: The reality is this. You know, in the Housing Court as well as the Family Court, I don't know -- you know, the Family Court I think that it's recruitment of lawyers as well as with Housing Court. I think it's the recruitment of getting lawyers to come and stay.

I don't think that they don't have the money or -- I mean, I'm not saying that they couldn't use more money, but I think that

that's been the issue. Those 70 lawyers that were hired in Housing Court, there was more than enough money for those salaries. I think it was just a matter of the providers have had difficulty recruiting lawyers. And I think it's the same in Family Court as well. They've had difficulty like with attorneys for child as well as 18-B in recruiting and retaining.

I don't think it's a matter of they're not necessarily -- I mean, you know, the --

ASSEMBLYMAN EPSTEIN: Judge, I only have about a minute left. But in due respect, it's actually both. In New York City there's a recruitment problem, but around the state it's poverty issues and they still need lawyers and we could add more resources to it.

I would just encourage you to be thoughtful about the needs of low-income New Yorkers -- even just categories of New Yorkers. We don't want -- you know, we have right to counsel in the city for tenants, but we don't have that statewide.

Veterans don't have a right to counsel. I have a bill that they should have a right to counsel, but they don't. And we see a lot of veterans in New York who are unrepresented and really don't understand the system.

I would encourage you really to be thinking of the civil legal services needs of low-income New Yorkers and really think about what a robust budget would be to ensure those New Yorkers could have access to free services when they need it.

ACTING CHIEF ADMIN. JUDGE AMAKER: I mean, you know, for some of the attorneys, as I said, it really is a matter of -- it's a matter of recruitment. It's -- you know, I do think --

ASSEMBLYMAN EPSTEIN: With all respect -- and I only have 15 seconds left -- I hear you, I don't agree with you. I don't think it's a recruitment issue. It's a resource issue for most of the state.

The other thing is I really would love to explore more, and I don't do it now, about the issues around racial bias in the court

system and what we can do collectively to change that.

Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

To the Senate.

CHAIRWOMAN KRUEGER: Thank you.

Chair Jamaal Bailey for three minutes, second round.

SENATOR BAILEY: Thank you very much.

Judge, good to be back. Really quick question. And this is part of, again, the hearing about the data.

Is it difficult to find individuals at this time -- because I mentioned that -- it was mentioned that there was like an issue with finding folks. How -- is it difficult to find individuals in the tech sector to work and to be able to input that kind of data?

ACTING CHIEF ADMIN. JUDGE AMAKER: So you're talking about individual judges?

SENATOR BAILEY: No, individuals like just in the workforce in general. I'm not talking about the judges, I'm talking about

the individuals who input the data. Is it -- is it -- are you finding it difficult to find individuals who are -- you know, who want to come to work for OCA and to be able to fulfill the needs that we -- that the entire system needs to be able to function?

ACTING CHIEF ADMIN. JUDGE AMAKER: I think that, you know, our IT department did have a little bit of difficulty recruiting and retaining really talent. But I think that we're really recruiting, we're going out, we're doing our best to locate high-level talent, particularly programmers, doing everything we can, in our power, to make sure that we get those individuals into our organization.

SENATOR BAILEY: Great. Because it's important, as we advance into it even more technologically, I would say reliant upon age, I think that making sure our agencies and government are -- as I sit next to our Internet and Technology chair -- are especially important that we make sure that we change with the times and are not changed

by them.

Last question I would say, in relation to a point that you made about decision-making -- and based upon the conversation that we've had about individual judges having different real-world perspectives based upon their individual upbringing, the statute is the statute, but who interprets the statute is important, right?

In furtherance of some of the programs that I mentioned before, what can OCA do not just to bring I guess I will say attorneys in, but how do we get judges to our classrooms, to our schools, to our houses of worship, anything -- as long as they are not, you know, violating their judicial oath -- is there something that OCA can do to put judges more in the community so that people know what exactly the judicial branch does? Because you see the legislative branch all the time, you see the executive branch all the time. But unless you're in the practice of practicing, so to speak, we're not seeing

you.

How do we get you in front of more kids, more faith leaders, more people in the community?

ACTING CHIEF ADMIN. JUDGE AMAKER: I think that that's incredibly important. I mean, I do think that there are individual judges who do spend a lot of time in their houses of worship.

I know I personally have gone out to a number of elementary schools because, you know, I think that high schools -- it's important. I do spend time with young people from the Scales of Justice Academy and other tour groups who come to our courthouses and explain the criminal justice system to them. We have internship programs which bring high school as well as college and law students in.

But I've gone out to elementary schools to educate them about the criminal justice system and to explain to them on their level why it's important, what it does. And I find it very rewarding and I think it's

something that the judiciary at large, that it's something that we should focus on and really work toward doing more of.

SENATOR BAILEY: Thank you. We have a great program called First Impressions that we do through CUNY, it's in consultation with OCA, and I would implore us to look to expand that as far as we can.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Assemblywoman Mary Beth Walsh.

ASSEMBLYWOMAN WALSH: Thank you.

Thank you very much, Judge, for being here today. I have a couple of quick questions.

So the proposed rate increase for 18-B, does that include attorneys for children as well?

ACTING CHIEF ADMIN. JUDGE AMAKER: Yes.

ASSEMBLYWOMAN WALSH: That's excellent. As an attorney for the child, I

can tell you that in Saratoga County and other counties that I represent, the pool of attorneys that are willing to serve as AFCs has been severely constricted because of the very, very low rate that we are currently compensated at. That's wonderful.

The second thing, in the past OCA has had a departmental bill for the consolidation of major trial courts with state supreme courts. Does OCA plan to put forward this proposal this legislative session?

ACTING CHIEF ADMIN. JUDGE AMAKER: Not at this time. I -- that was a concern of the prior administration. And I think that that's something that when we do have a new chief judge, that they'll have to make a determination as to whether or not that's a proposal that they'd like to continue to pursue.

ASSEMBLYWOMAN WALSH: Thank you very much.

So lastly, I appreciated your comments earlier about -- regarding the safety of judges. My husband happens to be a Supreme

Court judge. I'm good friends with other members of the court system. Are you similarly concerned about other individuals who work within the court system and their safety?

ACTING CHIEF ADMIN. JUDGE AMAKER: Absolutely. I mean, everyone's safety is of concern to us. You know, I've heard all types of stories -- I won't go into the anecdotal information that I've received, but I think it's incredibly important that everyone in the court system remain safe, not just judges.

ASSEMBLYWOMAN WALSH: I would really encourage OCA to consider what can be done in order to improve their safety from a legislative point of view. I've been a little dismayed over the last couple of years as we've had Raise the Age and we have older children coming into Family Court for disposition of some pretty serious matters.

We have had legislation such as Assembly Bill 7796, in 2021, that prohibits the use of any restraints, handcuffs, et

cetera, and that's really placed our court security and our court staff, in addition to our judges and other attorneys, at greater risk of harm, especially because the Family Court now is hearing matters that are -- well, they've always dealt with serious matters, but very serious matters now that are coming into the Family Court that had not previously.

So I would really encourage OCA to take a look at that, and with that, I'll yield the rest of my time and thank you.

ACTING CHIEF ADMIN. JUDGE AMAKER: Absolutely. We'll take a look at that. Thank you very much, Assemblymember.

CHAIRWOMAN WEINSTEIN: There's no more Senators, so we have a few more Assemblymembers with questions.

Assemblywoman Kelles.

ASSEMBLYWOMAN KELLES: Thank you.

Hi. A few questions.

So I read recently a study from upstate that showed that judges and attorneys referenced the least restrictive means

standards in less than 5 percent of cases. And I'm curious, because over 33 other jurisdictions, including federal courts, have the LRM standard and don't seem to have any difficulty in applying it, including red states, blue states, purple states -- totally nonpolitical.

So I'm curious, I guess, on what the pushback is. Do we have any or are you beginning to collect any data for yourselves on the application of LRM or lack of application of the LRM, and would you be willing to?

ACTING CHIEF ADMIN. JUDGE AMAKER: I mean, I think that the least restrictive means, it's -- it may be difficult to quantify. I'm not saying it's impossible; I'd have to talk to our data people about it.

But I think that, you know, many judges may ask the individual -- the attorney like "What can your client afford?" But if they're not specifically asking that question, I think it might be difficult to quantify what is the least restrictive means

in a specific case. You know, I think that that would be very difficult to make that specific --

ASSEMBLYWOMAN KELLES: I'm just going to cut you off for a moment.

I'm an epidemiologist, so I do collect data and analyze it. So I am aware that we can begin to collect data -- even if we don't have a pre-occurring question behind it or hypothesis behind it -- track what we see as the trends, and then match it back. And so I'm saying it is possible, and that data could inform.

And so my question more is, is that something you would be willing to do so that we could start analyzing it, see what trends we see, and then follow it back to the analysis of how we are defining LRM?

ACTING CHIEF ADMIN. JUDGE AMAKER: I think that's something that I -- you know, that's an interesting way of looking at the data and something that I'd certainly be happy to have more conversations with you offline.

I mean, as you know, right now we're tracking when bail is set, when bail isn't set, you know, how much the bail is, if it's above a certain amount, if it's below a certain amount, the median or average for a specific individual or specific groups, so --

ASSEMBLYWOMAN KELLES: We can connect on that. Thank you.

I just have two other questions, I'm so sorry. Twenty-nine seconds left.

Is there any data on how many cases currently exceed the 7,000 or the 10,000 percent -- or $10,000 cap, and how many cases would be impacted by a mandatory cap? Do we have any of that data?

ACTING CHIEF ADMIN. JUDGE AMAKER: I'm sorry, about the mandatory cap for 18-B?

ASSEMBLYWOMAN KELLES: The cap, yes.

ACTING CHIEF ADMIN. JUDGE AMAKER: I don't know that we do. Again, I can speak with our -- with our IT people. But I can also speak with the 18-B panel to see if they have any data with regard to that.

ASSEMBLYWOMAN KELLES: Great. Just

the last one on data. Do you have any estimate of the total cost across the state for the increase in -- that we're estimating of $158 and $119 for defense?

CHAIRWOMAN WEINSTEIN: Thank you. You'll --

ASSEMBLYWOMAN KELLES: I'll follow up.

CHAIRWOMAN WEINSTEIN: I was going to say there's a few follow-up questions that you probably need to send some answers to Senator Krueger and myself, and then we'll circulate to all of the members.

I wanted it acknowledged that Assemblywoman McMahon is here.

And we go now for a question to Assemblyman Reilly.

ASSEMBLYMAN REILLY: I didn't hear. I apologize. Sorry, Madam Chair, I didn't hear you.

Thank you, Judge.

So I wanted to ask about the Supreme Court Gun Part in Staten Island and Richmond County. It's had a positive impact. It was discussed that the initiative would be

expanded to include robberies. Is there a potential to expand it to other crimes that involve firearms?

ACTING CHIEF ADMIN. JUDGE AMAKER: Absolutely. It's already been expanded to robberies. That was a recent expansion. So, you know, we're still collecting the data on that. But we certainly are looking to -- and that's armed robbery. So we're certainly looking to move those cases a little bit more expeditiously through the system so that they can resolve faster.

And we're also looking not just to focus in on gun cases and robbery cases, but also older cases where there are individuals who have been incarcerated for a period of time, for a fair amount of time. And not even just the backlog in the old cases; we're now looking to expand that to new cases, targeting cases that tend to get old and targeting cases that are a part of the backlog, so that they won't become part of the backlog, so that we can expedite those processes and procedures and have early

conferencing and hopefully have early resolution.

ASSEMBLYMAN REILLY: Okay. So switching gears a little bit, I know the community court model has -- you know, dealing with misdemeanors. My experience when I was with the police department, we have the Midtown Community Court.

Is there a potential to increase community courts not only throughout New York City but throughout the state? Especially when it comes to the increase in misdemeanors now, and petty larceny, specifically organized retail crime offenders -- so that's shoplifting -- that we can address that. Is there a possibility of expanding the community court model?

ACTING CHIEF ADMIN. JUDGE AMAKER: We're certainly always open to any problem-solving or community court. If there's an issue, we certainly would like to address it.

And so I really would encourage you to reach out to my office if there's a specific

need and a specific location where we should be focusing. We have a statewide coordinator for problem-solving courts, and I'd certainly be happy to talk to her if there is a specific need in a specific location where there isn't a problem-solving or a community court at present.

ASSEMBLYMAN REILLY: Thank you, Judge.

ACTING CHIEF ADMIN. JUDGE AMAKER: Absolutely. Thank you.

CHAIRWOMAN WEINSTEIN: There are no further witnesses.

I want to thank the judge.

Senator Krueger, back to you.

CHAIRWOMAN KRUEGER: Thank you.

Thank you very much, Judge. We appreciate it. Thank you. We may have some follow-up questions we send to you to respond to us.

And for those of you following the schedule, our next up is a panel of the New York State Commission on Judicial Conduct and the New York State Office of Indigent Legal Services.

Again, as the judge is moving out, if people want to talk to her, please take it outside so that we can continue with our next panel.

And to remind people who may not have been here in the beginning -- thank you very much, Judge.

ACTING CHIEF ADMIN. JUDGE AMAKER: Thank you very much.

CHAIRWOMAN KRUEGER: -- to remind legislators who might not have been here in the beginning, our new rules are you need to be here to listen to the panel in order to ask questions of the panel.

So for those of you who are here but weren't here earlier, those are the rules we are going to be applying throughout all of the budget hearings in order to try to limit our days to actually ending before midnight. You never know about us, but that is our goal.

Good afternoon. Is it afternoon? Let me see. All right, in a couple of minutes. Almost good afternoon.

And Robert, why don't we start with you.

Again, you have 10 minutes, so you may have very detailed testimony; you just want to highlight the bullet points you want to make sure we know. We all have -- again, for people who got here late, we all have access to the testimony on our websites, and the public does as well. Thank you.

ADMINISTRATOR TEMBECKJIAN: Thank you, Senator Krueger.

My name is Robert Tembeckjian. I'm the administrator and counsel to the Commission on Judicial Conduct, and I am for the second year in a row --

CHAIRWOMAN KRUEGER: I'm sorry, Robert, before you start, it seems that the other mic works better. So if you wouldn't mind taking turns with that, it will help all of us hear you better.

ADMINISTRATOR TEMBECKJIAN: How's that, better?

CHAIRWOMAN KRUEGER: Yes, thank you.

ADMINISTRATOR TEMBECKJIAN: Oh, I can

even hear myself.

All right, I'll start again. I'm Robert Tembeckjian, the administrator and counsel to the New York State Commission on Judicial Conduct. The commission, as you know, is the state agency that is responsible for investigating complaints of ethical misconduct by judges throughout New York State and, where appropriate, to discipline those judges either publicly, with admonitions, censure, removal from office, retirement for disability or the publicly stipulated resignation, or to privately caution those judges whose transgressions were not deemed to be as egregious, and that serves as an educational function for the judiciary.

The overarching goal of the commission is to enhance public confidence in the independence and the integrity of the judiciary. And that means not only to help ensure that judges are free to decide cases without outside influence, based on the merits of the matters before them, but that

they are also held accountable for misconduct, so that the public can have confidence that where a judge does engage in ethical wrongdoing, there is an entity that is responsible for investigating it and, where appropriate, to discipline the judges for it.

In 2022 we had a record year. We have disciplinary authority over all 3500 judges throughout the New York State court system. And last year we received over 2400 complaints, which is several hundred more than our previous high. We also publicly disciplined 25 judges, including 15 who either resigned permanently or were removed from office for ethical misconduct that was determined to be egregious. That's the highest number since 2009.

I'm happy to say that for the second year in a row, in working with the current administration, we are agreed on what the Executive Budget should recommend in terms of the commission's annual operating appropriation -- which is to say, to raise it

from about 7.2 million a year to about 8.1 million a year.

During the year, I have had very fruitful, robust communications with the chairs of both of your Judiciary Committees, Assemblyman Lavine and Senator Hoylman-Sigal, about ways in which the commission's work can be made more transparent so that the public can appreciate what it is we do as we're doing it. And I'd be more than happy to discuss some of those today, particularly since it is my hope that the Legislature will adopt the Executive Budget recommendation, which is consistent with what the commission itself believes it needs in order to meet its ever-expanding caseload, and to underscore not only to this body but to those who may be listening, that there is a very robust ethics enforcement entity in New York.

Since 1978, when the commission went into effect, we have publicly disciplined over 900 judges. Over 300 of those were either removed from office or permanently resigned with a public agreement never to

return. We have publicly reprimanded over 600 judges, either an admonition or the more severe public censure, and we have issued over 1900 cautionary or advisory letters to judges, indicating to them that certain activities which were violations of the rules but were not egregious and not necessarily suggestive of public discipline should nevertheless be called to the judge's attention so that they could ameliorate the situation, modify their behavior, and not to repeat in the wrongdoing.

I'm very happy to say that over the years we have had excellent relations with both houses of the Legislature, particularly with the Judiciary Committees, particularly with the chairs of the Judiciary Committees. And given, as I say, that I'm in the relatively unaccustomed position of not asking you for more help than the Executive recommends, I'm more than happy to answer whatever questions you might have, either about our work or about potential legislative action that might help to broaden our

responsibility and make our work a little more accessible to the public.

Senator Krueger is not used to my finishing in less than the allotted time, so ...

CHAIRWOMAN KRUEGER: Great. Thank you very much.

And now to our next testifier. Trade the microphones. Thank you.

DIRECTOR WARTH: Good afternoon -- or morning. I'm not quite sure what time it is.

My name is Patricia Warth. I'm the director of the New York State Office of Indigent Legal Services, and I want to thank you for this opportunity to talk to you today. But more than that, I want to thank you for your ongoing support of ILS as we pursue our mission to improve the quality of mandated representation, which includes criminal defense as well as representation of parents in Family Court matters.

My written testimony sets forth our budget proposal compared to the Executive Budget, so I'm going to ask you to read that

and I'm not going to review that with you today. Instead, I'm going to focus on three points.

The first point is the progress that is being made across the state in implementing the Hurrell-Harring settlement reforms across the state, which started in 2018. And because of your support and the funding that we've received in our Aid to Localities budget through your support, as well as the Executive, there's been tremendous progress made, which is outlined in Attachment A of my written testimony.

I just want to talk about two highlights. First, since implementation started, and as of now, every county now has in place a program for providing defense counsel at arraignment for people charged with criminal offenses. So it means that finally people are having representation, or being represented at their first court appearance in criminal cases.

Second, since April of 2018, over 624 attorneys and 362 non-attorney positions

have been added to defender offices across the state. That's a tremendous amount of hiring, much of which occurred during the COVID-19 pandemic, which in and of itself is impressive.

Now, in assessing progress ILS looks at two measures. For institutional providers, public defender offices and legal aid societies, we look at weighted caseloads for attorneys. The idea being the lower the weighted caseload, the more time attorneys have to spend on cases and to provide quality representation. And I'm pleased to say that since 2018, weighted caseloads have been going down in criminal cases.

For assigned counsel programs, we look at average spending per weighted case. The concept being if you're spending more time and resource on cases, you're providing quality representation. And again, I'm pleased to say that between 2020 and 2021, the average spending per weighted case in assigned counsel programs went up by $100 in criminal cases.

Now, even though the Hurrell-Harring settlement and its expansion statewide is limited to criminal defense, we also looked at Family Court defense, these same two measures. And I will tell you there are striking disparities in these measures. And they're visually depicted on page 8 of your testimony.

But I can say the weighted caseloads for attorneys in Family Court cases is significantly higher than it is in criminal cases. And the average spending per weighted case in Family Court cases is less than half of what it is in criminal cases.

And I tell you this because that simple data point tells us two stories. From the criminal defense story, or the criminal defense lens, it tells us what can be accomplished when there's a significant state investment in improved quality: Caseloads go down, spending goes up, and people receive quality representation.

But from a Family Court lens, the story is a story of failure. Without a

significant state investment, attorneys are working under crushing caseloads without access to resources. And what this means for families is there's a higher likelihood that their children will be taken away from them and put in foster care. And since we know that our child welfare system has a disproportionate impact on Black and brown families, what we are talking about in practical terms is brown and Black families being torn apart.

So of course this is a segue to my second point, which is the dire need for state fiscal investment in improved-quality Family Court representation. And we wrote about it a lot in our written testimony, so I'm not going to go over the reasons for that.

The other reason I'm not going to go over the reasons for it is because I know you support it. I know you support it because last year there was 4.5 million in additional funding in our budget for improved-quality representation in Family Court matters, and

that's because of you.

And this year I'm pleased to say that the Executive now is continuing and adding that legislative add to her Executive Budget, that 4.5 million. But the bad news of that is that it's 23.5 million less than our budget request of 28 million, which in and of itself is far less than is really needed to improve the quality of parental representation in Family Court matters.

I know that this isn't a problem you can fix by yourselves. This is going to take an executive commitment and a legislative commitment. What I'm asking you for in the coming weeks is that you make it a priority to include this funding, the 28 million, in the final enacted budget. And in making this request I want to remind you that the funding doesn't need to come from the General Fund. It can come from the ILS Fund, which is a special fund created specifically for improved-quality criminal defense and Family Court defense.

So my third point is the assigned

counsel rates, or 18-B. And I know there was some discussion with Judge Amaker, and I want to -- you, I think -- again, I think this is one of those things that I don't need to convince you of the dire need to increase the assigned counsel rates, or the 18-B rates. 18-Bs in Article 18-B cases -- you know, criminal defense and Family Court representation -- they provide representation in about a third of the cases. They are a vitally important part of the system. And they haven't received an increase in rates since 2004.

Now, I know you support the increase in rates because, again, last year you proposed it. And it didn't happen, unfortunately. This year I'm pleased to see that the Executive has proposed an increase in the rates in her proposed budget, there's some fundamental flaws with her proposal. And so what I'm asking you for today is that we address those flaws and that the final enacted budget include an increase in assigned counsel rates, with these necessary

components.

First, the state has to fund the increase. And here I want to clear up some what may be confusion from the previous testimony. But as currently written, the Governor's proposal does not provide state funding to increase the rates in 18-B cases or cases under County Law Article 18-B. The state will pay the increase for attorney for the child, and that's the 47 million that Judge Amaker talked about that's in the OCA budget. But in order for the state to pay the increase in Article 18-B cases, there needs to be two things: One, a change in County Law Article 722-e to indicate that the state will pay the increase; and, two, an appropriation. So that's the first component.

The second component -- and again, there was some discussion of this -- but the case caps that currently exist in 18-B and that the Governor is proposing in her proposed legislation, they need to be eliminated. And Assemblymember Lavine

touched upon this. The problem with case caps is that it discourages quality representation, because you're time-limited in what you can be paid. But worse than that, it encourages attorneys to compel their clients to plead guilty, because trials take time and resources. And if you're not going to be paid, you're not going to want to take your case to trial.

So the third component, necessary component, is as currently proposed, the Governor proposed a geographic distinction in the rates, with downstate -- cases coming out of downstate counties being reimbursed at $158 an hour and cases coming out of upstate counties being reimbursed $119 per hour.

And this distinction needs to be eliminated from the final enacted budget, and that's because this distinction actually reinforces and perpetuates the current crisis in rural justice. There's not enough attorneys in rural communities, most of which are upstate, and paying them less is going to discourage them from taking cases out of

those communities and instead flocking towards the counties where they can be paid better.

But worse than that, the $119 an hour for upstate cases is just not enough. It's not enough for attorneys to pay for office overhead and all the expenses of representation and still make a living wage. So that distinction needs to be eliminated from the final enacted budget.

And then of course the fourth component that is necessary is there needs to be a mechanism for a periodic increase. Since its enactment in 1965, Article 18-B hasn't included such a mechanism. And as you know, the result is we've lurched from crisis to crisis, lawsuit to lawsuit. History tells us we shouldn't do that anymore, and it's time now to have a mechanism for the periodic increase.

The final thing I want to say is just I want to give some support for the New York State Defenders Association and for their budget request.

And my time is out, so I want to thank you, and I look forward to answering your questions.

CHAIRWOMAN KRUEGER: Thank you very much.

The first questioner is Judiciary Chair Brad Hoylman-Sigal.

SENATOR HOYLMAN-SIGAL: Thank you, Madam Chair. It's good to see both of you, two outstanding public servants, including my former chief of staff, Burton Phillips, who's here from Indigent Legal Services.

I want to start with you, Mr. Tembeckjian. There were some reports earlier this year that said your office was investigating and had even charged former Chief Judge DiFiore with misconduct for interfering in the disciplinary case against the leader of a court officers union. Could you comment on that?

ADMINISTRATOR TEMBECKJIAN: I have to be extremely careful because, as you know, there is a confidentiality statute that governs all of the commission's activity up

until the point that a judge is publicly disciplined.

But this gets to a subject that you and I have discussed and that Chairman Lavine and I have discussed about making commission proceedings more open, as they are in 38 states. In 38 other states, if a judge is formally charged with misconduct by their judicial disciplinary entity, the matter becomes public at that point. In New York, that is not the case; everything remains confidential.

So I can't confirm or deny that we were investigating the chief judge or that she was the subject of formal disciplinary charges. Had she been, and had New York law been consistent with 38 other states, you would know it because the charges would have been public.

And then there is a secondary legislative issue that we have discussed, in that when a judge resigns from office, the commission is limited to 120 days of continuing jurisdiction. But we can only

proceed if the result in the case is removal from office. And as the commission has long advocated, and as you and Assemblyman Lavine and I have been discussing, it is our hope that that provision, Section 47 of the Judiciary Law, would expand or change to give the commission 120 days after a judge resigns to prefer formal charges, after which the proceeding should take its course.

In the executive and legislative branches, you can't avoid discipline by leaving office early, but in the judiciary you can. And that seems to me to be something that needs to be remedied. And we have had several cases in the last couple of years in which we have charged a judge, gone through a formal disciplinary proceeding, and then at the last minute the judge leaves office -- either by retirement, where our jurisdiction ends immediately, or by resignation, where we are time-limited -- and we are unable to discuss at all the fact that the judge had been under investigation, had been under charges, and was at the brink of

discipline before leaving office.

So I hope that that's something that the Legislature would consider remedying: Both make our proceedings public at the point of formal disciplinary charges, and allow us to continue, without stop, if a judge resigns office as a means of evading responsibility for their misconduct.

SENATOR HOYLMAN-SIGAL: Yeah, thank you. And I think you know we do have legislation to make investigations public once a formal complaint is filed and to expand the jurisdiction to include judges who resign after formal charges are brought.

Would you suggest that the personal use of state resources constitutes judicial misconduct?

ADMINISTRATOR TEMBECKJIAN: It does.

And speaking about cases in which we have disciplined judges for doing just that, we have publicly censured more than one judge for abusing their personal staff and the perks of office for personal purposes.

Now, we're not talking about, you

know, the occasional emergency or a staff member calling on behalf of a judge to make a restaurant reservation. But if you use your staff for -- to type the resume of your spouse who is not a court employee, in the pursuit of their public employment, or if you use a court employee to routinely pick up your child from school or to provide daycare services in the courthouse. And we have had public disciplines for just that kind of activity.

And it is certainly a violation of the rules. A judge can't abuse the -- or lend the prestige of office for their own gain or for the gain of others, and it is a matter that the commission will investigate.

SENATOR HOYLMAN-SIGAL: Just to be clear, if that judge steps down before the charges have been made public, they're scot-free.

ADMINISTRATOR TEMBECKJIAN: Exactly. We can't -- we can't --

SENATOR HOYLMAN-SIGAL: And we're an outlier because 38 other states do it

differently, is that what I heard you say?

ADMINISTRATOR TEMBECKJIAN: Right. Thirty-eight other states would have made it public at the point of formal charges. And in the majority of states, notwithstanding a resignation, the disciplinary entity could still discipline the judge.

Some of the larger states -- California, Texas -- can discipline former judges if they've left office before the misconduct charges were resolved.

SENATOR HOYLMAN-SIGAL: So if there was a misuse of state resources that was brought up earlier today, at least according to press reports, there's really nothing you can do about it at this juncture.

ADMINISTRATOR TEMBECKJIAN: If the judge has left office, our jurisdiction is gone.

SENATOR HOYLMAN-SIGAL: Thank you.

Speaking of transparency, and that seems to be a kind of a unifying theme for our colleagues on both sides of the aisle up here, and the judicial branch -- and I

appreciate everything that you're doing to shed light on this important issue -- do you think the vote of the acting chief judge should be made public?

ADMINISTRATOR TEMBECKJIAN: This is the vote by the judges of the Court of Appeals on appointing an acting chief after the resignation of Judge DiFiore. And I think yes, of course, it should be made public.

This is the process by which the acting chief executive of the entire court system was chosen. And I see no reason why the court shouldn't, if asked, make that vote public. All their other decisions, we know how the judges voted.

This is a matter of some significant consequence to the public. It might be interim, but nevertheless the acting chief is responsible for managing the court system, appointing an acting chief administrative judge. And it certainly seems to me that they should -- they could set an example and demonstrate to the public how they arrived at

that decision.

SENATOR HOYLMAN-SIGAL: Thank you.

I wanted to turn to Ms. Warth now. Do you have any thoughts as to why we haven't prioritized funding for the -- for Family Court-mandated representation in the same way that New York has for criminal defense?

DIRECTOR WARTH: I think there's two reasons. One stems from 2004, when then-Chief Judge Judith Kaye convened a commission to study the state of public defense in New York, and that commission focused on criminal defense. That's the Kaye Commission report, and that Kaye Commission report led directly to the Hurrell-Harring lawsuit, directly to the settlement, and then the state's decision to expand it statewide. So I think that's part of it.

But I think there's a larger issue at play, which is, you know, the sense that we have, I think as a community, a very punitive view of, you know, low-income people and people of color. And those are the people

who tend to be caught up in our child welfare system, and so we don't prioritize their needs and their legal representation.

And I think it's time that we change that and that we understand that we're impacting families in deep, deep ways. And that providing representation for people is an important step in ameliorating that.

SENATOR HOYLMAN-SIGAL: Thank you.

And I do want to credit journalists who have brought this issue to light to us, as members of the Legislature.

Second question. In your opinion -- this is something that concerns a lot of us and should concern the State Comptroller, I would argue -- has the state's failure to invest in improved-quality representation of parents in Family Court made it susceptible to another lawsuit along the lines of the Hurrell-Harring lawsuit?

DIRECTOR WARTH: All the ingredients are there. You know, like, I said, the Kaye Commission led to the Hurrell-Harring lawsuit.

In 2019 we had a commission convened by then Chief Judge DiFiore to study the state of Family Court representation, and that commission issued an interim report in February of 2019 which, like the Kaye Commission, was very clear that our county-based, county-funded system of defense for parents in Family Court matters wasn't working and wasn't delivering constitutionally required representation, and was resulting in families being needlessly torn apart.

CHAIRWOMAN KRUEGER: Thank you.

SENATOR HOYLMAN-SIGAL: Thank you.

CHAIRWOMAN KRUEGER: Assembly.

CHAIRWOMAN WEINSTEIN: Assemblyman Lavine, 10 minutes.

ASSEMBLYMAN LAVINE: (Mic off.) Thank you. And thank you both for what you do.

This question is for Ms. Warth. And I hope I'm pronouncing your name correctly.

DIRECTOR WARTH: Yes.

ASSEMBLYMAN LAVINE: How do you determine qualifications for assigned

counsel? And how are those individuals monitored?

DIRECTOR WARTH: So you mean financial eligibility for assignment of counsel?

ASSEMBLYMAN LAVINE: No, I mean qualifications for attorneys to serve on the panel.

DIRECTOR WARTH: Oh, okay.

You know, it really -- again, we're a county-based system, so the panels are county-based. But one of the things that ILS is doing now is trying to bring some uniformity to that.

So a couple of years ago we issued standards for assigned counsel programs, which not only talk about what the programs themselves should look like but how there should be an administrative structure that determines the qualifications. So we set forth those in our standards.

And then with the Hurrell-Harring settlement -- or the Hurrell-Harring funds and its expansion statewide, we've been working really hard at dedicating funding to

bolstering the assigned counsel program infrastructure in each county. So that there's the administrative staff and a supervising attorney who can do that and who can also, you know, make sure that attorneys are assigned -- you know, that the attorneys have the requisite skills and experience for the cases to which they're assigned.

Now, I will say this. All of those efforts are being thwarted by the failure to raise the rates. Because assigned counsel administrators and judges, they don't have enough attorneys to go to. And so all of them across the state are telling us that they're having to assign cases to attorneys who don't have the requisite skills and experience.

ASSEMBLYMAN LAVINE: And on the subject of rate raises and the upstate/downstate discrepancy, travel time is not allowed to be included in a voucher, is it?

DIRECTOR WARTH: It depends. Some counties do allow it to be included, yes.

ASSEMBLYMAN LAVINE: And are those counties among the more rural counties?

DIRECTOR WARTH: Generally, yes. Well, we haven't done -- I haven't done a survey to know for sure, but I know that if they weren't doing it, they're having to do it now in order to draw attorneys. Because there's some rural counties where they're literally drawing attorneys from hours away in order to provide representation.

So it does mean that a lot of public money right now is being spent on transportation instead of actual representation.

ASSEMBLYMAN LAVINE: Thank you very much.

Mr. Tembeckjian, as it turns out, if a judge is being investigated and that judge resigns, that's in essence the end of the proceeding.

ADMINISTRATOR TEMBECKJIAN: Yes. Generally speaking, yes.

ASSEMBLYMAN LAVINE: Can you give us a sense, are you able to give us a sense of how

often that has happened?

ADMINISTRATOR TEMBECKJIAN: I would say that it happens at least twice a year, and sometimes more. And in some instances it is, as I was suggesting in response to an earlier question, after we've even had a disciplinary hearing. That's happened twice in the last four years where we've gone through a very lengthy process and they evade ultimate accountability by leaving office early.

ASSEMBLYMAN LAVINE: And would it be fair to say, in your opinion, having handled these things over the years, that when judges do resign, there's good reason for them to resign?

ADMINISTRATOR TEMBECKJIAN: Well, often yes. But not always.

I mean, sometimes a judge will leave office early because of another interesting professional responsibility. Sometimes they might want to run for other office, in which case they have to leave the bench before they can do that. And at other times they're just

burned out from the stress of judging. Because it's not, as you know, an easy job.

But in my experience it is often the case that if a judge, particularly one who has been the subject of news reports about potential misconduct, leaves office early, it is often the case that it's at least a factor in their early departure.

ASSEMBLYMAN LAVINE: So we have had considerable discussion recently in the United States about a separate code of ethics for the justices of the Supreme Court of the United States. Now, I'm not going to ask you your opinion or either of your opinions on that, because I think I know what the answers would be.

But do we have a separate code of ethics for justices of our New York State Court of Appeals, our highest court in our state?

ADMINISTRATOR TEMBECKJIAN: No. The same rules on judicial conduct or the code of judicial conduct applies to all of the judges in New York. And we are able to apply it and

enforce it on all levels of the court system. We do have authority over the entire coterie of the justices and judges of the New York State Unified Court System. So that means the town or village justice all the way up to the state's highest court, the Court of Appeals.

ASSEMBLYMAN LAVINE: No further questions. Thank you very much.

ADMINISTRATOR TEMBECKJIAN: Thank you.

CHAIRWOMAN WEINSTEIN: Senate.

CHAIRWOMAN KRUEGER: Thank you.

Our next questioner is Zellnor Myrie, Senator Zellnor Myrie.

SENATOR MYRIE: Thank you, Madam Chair.

These questions or comments are directed at the commission. We held a hearing in October on deed theft, and we heard harrowing testimony from many New Yorkers about being through this process, having their property stolen from them, and many of them have had interactions with the judicial system, whether in court or with the

Kings County public administrator's office.

And we've also seen reports of the exodus of Black and brown people in the City of New York due in no small part to being forced out because of affordability and/or having their home stolen from them.

We invited OCA to testify at that hearing; they did not come. We invited the Kings County public administrator's office; they did not come. And the KCPA specifically has been the subject of many reports and audits by the Comptroller's office, many recommendations that have been made by the Comptroller's office, the overwhelming majority of them ignored by that office.

So my comment/question is really what the commission can and should be doing to address the scourge of deed theft. This involves judicial conduct. I don't want to cast aspersions in public without evidence, but there are suggestions to me that there has not been a fully transparent approach to how this process works, particularly for Black New Yorkers who have had their homes

and their generational wealth stolen from them.

If this is not an area of focus for the commission, it most certainly should be. And I want to know if there's any ongoing things that you can talk to us about or the approach of the commission particularly as it relates to deed theft.

ADMINISTRATOR TEMBECKJIAN: Sure.

As you know, the commission is not a court, so we don't have adjudicatory authority. We can't reverse or remand or take an appeal on the merits of a decision.

But if a litigant or a lawyer brings to our attention a particular matter in which a judge has, either because of potential bias or lack of familiarity with the law -- and it is a promulgated rule that a judge has to be competent in the law, faithful to the law, and respect and comply with the law.

We can and we do investigate complaints of that nature. They don't often come to us, in part because I think the general public and the litigating public

doesn't realize that the commission is a potential avenue for them to seek redress.

But we can only discipline the judge for the ethical violation or the lack of competence, so to speak. Even if we find that a judge was motivated by bias, we have no authority to undo the decision. That has to be taken up through the appellate process.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRWOMAN WEINSTEIN: We go to Assemblywoman Kelles.

ASSEMBLYWOMAN KELLES: (Mic off.) Thank you to you both for what has been a very enlightening presentation. Can you hear me?

UNIDENTIFIED SPEAKER: Try again.

ASSEMBLYWOMAN KELLES: How about now?

CHAIRWOMAN WEINSTEIN: Yes.

ASSEMBLYWOMAN KELLES: I was just saying I wanted to thank you both for very enlightening presentations, and particularly the recommendations for how to address and respond to the Governor's budget. That was very informative.

So just two things quickly. And this is specifically to Ms. Warth. Question: Do you design or does ILS design trainings for defense attorneys on bail and specifically about the least restrictive means standard and about the ability to pay, to everyone?

DIRECTOR WARTH: We've been working to make our funding available for training. But we defer largely to our criminal defense partners. So the New York State Defenders Association, for example, has a very vibrant training program and, you know, it is part of their annual meetings and then trainings in between. They did a lot of training and made a lot of materials available on bail reform and then the changes to bail reform.

So has the New York State Association of Criminal Defense Lawyers. And then we've also partnered to make our funding available to various public defender offices, which similarly have that type of training available.

So we haven't conducted the training ourselves, but we've worked to make funding

available to make sure that they happen.

ASSEMBLYWOMAN KELLES: Do you have any data on how many have taken that opportunity to get that training?

DIRECTOR WARTH: We get some aggregate numbers on the number of attorneys who've taken trainings that are ILS funded or statewide funded, because it's part of our responsibility to monitor implementation of the Hurrell-Harring settlement statewide.

But we don't look at different types of trainings, it's just the training in general.

ASSEMBLYWOMAN KELLES: And one other question on that. Do you get any response or have you been collecting data from your end from the public defenders on how many cases in their experience they have felt that that has not been applied?

DIRECTOR WARTH: No, we have not been getting that information. So --

ASSEMBLYWOMAN KELLES: That would be very interesting from your perspective.

DIRECTOR WARTH: Yeah, it would be.

ASSEMBLYWOMAN KELLES: I would love to hear that.

DIRECTOR WARTH: It would be.

And it is something, you know, we have been working -- we partnered last year with a couple of defender organizations on doing a survey about discovery reform. So perhaps that's something we could think about for bail reform.

ASSEMBLYWOMAN KELLES: That would be amazing.

And the other -- I'm curious, you brought up a really disturbing point, which is the amount of money that's being put in transportation rather than actual defense.

Do you have any sense of what percentage that is?

DIRECTOR WARTH: I don't. And I think it would be hard to track because of how voucher information is maintained.

ASSEMBLYWOMAN KELLES: I would love to see you compensated for that so the money is not going into transportation --

(Overtalk.)

DIRECTOR WARTH: Right, yeah. Well, I mean, that's -- I think that's why everybody here agrees the rates need to be increased.

ASSEMBLYWOMAN KELLES: Absolutely. Absolutely. Thank you so much. Appreciate it.

CHAIRWOMAN WEINSTEIN: Senate.

CHAIRWOMAN KRUEGER: Thank you very much.

Senator Murray.

SENATOR MURRAY: Thank you very much. Thank you.

Director Warth, turning to the disparities between criminal court and Family Court. On page 11 of your testimony I know you conducted interviews, and it says as part of them several chief defenders told us that the Family Court workload significantly increased during the pandemic.

Obviously that had an impact, but I can't help but think that Raise the Age might have also had an impact. Since passage of Raise the Age, it did send many cases that would have gone to criminal court to

Family Court. Has that an impact at all?

DIRECTOR WARTH: Not on 18-B. Because Raise the Age would impact attorney for the child, and that isn't our mandate, that isn't under County Law Article 18-B. So no, the Raise the Age wouldn't have affected that information or that --

SENATOR MURRAY: Okay. Very good. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Assemblyman Morinello.

ASSEMBLYMAN MORINELLO: Thank you.

Mr. Tembeckjian, I just had one question. And this -- I was trying to clarify your answer to Senator Zellnor Myrie. And I -- did I understand that if a litigant has a feeling of a judge who doesn't have sufficient knowledge of either the facts, the law or the judicial rules, that it is proper to notify or send a letter to the commission?

ADMINISTRATOR TEMBECKJIAN: It is an -- it is an option, because there is

a -- there is a -- there are promulgated rules which say that a judge has to be faithful to the law, respect and comply with the law, professionally competent in the law.

Now, I will say that professional competence is a very, very difficult standard for us to determine. But we have had cases in our history in which it was evident that the judge did not understand, didn't get the job -- this is more often typical in town or village courts of the nonlawyer judges, of whom there are, in a court system of 3500, there are about 1400 of those. That's where we tend to see it. Not quite so much, obviously, in the full-time so-called state-paid judiciary.

But we do on occasion see it there. And if we were to determine that a judge was essentially not competent, professionally competent in the law, it would be the subject of discipline. But it still wouldn't affect the case.

ASSEMBLYMAN MORINELLO: Thank you very much.

ADMINISTRATOR TEMBECKJIAN: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Senator Jamaal Bailey.

SENATOR BAILEY: Thank you.

So, Mr. Tembeckjian, this is going to be -- this is going to break a streak of six years of me not asking you a question, but I do have a question of you today. This is in relation to the question of -- related to -- about judicial conduct with OCA about in the event, you know, that there is a judge that seems to have a penchant for making decisions that are outliers or decisions that are not necessarily -- that don't necessarily comport with what should be done, is that within your jurisdiction?

ADMINISTRATOR TEMBECKJIAN: We would walk a very, very fine line there to avoid impinging on the independence of the judiciary. If I or the commission happens to disagree with the merits of a decision, that is not cause for -- for discipline.

But if the judge demonstrates over a period of time a lack of familiarity with the

law, that is a matter -- and I'll give you an example on the outer edge of that. We have removed judges over the years who, for example, failed to advise litigants of fundamental rights such as the right to counsel. That typically happens among the nonlawyer town and village court justices.

But we have also removed judges from office -- and these decisions have been upheld by the Court of Appeals -- for abusing the discretionary imposition of bail. For example, in a case in the Capital Region involving a judge from the City of Troy, who was obviously law-trained, who was setting bail on individuals for violations that had -- that were not bailable offenses, such as riding your bicycle on the sidewalk or riding your bicycle without a warning device such as a bell.

Having done that repeatedly, the commission concluded that this was a judge who didn't understand the law and should be removed, and the Court of Appeals upheld that removal.

But that's a -- that's a pretty rare circumstance. And we want to avoid examining a judge for essentially making rulings that we don't agree with, because that would really infringe on the independence of the judiciary.

SENATOR BAILEY: Completely understood.

Director Warth, I want to -- the rest of my time I'm going to spend on you.

2004 was a very long time ago. I was an intern for the Speaker, who was in his second term -- and he also had waves at that period of time, so it was a very, very long time ago.

I just want to make sure that the increase in 18-B rates is not just something that we speak about or pontificate about, it actually affects real families on a day-to-day basis. It affects recidivism, it affects family violence, it affects all of these conditions that people love to pontificate about. When you don't have representation, that affects everything.

And I just wanted to thank you for your work and your commitment to not only the funding, but making sure that there is no disparity within the upstate and downstate regions. I obviously carried the bill, and it is an important thing for me. We agree on that.

But my question for you is that do you have any -- it's about the proposed changes to the bail laws. We're going to shift topics briefly. Are there any thoughts or comments on the Governor's proposed changes to the bail laws?

DIRECTOR WARTH: The only thing I can say -- and again, my answer is wedded to our mission of improved-quality representation.

And, you know, I think it's worth saying that a reduction in pretrial detention is a significant factor in improving -- or a significant component in improving the quality of representation. Because if your client is out, you have better access to your client, your client's not stressed about being incarcerated. And we also know that

pretrial detention is a thumb on pleading guilty, often to charges you shouldn't plead guilty to.

So, you know, I would urge the Legislature to hold firm to the efforts that have been made to reduce pretrial detention, because I think they're very important.

SENATOR BAILEY: And would it be fair to say that there's been a relatively positive impact of discovery reform and bail reform on these -- on the system, on the mandated defense providers and their clients?

DIRECTOR WARTH: We were able to dig in deep on some of the data on the Hurrell-Harring counties where we keep more robust data.

And, you know, the data shows that there's been a significant reduction in pretrial detention in those low-level nonviolent offenses. Because in upstate communities, bail is often used in low-level nonviolent offenses, bail that people couldn't pay.

And so there's been a significant

reduction in pretrial detention in those cases, which, you know, has helped defense attorneys actually now do their job in those cases to provide better representation.

SENATOR BAILEY: I'm greatly appreciative of that, and as my time goes, I just want to thank you again for all of your work for representing those who can ill afford to represent themselves.

Thank you.

DIRECTOR WARTH: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Flood.

ASSEMBLYMAN FLOOD: Good afternoon.

This question is geared towards Ms. Warth. You spoke before about the need to increase the cap on this funding, which I agree -- you know, as a private-pay attorney I've taken retainers that exceed the cap.

And to adequately do a job, like you said, from -- you know, from arraignment up until potentially trial, it does oftentimes

lead to -- you would actually have to exceed that cap to quality -- you know, to adequately provide for the defense attorney.

Is there, however, a number out there that you would be comfortable figuring out that you would take the case, you know, from inception up and through trial that could also, you know, alleviate some of the fears of the taxpayer of, you know, overpaying or some type of fraud that could be involved in that? Is there a number that you'd be comfortable with?

DIRECTOR WARTH: I mean, our position is that the cap should be eliminated altogether and that the work that we're doing in creating robust ACP infrastructures is the necessary check on attorneys charging too much.

At the very least, there should be a mechanism for going above the cap. And that's part of the problem with the Governor's proposal, is that mechanism, which currently exists -- you can go above the cap in extraordinary circumstances -- that's

eliminated. So under the current proposal of the Governor, there's no way to go above the cap. And that's just going to make the problem even worse.

I would argue that if there has to be a cap in there, that they be significantly raised, they be tiered by misdemeanors, felonies, and appeals -- because appeals should be much higher -- and that the mechanism for going above the cap be a much lower bar than extraordinary circumstances.

But again, our first position is that you don't need the caps and that the work we're doing should -- should solve that problem.

ASSEMBLYMAN FLOOD: Okay. So if there was -- say that there was no cap. Who would be in charge of maintaining that? Would that still be on the county level to ensure that the -- to ensure that the defense attorneys aren't exceeding the necessary -- you know, they're basically not overbilling?

DIRECTOR WARTH: So currently under the law both the judge and the ACP

administrator in most counties sign off on vouchers. So it would be on the ACP administration and the judges to make sure that the money's being spent as it should.

ASSEMBLYMAN FLOOD: Okay. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Senator Palumbo, five minutes.

SENATOR PALUMBO: Thank you, Madam Chair.

How are you, Mr. Tembeckjian? Good to see you again.

ADMINISTRATOR TEMBECKJIAN: Likewise.

SENATOR PALUMBO: And Director Warth, I just had a little follow-up regarding you discussed the reforms, how they have been very helpful to have better access to your clients.

Can you tell us how that has affected caseloads? Because we had some data that the -- a number of complaints have increased, that those statistics are up as far as people being charged. And I was just curious just to see how that's affected caseloads on the public defender side and what you've seen as

far as that. And as well, I guess, to complete the thought, we also had data that cases were significantly longer to resolution even though a large majority of those cases were being dismissed for other reasons, not only for 30.30 reasons.

So can you just tell us a little bit more about that?

DIRECTOR WARTH: So, you know, we do keep data on aggregate new case assignments every year. And so I'd urge you to go to our website, we have a caseload report there that tracks new case assignments or caseloads over the years.

There was a significant decrease in 2020 into 2021 of new cases, and we speculate -- and I think everybody here would agree with us -- it was largely because of the COVID-19 pandemic. And then the new case assignments have started to go up in mid-2021 into 2022, you know, I think because of what is happening with the pandemic.

I think in terms of assessing bail reform on top of case assignments or new

cases, it's impossible to do that without taking into account the dramatic impact the pandemic has had on our criminal justice system, because it did. I mean, basically, you know, fewer people were being arrested at one point, and then it went up. You know, it's had a dramatic impact on court functionings. I really applaud the courts for trying to stay open during the pandemic, but it created all sorts of issues with scheduling and things like that.

And so, you know, I think that it would be impossible to make a prediction or to make an assessment right now without doing a really deep dive and thorough analysis both on bail reform and the pandemic. And I don't know that it's possible to separate that out.

SENATOR PALUMBO: Sure. Sure. And regardless of cause, though, have you seen any sort of a change as far as caseloads are concerned? Regardless of the cause, without pontificating on the --

DIRECTOR WARTH: Well, like I said, we saw, in 2020, a dramatic decrease in

caseloads and new cases assignments, and it was historically unprecedented, I should say, as well. And then we saw it start to creep up in 2021. And then again in 2022 it continues to creep up. And the numbers, the specific numbers are in our report.

SENATOR PALUMBO: Sure. And I guess I was a little too general. So to be more specific, excluding maybe 2020 and even 2021, from 2018-'19 to today -- and just maybe if you can do it generally for '22 versus pre-pandemic --

DIRECTOR WARTH: As of 2022, the new case assignments were still not as high as they were in 2019 and 2018, prior to the pandemic. So they haven't reached the pre-pandemic levels, new case assignments. And that's in aggregate across the state.

Now, you know, within counties there maybe some difference. So -- but, you know, the information I'm telling you about is statewide aggregate.

SENATOR PALUMBO: Okay, very good. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Assemblywoman Walker.

ASSEMBLYWOMAN WALKER: Awesome. Thank you so much for your testimony today, Ms. Warth.

I'd like to know, sort of in your assessment of the least restrictive measure standard, sort of what does that standard mean to you?

DIRECTOR WARTH: I used to be a special education teacher, so -- I mean, I was dealing with least restrictive since, you know, before I was a lawyer.

You know, I think -- me personally, it means making a decision based on, you know, the criteria that you're permitted to make a decision on. And with regard to pretrial detention, you know, the goal is -- in New York, the goal is to ensure the person's return to court, so what are the least restrictive means of ensuring the person's return to court.

Is there a way that we can do that without relying on pretrial detention? Which I think is the ultimate goal of everybody here, to reduce the amount of incarceration, whether it's, you know, pretrial or after conviction.

ASSEMBLYWOMAN WALKER: So one of the statements that you made earlier was that since bail reform we've been seeing -- particularly upstate -- more incarceration than not pretrial.

And then also the Division of Criminal Justice Services in their testimony recently noted that since 2019, since bail reform passed, that bail has been set -- the average amount of bail set was $5,000. But since 2019, it has doubled to nearly $10,000.

Sort of what is your perception of -- about, you know, judges applying this least restrictive means test?

DIRECTOR WARTH: So I just want to clarify what I said. I said that we had some sort of more robust data from the five Hurrell-Harring counties about bail and about

pretrial detention. And what we found is that pretrial detention had significantly reduced post bail reform.

You know, so after bail reform, there was a significant reduction in the utilization of pretrial detention in all five of the Hurrell-Harring counties. And that we saw that reduction the most significantly in the lower-level offenses -- misdemeanors and nonviolent offenses.

We don't get good -- you know, we don't get data -- I don't know that anybody actually does -- on specific reasons for judges' decisions and hence, you know, how they're utilizing the least restrictive. You know, I think that's a very interesting research question --

ASSEMBLYWOMAN WALKER: Right.

DIRECTOR WARTH: So we're not -- we haven't been able to explore that.

ASSEMBLYWOMAN WALKER: I'm just going to note, in my last second, that the judges, in accordance with the law, they have to indicate their reasoning behind the

methodology of bail that's set. And that's one of the proposed changes.

So I'd love to discuss both of your thoughts on restricting the explanations that judges have to give with respect to their determination of bail.

DIRECTOR WARTH: Yeah. Yeah. Well, I mean, you know, we always support more information, so --

CHAIRWOMAN WEINSTEIN: You'll be having that conversation offline. But feel free to share with colleagues.

To the Senate.

CHAIRWOMAN KRUEGER: Thank you.

I'm not taking my 10 minutes; don't even bother with the clock. One question for both of you.

I have been making the argument that we should have mandatory training, like continuing legal education, for judges. Given the role that you each play, which are very different, do you think that would help address problems that you see and need to deal with?

ADMINISTRATOR TEMBECKJIAN: From my point of view, unquestionably it would help.

I believe that the chief administrative judge can mandate it. And if it is a mandate, then it is something that the commission can enforce if a judge doesn't do it.

So that, for example, mandatory financial disclosure is something that is incumbent upon all of us in our public roles, including the judges. And if a judge doesn't file an annual financial disclosure statement, we can examine it and we have disciplined judges for it, typically privately for a first offense with an excuse, but -- or without excuse. With a valid excuse we might give them a little more time. But we have also publicly disciplined judges for it.

Education and training is an essential part of understanding the job. Being a judge is like no other role in public office. It's enormously powerful. You have -- you're deciding issues of custody, freedom, huge

amounts of money that is at stake. And it is essential, I think, for the public to have confidence in the quality of justice, to be reassured that the judges are properly trained.

And if it is mandated -- and I believe it can be -- then we can take action when those judges fail to meet the mandate.

CHAIRWOMAN KRUEGER: Thank you.

DIRECTOR WARTH: ILS would certainly support efforts to ensure that judges are well trained.

CHAIRWOMAN KRUEGER: Thank you both. Thank you for your work.

Assembly.

CHAIRWOMAN WEINSTEIN: I also have one quick question, just for Ms. Warth.

You mentioned attorney for child increase in assigned counsel fees is included -- would be included in the Judiciary Budget but the 18-B is not, as far as you can see. And we've been having some question about that also.

Do you have an approximate cost of --

based on a prior year's cases, what kind of an annual cost we're talking about?

DIRECTOR WARTH: Yes. We've done estimates based on 2019 and number of cases in 2019. And we used 2019 because it's pre-pandemic and that's when there's the most number of cases. So we're using the largest number to do our estimates.

And we've estimated anywhere between 150 million and 180 million for increasing assigned counsel rates under 18-B, which is, you know, criminal defense and the representation of parents in Family Court matters. And that depends on the specific particular increase in rates.

And I'm happy to share that information with anybody who reaches out and asks for it. You can see our analysis and how we came up with these numbers.

CHAIRWOMAN WEINSTEIN: Sure, we'd like to see it. I was -- I chaired Judiciary at the time that, way back when, we raised the counsel rates. And at that time we did have some other additional fees that were raised

to help pay that cost. So we probably will have some further discussions on that.

But yes, I would like to have that information and we'd be sure to share with all of our committee members.

DIRECTOR WARTH: We will send that along.

CHAIRWOMAN WEINSTEIN: Thank you.

Back to the Senate.

CHAIRWOMAN KRUEGER: Thank you.

Chair Brad Hoylman-Sigal for a second round, three minutes.

SENATOR HOYLMAN-SIGAL: Thank you, Madam Chair.

Mr. Tembeckjian, I had another question for you. I saw, during the lead-up to the Senate's hearing for the nominee for the chief judge of the Court of Appeals, another judge, a sitting judge, wrote an op-ed where he opined on the issue at hand and said that -- basically urged for a fair hearing and that the State Senate should hold a confirmation hearing and vote up or down on the nominee. He said op-eds and letters to

the editor are no substitute.

I wanted to ask you, are there ethical rules for judges proactively weighing in on political matters when there isn't a case before them?

ADMINISTRATOR TEMBECKJIAN: Well, judges are allowed to comment on the law, the legal system, the administration of justice. And given our reverence for the First Amendment, we tend to go -- we tend to be very cautious about inhibiting public comment on the law, the legal system, and the administration of justice, you know, by a judge. It is permissible and some would say it's even encouraged.

If there were a case, they couldn't comment, because there's a -- there's a corollary rule that says that a judge should not comment on a pending case in -- anywhere in the United States.

So what balancing those two -- if the subject matter is the law, the legal system and the administration of justice, I think that there is broad permissibility to make

public comment. If it were about a pending case, it would not be permissible and we would look into it because it would be a potential violation of the rule.

SENATOR HOYLMAN-SIGAL: Thank you.

And in my remaining minutes, Ms. Warth, can you just reiterate again why it's important that the state pay for the 18-B rate increase?

DIRECTOR WARTH: We know from history that it's important that the state pay. When the state didn't pay for the increase in 2004, the counties cut public defense services in other ways to fund that increase.

There's a direct line between that and the Kaye Commission report in 2006 and a direct line between that and the Hurrell-Harring settlement.

And I can honestly say my first couple of years when I started at ILS as the Hurrell-Harring settlement implementation chief, I felt like I was undoing the work that had been done -- you know, the damage that had been done from the state's failure

to pay for the increase in 2004.

You know, at the end of the day, funding public defense is a state obligation, and the state needs to pick up the tab for that obligation.

CHAIRWOMAN KRUEGER: The Senate has completed the questioning. The Assembly has also finished the questioning. So I'd like to thank you both very much --

DIRECTOR WARTH: Thank you.

CHAIRWOMAN KRUEGER: -- invite you to leave. Anyone who wants to speak to you, take it to the hallways.

And we're going to ask our next panel to come up, which is Jackie Bray, New York State Division of Homeland Security and Emergency Services, and Jennifer Lorenz, New York State Office of Information Technology Services.

Feel free to take a stretch, quietly. It's always good for everyone.

(Brief recess.)

CHAIRWOMAN KRUEGER: Good afternoon, not morning. Nice to see you both.

And we're going to start with Jackie Bray.

DHSES COMMISSIONER BRAY: Okay. Are these on? They are, right? All right.

CHAIRWOMAN KRUEGER: One of them works better than the other. I think you have --

DHSES COMMISSIONER BRAY: Let's try it. Better?

CHAIRWOMAN KRUEGER: Yes.

DHSES COMMISSIONER BRAY: Oh, there you go. All right.

Good morning. Thank you, Chair Krueger and Chair Weinstein and the distinguished members of the joint committee. My name is Jackie Bray. I'm the commissioner of the Division of Homeland Security and Emergency Services. It's my honor to share with you the vision and goals of our agency as well as provide an overview of the Executive Budget as it relates to our mission.

The hazards and risks the people of New York face are accelerating and intensifying due to climate change, domestic

and international extremism, cyberattacks, and even the threat of other and future pandemics.

In Western New York alone, we have seen all of these come to fruition -- some in the most dire of ways -- this year. Within the past 10 months we responded to multiple cyberattacks, a domestic terror attack that took the lives of 10 New Yorkers, an attack from a homegrown violent extremist, a record-setting snowfall, and a devastating once-in-a-generation blizzard. And of course I wrote this testimony before yesterday's earthquake.

Regardless of the threat, we at the division are the coordinators, the trainers, the facilitators, the ones who ensure that our local partners have the resources they need to keep their communities safe. It's our job to have everyone else's back, and that job is very important right now.

Thanks to the leadership of Governor Hochul, the Executive Budget does provide the resources necessary for us to

carry out our mission. Our total agency appropriation in the Executive Budget is $9 billion, which includes an additional $4 billion in authority for the division to administer federal funding for the expected reimbursements from the COVID-19 federal disaster.

It also includes $63 million in new appropriations to strengthen the volunteer fire service and support the continued expansion of cybersecurity and critical infrastructure protection.

Of New York's over 1700 fire departments, more than 1600 are volunteer departments. Many of these departments have struggled in recent years to recruit and retain the volunteers they need to keep the rest of us safe. In fact, in a survey, 76 percent of all volunteer fire departments in New York State reported a drop in volunteer service in recent years.

We're going to make the investments and changes necessary to put the volunteer fire service on a path to stability.

The Governor's Executive Budget includes two measures to help us get there. The budget proposes $10 million to create a volunteer firefighter training stipend to assist firefighters in obtaining the training they need. And the proposal seeks to amend the law to enable municipalities to provide nominal stipends of their own to volunteer firefighters for emergency response.

These investments build upon the work we've been doing to prioritize first responders. Last year we rolled out new workshops to support the emotional resilience amongst first responders, and we rolled out new investments targeted to help lower the cancer risk for firefighters.

This budget also invests $20 million to strengthen 911 operations, and it begins to provide what will be required for our communities and localities to join the transition to Next Gen 911.

We must also continue to pivot our homeland security strategies from a post-9/11 mindset to one that recognizes and responds

to the diversified threat environment of today.

We've already started by adding the new Domestic Terrorism Prevention Unit to the Office of Counter Terrorism and expanding our Cyber Incident Response Team to provide cybersecurity as a service to counties and localities. This budget includes additional resources to continue and strengthen that work.

I'm particularly proud to have launched the Domestic Terrorism Prevention Unit this past year. This team is working to provide the training, resources, and technical assistance communities need to confront the threat of domestic violent extremism. White supremacist and antisemitic violent extremism remain the greatest terrorist threats to New York State this year, as they were last year. Governor Hochul has focused on combating the hate that leads to this extremist violence, and we are proud to do the work under her leadership.

It's impossible to draft all of the

good -- the fantastic work of our division during this testimony. As you know, there's been a lot going on in emergency management this year, whether it's managing weather events, hazmat incidents, terrorist threats, cyberattacks, or digging into the preparedness, the public safety, the mitigation, the recovery work that is so essential before and after an emergency.

It's been a long, busy year for those of us at the agency. And I'm proud of the work that we've done, all of our teams, to keep New Yorkers safe.

I appreciate the opportunity to be here, and I'm happy to take your questions. Thank you.

OITS DEPUTY CIO LORENZ: Thank you, Chairs Krueger and Weinstein, for the invitation, and a warm welcome to the distinguished members of the Legislature who have joined us today.

Regretfully, our chief information officer, Angelo "Tony" Riddick was unable to be here due to a personal commitment, so I'm

taking his place in my capacity as deputy CIO at ITS.

Once again, I'm Jennifer Lorenz, and I have been with this agency since its inception. It is an honor to partner with you in service to our fellow New Yorkers.

I can confidently say that technology has never been more important to the state than it is right now, and ITS is at the forefront of efforts to leverage this technology to create a better, stronger and more responsive state government.

Technology has allowed us to deliver taxpayer savings and freed up our hardworking employees to do even more impactful work. It is helping the state ensure a more seamless delivery of services. It is changing the way our employees work and allowing agencies to respond more effectively to an event, an emergency or a crisis.

We also know that technology is bringing state government closer to the people because we made it happen together.

Since we met last year, ITS has

successfully deployed language translation services to state agency websites, allowing them to provide services in the 12 most commonly spoken non-English languages. We began by translating the COVID pages first, and now 84 public-facing sites have been identified and translated for the public.

The concept, which originated here in the Legislature, is making government more accessible to many more New Yorkers.

In addition, ITS has been assisting with the work needed to allow name and gender changes in state databases under the Gender Recognition Act. This is an important step forward.

We also provided the tools to stand up a new and vital agency, the Office of Cannabis Management, on a very expedited timeline this year.

And we recently partnered with the Public Service Commission to enhance the broadband mapping website, which is a crucial step in obtaining federal funding for New York.

In the ongoing fight against cyber threats, technology has been a key component in keeping New York secure. Over much of the last year, ITS been working with our partners to establish the Joint Security Operations Center, or JSOC. The vision of Governor Hochul, JSOC is a first-of-its-kind central hub for threat monitoring and intelligence sharing. And I am proud to report that the JSOC is now fully operational and staffed 24 hours a day, seven days a week, with New York State employees.

JSOC has accelerated our transition to a whole-of-state approach to cybersecurity, where the state and local governments are collaborating in new and meaningful ways. Many local governments have already joined the JSOC, and New York State has provided these local partners with endpoint detection technology at no cost.

There is more work to do, but JSOC is quickly becoming a national model for enhancing cybersecurity across all levels of government. Meanwhile, we will soon be

providing advanced cybersecurity training to all ITS employees so they can function as an army of cyber warriors and better protect the state's systems and resident data.

And we recently hired the state's first-ever chief privacy officer for the state, who is building a statewide program to include new policies and processes on how we collect, use and secure New Yorkers' information.

And most importantly, we are increasing transparency so New Yorkers better understand how their personal data will be used and protected.

Funding advanced as part of the Governor's budget will allow us to continue to focus on a number of key state initiatives:

Digitizing state services and expanding the methods by which residents access those services;

Taking the next steps in the ongoing Tax Systems Modernization;

Creating a "One ID" system to better

prevent fraud and streamline the state's delivery model;

And further enhancing our cybersecurity posture.

Thirty-three million dollars in new funding is a powerful statement from Governor Hochul about where cybersecurity ranks on our list of priorities.

It is an honor and privilege to help lead this agency, along with CIO Riddick and so many talented IT professionals. Once again, I thank you for your service and look forward to any questions you may have.

CHAIRWOMAN KRUEGER: Thank you both very much; appreciate it.

Our first questioner will be our chair of Technology, and you'll have to -- it's Senator Gonzalez, and she'll say the name of her committee.

SENATOR GONZALEZ: Hi. Thank you so much, Madam Chair.

I am Senator Gonzalez, from District 59, and chair of Internet and Technology.

So, very excited to see you both today. And to start, you know, so many things that you mentioned -- I wish I had more than 10 minutes, but want to delve into a little bit more understanding of your budget requests and the shared responsibilities.

So currently, you know, the budget's at almost $1 billion, making it the largest IT entity in the state. And I know that other entities share cyber-preparedness responsibilities with ITS, including the Division of Homeland Security and -- in addition to the chief cybersecurity officer, Colin Ahern. I was wondering how these are now shared responsibilities going to be playing into JSOC, which you just mentioned is one of our ambitious new cybersecurity efforts.

DHSES COMMISSIONER BRAY: Yeah, thank you for that.

So here's the way I describe the sort of division of responsibility here. ITS is responsible for state systems, state data.

DHSES, our division, is responsible for the support, the preparedness and helping to respond for any local government or critical infrastructure partner.

So if it's an incursion or something happens on a state system, that's ITS. If it's a local school board, if it's, you know, a water system somewhere, that's reported to the Division of Homeland Security and we deploy our cyber resources.

Now, obviously we work across the entire government, whether that's -- sometimes we call ITS and we say, Hey, we need your help, or we call the National Guard. But that's the division of responsibility.

Colin Ahern, the chief cyber officer for the Governor's team, has policy and strategic direction, control and leadership across both of the portfolios.

SENATOR GONZALEZ: Great. Okay.

And so just curious, considering now JSOC will cover local, state and federal, and considering that ITS's workforce it seems is

decentralized, actually, right -- where you have different members of your staff at different agencies -- how are, you know, how will new cybersecurity efforts be communicated from JSOC across our state agencies? Essentially is this a move towards a more centralized approach, or are we going to continue a decentralized?

OITS DEPUTY CIO LORENZ: So I'm not sure if I heard entirely correctly, but the IT for the state executive agencies is consolidated. So we do support a consolidated vision and we do have a communications channel across all of the agencies as we're changing policies or introducing guidelines.

When it comes to JSOC, obviously we're partnered like Commissioner Bray just mentioned, with DHSES and Colin Ahern, our cybersecurity officer for the state. But we work together when planning and addressing issues that occur, and we communicate cohesively across the agencies.

SENATOR GONZALEZ: Okay. So then for

the recommended 30 million for the office to partner with the Division of Homeland Security and Emergency Services to offer shared cybersecurity and data technology services to local governments, can you give me a little bit more detail on what new or expanded services these are funding?

DHSES COMMISSIONER BRAY: Yes. So that program is a program that we already rolled out this year that provides endpoint protection, provides EDR to counties and to localities. We've got five of our major cities signed up, and then 43 of our counties. The funding in the next budget will help us continue to provide endpoint protection to the counties and to localities, and we'll likely add additional services.

So, you know, there's a handful of cybersecurity -- there's a handful of things you can do to increase your cyber posture that we want all the counties to do. So endpoint protection we did last year. This year we're going to do -- continue endpoint protection, build that, and likely look at

something like attack surface management, which will help take our counties to the next level.

So that all of those resources are about providing a service to the counties.

SENATOR GONZALEZ: Yeah, I was curious about more of the specifics, because I wanted to talk about the budget and people and processes, but then also move, as you -- perfect segue -- into cybersecurity.

So, you know, last year attackers effectively shut down Suffolk County's government and stole nearly 4 terabytes of data. In response, Suffolk County instated multifactor authentication. That's one of the specifics, right --

DHSES COMMISSIONER BRAY: Yeah.

SENATOR GONZALEZ: -- of new processes that you might be funding with the additional budget that you're requesting.

So I am curious, one, if you can speak more to the scope of this problem, if you've seen -- you know, on what scale are we seeing ransomware attacks, how often, at what level

of government -- because then that speaks to JSOC. And then, two, with these new measures and new technology -- for example, multifactor authentication -- what percentage of state agencies are already using this, and really how -- like how far along do you believe we are in actually achieving a more secure response to the ransomware attacks that we've been experiencing this year?

DHSES COMMISSIONER BRAY: So I'll start with the counties and then pass it to Jen for the state agencies.

So in terms of what happened in Suffolk, that was the exploitation of a piece of software called VMware, sort of well promulgated throughout many, many different systems. The type of services we are now providing the counties and localities would have interrupted that attack. I can't tell you for sure it would have stopped that attack, but it certainly would have interrupted that attack. And it is the type of software designed to stop attacks like that.

We expect over the next couple of months to have added about 64,000 endpoints from our localities and our county partners to this type of protection. And again, you know, we've got about 43 counties lined up. They will all be rolled out in the next few months, and the five major cities outside of New York City. And New York City has their own program here.

So it is exactly the type of attacks like Suffolk found -- or Suffolk suffered that we are trying to prevent. We certainly have seen an increase in ransomware attacks. This year, DHSES responded to about 54 cyberattacks for localities, school boards, other critical infrastructure partners. That is relatively typical of the last couple of years, but it is definitely accelerating.

OITS DEPUTY CIO LORENZ: And as far as the state agencies and multifactor authentication, we have completed the MFA rollout for public-facing sites that we started out with last year; that was one of our objectives. Now we're looking at other

internal applications that we could have MFA assigned to.

But as part of the overall effort, we don't want to just lean into MFA as the only solution for security. We want multiple ways to defend against cyberattacks.

SENATOR GONZALEZ: And do you think that we're on track of like implementing those multiple ways? Or like what is the --

OITS DEPUTY CIO LORENZ: Yes. Yes.

SENATOR GONZALEZ: Or more specifically, more concretely.

OITS DEPUTY CIO LORENZ: Yes, we have many --

SENATOR GONZALEZ: How are you measuring?

OITS DEPUTY CIO LORENZ: -- ways underway. Identity access management is one of them. You know, you'll hear us probably talk more about the One ID. You know, getting to where individuals have a verified account that can be trusted to do business with the state. That's one way that we're securing it.

We talk about MFA. There's various levels of multifactor authentication. It's not just, you know, a token. How else can we verify the individual is who they say they are. So different types of MFA.

We're going to be exploring what else can we do on the network, you know, front. You know, how do we stop externally people, you know, trying to get in and attack us.

So there's a multilayered defense approach to cybersecurity.

SENATOR GONZALEZ: Okay. And then -- well, another question for ITS. You know, meeting with your office, we talked a lot about how not only state agencies but ITS as well have third-party contractors. So for establishing clear cybersecurity standards across all levels of government, through efforts like JSOC. I am curious, what are some of the vulnerabilities that those third parties currently may leave us or expose the state to, and then anticipated in the future?

OITS DEPUTY CIO LORENZ: To be in front of third parties, you know, utilizing

or working on our state network on behalf of our state agencies, we really try to do a review of most third-party applications before they're even put on our network.

So they do -- I mean, they do present a vulnerability, as you said, but we actively, you know, hunt for threats. We're trying to protect and defend as much as possible.

SENATOR GONZALEZ: Great. And so would then investigating the vulnerabilities further be within your office, or is that a joint effort within -- with DHS, any other members of JSOC?

OITS DEPUTY CIO LORENZ: Are you saying when there's an actual event? Or are you --

SENATOR GONZALEZ: No, like as you continue to hire third parties as they're existing.

OITS DEPUTY CIO LORENZ: We're actually trying to review it up-front. So ITS up-front is reviewing. We don't hire all of the third parties, so we try to work with

the agencies and incorporate cybersecurity reviews up-front. And that's how we're catching it.

SENATOR GONZALEZ: Yeah, I'm definitely curious, and we can talk more in the future about retroactively understanding of the third parties that you do know of or that are being hired, what their security practices are and then creating clear standards as we bring new third parties on for government contracts, if we are going to accidentally expose ourselves to any -- you know, any threat.

OITS DEPUTY CIO LORENZ: Agreed. Yeah, agreed.

SENATOR GONZALEZ: Okay, thank you.

CHAIRWOMAN KRUEGER: Okay, thank you. Thank you very much.

The Assembly.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Otis, chair of our Science and Tech Committee.

ASSEMBLYMAN OTIS: Thank you for your testimony. Thank you for your good work and

for the real aggressive stance that the Governor and your team is taking towards dealing with the cybersecurity issues.

So I have a few questions, really follow-up on my Senate counterpart over there with some of the same lines of questioning.

In terms of endpoint security availability and prevention, really, what is the game plan for making that fully accessible to all local governments and school districts -- I guess counties, theoretically all counties could sign up now and 45, I think, have so far. But what's the game plan for especially the smaller municipalities that are really even more vulnerable than bigger institutions?

DHSES COMMISSIONER BRAY: Yeah, absolutely. So let me first say that many municipalities already have endpoint protection, and it is something we have been encouraging municipalities and school districts to have for several years now. And most have it.

What we have done with the counties is

we have brought everyone up to the highest standard that is sort of commercially available out there, and then used state purchasing power to offset the costs. We are over the next, I would say, four to six months going to be in a position to have conversations about where to go next, who is the most vulnerable, after the counties, next.

And we're going to look particularly at who has systems that from the perspective of the state have to be protected. So for example, in Suffolk, that attack had real ripple effects, right? That was not a single school district coming down. That we got worried about 911 dispatch, we got worried about public safety systems. We're going to look across the entities, see where they are from a posture perspective, and then start having those conversations about where we go next after the counties.

ASSEMBLYMAN OTIS: So have you done a survey of the villages and towns and cities asking them what they're doing right now in

terms of cybersecurity?

DHSES COMMISSIONER BRAY: We rely on the counties to provide us information about what their villages and their townships are currently doing, and to engage with them on what type of protection they need.

ASSEMBLYMAN OTIS: Okay. Well, I certainly look forward to working with you and trying to expand that work. I mean, there's a lot of --

DHSES COMMISSIONER BRAY: Absolutely.

ASSEMBLYMAN OTIS: -- vulnerability out there, and I think this is an area where the state can play a more significant role with the expertise that both of your agencies have, to help our local players.

Now, interested in -- there is the State and Local Cybersecurity Grant program, the federal program that we can get some money for. And so do you have a plan, or you're in the process of updating the plan for the next application round? Could you update us on where that stands?

DHSES COMMISSIONER BRAY: Yeah,

absolutely. We were very excited to see the -- really, it's the first state and local grant program coming out of the federal government on cybersecurity. So we applaud our federal partners for that.

It is nowhere near sufficient.

ASSEMBLYMAN OTIS: Absolutely. Totally agree.

DHSES COMMISSIONER BRAY: We expect nothing more than $20 million over five years for the State of New York for localities and counties.

We are working across a committee that includes representatives from critical infrastructure from the counties, urban, suburban and rural, and should have a plan for those dollars this spring that we'll share.

ASSEMBLYMAN OTIS: Okay. And did we get for last year -- have we gotten like the first 5 million, or no?

DHSES COMMISSIONER BRAY: No, that would come this year in terms of the federal grant cycle.

ASSEMBLYMAN OTIS: I see. Okay. Yeah, and totally it's not enough money, I agree with you there.

In terms of device security methodology, maybe this is more an ITS question in terms of what is your methodology for analyzing new acquisitions and giving advice in terms of device security? What are the tools that you go through as an agency with state agencies, OGS primarily, in terms of their decisions on purchasing?

OITS DEPUTY CIO LORENZ: We can discuss maybe the tools that we -- the actual tools that we use separately.

ASSEMBLYMAN OTIS: Sure.

OITS DEPUTY CIO LORENZ: What we do as part of our intake process, have our CISO team get engaged, and they are part of the POC process where they, you know, use it and use their penetration, you know, tools to see what vulnerabilities that they can find.

But the specifics about the tools we could probably talk about outside of this.

ASSEMBLYMAN OTIS: Sure.

So then back to the local government issue -- and either of you can tackle this one -- when you're dealing with local governments do you sense a need that we should be looking at providing a funding stream to help them do some of this work? Would that be an additional way that we could provide assistance? Because I do think that they're -- I'm hearing there are some resource issues as well. And appreciate your thoughts on that.

DHSES COMMISSIONER BRAY: I would say that the federal government should provide a funding stream here. The federal government has a long history over the last 20 years of providing homeland security dollars. And given where security is heading and the type of threats we're facing, I would like to see the feds come in with some serious dollars for our localities, as they have in other arenas when people are under attack.

ASSEMBLYMAN OTIS: Well, fair enough. And I think, you know, you're here at a Ways and Means/Finance budget hearing; we'd

all like the federal government to pay --

DHSES COMMISSIONER BRAY: Fair point.

ASSEMBLYMAN OTIS: -- for everything that we're talking about.

But I think maybe we should listen to the local governments a little in terms of some of their needs and see if there are ways that we can fill in there, because one of the problems is lack of expertise, they're getting advice sometimes from their insurance carriers, and that necessarily isn't the full advice.

Different question. Since I mentioned insurance, what are you hearing in terms of the ability of local governments, school districts to get insurance? And are there things that we as a state can be doing to improve that market and the availability of coverage to protect against these kinds of incidents?

DHSES COMMISSIONER BRAY: Yeah, I think that the ransomware insurance market is going to rapidly evolve. I think that we're in a new era of ransomware, and we're in an

era where both the folks getting attacked do have better and more robust access to technical assistance. We've all now been through this a few years of so many attacks, one.

Two, I think that there is a larger acceptance of, frankly, not paying the ransom unless you've really got life and safety concerns with whatever system is down. I think that by and large what we're seeing is relatively good backup so that data recovery can happen even if it takes a long time. And that's good news, right?

But I do think that we're going to see a rapidly evolving insurance market in which insurers require that certain steps are taken before they will -- you know, will cover you, so that they'll require you to have endpoint protection, they'll require you to have backup before they will offer you products. I don't think that's a rapid change, I don't think it's going to happen overnight, but I think that's where the market will go.

ASSEMBLYMAN OTIS: Well, I think

that's it for now. I may come back for a second round. But look forward to working with both of you outside of the budget process on some of these issues, and thank you for your good work.

OITS DEPUTY CIO LORENZ: Thank you.

DHSES COMMISSIONER BRAY: Thank you.

CHAIRWOMAN WEINSTEIN: To the Senate.

CHAIRWOMAN KRUEGER: Thank you.

Senator Borrello for three.

SENATOR BORRELLO: Okay, can you hear me? Okay.

Thank you both for being here. Commissioner Bray, good to see you again. Thank you for all both of you are doing and the great interaction here.

I want to speak specifically -- I'm a Western New Yorker, and I want to speak specifically about the Christmas storm.

DHSES COMMISSIONER BRAY: Yeah.

SENATOR BORRELLO: I will just say specifically how would you rate New York State's response to that storm in particular?

DHSES COMMISSIONER BRAY: I have to

say I think obviously that was a devastating storm. And, you know, I have a weather background, I think you know that. And that storm was the -- this is not -- literally, this is not hyperbole, it was the longest blizzard in the continental United States history below 5,000 feet of elevation. We -- when I say we've never seen anything like that, it's because we have actually never seen anything like that.

I think that -- I wish I could tell you that the challenge with the storm was one of equipment and personnel. We had hundreds of people and hundreds of pieces of equipment deployed -- we got up over a thousand during the course of the event. And if it was a challenge of equipment and personnel, there would be really concrete things I could say -- that man, I wish we had had 10 more of this or 20 more of that.

This storm was a challenge of access and mobility. And so what I have to do in my job is ask myself is there anything we could have done to change the dynamic of access and

mobility, change the fact that for 12 hours the Buffalo Fire Department couldn't -- suspended -- they suspended emergency response. For 12 to 18 hours, depending on where you were, first responders couldn't go out.

We have an after-action that we'll launch in the next couple of weeks. We will make that after-action public when it's complete. I expect it to take several months. I expect that they will identify areas for improvement.

One of the things I'm most interested in looking at is what was the communication prior to the storm -- and what was not just in the week prior to the storm, but a year ago, two years ago, three years ago. How do people -- how do we get better at helping people understand that the weather of today is actually not -- it's substantively different than the weather of yesterday. These storms are more powerful.

So I think the state did a good job. But I'm really clear-eyed and conscious of

the fact that anytime that many people die from a natural disaster, you have to look seriously at what can be done better.

SENATOR BORRELLO: Yeah, and I think that's the point. And certainly this is not going to be the last time we're going to see this.

But, you know, I think one of the things -- the criticisms I hear -- and again, this is, you know, armchair quarterback -- is that, you know, the driving ban was too late. People had already left for work, and that was really -- you know, we knew this was going to be a powerful storm. They talked about it for at least a week, if not longer. And I think that that certainly hamstrung people's ability to safely get to home or back. And --

DHSES COMMISSIONER BRAY: You know, I don't want to Monday-morning quarterback a decision like that. Those decisions are brutally tough decisions, and obviously in this state they're delegated to the counties and the localities. So the state isn't -- we

don't have decisional authority there.

But, you know, the county executive has been I think really quite stand-up about this, saying that it's obviously something we need to look at. And certainly hindsight is 20/20.

SENATOR BORRELLO: Yes. All right, thank you very much.

DHSES COMMISSIONER BRAY: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: We go to John McDonald, chair of our Government Ops Committee, for 10 minutes.

ASSEMBLYMAN McDONALD: Thank you, Madam Chair.

And good morning. Thank you both for your service. And Commissioner, I have a couple of questions for you.

The Executive's budget is at 565 million, which is actually a decrease of $35 million from in the past. And we're just trying to -- not that we should be complaining, but we're kind of curious what

the reasoning is for the reduction, of the 6 percent reduction.

DHSES COMMISSIONER BRAY: It's just a shift in where those dollars show up. It's not an actual decrease. So it's just a shift in how we are showing the difference between state and federal funding. We can -- we can send you documents offline.

But there is no operational impact. And that funding will -- will be there for the division for those programs.

ASSEMBLYMAN McDONALD: Thank you.

In last year's budget, 4.3 million in funding was provided to expand the Cyber Incident Response Team to better protect security infrastructure in New York. How does the state plan to further expand the Cyber Incident Response Team? And how have the previous increases in funding been used in the past?

DHSES COMMISSIONER BRAY: Yeah, thanks. So the monies we got last year were used to hire staff who can now look to help localities, counties and critical

infrastructure partners be proactive.

That team, for as long as it's existed, has been a reactive response team -- something bad happens, they get called, they go. Now what we can do is host phishing exercises, do additional cyber-risk assessments, do tabletop exercises in a proactive fashion. So that was last year's dollars.

This year we're really going to work in partnership with ITS to expand the county services we can provide. So endpoint protection, we're looking at attack service management to come next. And we've added, not in cyber, but inside our Critical Infrastructure Team, additional people to focus on industrial control systems, so to focus on operating technology, which I know is a concern we all share.

ASSEMBLYMAN McDONALD: You might know both Mr. Otis and myself were former mayors, so we're kind of partial to local governments.

DHSES COMMISSIONER BRAY: Yes.

ASSEMBLYMAN McDONALD: You know, earlier to one of his questions you responded about the fact that with regards to doing these surveys you're kind of relying on the counties, which as one who's worked with counties, cities, towns, villages, they usually work well together -- but sometimes they don't.

So I just share a point of caution to make sure that those counties are truly communicating with the local governments. In this day and age no government, no matter how small or large, is immune from any kind of attack. So I just want to build upon that.

I also noticed in your comments today, which is very good to see, volunteer firefighters, a lot of support there. Appreciate that. But it talks about the ability of municipalities to provide nominal stipends to their own volunteer departments. So that's something that they'll make their own decision --

DHSES COMMISSIONER BRAY: That's right.

ASSEMBLYMAN McDONALD: What does "nominal" mean? Because that sometimes can be a vast discussion.

DHSES COMMISSIONER BRAY: This is -- I -- you know, my lawyer's in the back, she's hoping I get this question right.

So to maintain volunteer status, it's important that we don't allow for compensation. Where this has been done in other states -- and it has been done in other states -- they use a standard of 20 percent of what a career firefighter makes within that region. This would get done in reg making, in partnership with the Department of Labor.

But what we'd be looking at are stipends, fees, not to exceed 20 percent of what a career firefighter within a regional setting makes for that specific action. So if it's for an emergency response run, if it's for training, it has to sort of be benchmarked to that, to stay on the right side of maintaining volunteer status.

ASSEMBLYMAN McDONALD: Okay, thank

you.

And the other thing I'll add, and this is more just to thank you, the Hazard Mitigation State Revolving Loan Fund -- as a former mayor, I've dealt with these projects; when they usually get to that proportion, they aren't usually $50,000, they're usually quite expensive. Is there any -- I didn't see it in the language, but terms and conditions of those loans, is that something based on the current market conditions? Is there a set interest rate? Or how has that been?

DHSES COMMISSIONER BRAY: It's actually a federal program. I'd have to get back to you on the specific terms that the feds are setting for those loans. But this will allow us, from a statutory perspective, to participate in that program.

ASSEMBLYMAN McDONALD: Which is great, and we thank you.

DHSES COMMISSIONER BRAY: Yeah.

ASSEMBLYMAN McDONALD: Okay. All done, Madam Chair.

CHAIRWOMAN WEINSTEIN: Okay.

Yeah, Senate.

CHAIRWOMAN KRUEGER: Okay, thank you.

Our next is our new chair of Homeland Security, Jessica Scarcella-Spanton.

SENATOR SCARCELLA-SPANTON: Hi. Good afternoon. Thank you so much.

I guess my first question would be if you could walk us through the preparations from the Buffalo storm. We knew that this was coming. Could you just give us some insight as to the steps that were taken beforehand and how we can prepare better for next time.

DHSES COMMISSIONER BRAY: Yeah, absolutely. I really would welcome the opportunity to talk about this storm.

So we began concretely preparing the Monday prior to the event. And for Monday, Tuesday, Wednesday, those days were really about four things. Number one, they were about spreading a message, getting a message out, making sure that we were ready to communicate with the public. Number two,

they were about engaging with our county emergency managers to make sure that our counties understood what was coming. Number three was about pre-positioning state assets.

And then the fourth thing was about understanding the forecast, right? This was a statewide event. Even as late as Thursday morning, Thursday afternoon, we were looking at serious and significant -- we were worried about serious and significant statewide impacts. We saw significant flooding downstate, some of the worst coastal flooding since Sandy. We were very worried about flash flooding potential in the Hudson Valley and the Capital Region -- it didn't end up developing -- and very worried about flash freezing in the Finger Lakes and Central New York.

And so we were doing those four things Monday, Tuesday, Wednesday. And formally, we run formal coordination calls, sort of implement formal processes there.

On Thursday our attention really turned to making sure that we had sufficient

personnel and equipment in the regions that we were worried about. It turned to making sure that we were amping up our communication, both on television and radio and social media. And then on Friday, obviously, as the storm came, there were decisions that had to be made in a sort of hour-by-hour, minute-by-minute basis.

As I said earlier, the gut-wrenching part of this storm was the fact that for such an extended period of time our first responders were frozen in place, literally could not deploy. There was a long stretch from midday Friday till 12 a.m. on Sunday in which about two-thirds of all of the response personnel and equipment we sent out got stuck themselves. Nearly every fire truck in the City of Buffalo got stuck. We ended up rescuing rescuers.

And so this was really a challenge of not being able to access areas and people despite the pre-deployment, despite the pre-positioning of equipment. Search and rescue operations ran as they could Friday,

Saturday, and then robustly around midnight Sunday when the blizzard conditions got better. This was about 30, 37 hours in which if you put your hand in front of you, you could not see your hand. That lifted Sunday at 12 a.m., so search-and-rescue then sort of went full force, clearing backlogs of 911 calls, clearing stranded vehicles. State personnel ended up making 650 saves over the course of the response effort.

That work continued Sunday-Monday. Tuesday-Wednesday was really about food delivery, making sure that we were resupplying areas, you know, having gotten now into all the areas, making sure that power was back on. And then Thursday, Friday, Saturday really about snow removal and snow cleanup.

SENATOR SCARCELLA-SPANTON: Is there enough funding appropriated in the fiscal year '23-'24 budget to meet the demands of emergency disaster preparedness and response statewide?

DHSES COMMISSIONER BRAY: Yes, there

is. I will say one of the things I'm proud of is how seriously this administration and the Governor takes emergency response and deployment. And obviously as climate change increases the ferocity of these storms, we are demanding more and more of our emergency managers not only at the state level but also at the local level. We do have sufficient funding in this budget to do our jobs.

SENATOR SCARCELLA-SPANTON: Do you feel that the division prepared to respond to the snowstorm in which 27 people from Erie County died? Did you do everything you could have, and are there any changes that you would make in the future?

DHSES COMMISSIONER BRAY: So there's not a person in the world that would have my job that would say 47 people dying, we're not going to do anything differently, right? It is crushing and frankly devastating to first responders when we get there and we can't deploy.

We're doing a formal after-action that should begin in the next week or two. It

will take several months. I don't want to prejudge, from that after-action, recommendations they make. I will tell you whatever recommendations they make, we will take with the utmost seriousness. And, you know, we'll look at all of that information.

I think, my gut, is that the most important recommendations are going to be made about what happens prior to a storm. And also what happens, what are the socioeconomic factors. We know that people who are struggling economically or struggling with access to information in every single disaster experience worse outcomes. We need to address those things at that level in order to see better outcomes.

SENATOR SCARCELLA-SPANTON: The Executive Budget for fiscal year '23-'24 recommends 3.3 million in funding for Red Cross emergency response preparedness, a decrease of 1 million compared to '22-'23. Why was the funding for Red Cross emergency response cut from that budget?

DHSES COMMISSIONER BRAY: It is equal

to the Executive Budget last year.

SENATOR SCARCELLA-SPANTON: Okay.

And how will the 3.3 million be allocated in the next fiscal year to help our local communities prepare for emergencies during what is still a global pandemic?

DHSES COMMISSIONER BRAY: Yes. So that is monies that go directly to the Red Cross. DHSES does not weigh in on how the Red Cross spends those. They're obviously an incredibly important partner of ours, and we trust them with that funding.

SENATOR SCARCELLA-SPANTON: Absolutely.

How will the 8 billion appropriation for federal disaster assistance be disbursed to local governments throughout the state?

DHSES COMMISSIONER BRAY: That is to allow us to make the payments under the COVID federal disaster. So that is, you know, direct reimbursement, response to the projects that have already been submitted for the COVID disaster.

SENATOR SCARCELLA-SPANTON: And would

the localities have to apply to access the fund?

DHSES COMMISSIONER BRAY: Right. So localities -- any eligible applicant -- hospitals, you know, localities, nursing homes, universities -- have already applied. And what this will allow us to do is actually have the appropriation authority to administer those funds.

SENATOR SCARCELLA-SPANTON: How equipped is the state currently to handle an unforeseen natural or manmade disaster?

DHSES COMMISSIONER BRAY: I believe we are prepared. I am humbled in this job every day. And so I never want to say, you know, we know everything that's going to happen. We don't. If you'd asked me four years ago if I'd spend the next three years of my life working on a pandemic, I would look at you like you had horns growing out of your head.

But we are prepared. And we take preparedness and response incredibly seriously. But it's important to stay humble in these jobs.

SENATOR SCARCELLA-SPANTON: And why was the appropriation split between State Operations and the Aid to Localities budgets?

DHSES COMMISSIONER BRAY: Which appropriation?

SENATOR SCARCELLA-SPANTON: It says the split between the State Operations and the Aid to Localities budget split.

DHSES COMMISSIONER BRAY: Our budget is always split between State Operations and Aid to Localities. I really -- we at DHSES really believe that our job is to help localities be ready and to have the backs of our first-line responders. So a lot of our budget is always in Aid to Localities. The State Operations is obviously how we are able to fund ourselves.

SENATOR SCARCELLA-SPANTON: Okay. And that appropriation is specifically for the counterterrorism program?

DHSES COMMISSIONER BRAY: Our counterterrorism program -- what we have, we have a number of counterterrorism programs. Our counterterrorism program both funds our

counterterrorism staff, so that would be in State Operations. And in the grants, they're largely federal grants that we make to counties and localities. That would be in Aid to Localities.

SENATOR SCARCELLA-SPANTON: And with regard to counterterrorism, is there sufficient funding to address concerns regarding domestic terrorism?

DHSES COMMISSIONER BRAY: Yes, there is. Governor Hochul made a $10 million recurring appropriation last year; that continues this year. And we are digging in and focused head-on on taking on that threat.

SENATOR SCARCELLA-SPANTON: And what are some of the efforts that this program has done to combat domestic terrorism?

DHSES COMMISSIONER BRAY: That program in its first year is primarily focused on setting up threat assessment and management teams across the state. Those are teams that focus on targeted violence prevention. That's the type of violence we see most often in mass shootings.

So that money and that team right now are mostly focused on setting up those teams.

SENATOR SCARCELLA-SPANTON: Okay. And with regard to cybersecurity, how much of the 2.1 million increase in State Operations is directly going to the Cyber Incident Response program?

DHSES COMMISSIONER BRAY: All of it.

SENATOR SCARCELLA-SPANTON: Okay. So are all 28 recommended FTEs being placed in the cyber incident response team?

DHSES COMMISSIONER BRAY: The 28 increase this year, different from the CIRT increase last year, is split between State Fire and between our Critical Infrastructure Team.

SENATOR SCARCELLA-SPANTON: Okay, excellent. Thank you.

CHAIRWOMAN KRUEGER: Thank you very much.

Assembly.

CHAIRWOMAN WEINSTEIN: Assemblyman Dinowitz for three minutes.

ASSEMBLYMAN DINOWITZ: (Mic off.)

Thank you both. My question is directed to Commissioner Bray.

(Off the record.)

ASSEMBLYMAN DINOWITZ: Well, maybe we should get a new sound system.

So I wanted to talk a little bit about the Domestic Terrorism Prevention Unit. I think as you know, antisemitic crimes and all kinds of hate crimes have risen dramatically in the United States, especially since the election of 2016. But of all the hate crimes, crimes against Jewish people -- Jewish people comprise 2 percent of the general population, maybe 3 percent -- a greater amount in New York, of course -- but close to two-thirds of the religious-based hate crimes are directed against Jewish people.

So I see in your testimony you talked about providing training, resources, technical assistance to communities dealing with domestic violent extremism, particularly white supremacists, antisemitic. Could you be a little more specific about what this

administration has done to deal with this epidemic of hate crimes directed especially against Jewish people?

DHSES COMMISSIONER BRAY: Yeah, absolutely, thank you for the question. I think it's the greatest threat we face right now.

The -- three things. Number one, we administer the federal not-for-profit security grant program. That grant program goes to not-for-profit organizations that are targets of this type of violence to improve their physical security. It can also go to pay for security guards, cameras, that type of thing. So we administer that program. We're very proud that New York State gets the plurality of that funding nationally, more than any other state. We expect to continue that.

Number two, we are focused on setting up threat assessment and management teams. These are teams that are interdisciplinary teams that are working what we call left of boom. So law enforcement responds to the

actual event, they're very good right of boom, but we need more focus left of boom on prevention. And so we're doing that work by setting up these threat assessment and management teams.

And then number three, we are spinning up training programs to educate people on how to spot radicalization. We need our school staff, we need our mental health professionals, we need parents to know how to spot radicalization and know how to intervene to knock that off course before things happen.

ASSEMBLYMAN DINOWITZ: Mm-hmm. Okay, thank you.

DHSES COMMISSIONER BRAY: Thank you.

CHAIRWOMAN WEINSTEIN: We go to the Senate.

CHAIRWOMAN KRUEGER: We do go to the Senate, and we go to Senator Ashby.

SENATOR ASHBY: Thank you, Madam Chair. Can you hear me all right?

Commissioner Bray, good to see you --

CHAIRWOMAN KRUEGER: Five minutes

because he's a ranker. Sorry. Excuse me, Senator.

SENATOR ASHBY: Good to see you, Commissioner Bray. Good to see you, Deputy Chief --

CHAIRWOMAN KRUEGER: Is your microphone on, Senator?

SENATOR ASHBY: The light is on.

CHAIRWOMAN KRUEGER: Just move it a little closer so we can all hear you.

SENATOR ASHBY: All right. Better? All right.

The first question I have is in regard to the 10 million to create the volunteer firefighter training stipend. Is that going to be reoccurring?

DHSES COMMISSIONER BRAY: Yes.

SENATOR ASHBY: And is that going to be in conjunction with the nominal stipend that Assemblyman McDonald referred to earlier?

DHSES COMMISSIONER BRAY: Yes. So our intent with the stipend, the state-sponsored stipend, is to be able to help offset the

costs of taking the training required. A basic firefighter, an exterior firefighter, that training requires about 80 hours of training. Interior is an additional 40 on top of that. Those used to have to take that without any offsetting of your expenses of that time, and our goal is to help offset that.

SENATOR ASHBY: So how would that be distributed among the 1600 volunteer firefighters?

DHSES COMMISSIONER BRAY: What we would do is that any person, upon completion of certain courses, we're going to start with what we call BEFO and IFO, basic exterior and interior firefighter. Anyone, on the completion of that, could ask their fire department to request this stipend, and then we would pay directly to that firefighter that's completed that training, in an effort to assist in recruitment.

SENATOR ASHBY: How much does that cost per firefighter?

DHSES COMMISSIONER BRAY: We're

suggesting -- we have not -- we are suggesting about $750 per firefighter who completes basic, and about 1250 for every firefighter that completes interior.

SENATOR ASHBY: Okay. Because with the math, that's roughly $6,000 per department if there's 1600. I mean, I know that there's a nominal effort in here for the municipalities to seek it, but it seems underfunded.

DHSES COMMISSIONER BRAY: We believe that this funding will cover everyone that takes BEFO and IFO each year.

So we're not -- we're not doing this where, you know, you take it in January, you get the stipend, you take it by December, we're out. We're doing this explicitly after looking back and how many people take these courses each year and giving ourselves some cushion for this to help with recruitment so that everyone that took those courses each year would get it.

SENATOR ASHBY: Okay. I appreciate the effort. You know, 10 million to go

towards the recruiting -- I know that there's other funding in there. But with 76 percent telling us that, you know, there's a real issue here, I would hope we're going to get more.

DHSES COMMISSIONER BRAY: There's no question that there is a crisis in the volunteer fire service.

SENATOR ASHBY: In regards to that, in terms of the emotional resilience workshops that you rolled out last year, are those going to be continuing this year?

DHSES COMMISSIONER BRAY: Yes.

SENATOR ASHBY: And what -- how effective were they?

DHSES COMMISSIONER BRAY: Well, I think it's hard to judge effectiveness after a single year or, say, six months. We rolled them out in the middle of the year.

SENATOR ASHBY: Did you get positive feedback?

DHSES COMMISSIONER BRAY: We do get very positive feedback from our emotional resiliency workshops, yes. I think that the

first responder community understands that they are experiencing trauma and crisis and need to seek opportunities for help.

SENATOR ASHBY: Right. You know, one of the ways that I would measure the efficacy is if we see less burnout, if we see higher --

DHSES COMMISSIONER BRAY: Right. A reduction in burnout, a reduction in suicides. That's the type of stuff we should look at.

SENATOR ASHBY: And, you know, one of the things that we've seen on the veterans side is peer-to-peer support.

DHSES COMMISSIONER BRAY: Yeah.

SENATOR ASHBY: And this may be helpful and something to consider with our first responders as well.

DHSES COMMISSIONER BRAY: I absolutely agree. We just hired a new deputy state fire administrator, Luci Labriola-Cuffe, who has specific expertise in the peer-to-peer networks of firefighters. And one of the reasons we hired her is for her to focus on

things like this.

SENATOR ASHBY: All right. Appreciate your time. Thank you.

DHSES COMMISSIONER BRAY: Thank you so much, Senator.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Assemblyman Bores.

ASSEMBLYMAN BORES: Hi. Thanks for being here.

I am thrilled to hear you mention future pandemics as a threat we need to take seriously. What -- in this budget, what investments are we making to keep New Yorkers safe there?

DHSES COMMISSIONER BRAY: There are investments in the Department of Health budget, so I would encourage you also to ask his team.

The investments that we make in future pandemics are really the investments that we are making -- twofold: One, in our emergency management, sustaining and improving our

emergency management capabilities, and then, two, in the resources that we pass on to localities and counties. They are able to use those grant monies if they choose for health emergency preparedness.

ASSEMBLYMAN BORES: Wonderful, thank you.

I want to move on to cyber. I really think New York and this administration has been a leader among states, but obviously there's always more to do here. So there's expensive things to do with cyber, and there's cheaper things we can do with cyber.

Do you have a sense -- and we can follow up if we need to -- like what percentage of logins in state agencies are done currently with multifactor authentication?

OITS DEPUTY CIO LORENZ: I don't have that specific number on what percentage.

We do, from the state perspective, support 150,000 --

CHAIRWOMAN KRUEGER: Mic.

OITS DEPUTY CIO LORENZ: -- state

employees --

CHAIRWOMAN KRUEGER: Can you speak a little louder? Sorry.

OITS DEPUTY CIO LORENZ: Can you hear me now?

CHAIRWOMAN KRUEGER: Thank you.

ASSEMBLYMAN BORES: It's okay, we can follow-up later on the specifics of that.

OITS DEPUTY CIO LORENZ: Okay.

ASSEMBLYMAN BORES: Do you have a sense of phishing campaign assessments, if we've rolled those out?

OITS DEPUTY CIO LORENZ: We don't have a specific number on those, but we do take every threat seriously. So we actually are similar to the emergency services, where we're constantly prepared. So it's kind of the approach that we take, we're just always expecting there to be something, so how do we get in front of it.

ASSEMBLYMAN BORES: Well, and I think that's the value of the phishing campaign assessments, is people always end up clicking up on them, and sort of the ongoing education

there.

Do you know of any state agencies currently using DMARC on its emails that go out, or like protection for spoofing?

OITS DEPUTY CIO LORENZ: I can get you that information after this, sure.

ASSEMBLYMAN BORES: Okay, cool. Let me actually ask -- maybe I'll move on to state contractors and requirements there. A lot of these things I just named are requirements of any federal contractor. Do you know if we provide any of these sorts of requirements on any of our state contractors using multifactor authentication or DMARC or SBOMs?

OITS DEPUTY CIO LORENZ: We require of our state contractors that they go through our background checks. Is that what you're referring to? Or are you referring to technically?

ASSEMBLYMAN BORES: I think these specific tools. But I'll follow up with that, apologies. Please.

DHSES COMMISSIONER BRAY: Let me just

say that the federal -- obviously the Biden administration has led on baking into their procurements really high levels of cybersecurity. It's something that the ITS team, our team and Colin Ahern are looking at seriously for the state.

ASSEMBLYMAN BORES: Awesome. And there are certainly tradeoffs at different levels, so understood. Just kind of want to get the raw facts for where we are currently.

Last thing is I think there's a call for 15 UFTs in ITS. Tech just laid off a bunch of talent. What can we do to make that easier for you to hire and get more of that talent into government?

OITS DEPUTY CIO LORENZ: We are doing everything we can. We appreciate the support to hire. We've been doing outreach to many various entities. We've had over 50 job fairs this year. We've got a SUNY/CUNY partnership underway. So we continue to do outreach.

ASSEMBLYMAN BORES: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

To the Senate.

CHAIRWOMAN KRUEGER: Thank you.

Senator Zellnor Myrie.

SENATOR MYRIE: Thank you, Madam Chair.

I represent the One Brooklyn Health System, and I know that Suffolk County has gotten the lion's share of attention for the cyberattacks, but we were victims of a cyberattack as well.

DHSES COMMISSIONER BRAY: Yes, you were.

SENATOR MYRIE: And we have had great consternation in the community, as you might imagine. There has been worries about patient privacy, what the implications are for patient service going forward, the medical providers, the healthcare workers, all of whom have had to effectively operate as if they were in the 1990s because of this attack.

So I'd like to know, one, whether we have enough resources in this budget to help prevent future such attacks.

Two, one of the complications in responding to this was we didn't have the information, and when we asked the Brooklyn Health System, they could not or would not give it to us. So my hope is that there is a strategy going forward for collaboration on how we respond to the community but also work to prevent these type of attacks from happening in the future. So I'm hoping I can get your thoughts on that.

DHSES COMMISSIONER BRAY: Yeah, so let me talk about resources.

Obviously the state is tremendously involved in funding hospitals, period. Right? And it would be a DOH question about whether or not the funds that the state is already putting into hospitals can be used for cybersecurity. I think they can. But there isn't specific hospital security funding in our current budget. The hospitals are called out very specifically in the federal cybersecurity plan that the way we spend those federal dollars will need to include the healthcare sector. So I'd be

looking for that this spring from us.

Most cyber incursions are left to be reported on a voluntary basis. That isn't true in some places that are federally regulated. So there are some sectors -- the financial sector -- in which there are requirements for reporting. You all passed, and we thank you, a bill to increase reporting in the energy sector. I think that it is -- I think we're at the place where we need to look across all of our critical infrastructure partners and ask seriously whether or not we need mandatory reporting.

SENATOR MYRIE: Thank you.

DHSES COMMISSIONER BRAY: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Assemblyman Norris, three minutes.

ASSEMBLYMAN NORRIS: Thank you.

My question is for you, Commissioner Bray.

First, I want to just mention that the report that we've done on the volunteer --

Task Force for Volunteer Firefighters was very important, that it was overdone by your department. I actually sponsored the bill in the Assembly; it was carried by the chair of Local Governments.

And what I really want to say to you is this report is great, has been very well done, is not just put on the shelf -- and I saw that in terms of what's being put forth in the Governor's proposed budget. And it's very important going forward.

Now, my question for you -- you answered the one on the nominal fees. But in terms of the actual stipends for the training, $750 per firefighter, how is that going to be done in terms of their time off from work and also potentially a credit for the businesses?

I did a conversation with local volunteer firefighters and some people, you know, can't take those two weeks paid vacation to go there. Was that addressed by the commission, or can you provide some insight on that?

DHSES COMMISSIONER BRAY: So let me just say I'm glad the volunteer fire service is getting attention at this hearing. They are in crisis, they need our help, and we're focused on it.

So we made the decision that the cleanest way to do this was direct payment to the individual firefighters. If you take interior firefighting, you actually would end up getting that 750 for basic plus the 1250 for interior. So those would be additive.

One of the ways we have to also address these challenges is that we've got to offer our classes in more flexible ways. Some people want to come and do three weeks intensive in the summer. Some people want to come three nights a week for three months. Some people are going to want to come, you know, one Saturday for six months. Right? We're going to have to be flexible as a state in how we offer this so that we can get as many people as possible.

They're demanding it of us, the firefighters, and they should get that from

us. This budget does provide an increase of 18 FPSs in order to increase the type of training we can provide.

ASSEMBLYMAN NORRIS: Thank you, Commissioner.

I also just want to mention the importance of the reimbursement for our volunteer firefighters in terms of a stipend for gas and going to the scenes. Whether that be through gas cards or actually a tax credit, even compared to a deduction on their income tax, that would be very important.

Everything is up in terms of inflation and our gas and wear and tear on our vehicles. That is something I've heard from my volunteer fire departments, and I would encourage the administration to take a look at that.

And finally -- I know my time is coming to an end -- I want to mention the crisis within our rural areas as well in terms of the ambulance service. Now, what is being done by the administration to focus more on making sure that we provide adequate

services to our rural areas in terms of ambulance services?

DHSES COMMISSIONER BRAY: I have to direct you to the Department of Health on that one. We do have State Fire at DHSES; we don't have State EMS.

ASSEMBLYMAN NORRIS: Very good, I will direct my questions there. And thank you very much, Commissioner, for your time.

DHSES COMMISSIONER BRAY: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Senator Gallivan.

SENATOR GALLIVAN: Thank you, Madam Chair.

Good afternoon, Commissioners. Thanks for your testimony. My questions will be directed to Commissioner Bray, if I may.

I also wanted to ask you about the response in Western New York. I'm trying not to go where others have gone, so -- and I know that you've addressed the after-action report, so I'll be anxious to see that.

A specific question that I have, though, is what role can the state or your

agency play to ensure that there's coordination in response between everybody -- city, county, town, village? In the application, of course. So of course we saw this in Western New York, and the question raised. But really it's an application beyond just responding to a snowstorm, and the application of course is statewide.

I mean, should -- what role should your agency play on that?

DHSES COMMISSIONER BRAY: I think we should play an essential and central role in ensuring that there is communications and coordinations in a regional response, full stop. I think that this -- Governor Hochul is very clear that we have to be good communicators, good coordinators, and that we have to frankly reset the culture of the way that the state interacted with localities and counties so that we can build the trust that we need to be the coordinators and be the facilitators.

Throughout this response I was in near constant touch with both County Executive

Poloncarz and Mayor Brown, and I stayed in touch with both of them to discuss what their priorities were and what they needed throughout the response. And I would expect that of me or anyone in my job in any major event.

SENATOR GALLIVAN: Does your budget address this in any way?

DHSES COMMISSIONER BRAY: Well, we don't need additional funding to make sure that myself, my executive team, our senior leadership at OEM stay in direct contact with people in that way. So the budget doesn't provide increases there, but it certainly funds the Office of Emergency Management, and that's where we do this work.

SENATOR GALLIVAN: Going back to the overall budget, if I'm not mistaken it provides for 28 additional employees.

DHSES COMMISSIONER BRAY: Yes, sir.

SENATOR GALLIVAN: Where and what do they do?

DHSES COMMISSIONER BRAY: Six will be in our critical infrastructure unit, and

they'll be focused on industrial control systems so the operating technology of our critical infrastructure partners and its security.

And then 22, spread out, will be focused on the volunteer fire service: 18 additional actual fire protection specialists to provide additional training that we hope is spurred, three to administer stipends, and an additional legal counsel.

SENATOR GALLIVAN: All right, thank you. My time is up.

I don't have a question, but I'd be remiss if I didn't state how much I think it's time that we are addressing the volunteer firefighter crisis in a much more meaningful way, so I'm glad to see that you've started.

DHSES COMMISSIONER BRAY: Thank you, sir.

SENATOR GALLIVAN: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Assemblyman

Lavine.

ASSEMBLYMAN LAVINE: Thank you both for watching out for all of us. And please thank the good people you work with as well.

One of the things we learned on September 11th was that our firefighters could not electronically communicate effectively with our law enforcement, our police officers. And I suspect that that may very well have been true even before that, within different divisions in the New York City Police Department, and certainly throughout the state.

So we established then a State Office of Interoperable and Emergency Communications and a separate board of experts who advise. Can you tell us how we are doing now in terms of the ability of all of our essential first responders to be able to actually communicate with each other?

DHSES COMMISSIONER BRAY: Yes. And my team at OIEC will be so happy that I got an interoperable communications question.

We are light-years ahead of where we

were. We have good, strong interoperable networks across the vast, vast majority of the state. Where we lack some of those networks is also where we lack connectivity. You know, there are places in the Adirondacks where we really struggle. There are places where the network isn't as strong. We are about to announce another round of targeted grants to increase the radio infrastructure. Those often go to our more rural areas to help us.

But we are light-years ahead of where we were. I'd be happy to get you a technical briefing on it. I'm confident that our local first responders can talk to each other.

ASSEMBLYMAN LAVINE: Super.

DHSES COMMISSIONER BRAY: All right! The radio guys will be thrilled.

CHAIRWOMAN WEINSTEIN: Senate?

CHAIRWOMAN KRUEGER: Senator Jamaal Bailey.

SENATOR BAILEY: Thank you.

Really quickly, there's $20 -- $20? I wish it was $20 -- $20 million in funding for

the 911 system upgrades. I represent the City of Mount Vernon, and the City of Mount Vernon has had some challenges with the 911 system and trying to revitalize it. Not to make it overly district-specific, but I'm getting to my point, I promise.

How is this $20 million going to be allocated throughout the state for upgrades? Are we going to -- are you in a search and looking for antiquated systems? Is there a list? How would cities and municipalities like Mount Vernon be eligible for funding like this?

DHSES COMMISSIONER BRAY: Right. So let me just -- so everyone knows, right, what we're doing with Next Gen 911 all across the country is we're literally going from copper wire -- yes, our 911 centers have copper wire still -- to fiber. We have to do that, right? First responders should be able to get not just word files, but they should be able to get videos, they should be able to get audio files, so that they know what's going on out there.

This is the first of what will have to be additional investment in this transition. We are going to work with the state 911 coordinators to make sure that there is a coordinated statewide plan so that we don't have a patchwork system, and then we'll begin the investment at the local level using that statewide plan.

SENATOR BAILEY: Great. I would just implore you to take a look at municipalities, specifically in Mount Vernon, I would say, as personal interest, as representing, but also municipalities like it that may be having struggles that there are certain -- in certain places, certain spots in the City of Mount Vernon that, depending on where you are, 911 may not work. And those are things that you certainly cannot -- you know, we certainly cannot have.

DHSES COMMISSIONER BRAY: Absolutely.

SENATOR BAILEY: So from a representation perspective, but also as the perspective as related to this budgetary item, which I'm pleased to see, I would

implore you to take a look at municipalities on a need-based basis.

And thank you.

DHSES COMMISSIONER BRAY: Absolutely. And we have grant programs now that do that, so I will look at Mount Vernon.

And I would just say I know I'm out of time. I would just say that any 911 system that is struggling in a substantial way, reach out. We want to hear from you, we want to know.

SENATOR BAILEY: Thank you.

So in my 40 seconds left, really quick, Red Cross emergency funding -- there was a big fire in the Bronx portion of my district. And one of the concerns that was Red Cross about there wasn't enough temporary housing within the borough, and folks that lived in the Bronx had to be shuttled to Brooklyn and Queens. While they may be fine and excellent places, it is easier to have them in the borough.

With the funding, is there an emphasis on trying to look at housing for individuals

that are displaced in the results of disasters or emergencies?

DHSES COMMISSIONER BRAY: So this funding makes up actually a pretty small percentage of the overall Red Cross budget in the region; it's less than 5 percent. I can't tell you if it's this 3 million that goes to what in their budget.

But we obviously need to work to make sure that disaster housing is available for people near their communities.

SENATOR BAILEY: It would be my hope, because based upon this panel and the fact that there is an approach in this administration not to have agencies siloed, and I see that you work together well, I would hope that you would be able to work in a non-siloed way with Red Cross in order to ensure that folks that need temporary housing receive it.

Thank you for your time.

DHSES COMMISSIONER BRAY: Thank you.

CHAIRWOMAN KRUEGER: We all do. Thank you very much.

Assembly.

CHAIRWOMAN WEINSTEIN: Assemblyman Reilly.

ASSEMBLYMAN REILLY: Thank you, Madam Chair.

I have a question about funding for training and equipment for fire and EMS when responding to active shooter incidents. And, you know, the idea is to get there to render aid, but it's also about having the right training and coordination with local PD.

DHSES COMMISSIONER BRAY: Yeah. So we have the State Preparedness Training Center, which is a really gem of a facility out in Oriskany, New York. If anyone hasn't been, you should come. We specifically train this exact thing. We train EMS, fire, police departments from a single locality to work together to go in during an active shooter event, so that you don't have to secure a scene fully before you get EMS in there to stop the dying. Right? Law enforcement's got to stop the killing; EMS/fire's got to stop the dying.

So there are certainly dollars in this budget to continue that training. And if there was demand, we would increase that training. And, you know, we provide for the type of technical assistance and facilitation. We don't provide specific dollars direct to fire and EMS for what we would consider their day-to-day activities. And I would consider this part of day-to-day.

ASSEMBLYMAN REILLY: Okay, thank you.

And just to comment on the radio communications, the disconnect, sometimes, in the interoperability. I remember firsthand working the police department, when I was in the NYPD, and we had communication with transit police. They were on a different frequency. And I can tell you how terrifying that is when something's happening and you can't connect. So I thank you for your efforts on that and making sure that that doesn't -- that we have that communication piece in all our localities.

One thing that I actually wanted to talk about too is the 911 system. And my

colleague just spoke about it a little bit. We had a few incidents in Staten Island, in Richmond County on the South Shore, where a 911 call was going to New Jersey instead of to New York City 911.

Has this happened in other regions? And is there an active study so we can hopefully eliminate that from happening in other areas?

DHSES COMMISSIONER BRAY: Unfortunately, the type of GPS systems we have in like our food delivery apps are more advanced than the type of GPS systems that many of our 911 centers have.

We have to change that. That is part of what Next Gen 911 is -- has to do, must do. And this is the first investment in that from the state to get us there.

ASSEMBLYMAN REILLY: Do you think you have somewhat of a timeline for when that could be accomplished statewide?

DHSES COMMISSIONER BRAY: I'd be happy to come back over the next, you know, four to six months to talk more robustly about

Next Gen 911. It's going to be a several-year project -- you know, three, five years -- to really build the backbone of a fiber-enabled system that does exactly this.

ASSEMBLYMAN REILLY: Thank you so much.

DHSES COMMISSIONER BRAY: Thank you.

CHAIRWOMAN WEINSTEIN: Senate?

CHAIRWOMAN KRUEGER: Thank you.

Our next Senator is Senator Murray.

SENATOR MURRAY: Thank you very much.

And thank you for being here.

Seeing that I live in and represent Suffolk County, I'm going to bring you back to the Suffolk County ransom attack. You said something earlier that got my radar up a bit. You had mentioned that you make recommendations about the latest protections that are available and also you're available to kind of use the purchasing power of the state to keep costs down.

Was that available to counties about a year ago?

DHSES COMMISSIONER BRAY: Man, I wish.

SENATOR MURRAY: Okay, so this is new.

DHSES COMMISSIONER BRAY: This is -- so this was an investment all of you supported in the Governor's budget last year that we were in the process of rolling out when the Suffolk attack happened.

I believe -- although my technical advisors will say you can never say you're certain -- but I believe that had we rolled this out the year prior or two years prior, we would have seen a very different scenario in Suffolk County.

SENATOR MURRAY: Right, because they -- it was reported that cost might have been a factor in them not upgrading the system. And so with those concerns, if it was available cheaper, that would have been very frustrating if they didn't take advantage of it.

DHSES COMMISSIONER BRAY: Yeah, I can't speak to that decision making.

I will say I think the county executive did a phenomenal job in the response. He really stepped in and did not

miss a beat in both making sure that we were bringing systems -- he was bringing systems back on safely and making sure that essential services never were interrupted.

SENATOR MURRAY: We're still not completely there, but I mean it -- at one point when it did happen, 911 was literally scraps of paper being handed back and forth. That's how bad it got.

DHSES COMMISSIONER BRAY: I am aware.

SENATOR MURRAY: Real estate basically stopped, because no title searches. It was -- it was very bad.

DHSES COMMISSIONER BRAY: Yes, it was bad. And the state did actually step in and help provide mutual aid for additional 911 operators during that period.

SENATOR MURRAY: Yes, you did, and thank you.

Now, are we using that experience, though?

DHSES COMMISSIONER BRAY: Yes.

SENATOR MURRAY: I want to make sure -- you had mentioned how we're working

with counties and local governments. Are we using that as a learning experience? How are -- are we providing training or is the state acting as a clearinghouse to share information?

DHSES COMMISSIONER BRAY: Yes. So we are actually in the middle of a Suffolk County cyber attack after-action report. It's not ready yet, but we are writing one specifically because of this.

I think it serves -- we have already used it to change some of what we do in the day or, you know, 36 hours after an attack in terms of how fast we deploy, where we deploy, what levers we know we need to pull. I do think we're going to learn a ton, over the next couple of months as we write up this attack as a case study, that we can share.

SENATOR MURRAY: That's great.

Thirty seconds left. When this happened, obviously then my phone starts ringing -- school districts, very, very concerned. How do they get help as well?

DHSES COMMISSIONER BRAY: Yes. So

anytime a school has a cyber incident, they can call our Cyber Incident Response Team, we will respond. We are not going to refuse to go help a school district.

And so we are currently helping on the responsive side of that. I think what your colleagues have also indicated today is that it's time to think also about the proactive side for our school districts.

SENATOR MURRAY: Okay, thank you very much.

DHSES COMMISSIONER BRAY: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRWOMAN WEINSTEIN: Assemblyman Palmesano.

ASSEMBLYMAN PALMESANO: Yes, Commissioner Bray, thank you for being here.

Okay, I know there's fire academies in Oriskany. In my district and in Senator O'Mara's district, we have the Montour Falls Fire Academy. It's something we've been proud to have in our district for a long time. They do a lot of valuable training there.

I just wanted to ask you as far as the future for that facility, because there's questions -- you know, I always -- we get some concerns, we get questions, we hear training classes being pulled from the Montour Falls Academy and being shifted to the Oriskany facility. And we heard like regional administrators of -- the conference they've had there for 20 years was pulled and brought up to Albany. But we also hear there's, you know, capital investments being made at the facility, which we know is important.

From your perspective, would you agree that the Montour Falls Fire Academy plays a vital role in the training of our emergency personnel and is --

DHSES COMMISSIONER BRAY: Oh, yeah.

ASSEMBLYMAN PALMESANO: -- going to be for the future?

DHSES COMMISSIONER BRAY: Oh, yeah. We're in Montour Falls, we're staying in Montour Falls. The academy is essential to the training of volunteer -- not volunteer,

it's essential to the training of recruit firefighters. So those are our career firefighters whose departments aren't large enough or resourced well enough to have their own academies. And it's essential for the hazmat rescue, that type of work, for volunteer and career.

ASSEMBLYMAN PALMESANO: Okay. That's really good to hear.

So as far as some of these classes being moved and shifted --

DHSES COMMISSIONER BRAY: No, I wouldn't -- I wouldn't read too much into that. My instinct there is that it's about us. We are trying to do more trainings in the field so that they're more accessible to people. That does not mean we're not fully booked at Montour Falls and using that facility.

ASSEMBLYMAN PALMESANO: Okay. Thank you very much, Commissioner. Appreciate that.

DHSES COMMISSIONER BRAY: Thank you.

CHAIRWOMAN KRUEGER: Thank you very

much. Next, Assembly?

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

(Overtalk.)

SENATOR O'MARA: The Assembly just went.

CHAIRWOMAN KRUEGER: You just went.

CHAIRWOMAN WEINSTEIN: Yeah.

CHAIRWOMAN KRUEGER: I'm so sorry. Senator Gounardes, three minutes.

SENATOR GOUNARDES: Thank you very much.

Good afternoon. I want to ask, in the vein of the questions on cybersecurity, there's been increasing bipartisan concern, I guess is the word to say, specifically about the use of TikTok on government devices. I know one of our colleagues has a bill regulating this. I'm curious whether either of your offices, either jointly or independently, have done any type of security review or analysis or study reflective of a lot of concerns we're seeing across the country at both the state government level

and also the national level, on both sides of the aisle, about the use of TikTok on government devices.

OITS DEPUTY CIO LORENZ: We have not conducted an actual study on the use of TikTok across, you know, agencies. However, we did decide, I believe it was in 2020, to block the ability for the majority of state agencies to use TikTok. It's only in very exceptional, you know, instances that we allow it.

So we do a security review if someone is requesting that they use TikTok; it has to go through a pretty thorough security review before they can use it. So we've blocked the website as well as the application on state devices. Where we can reach. Obviously not everywhere.

SENATOR GOUNARDES: Of course. I think that's where the concern is, though. And there's different opinions as to what level of concern should exist on this.

But so no state-issued devices, computers or phones, unless for some

extraordinary circumstance, can access the site at this point. Is that correct?

OITS DEPUTY CIO LORENZ: Correct.

SENATOR GOUNARDES: Okay. Thank you.

CHAIRWOMAN WEINSTEIN: Now to Assemblyman Otis for three minutes.

ASSEMBLYMAN OTIS: Here we go.

I have an ITS question, just very simple. In terms of within the budget, and in terms of the ability to pivot in situations of crisis, we had the -- through COVID, we had the huge surge in technology needs at the Department of Labor; then we had the big surge with the ERAP applications. And so there will be other surges and other technology needs at different state agencies.

How does ITS budget for dealing with the next crisis? Are there adequate funds in the budget for our state to be prepared to deal with those situations?

OITS DEPUTY CIO LORENZ: Yes. Between last year's funding -- I'm sorry. Between last year's funding and this year's funding, we are adequately funded to continue to

expand those services. As you well know, as you mentioned, we had to do a lot to change systems rapidly. And we are continuing to bolster that with this funding.

So I do have to say that in years prior, you know, it was very difficult; we would have to make those tradeoffs between a security decision or a tactical keep-a-system-up-and-running decision. between the Governor's funding last year and this year, we've really made strides. And we have, in addition to innovation and emerging technologies -- you know, looking into what we can do in the future, we're also really expanding our modernization programs. We have a cyber remediation effort that we began last year, which is why you're not hearing us say legacy system -- we used to come here year after year and be like legacy system, legacy system.

Well, we're a little bit past that. We were able to plan last year, with the funding we were given. It isn't multiple-year efforts to improve, but we

actually have a strategy now which is huge in our maturity as an agency, right? We're only 10 years old as an agency. So we really have been able to take that funding and make use of it.

ASSEMBLYMAN OTIS: So but at times you've had to go to outside contractors to help solve some of these problems.

OITS DEPUTY CIO LORENZ: Did you say how many times? I'm sorry.

ASSEMBLYMAN OTIS: No, not how many. At times you've had to go --

OITS DEPUTY CIO LORENZ: At times, yes.

ASSEMBLYMAN OTIS: -- to outside vendors to deal --

OITS DEPUTY CIO LORENZ: Yes.

ASSEMBLYMAN OTIS: -- with some of these problems. Do you see less of that in the future, or is that always going to be part of the mix because of their skill set?

OITS DEPUTY CIO LORENZ: Yeah, I think, you know, we obviously want a state workforce. The state workforce is most

knowledgeable, most stable, most engaged, most interested. Right?

I mean, the -- when we do -- when we deal with vendors they are also engaged, very supportive. We've had a ton of support on that level. But obviously they come on a project basis. So we do see them more as our -- I would say like a crisis or rapid-deployment type of a solution, when you need that quick skill, they're not busy with anything else -- quick come in, hit it, and move on.

ASSEMBLYMAN OTIS: Thank you very much. Appreciate the answer.

CHAIRWOMAN WEINSTEIN: Senator Stec.

SENATOR STEC: (Mic off.) Thank you, Madam Chair.

Good morning. Thank you for being here both. Commissioner Bray, I've got a question --

UNIDENTIFIED MEMBER: Mic. Senator, your mic, your mic.

SENATOR STEC: Thanks very much.

All right. Thank you for being here

both.

Commissioner Bray, I've got a question. You answered a question earlier today, a little bit ago, about the radio communication. You were excited to answer about radio communication between fire and EMS and police, which is great. And my dad was a Forest Ranger, so I know that those radio communications weren't always on the spec in the day. Technology has leapt forward, we're doing a lot better in that department. And we're always playing catch-up.

My concern is my district is in the North Country, the Adirondacks. Right? I represent a lot of the North Country. We get things like snowstorms and ice storms quite frequently. And of course most of your emergency incidents originate not from these communications between emergency first responders, but from civilians, our residents, our constituents, with a cellphone.

I reached out to my sheriffs, and some

sheriffs said about half the calls to their 911 center are cellphones. Some of my sheriffs said the vast majority are originating from cellphones. And as you know where I'm going, we have significant problems with cell service in the North Country and in the Adirondacks.

In fact, one of the things that disturbed me is for the World University Games, which just concluded in Lake Placid, the world was coming, the spotlight was on us, and the solution, the temporary solution to lack of cell service was emergency cell-on-wheels cows from Verizon were prepositioned around the Adirondacks. Which for visitors was great and gave the appearance that we had cell service. But for the rest of the residents and travelers like myself, we don't have good cell service the rest of the year when the World University Games aren't in town.

What is the state doing to address this critical public safety issue? We are lagging behind. We've done a lot of work in

broadband, but the other half of this is cell service. And again, the residents statewide deserve to have good coverage.

DHSES COMMISSIONER BRAY: I couldn't agree with you more. It is a real challenge that we don't have appropriate cell coverage in the Adirondacks for our emergency first responders. I've spent a lot of time with the emergency managers in Hamilton and Essex, thinking -- you know, working on this.

We have funding available. We have distributed funding to these counties to increase access to cellular. Unfortunately, that -- the attempts to do that get blocked locally out of, I believe, concern for the Park. And so we have to keep working on new ways and new options --

SENATOR STEC: Let me -- if I could interrupt you, because I've got limited time.

The APA -- that I have regular communication with -- says that they've been approving things faster than ever. I have not heard from local government that local government is holding up cell service. I

think it might be an economic issue for these private providers, but it is not local government, it's not county government, it is not the APA that is saying no. There are some environmental groups that like to slow the roll on cell service, but it isn't -- it isn't the APA, it isn't local government.

Is there a plan to provide some sort of funding mechanism from the state to partner, like we did with broadband, to partner to increase and incentivize collocation and all these things? This is a real issue in the North Country.

DHSES COMMISSIONER BRAY: Yeah, I'm happy to follow up on that --

SENATOR STEC: I wish you would. You know, talk to the APA and the second floor. This is a -- this is a critical issue. And it is not local government and it is not the APA that is saying no to applications.

DHSES COMMISSIONER BRAY: Okay.

SENATOR STEC: I think my time is -- oh, I've got another --

DHSES COMMISSIONER BRAY: You've got

another minute-twenty --

SENATOR STEC: I'm going to shift gears, then, if that's all right. Thank you very much.

For the Office of Information Technology, can you briefly describe the e-procurement system that we're trying to migrate to and briefly just how is this going to become more efficient, and how long is it going to take to launch and get this off the ground? I see there's I believe $15 million that's been put in the Executive's budget. What is the timeline of the overall benefit?

OITS DEPUTY CIO LORENZ: I don't have the timeline available right now. We believe that this will help reduce a lot of the -- I'm going to say paperwork, but there's a lot of files that are transferred back and forth.

So what we're trying to do with this new system is really leverage the use of electronic signatures. And then also we believe with the new roll-out of e-notary, we think that will also help. So those two electronic mechanisms should really help

create efficiencies within the e-procurement system.

SENATOR STEC: All right, I appreciate that. Thanks for (inaudible).

OITS DEPUTY CIO LORENZ: Thank you.

SENATOR STEC: Thank you, Madam Chair.

CHAIRWOMAN KRUEGER: Thank you.

Okay, the Assembly is done, so we're going to continue with the Senate.

Senator Rolison.

SENATOR ROLISON: Thank you, Chair. And thank you, Commissioner.

So starting in 1976, just a little evolution of me, I became a volunteer firefighter, 14 years, cop for 26. I know we've spoken a lot about -- today about the gaps and the challenges within the volunteer fire service. I've seen the evolution of EMS starting back then, and now seeing EMS having its challenges as well.

I just wanted -- if you could just briefly update us, especially I've had people in the district, both from the voluntary, on one side, to the paid provider side, talking

about this as an impending crisis, if it isn't already. What's your thoughts on that?

DHSES COMMISSIONER BRAY: I think yes, both the volunteer fire service and EMS are in crisis. I don't think that there's any denying that.

We've seen mutual aid requests in the fire service go up 160 percent over the last decade, which means that many times it's -- there's not even a question of whether or not the local department can handle it; they're having to call in mutual aid. That's stressing other, larger departments and stressing our career departments.

So I think that there is a crisis in the volunteer fire service. You know, I'm less familiar with EMS, it's managed by the Department of Health, but I know --

(Overtalk.)

SENATOR ROLISON: That was probably the question I wanted to --

DHSES COMMISSIONER BRAY: But absolutely, no, when I'm out there talking to folks -- and lots of folks do both -- there's

a crisis in both of these areas.

SENATOR ROLISON: And just -- and thank you for clarifying that, because I'll ask that question when DOH gets here.

But all those things that you just said absolutely are happening, on a daily basis we're seeing it. One of the things, and then I will -- I will stop with my time, is that my understanding is -- and my colleague Senator Oberacker, who is behind me, has been talking about this prior to me coming into this legislative body, with EMS. And my understanding is it is not deemed a critical service under some guidelines within the state, as police and fire is.

But I appreciate all that you're doing. And just real quickly, since I've got 55 seconds, kudos to Task Force 2, who came to Poughkeepsie in 2018 when I was mayor, and helped save a woman in a building collapse. I will tell I never saw anything like that in my life. The equipment that they brought down, I think from Watervliet, I think is where they are, or someplace here in the

Capital Region --

DHSES COMMISSIONER BRAY: Yeah, here.

SENATOR ROLISON: -- was absolutely very reassuring to anybody who lives in this state to know that those individuals are ready to go with everything that you can imagine, and she was successfully extricated from the building with the help of everybody.

So thank you.

DHSES COMMISSIONER BRAY: I will pass it along to them. Thank you, Senator.

SENATOR ROLISON: Please do.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Assemblyman Blumencranz, a ranker, for five minutes.

ASSEMBLYMAN BLUMENCRANZ: How are you? Thank you for coming, Commissioner. Appreciate your time today.

I just want to briefly discuss the cyberattacks we've experienced on Long Island and Suffolk County specifically. I'm sure you're very aware and very active in the efforts to sort of strengthen -- and our

goals to strengthen cybersecurity on a county level and a state level. I know that they've provided 42 million in funding in order to help that strengthening effort. I just was curious to hear more about ITS's collaborative efforts with DHSES and the State Police and even county and local police in order to strengthen our ability to fight these attacks on a local level.

DHSES COMMISSIONER BRAY: Absolutely.

So three things we're doing. Right? Number one is directly providing service, or taking cybersecurity and treating it like a service we can provide, rolled out and point protection this year. We'll roll out, we think, attack service management next year. But we'll continue to roll out cybersecurity as a service.

Number two, stood up the JSOC with ITS. What the JSOC is going to allow us to do is merge all of the metadata, the logs, into a single what we call SIM, which will allow realtime communication about threats. Oftentimes you'll see an attempt of an

incursion somewhere, and that's really a precursor to trying it other places. Right? And so we want realtime information sharing and merged logs into a single SIM.

And then third, increasing the Division of Homeland Security Cyber Incident Response Team's head count has allowed us to be more proactive. So we're not only responding to incursions, but we're now doing phishing exercises, tabletop exercises, complete cyber risk assessments, for our municipal and local government partners.

ASSEMBLYMAN BLUMENCRANZ: And has there been any collaborative efforts between yourself and your department and the cyber insurance space as far as, you know, counties that are self-insured versus counties that do have insurance? And how does that partnership look, if you have one?

DHSES COMMISSIONER BRAY: Yeah, so we don't -- our team is not directly engaged with the cyber insurers or with the ransomware insurers. I think the -- I think we're going to have to pay attention to that

space from a policy perspective and a requirements perspective, but we don't engage directly with the insurers.

ASSEMBLYMAN BLUMENCRANZ: I cede the rest of my time. Thank you.

DHSES COMMISSIONER BRAY: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRWOMAN WEINSTEIN: Senate?

CHAIRWOMAN KRUEGER: Senator O'Mara.

SENATOR O'MARA: Thank you.

Commissioner Bray, thank you for your testimony.

Thank you for your comments on the New York State Fire Academy at Montour Falls. It's critically important to our region and to the support of our fire companies throughout the state. So I'm happy to hear what you had to say about the administration's commitment to that facility.

In regards to cybersecurity and probably ransomware as well, do you feel that at Homeland Security you have enough resources devoted to protecting our electrical -- our energy grid, electricity

grid in the state, whether it's the Independent Systems Operator or the utilities themselves?

If you could just comment on where we stand in regards to our preparedness for that, and do you feel you have enough resources for that?

DHSES COMMISSIONER BRAY: Appreciate that question.

So let me say that the threats to our electric grid are both physical and cyber in nature. We're seeing -- and actually there was an arrest yesterday made about a threat to the Baltimore grid. We're seeing both physical security and cybersecurity attacks on our grid. In this country we all need to be paying attention to what we're seeing in the Pacific Northwest and the Carolinas and South.

So the primary responsibility for security for the grid is really of the operators. Right? Most of the power is provided at the transmission level by private operators, and they are responsible for

investment in their security.

NYPA obviously is a public operator. They have probably the best cyber program in the state. It's a cyber program that we look to to build out for our other critical infrastructure partners, so I feel confident in what they're doing there.

Our role is to do the risk assessments with these critical infrastructure partners so that we can feed back to them where we believe they need to be targeting their investment, number one.

Number two, we're adding head count to do industrial control systems this year in this budget, and that head count will be focused first and foremost on our grid because of the attacks that we're seeing. And we are focused on helping them understand what we expect they're doing with the private industry dollars that they have.

SENATOR O'MARA: Are you comfortable with where they're at with your guidance and involvement with them? Are there better actors than others, more prepared than

others? And where should we be looking to bolster that protection?

DHSES COMMISSIONER BRAY: So there is not a person in my job who should ever say that they're comfortable. My job is built to be uncomfortable. I worry so other people don't have to worry as much. So I'm never comfortable.

But I am confident that our private-sector energy providers do take cybersecurity extremely seriously. I'm absolutely knowledgeable to the fact that they have adjusted their security in light of the recent attacks and incursions. DPS is also watching this very closely and working with them to increase their security posture in light of the recent attacks.

And NYPA provides cybersecurity services for the municipal power providers, and I think that that relationship is essential so that our smaller public providers have a sort of -- I mean this in the best way -- a big brother/big sister looking out for them in this arena.

SENATOR O'MARA: Thank you.

Nobody has brought up last week's issue of the Chinese balloon floating over the country, but it certainly raised an issue for some of the -- of how that type of system could be -- could deploy an EMP attack on us.

Where as a state do we stand in regards to the threat of EMPs? Not specifically from the balloon, but that raised that issue, at least in my mind, last week in some of the things I read about it.

DHSES COMMISSIONER BRAY: Right. Of course. When I think of EMPs, I really also think of the threat of space weather, which is sort of the naturally occurring potential for that type of event.

I'm happy to brief you offline about the way we think about EMPs and our critical infrastructure sectors. I'd rather do that in a more private setting.

SENATOR O'MARA: Okay. I'd be happy to do that, and it does interest me, so thank you.

Thank you both very much.

DHSES COMMISSIONER BRAY: Thank you.

CHAIRWOMAN KRUEGER: (Mic off.) Thank you very much.

So I think it's just me and then a second round for Senator Scarcella.

Hi, everybody. So many questions have been asked, so thank you both for your work. I want to -- oh, sorry. Microphones. You'd think I would remember that. Thank you both for your work and your testimony here today.

For the IT side of things, there's a lot of discussion about the newer issues facing cybersecurity, technology. It might sound like an old-fashioned question. There are state agencies that promised me they would be computerized, running from 12 years to five years ago. They're never done. We never seem to get our basic agencies the basic systems they need. I almost don't want to name them, but I will.

When Governor Cuomo -- you remember him -- when he first came to be governor, the first question I asked him at his inauguration was, "When are you going to

finish computerization of the housing agency?" And he said it was his first priority. Well, he's come and gone, and there's a new governor, so I'm not blaming her. But when are we going to get the housing agency completely computerized?

OITS DEPUTY CIO LORENZ: So when you say the housing agency, you're talking about HCR? Just so I'm clear, I apologize.

So we continue to work with that agency to develop their rollout plan for modernization. As you know, Rent Connect was a portion of what they needed to be delivered.

So there are pieces that we are delivering for that agency, but it is not holistic to your point of being modernized, right? They still have -- some of their systems are still being reviewed from a business process perspective because initiatives began so many years ago. There's so much more technology now. So they've taken I'd say a step back, just to look at maybe you don't even need that paper anymore,

right? Maybe we're past having a wet signature on a file. You know, how do we introduce e-signatures?

So I can't speak holistically on what housing's doing, or specifically on what they're doing. We definitely have to get that from the agency. But we are partnered with them to talk about what's possible. And they are looking into how to improve their processes.

CHAIRWOMAN KRUEGER: So I'll pick out another -- but I'm not picking on the agencies or the people who are running them.

OITS DEPUTY CIO LORENZ: Of course.

CHAIRWOMAN KRUEGER: So in 1988, I was an advocate who sued the state over a really bad system they implemented called WMS. It's still operating to run all social services. When I asked recently if I would actually live long enough to see a replacement for WMS, I was assured it was just another five years. That's actually humanly impossible that it -- well, I think I could live five more years, by the way. That's not humanly

impossible. Pick a day, pick an hour.

But it's almost humanly impossible that the State of New York has not been able to replace a system that was actually out of date when it bought it in the late '80s.

Where are we there?

OITS DEPUTY CIO LORENZ: So progress has been made. I believe last time CEO Riddick was here he talked about a new program director. So they've, you know, taken the project and really have focused on drilling down to each milestone. You know, really getting into the work and making sure progress is in fact being made. It is not happening as fast as everyone would like.

You may be happy to hear that part of the -- there was a NYDocSubmit application that did go up. That's a portion of it. So there's, you know, pieces within this behemoth of Integrated Eligibility System that will replace WMS. That program, NYDocSubmit, does allow for individuals to upload documentation so they don't have to mail things in, they don't have to go to an

actual office to get things done.

So there are small -- you know, small wins within this overall effort. I believe the latest timeline is 2026 to really have the program developed. And then there will continue to be that outreach to the local districts to ensure they're on-board. And there's also this huge change-management piece to get those counties on.

So there is progress being made. It's not as visible. And it's not, you know, at the point where you can shut down WMS yet.

CHAIRWOMAN KRUEGER: So granted, this is a new administration, lots of new people. Would you agree with me we're just good at this and we need to get a lot better at it?

OITS DEPUTY CIO LORENZ: We are working to get better at it. I would say in the previous years there was a lot -- you know, funding, a lot of workforce reduction at play here. You know, we're seeing the WMS support, you know, holistically also, you know, using resources so when that knowledge leaves, we do lose some of that.

So we are really -- the centralized approach to fixing these things and really bringing those technology individuals together and have us work in a partnership, I think that really is helping.

So looking forward, we do have the funding and we're building up the resources to really put that concentrated effort on projects like this and move it forward. But I agree, in some cases we have not done this well.

CHAIRWOMAN KRUEGER: Yes. I think that countries have seen governments rise and fall faster than New York State's been able to figure out how to computerize its state agencies.

So I'm going to wish you well, or wish you better than your predecessors in that department, because it's very hard to explain to people why we don't have functioning systems on core agencies that people need to get their information from. They need to get their benefits turned on, they need to get their records as a tenant in housing, both

landlords and tenants. We need the ability to track what's going on with systemic issues that we can evaluate and figure out how to improve on.

So I'm just -- I guess I'm mostly talking to whoever on the second floor might be listening. We really need to make sure that this administration is going to have a much better record on technology and improvements in our computer systems than our predecessors. So --

OITS DEPUTY CIO LORENZ: There is a big focus -- I'm sorry, may I speak?

CHAIRWOMAN KRUEGER: Yes.

OITS DEPUTY CIO LORENZ: There is a big focus from the Governor's office on improving the customer experience, so I'm not sure if you had seen that they did recently put out a chief experience officer appointment, so we're trying to hire someone who's really focused, to your point, on maybe looking at this differently too. So looking at the pain points from end to end when someone does visit us with the state, or they

have to transact with the state, how do you make that better.

And then on the ITS side, we're having a team dedicated to that user journey, what does that look like, so we can partner up, again, with each agency and say where -- what are the most visible, how can we really be impactful and make the right improvements for the citizens or the residents of New York. So it's a collaborative effort.

So this Governor's budget this year is really focused on that, and it's adding another layer to the services that we all provide. So I think it really is helping us move to that next level of maturity. We've been very tactical these past few years, so it's to your point of these projects taking so long. You know, we've also been very -- just trying to keep the lights on in many cases due to funding what have you, right?

So now we're in that next layer of maturity where we can say how do we improve, how do we really look at things differently and innovate, change behavior, take advantage

of what our residents want to do, and how do we operate, how do we change the way we behave to help enable better service with the government.

CHAIRWOMAN KRUEGER: Thank you.

I'm going to turn it over to Senator Gonzalez for her three month -- three-minute follow-up. Three month? No, she's not even three months old as a Senator.

SENATOR GONZALEZ: We could be here for three months if we -- there's enough questions to ask.

(Laughter.)

SENATOR GONZALEZ: Thank you so much, Madam Chair.

And thank you both so much for answering all of our questions today. I just have a few quick follow-ups.

One, really excited to hear about the chief experience officer. I know you've been expanding to 12 languages. Would love to hear, you know, plans to expand past those 12 -- I represent Queens; that's, you know, the language capital of the world -- in

addition to how you're dealing with accessibility issues, so an eye for ability as well as digital literacy, right? So making it based on -- you know, if you're older, our older residents, making something as user-friendly as possible.

Quick question and follow-up on ransomware. Have we had to, in any of the previous attacks, pay cyber ransom in New York State? That was a quick -- I know that was a jarring transition, but that was my number one follow-up.

DHSES COMMISSIONER BRAY: Since I have been commissioner, New York State has not paid ransom. I can't speak to prior to that.

It is the strong belief of -- from a policy perspective that we recommend that people do not pay ransom. We encourage people not to pay ransom. The only instance in which we might deviate from that is if there is an imminent risk to life.

SENATOR GONZALEZ: Got it, okay. Just wanted to know.

And then transitioning over for DHS as

well, the Governor announced in June that she was expanding the state's Cyber Red Team to provide penetration testing, perform phishing exercises, vulnerability scanning and additional cyber incident response services.

Can you provide more detail on these Red Team cyber tests? What are the goal -- you know, the team's engaged in suspicious activity. How do you gauge what is suspicious activity, and can you give us more information about what they've been conducting?

DHSES COMMISSIONER BRAY: Yeah, so the current Red Team program -- I'll explain the current one and then talk cyber.

The current Red Team program goes -- for example, we would organize with local law enforcement, we might go to Home Depot and buy everything you need to make a pipe bomb and check out. And what you are testing is whether or not at checkout Home Depot calls the right terrorist tip line and says, there was someone behaving in a way that concerns us.

For Cyber Red Team testing, what you're doing is you are attempting to make an incursion into someone's system without their knowledge that you're going to do it that day -- they know that a Red Team's coming -- and you are seeing how far you can basically get into their system, and then you're giving them feedback of whether or not you were successful.

SENATOR GONZALEZ: Got it.

And then last follow-up to actually one of Senator Krueger's points, ITS has been phasing out hardware and software that poses cybersecurity risks to the state's technology environment. Can you provide a status update on that process? How are we --

OITS DEPUTY CIO LORENZ: Can you say that -- I didn't hear the first part, I'm sorry.

SENATOR GONZALEZ: ITS has been phasing out hardware and software -- so getting off legacy, for example.

OITS DEPUTY CIO LORENZ: Oh, getting off. I'm sorry, getting off, I didn't hear

you.

SENATOR GONZALEZ: And so just where we are. Can you provide like a status update?

OITS DEPUTY CIO LORENZ: Yes. We went through last year and did a -- oh, sorry. We did a very deep dive into how we need to plan the future from a remediation perspective. We have 25 workstreams, so we'll probably want to talk to you outside of this --

SENATOR GONZALEZ: Yeah. Yeah.

OITS DEPUTY CIO LORENZ: -- on how we're really going to approach getting off many legacy systems.

There are some modernizations underway, some big ones -- DTF has one going on. So you may hear about those that are pretty big. But this is a holistic view that you might want to touch base with us on after this.

SENATOR GONZALEZ: Great. Absolutely. Thank you so much.

CHAIRWOMAN KRUEGER: (Mic off.) Thank you.

We have one more chair who asked for a three-minute follow-up, Senator Scarcella-Spanton. Also only less than three months old as a -- (inaudible).

(Laughter.)

SENATOR SCARCELLA-SPANTON: We're all newbies up here.

I just had a couple of questions regarding the nominal fee for the volunteer fire service.

DHSES COMMISSIONER BRAY: Sure.

SENATOR SCARCELLA-SPANTON: Has there been a decrease in volunteer firefighters in New York State?

DHSES COMMISSIONER BRAY: Yes. About 20,000 over the last decade or so.

SENATOR SCARCELLA-SPANTON: Okay. Has New York State taken any other action to remedy the decrease in volunteer firefighters, besides the nominal fee?

DHSES COMMISSIONER BRAY: So the state has grant programs available for recruitment and retention activities like tabling or leaflets or flyers. And obviously

firefighting is primarily a local responsibility. So this is really the state taking the next step on our front.

SENATOR SCARCELLA-SPANTON: Okay. If the goal is to increase recruitment and retention, why are the nominal fees under this proposal an option instead of a requirement for the governing board of a city, town, village or fire district?

DHSES COMMISSIONER BRAY: I think that it's -- we're not going to save or stabilize the volunteer fire service with a cookie-cutter approach. We see really different problems depending on where you are in this state.

What we are trying to do is open up options for local governments and for local fire departments to choose how they want to approach their challenge.

SENATOR SCARCELLA-SPANTON: So then the cities, towns, villages and fire districts will set their own nominal fees, in that case?

DHSES COMMISSIONER BRAY: So it

will -- we will regulate the max. They will max out at 20 percent in order to maintain their volunteer benefits or their volunteer status for their benefits. But they will choose within that.

SENATOR SCARCELLA-SPANTON: Okay.

And under this proposal, what current trainings published by the Office of Fire Prevention and Control, if completed, would allow a volunteer firefighter to receive the nominal fee?

DHSES COMMISSIONER BRAY: So that's the stipend program, not the nominal fee. That stipend program will be paid for with this budget through State Fire, through OFPC.

Right now it's basic firefighting, interior firefighting, and Officer 1. So ...

SENATOR SCARCELLA-SPANTON: Okay.

And I just actually have one more follow-up question regarding my colleague Assemblyman Mike Reilly regarding the technology that the 911 calls are going through right now.

DHSES COMMISSIONER BRAY: Sure.

SENATOR SCARCELLA-SPANTON: Of course that's a huge safety concern if a Staten Islander is calling and is being referred to New Jersey.

DHSES COMMISSIONER BRAY: Yes.

SENATOR SCARCELLA-SPANTON: What would the costs be for that technology, to upgrade the services to where we should be?

DHSES COMMISSIONER BRAY: This is going to be a process over many years. But it will require an updated statewide network. You're talking well north of $100 million for something like that.

But the cost will be borne over several years between localities and the state. It won't be fully state-funded.

SENATOR SCARCELLA-SPANTON: Okay. So I guess my last part of that was has there been some request, has there been buy-in at all from the federal government for an upgrade in programs for something of that magnitude?

DHSES COMMISSIONER BRAY: Wouldn't it be nice.

(Laughter.)

DHSES COMMISSIONER BRAY: So there was a House bill passed in the last Congress that did provide significant funding for a national upgrade to Next Gen 911. It did not pass the Senate.

SENATOR SCARCELLA-SPANTON: Thank you so much. And thank you for your time today.

DHSES COMMISSIONER BRAY: Thank you.

CHAIRWOMAN KRUEGER: And now we are done and we will let you go. Thank you very much. Appreciate your being here.

OITS DEPUTY CIO LORENZ: Thank you.

DHSES COMMISSIONER BRAY: Thank you.

CHAIRWOMAN KRUEGER: And our next panel to come up: New York State Division of Criminal Justice Services, New York State Department of Corrections and Community Supervision, New York State Division of State Police.

And I'm just going to remind Senators and Assemblymembers, if you're going to ask questions of this panel, we need you in this room now to listen to the panelists.

(Off the record.)

CHAIRWOMAN KRUEGER: A good time to stretch, everyone. (Pause.)

Good afternoon, everyone. Hi. We've been having a little trouble with the mics on your table, so hopefully for the three to five of you there's hopefully one that works best that you can each take turns with. Oh, Rossana's is we think the one that works?

DCJS COMMISSIONER ROSADO: Yes.

CHAIRWOMAN KRUEGER: And you're the first person to testify, so let's see if we can hear you. Hi.

DCJS COMMISSIONER ROSADO: Testing, one, two, three.

CHAIRWOMAN KRUEGER: Great.

DCJS COMMISSIONER ROSADO: Ready?

CHAIRWOMAN KRUEGER: Thank you. Please.

Again, you each have 10 minutes. It's not 10 minutes to be split between the three of you, so don't panic.

DCJS COMMISSIONER ROSADO: Thank you.

Good afternoon, Chairs Krueger and

Weinstein -- good to see you again -- legislative fiscal committee members and other distinguished members of the Legislature. I am Rossana Rosado, commissioner of the Division of Criminal Justice Services.

Thank you for the opportunity to be with you today to discuss Governor Kathy Hochul's fiscal year '23-'24 budget for DCJS. If you think you saw me last week, you did.

Last year DCJS marked its 50th anniversary. Our multifunction support agency continues to evolve with the changes and meet the challenges in New York's criminal justice system. We work with all the stakeholders to bring the resources, expertise, and information needed for a more fair, equitable, and efficient justice system. Our work is both collective and reflective of the depth and breadth of the public safety profession. To me, that is both the power and the privilege of DCJS.

We get to work every day with our local partners to help keep New Yorkers safe.

However, we also recognize that we need to make our communities not just safer, but stronger and whole. In too many communities, the persistence of poverty and crime has fractured neighborhoods, placing opportunities out of reach. In its most devastating form, we saw Buffalo's East Side torn apart last May when a hate-fueled gunman targeted a Black neighborhood, killing 10 and injuring three.

The Governor’s proposed budget provides DCJS with the ability to positively impact both the criminal justice system and communities across New York State. Specifically, the budget provides $100 million to support our law enforcement agencies and community-based organizations with evidence-informed programs to better address crime, its causes, and its consequences. These programs, among others, include the SNUG Street Outreach; the Gun Involved Violence Elimination, which we call GIVE; and the Crime Analysis Center network that we call CAC. And these programs are

making a difference.

As I shared at last week's hearing, reported shootings dropped 17 percent in New York City and 15 percent in the GIVE jurisdictions in 2022. This reflects 453 fewer shootings than in 2021. While there are still more shootings than before the pandemic, this is the first sustained decrease in gun violence since 2020.

For communities most affected by violence, DCJS launched Project RISE in 2022, dedicating $28 million to seven cities. Our team traveled and built relationships with stakeholders in each of these cities to implement and improve programs and services.

Project RISE works by listening to, learning from, and lifting up communities. We bring local agencies, organizations, and residents together to identify and support the grassroots solutions that tackle the underlying causes of violence.

This effort works in parallel with our SNUG street outreach program, which now serves 14 communities. The expanding SNUG

program sites deploy outreach, social, and hospital-based workers to disrupt the cycle of violence. These programs also connect community members and, importantly, victims of crime with the resources they need, such as employment, education, and access to health and mental health care.

Last year, the Governor invested $18.2 million in the GIVE initiative and $15 million in the CAC network for our law enforcement partners. The CAC network now collects and shares information and investigative support among more than 350 law enforcement agencies across 43 counties. This network has become the backbone of the state’s efforts to prevent, investigate, and solve crimes, responding to more than 60,000 requests for assistance each year.

DCJS also delivered $10 million for body-worn cameras in municipal police agencies and dedicated $20 million for local law enforcement technology.

To further reduce gun violence and curb the recent rise in crime, our job now is

to double down on the programs that work. With your support for the Executive Budget, DCJS will be able to double funding for ATI programs to $31.4 million, and provide $20 million for pretrial services to close the system's "revolving door" and better connect people with the resources that they need.

We will double funding for GIVE initiatives to $36.4 million, and expand the CAC network to New York City to help local law enforcement deploy evidence-based strategies informed by the best available data to prevent, identify, and solve crimes.

We will quadruple funding for Aid to Prosecution to $52.5 million and provide $40 million for discovery implementation to ensure prosecutors have the tools to hold people accountable for crimes committed.

We will fund local law enforcement efforts to prevent the flow of illegal fentanyl and other opioids and investigate overdose deaths with $9 million. And we will triple funding for the County Re-Entry Task

Forces to $11.5 million, to provide case management, care coordination, and stabilization services for people returning to the community after incarceration. And this is the first increase in over a decade.

And we will also continue the Securing Communities Against Hate Crimes grant program, with $25 million, and the Securing Reproductive Health Centers grant program with $10 million, protecting our nonprofits and other organizations that could be at risk of hate crimes or attack.

I also want to thank the Governor for her unwavering leadership on public safety. In this year's budget she delivers another year of unprecedented resources with a renewed focus on the front end of the system. Her investments in mental health infrastructure, the ATI network, and pretrial service capacity will help people access the care they need and keep New Yorkers safe.

Our data show that failure to appear and rearrest rates have remained stable at roughly 2 out of every 10 people with pending

cases. While relatively few, they present a chronic concern, and the Governor recognizes that judges in some of these cases have inconsistently applied the pretrial reforms. She is proposing to remove the least-restrictive standard for ensuring people charged with serious offenses return to court.

Finally, I want to thank the team at DCJS who work to advance and achieve these efforts. For 15 months, I have been fortunate to lead a workforce of professionals who are among the best in government and who increasingly reflect the diversity of our great state. I am proud that DCJS continues to be recognized as a top workplace and provides an environment for our employees to feel engaged and included.

In 2023, we look forward to building upon our solutions to keep our neighborhoods safe and strong, working together with our local partners, and -- very importantly -- promoting public trust in our criminal justice system.

Thank you for your support and time today. I look forward to answering any questions you may have.

CHAIRWOMAN KRUEGER: Thank you.

Next, whichever of you -- let's just go down the row. Thank you.

ACTING SUPERINTENDENT NIGRELLI: Thank you. Good afternoon, Chairs Krueger and Weinstein and distinguished members of this joint committee.

Thank you. Thank you for the opportunity to come and talk with you today about the critical work that is done by the members of the New York State Police and some of the proposals that are contained in Governor Hochul's Executive Budget.

The Governor has been steadfast in her leadership at this time, as have you, and I want to thank you for your continued support of our efforts. Collaboration and communication are the key to solving the problems we face as a society.

My name is Steven Nigrelli, and I am the acting superintendent of the New York

State Police. And for over 105 years, the men and women of this agency have preserved the values of service, integrity, and leadership. That's what the New York State Police was built upon. I am proud to lead this agency in carrying out our mission of protecting and defending all New Yorkers and safeguarding the rights that we all hold dear.

This past year has been a very challenging one for all society as we continue to navigate the hurdles caused by the unprecedented pandemic. However, the men and women of the New York State Police continue to go above and beyond to assist their fellow New Yorkers in their time of need, and remain dedicated to the critical work that we do to protect all New Yorkers.

Therefore, the adequate staffing of the New York State Police, of our sworn members and our non-sworn employees, is our top priority. We continue to recover from the historic staffing lows that were brought on by the pandemic. With the hiring freeze,

we did not graduate a new class of troopers for two years.

Significant efforts have been made to start rebuilding our agency. For instance, in 2022, for the first time in our history, we gave the exam by computer -- not only here in New York, but across our country and around the globe at U.S. military installations. This change greatly increased the exam's accessibility and outreach.

In 2022, we were focused on recruiting the brightest, best, and most diverse applicant pool, and with your assistance, we saw significant gains in the number of minorities and women who signed up for the test.

Our continued commitment to diversity, equity, and inclusion in recruitment and advancement is unwavering and has never been stronger.

Our work to rebuild the staffing numbers of the State Police is not done, as we look to launch another recruitment effort with the goal of holding an exam later this

year.

The Governor has proposed that we increase our ranks by holding concurrent academy classes to return to adequate and needed staffing levels. Once these classes graduate, we will be able to commit additional and necessary resources to combat emerging public safety challenges, including removing illegal guns, curbing gun violence, and fighting that opiate crisis here in New York.

To highlight our work, the New York State Police seized 2,026 illegal guns between August 2021 and December 2022 -- 2,026 illegal guns. That's a 138 percent increase. With earmarked funding in the Governor's proposed budget, we can elevate our efforts in identifying the sources of illegal guns and stop the trafficking of these weapons into our state.

Additionally, through our ongoing community engagement efforts, we have been extremely effective in building critical relationships with community members and

business owners, which has led to valuable collaboration with the public in communities across the state. This type of community-oriented policing is crucial in reducing crimes and building trust with our communities.

By increasing staffing levels, which the Governor's proposed budget provides for, we would improve upon our work by providing immediate assistance to those communities, and focus greater attention on violence and quality-of-life issues within our neighborhoods.

As a result of our work across all arenas, our federal partners have requested additional State Police personnel for various task forces that are at the forefront of combating gun and narcotics trafficking and violent crimes across New York State. Maintaining a presence on these task forces illustrates our commitment to the crucial goal of taking illegal guns and drugs off our streets and reducing violent crime. We are thankful that the Governor and the members of

this committee recognize the importance of increasing our staffing so we can do this essential work.

The Governor's proposal also provides for a significant and essential increase in our budget to create a satellite laboratory within the New York State Police crime laboratory system. Our forensic investigation system is an indispensable part of the New York State Police and local law enforcement's mission, by aiding in the investigation and prosecution of shootings and other serious crimes such as rape and murder. This much-needed budget increase will allow us to relocate disciplines and create additional space for our lab firearms, NIBIN and DNA analysts and scientists to continue to do the work behind the scenes ensuring that the most dangerous offenders -- the most dangerous offenders -- are brought to justice.

As acting superintendent and a proud 32-year veteran of the New York State Police, I have dedicated my life to serving and

protecting the people of the State of New York. I have done this while holding nearly every rank within our agency, giving me a firsthand understanding and insight into the challenges that the 6,000 men and women of the New York State Police face every day, and the sacrifices they make to carry out our mission. I am truly honored and humbled to represent them and to call myself a New York State Trooper.

Every day our members commit themselves to making a difference and improving the quality of life for New Yorkers. As such, the New York State Police has earned the respect and reputation as the premier law enforcement agency in this country. We certainly could not provide the high-quality services that we do without the support of Governor Hochul and you, our legislators. The Executive Budget provides the resources needed for us to continue the level of service that all New Yorkers demand, expect, and deserve of the New York State Police. With renewed focus and vigor, we are

committed to preserving public safety and making a safer New York.

So as I started, I'll finish. Thank you. Thank you for your continued investment in not only the State Police but our members. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Commissioner? And as soon as you finish, we're going to get an extra new mic there so when you're answering questions it won't be as confusing.

ACTING COMMISSIONER ANNUCCI: Good afternoon, Chairwoman Krueger, Chairwoman Weinstein, and other distinguished chairs and members of the Legislature.

I am Anthony J. Annucci, acting commissioner for the Department of Corrections and Community Supervision, and I am joined by Executive Deputy Commissioner Dan Martuscello. It is my honor to discuss some of the highlights of Governor Hochul's Executive Budget plan and various key initiatives.

Last year, the Department experienced

a multitude of structural changes as a result of shifting demographics and legislative initiatives. The number of incarcerated people has decreased over the last decade and resulted in the closure of six facilities last March. Our population has now stabilized at approximately 31,300, and the proposed budget does not contemplate further closures.

The department continues to implement several programs included in the Governor's Jails to Jobs initiative from last year. In October, we held a ribbon-cutting event at Edgecombe Transitional Housing, a program for undomiciled individuals returning to New York City to receive transitional housing, as they seek a permanent residence and employment.

We have hired employment parole officers for each of our community supervision regions, who will receive workforce development specialist training to assist releasees with obtaining employment.

The department has also partnered with DMV to issue non-driver IDs to incarcerated

individuals.

The safety of staff and the population continues to be an issue of overriding concern. There were 1,469 assaults on staff in 2022, a 25 percent increase from 2021. Similarly, in 2022, there were 1,486 incarcerated-on-incarcerated assaults, a 34 percent increase from 2021. The rates for both categories of assault were the highest ever recorded.

In response to this increase in violence, in December of 2021 I created a Prison Violence Task Force to study the root causes of violence and institute measures to enhance overall safety. The ongoing work of the task force has resulted in positive changes that we believe, over time, will help to reduce violence.

To limit the introduction of drugs, weapons, and other dangerous contraband fueling violence within our facilities, we have instituted a Vendor Package Program and increased our utilization of canine teams, both of which have led to reductions in drugs

and other contraband, as well as reductions in overdose deaths and Narcan use.

We will continue to leverage new technology such as body scanners to enhance our ability to discover contraband that cannot be identified by metal detectors, such as ceramic blades. Additional actions recommended by the task force include enhanced deescalation training for staff, and the launch of a new Moderate Aggression Program to provide the appropriate level of treatment based on an individual's risks, needs, and underlying propensity for violence.

We will continue to work with our unions, interested stakeholders, and members of the Legislature to explore policy solutions to reduce violence and increase overall safety.

In the coming year we will expand our existing Auto Tech and Commercial Truck Drivers programs, as well as launch a new Computer Coding Program, which will better align the skill sets of our releasing

population with the demands of today's job market.

Under the recently enacted Medication Assisted Treatment law, the department is offering all forms of MAT to the population. The department consulted with OASAS in the development of this program and now partners with opioid treatment providers to administer MAT medications. As of February 2nd, 1,730 incarcerated individuals were receiving MAT services.

For many years the department has focused on the prevention of all forms of sexual victimization in prison. The National PREA Standards established minimum requirements for the prevention, detection and response to sexual abuse and harassment. The department has achieved full compliance with PREA and has enacted robust policies that exceed the national standards.

Among our Community Supervision operations, the implementation of the Less is More Act required many fundamental changes, including the earned time credit provision,

which resulted in the discharge of over 17,000 parolees from supervision. We will continue to work with the Board of Parole, Office of Court Administration, and our workforce to identify additional ways to streamline operations and further safety in the community.

The Governor has also advanced a bold agenda to reduce gun violence and violent crime. To support these efforts, DOCCS will provide a full-time senior parole officer to serve as a data coordinator for each of the DCJS GIVE jurisdictions; deploy a full-time senior investigator to work with the State Police on their gun violence task forces; and launch a new initiative called SAVE, Supervision Against Violent Engagement, in Buffalo, Syracuse, and Albany.

SAVE will identify individuals under parole supervision who are at the highest risk of recidivating in a violent manner. The department will utilize advanced supervision tactics, electronic monitoring, and intelligence sharing with local partners

to enhance public safety, similar to what is done for the highest-level sex offenders.

It will also be crucial for us to focus on our recruitment efforts for both civilian and security staff. These efforts will be greatly assisted by the Governor's proposals to lower the age for new correction officer hires to 19 and the Expanding Nurses for our Future scholarship program. Staff wellness and staff retention initiatives will also be prioritized, as we are only as good as the workforce we are able to recruit and retain.

In conclusion, although many challenges lie ahead for the department, as has been the case throughout my entire career, the department will successfully meet these challenges because of its greatest resource, which is the dedicated men and women who heroically perform their responsibilities with pride, dedication, and professionalism.

Thank you again for the opportunity to appear before you here today. I would be

happy to address any questions you may have.

CHAIRWOMAN KRUEGER: Thank you, everyone.

So I'm now going to ask Mike, who's somewhere with the mic -- I think it's Michael with a mic -- to come replace the mic on your table before we start questions. So just give us a second.

(Off the record.)

CHAIRWOMAN KRUEGER: All right. Thank you. Okay, so now three of you get to share two, but it's not quite as complicated. Thank you so much for the patience.

And now we are going to start with Chair Jamaal Bailey for 10 minutes.

SENATOR BAILEY: Thank you, Madam Chair.

Good afternoon, everyone. Good to see you, Commissioners, Acting Commissioner. Commissioner Rosado, thank you again for twice in two weeks; the pleasure's all mine.

So the Executive Budget proposes removing the least-restrictive-means standard. And I understand that this is an

Executive proposal and not that of DCJS, so I frame my question in that manner. Removing the least-restrictive-means standard for qualifying offenses when the court is making the bail determination provides a list of factors that the court must consider in making those determinations.

We spoke about data last week. Does the current data show that people who are charged with qualifying offenses are more likely to fail to appear in court versus those with non-qualifying offenses?

DCJS COMMISSIONER ROSADO: I think as we discussed last week, the data shows that it's basically flat, right, it's steady and flat.

SENATOR BAILEY: So what evidence do we have, then, that these -- and again, I understand the Governor's overarching thought process. It is the same thought process that we all share -- public safety -- regardless of 63 districts in the Senate, 150 in the Assembly. Public safety is important to all of us. Right? It's not a partisan issue.

What evidence is going to show that these changes will result in a reduction in crime?

DCJS COMMISSIONER ROSADO: Well, I think as the Governor expressed both in her State of the State and in her budget presentation last week, so there is the data that we collect -- and as you stated, we don't have a role, we basically help to -- you know, we collate that data with OCA and we report on the pretrial release decisions. We're not a party to or directly involved in the court proceedings where the release data is considered.

But as the Governor has stated, you know, we get feedback in different ways. And so one is data, which we presented, we did a deep dive on last week. And then, you know, she's one of the hardest-working elected officials I know. She's on -- out in communities and she's hearing feedback and she's hearing and she expresses as she's hearing from both judges and other practitioners that there is confusion. And

she said, let's have a conversation about that.

SENATOR BAILEY: Well, my conversation and my discussion is certainly not a referendum on the Governor's work ethic. I believe that she is incredibly hardworking.

But again, I'm just asking if we're looking to make what could be a major change in the way that we are -- in the way that we're, you know, we're dealing with pretrial offenses, I'm just looking for the evidence that we spoke about. And it seems as if the evidence that's necessarily the empirical data doesn't necessarily match with the specific requested changes at present time.

And that's my statement. I don't even know -- I don't know if you're in a position to answer that.

But the question was about -- another question about data. DCJS is responsible for collecting criminal and arrest reports from law enforcement agencies across the state, from State Police as well. What plans do you anticipate putting in place to make sure that

there's more of a symbiotic relationship between DCJS and the Division of State Police for the collection of that data?

DCJS COMMISSIONER ROSADO: (Conferring.) Thank you. Sorry, I couldn't hear.

I mean, we work very closely with State Police now, and the -- as well as, you know, with all the agencies in our portfolio, and we have -- you know, we're also on several of the task forces together. So I expect to continue working collaboratively with State Police and all the other agencies.

SENATOR BAILEY: Excellent.

So we spoke last week about gun violence prevention. One of the scourges of the -- the scourges in our communities is gun violence. The SNUG program, the Executive Budget proposes $21 million in SNUG funding. It's unchanged from last year's budget. But we speak about a rise in gun violence prevention. Do we think that $21 million is sufficient?

DCJS COMMISSIONER ROSADO: So as you

know, we announced our SNUG program in Mount Vernon last year, so -- and you were there with us, so I know you know this program well.

The funding for SNUG is going to help us address some of the needs of the actual SNUG workers as well as the communities. And we have social workers working with each of these teams now. And this will be the first year that we're in a post-pandemic mode. I mean, we've been in an emergency mode for the last two years, and last summer especially, trying to bring those shootings down. You know, we were able to see that in many of the jurisdictions. And this year we want to -- you know, we want to also try to make those teams more whole in their preventive work.

We're hoping, right -- this is my wish for '23, is that we have time to do more preventive and proactive work both with the SNUG teams in those jurisdictions and with the extended community in those jurisdictions as well.

SENATOR BAILEY: Okay, so I have a

bill that would codify the SNUG program that moved through the Committee on Codes. Does DCJS take a specific position or not on that specific bill, or are you aware of that specific bill, to codify the SNUG program?

DCJS COMMISSIONER ROSADO: We don't take a position, but we welcome your support.

SENATOR BAILEY: Certainly.

In their conversation about I guess violence interruption services in addition to SNUG, can some of the funding that we're supposed to be using for that, can it be used for mobile trauma units, you know, that respond to crises in our communities? Can that money be used for that purpose as well?

DCJS COMMISSIONER ROSADO: It can. I mean, again, we're looking to do more proactive and innovative stuff in this third year. The last two years have been full crisis.

I just wanted to mention that the SNUG site shootings are down 32 percent and the GIVE site shootings are down 15 percent.

SENATOR BAILEY: Mount Vernon SNUG

209, some of the greatest folks that work in the community day in and day out, they live and love the work that they do. So shout out to Mount Vernon in that respect.

Discovery reform. The Executive proposal includes $40 million to support the implementation. How -- how will this be meted out? How will local municipalities, district attorneys, anybody who needs it -- will that be available to defense attorneys? Like how does this $40 million work in the furtherance of these rate reforms that we've made?

DCJS COMMISSIONER ROSADO: Well, they've expressed they would like to -- in addition to handling the -- you know, kind of the impact of the reforms, they also want to do recruitment of staff for these offices, for the DAs offices, around the work of discovery. They're having trouble recruiting people -- everybody's having trouble recruiting people -- and we want to help them with that.

They also are investing in systems to,

you know, track the cases. And they are also -- I think that was it. It was staffing, right, that they were investing in? I'm sorry. My team has worked really hard to prepare me, but, you know ...

SENATOR BAILEY: This is the second hearing in two weeks, Commissioner. I fully understand.

I'm just trying to figure out like how will the money become available. Is it going to be grant-based, is it application-based? How does -- how does this $40 million get to --

DCJS COMMISSIONER ROSADO: Wait, wait a second. For the DAs?

SENATOR BAILEY: For the DAs or anybody that needs help with discovery. Because it's not just district attorneys that need help with discovery.

DCJS COMMISSIONER ROSADO: Yes, I'm sorry. I'm sorry. So that money is distributed to the counties and it's based on the number of arraignments.

SENATOR BAILEY: Okay. So would that

be available to public defenders' offices within specific counties as well?

DCJS COMMISSIONER ROSADO: Mm-hmm.

SENATOR BAILEY: Okay. And again, I think the justice system being holistic and all-encompassing, we should make sure that prosecutors certainly need funding but district -- excuse me, defense attorneys and wraparound services certainly need funding. Because I just spoke about the determinants of violence and safety -- excuse me, the social determinants of health kind of indicate that we should be doing more preventative measures.

DCJS COMMISSIONER ROSADO: Yes.

SENATOR BAILEY: To the Division of State Police, just really quickly with my couple of minutes left, Acting Superintendent, good to see you. Diversity is important. You mentioned diversity in your testimony. What concrete steps are you taking to have conversations with fraternal organizations like the Guardians and things of that nature, in terms of how to improve

the diversity in the State Police?

ACTING SUPERINTENDENT NIGRELLI: Thank you, Senator, for your question. I have to tell you -- can you hear?

SENATOR BAILEY: Yes, I can hear you.

ACTING SUPERINTENDENT NIGRELLI: -- that when I mentioned that our diversity, equity, inclusion has never been stronger, I couldn't underscore that enough. And we are working for the recruitment aspect. We are working with our community partners through community engagement, through colleges, through the Black and Latino Caucus, through Black sororities and fraternities, through our Guardians -- and if you didn't know, the Guardians is an organization within the New York State Police comprised of State Police members -- partnership with the Guardians.

It's critically important, critically important for people in the brown and Black community -- they can only be what they see. So if we have more representation in the State Police that truly represents the

population we serve, our recruitment will be self-generated. Because if they can see it, they can be it.

SENATOR BAILEY: Well, I certainly appreciate that. And I think, you know, many of us are the embodiment and living proof of you can't be what you can't see.

I guess in my last 20 seconds, Commissioner, I know that the State Police fills in the gaps a lot with local law enforcement. Is this budget sufficient for you to continue that work where you're assisting local areas of law enforcement, and is it enough to help you continue the data collection that you have to provide to DCJS?

DCJS COMMISSIONER ROSADO: Yes.

ACTING SUPERINTENDENT NIGRELLI: And from the State Police perspective, Senator, yes, this budget does account for all the needs that we have currently.

SENATOR BAILEY: Acting Commissioner Annucci, I will be back for you in my second round. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Assemblyman Dinowitz, 10 minutes.

ASSEMBLYMAN DINOWITZ: Commissioner Rosado (mic off, inaudible).

-- but you also said, as you did last time, that there's been no difference in the percentage of people returning before and since the laws were changed. So I'm not clear on what's trying to be accomplished here if it doesn't appear that changing that is going to have an impact on the return rate. But you did say -- you did raise the concern of the judges I guess inconsistently applying the reforms.

Wouldn't the better solution to that concern be to train the judges to consistently apply the reforms rather than change it when there's no suggestion that the change has had any negative impact?

DCJS COMMISSIONER ROSADO: I mean, I don't think it's an either/or. You know, it's an "and." The Governor has proposed to have this conversation based on the feedback

that she got. I -- you know, I watched the testimony this morning and I see that, you know, judges are doing Lunch and Learns, and I think that, you know, there could be more done to, you know, to do training of judges to make sure that they're not confused.

But I also think that, you know, there's been enough feedback directly to the Governor that warrants this conversation that she wants to have.

ASSEMBLYMAN DINOWITZ: I guess I would think that -- and we have a lot of great judges, I'm not criticizing the judges. But maybe the first step would be to ensure that every judge is completely trained on this and that in fact they do consistently apply the reforms before we, you know, make such a change, because we haven't really had an opportunity to see if something good would come out of the judges actually being consistent and total understanding of all that.

But let me move on. So last year $40 million was appropriated for discovery.

Do you know how much of that has been spent and how and where, like regionally?

DCJS COMMISSIONER ROSADO: Do you know, Joe? Sorry.

My executive deputy, Joe Popcun, who you met last week.

So 29 million is what has been distributed so far. And as I said earlier, it's 40 to counties based on the arraignment volume.

ASSEMBLYMAN DINOWITZ: Has the money been spent throughout more or less evenly? Or is it sort of skewed in certain areas?

DCJS COMMISSIONER ROSADO: We could give you a list. It's based on -- obviously on need and how quickly -- I know some counties have struggled with disbursement. We've given the money out, and we work closely with them to make sure they get the money as soon as possible.

ASSEMBLYMAN DINOWITZ: Okay. Also last year there was a $20 million appropriation for aftermath of gun violence to support regions that have been impacted by

the spike in gun violence. Do you know how that's been disbursed and where, generally speaking? Pretty much the same question on that issue.

DCJS COMMISSIONER ROSADO: So that's the Project RISE money that I spoke of in my testimony. That's about 28 million.

And that was -- we used the opportunity to get the money beyond the programs that we already offered to the community folks. So we brought folks in those SNUG communities together and said, Who do you want us to give the money to? How should be the money be spent?

And we were looking for creative ways -- again, looking at the proactive and preventive work, especially before last summer, and that's when you have time to do that. As I said, for the -- you know, the last two years have been crisis years as we tried to bring the numbers down from the pandemic.

You know, last summer we did some of this work with the community, and now

we're -- it's my view that we're working right now on preventing the crimes of next summer, right? And so we're working with the community folks to say -- to ask them, you know, where should we spend the money, how should we spend the money. There's a huge concern with summer jobs and keeping youth engaged in the spring and summer months.

And so we're working on that with them.

ASSEMBLYMAN DINOWITZ: Okay, thank you.

I just have a couple of questions for Acting Superintendent Nigrelli. So the concealed carry law changes were passed at the beginning of July. How is implementation going on that?

ACTING SUPERINTENDENT NIGRELLI: Well, Assemblyman, thank you for the question.

And as you know, there are some court cases that are pending right now.

I will say that the New York State Police, as the law is written, will enforce the law. We haven't had any complaints,

therefore no arrests in enforcement of the CCIA law at this point.

ASSEMBLYMAN DINOWITZ: I'm sorry, the last sentence was there was no what of the --

ACTING SUPERINTENDENT NIGRELLI: Complaints nor arrests of the Concealed Carry Law.

ASSEMBLYMAN DINOWITZ: Okay. So the State Police is supposed to maintain a database of all criminal offenses involving discharge of firearms, guns, rifles, et cetera. Under the proposal, that is.

So you don't already do that?

ACTING SUPERINTENDENT NIGRELLI: So this is done in silos across the state. This would allow us to have a central repository in New York State to pull all that data together. It will allow us to link bad actors, who may be doing stuff in multiple jurisdictions. It will also allow us to deploy resources quicker to the areas where there's spikes.

So the question was do we do -- is the State Police doing this. Well, this would

allow one repository for all of New York State. That way it would be centrally located, one, and we'd be able to share data and get data from all jurisdictions. Which we currently are not doing. Actually, that would have been a quicker answer for you.

ASSEMBLYMAN DINOWITZ: Will there be additional resources necessary for you, or is this just going to be a very smooth change to this?

ACTING SUPERINTENDENT NIGRELLI: There are some -- there will be additional duties placed on the State Police, and there should be made possible some small funding in this proposal. But it's just filling the vacancies that currently exist in the New York State Intelligence Center.

ASSEMBLYMAN DINOWITZ: I see.

ACTING SUPERINTENDENT NIGRELLI: There will also be assumed duties.

ASSEMBLYMAN DINOWITZ: So you won't need to hire additional people for this repository, then.

ACTING SUPERINTENDENT NIGRELLI:

Utilizing the funding that is in the proposed budget would fill vacancies that currently exist in the New York State Intelligence Center. These duties would be assumed among other duties that are there.

So no specific titlement for the -- payment for these type of duties. It would be a lot of duties that would be fulfilled. They're full-time equivalents.

ASSEMBLYMAN DINOWITZ: Okay, thank you very much.

ACTING SUPERINTENDENT NIGRELLI: Thank you, sir.

CHAIRWOMAN WEINSTEIN: Senate?

CHAIRWOMAN KRUEGER: Thank you.

Next is Senator Gallivan, ranker, for five minutes.

SENATOR GALLIVAN: Thank you, Madam Chair. (Mic off; inaudible.)

CHAIRWOMAN KRUEGER: Pat, is your microphone on?

SENATOR GALLIVAN: There we go.

If I could very briefly go back to the testimony about the data that you talked

about, about the two out of every 10 people with pending cases appears to be -- well, the data shows that the failure to appear in rearrest rates is about that, two out of 10, right? You testified today and last week at the data hearing to that effect.

At the same hearing last week, and I don't know if you were there for it, the New York City Police Department also presented some data for a very small period of time, post the change in law but prior to the -- before COVID started, that suggested that the change in the laws, specifically the bail laws, had something directly to do with the increase in crimes in New York City.

The question I have really for everybody is, is it okay for anybody to not appear in court or to commit an additional crime when they're out pending another case? Is any level acceptable?

DCJS COMMISSIONER ROSADO: I don't think anyone at this table thinks any level of crime is acceptable.

SENATOR GALLIVAN: Thank you, and

neither do I.

And so doesn't it follow that when we have a various set of laws and other things that might come into play -- levels and types of enforcement and so on -- don't we have an obligation to discuss anything that might take this rearrest number, failure to appear number, down to zero? Obviously it's a goal we're not going to get to, but shouldn't that always be our goal?

DCJS COMMISSIONER ROSADO: Well, I would say that the data doesn't bear that out so far. And we have -- every six months we have a new data set that OCA and DCJS works together to post, so we have the ability to look at this every six months.

This is the first time we had kind of an apples-to-apples. But as I said, the first two years of that implementation were pure pandemic, and so those numbers are -- you know, they were --

SENATOR GALLIVAN: Kind of difficult to measure.

DCJS COMMISSIONER ROSADO: But I want

to say this. Bail has never been a crime-prevention tool, right? Bail is a tool for the courts to make sure that people come back to court.

The expectation that we turn bail into a crime-prevention tool I think is very confusing, because that's not the intention of bail and it's hard for you to just look into a crystal ball and determine whether someone could recommit a crime or someone could do this or that. I think that we also want to look at new -- you know, other tools or innovative tools for crime prevention --

SENATOR GALLIVAN: No question about it.

The last point on this is 49 other states do think the ability of a judge to utilize discretion in looking at the person's dangerousness to the community is indeed a factor. We're the only state that doesn't.

If I could move on. Very quickly, Commissioner Annucci, I want to reaffirm, no prison closings planned for this year?

ACTING COMMISSIONER ANNUCCI: That is

correct.

SENATOR GALLIVAN: Different area.

The proposal from -- going from age 21 to age 19 for correction officers, do you know if this applies to local correctional officers as well, at the county level?

ACTING COMMISSIONER ANNUCCI: To local, is that your question, Senator? No --

SENATOR GALLIVAN: This proposal is only at the state level.

ACTING COMMISSIONER ANNUCCI: This is for state correction officers only. The statute currently says 21. We think we can effectively amplify our workforce with 19 and older.

SENATOR GALLIVAN: Okay. Thank you.

Superintendent Nigrelli, you testified to concurrent classes. How will you handle this? Certainly the State Police Academy can't accommodate all these classes through in one particular year.

ACTING SUPERINTENDENT NIGRELLI: Thank you, Senator Gallivan, for the question. And it's a great problem to have.

But you're right, we started this current academy of 275. That's actual -- that's capacity. So we're going to auxiliarize our current academies. We are looking for an off-site venue, an auxiliary academy, and we are doing our due diligence right now working with SUNY, OGS, DASNY, National Guard. We're looking at any possible facility that can house an academy, some possibly in the Central New York region.

So that is going on currently, and we would hope to have that academy, if approved, if the funding was approved, up and running in early fall.

SENATOR GALLIVAN: All right. Thank you all.

CHAIRWOMAN KRUEGER: Thank you.

Excuse me, Assemblymember Dilan, 10 minutes, chair of Corrections.

ASSEMBLYMAN DILAN: Thank you, Senator.

And Commissioner, it was great to meet with you last week and get the opportunity to just go over your vision for your agency.

I have a few direct questions as it relates to your budget and some of the Article 7 language that is being proposed in this budget. So basically it's an $8 million increase in your budget over the last fiscal year. How do you intend to use those funds?

ACTING COMMISSIONER ANNUCCI: Well, primarily, Assemblyman, it's for the new initiatives targeted to gun violence. I think there are 66 positions associated with what we call the SAVE initiative, which will build on a very successful initiative that has worked in Rochester targeting those individuals being released from prison whom we identify as posing the highest risk to recidivate committing a violent crime.

So we will put them on caseloads of 20-to-1, we will outfit them with GPS, we will work with the locals -- because in addition to the traditional law enforcement, we also realize you need to have services for these individuals. You need to refer to them for appropriate services that will convince them not to pick up that gun. Their lives

matter, their lives are important, we want everybody safe.

So the successful initiative in Rochester will be replicated in Buffalo and Syracuse and Albany.

And then the other initiative, of course, we're going to leverage all of the intelligence that we have -- our agency really is involved -- at the federal level, at the local level, with our partners in state criminal law enforcement. So we have a lot of intelligence to share, and when we coordinate that, it really works.

One quick example. In New York City we work with our partners there, and one initiative is called the GRIP. The President of the United States came to see that in action. He brought his attorney general, the U.S. Attorney General, to see it, and it's a coalition of law enforcement, federal, state and local, who bring together intelligence on individuals who were involved in recent shootings. That's the kind of thing we're going to continue to do with GIVE and all the

other initiatives that we have coming forward.

ASSEMBLYMAN DILAN: Okay, so I'll move now to the Article 7 language. There's two proposals. I'll start with the body scanners first.

How does your agency propose to pay for these body scanners, and in how many facilities are they in use, if at all, currently?

ACTING COMMISSIONER ANNUCCI: So we have an appropriation for that, and we believe we're going to acquire about 80 of them for our facilities, two per facility.

We want to point out that not only is it a better enhancement to identify contraband, but it would actually be uplifting in terms of avoiding what's now used, a strip-frisk procedure, which is intrusive, understandably so, for the individual subjected to the strip frisk and for the staff that are doing it. So --

ASSEMBLYMAN DILAN: That's your current screening process? What you just

mentioned, is that your current screening process?

ACTING COMMISSIONER ANNUCCI: Strip frisks are currently what we use right now. After every visit, for example. So if we had body scanners -- and at least 14 jurisdictions, and Rikers Island, currently have them -- we believe it will save people's dignities and it will be more accurate to identify contraband, especially things like ceramic blades, enhance safety, and probably be a time-saver as well. A strip frisk does require a lot of time.

ASSEMBLYMAN DILAN: So if I got this correct -- I just want to be quick -- you said eight facilities?

ACTING COMMISSIONER ANNUCCI: No, I said we're going to acquire 80.

ASSEMBLYMAN DILAN: Eighty, eight-zero. Okay.

ACTING COMMISSIONER ANNUCCI: Yes. Two per facility.

ASSEMBLYMAN DILAN: Two per facility. So that should cover every facility

statewide?

ACTING COMMISSIONER ANNUCCI: Yes.

ASSEMBLYMAN DILAN: Okay, and what is -- you did mention the cost to do this. Could you state that?

ACTING COMMISSIONER ANNUCCI: Yeah. We estimate about $13 million, and it's within our existing resources that we'll be able to fund that.

ASSEMBLYMAN DILAN: Okay, great.

And then just a question on how and if it will be used on visitors.

ACTING COMMISSIONER ANNUCCI: That potential is there. And -- but right now we're concentrating on our population, really, if they're in the visiting room.

Similar to the existing law, there will be appropriate rules and regulations, reportings that will have to go through to DOH, I believe the State Commission of Corrections. So ultimately they will decide the parameters of permissible uses and the safety precautions that have to be followed.

ASSEMBLYMAN DILAN: So no intention at

this moment to use on visitors.

ACTING COMMISSIONER ANNUCCI: No, I think it's definitely within the realm of possibilities. It depends, of course, upon the final law that is passed.

But right now our immediate priority's on the incarcerated individuals leaving visits.

ASSEMBLYMAN DILAN: Okay. Now I want to shift to the Article 7 language around reducing the age of your corrections officers. And I think you -- do you have trouble hearing me, is that it?

So I want to -- I think your rationale is to try to encourage more people to apply to become corrections officers, and it's a recruiting measure. Just want your opinion on, you know, how you think a 19-year-old can handle this and do this job safely.

ACTING COMMISSIONER ANNUCCI: Well, it's -- thank you for that question, Assemblyman.

First of all, we are a paramilitary organization, so we compare ourselves to the

military. And as you know, you can be 18 and you can enlist and fight to defend your country.

We also have rigorous screening procedures. We have a psychological screening test that everybody has to pass in order to become a correction officer. We have a background examination. And we have a very thorough training academy. So to get through that whole entire process, we feel 19 and above will be suitable.

And we have a real challenge right now. We have serious vacancies throughout our system. So this will help us to have additional bodies. There's on-the-job training that they will learn under experienced officers. We think this makes sense, will help us in at least one important way to continue to fill the ranks of our correctional facilities.

ASSEMBLYMAN DILAN: So I'm running out of time, but could you quickly state the amount of vacancies that you currently have?

ACTING COMMISSIONER ANNUCCI: Right

now for corrections officers the vacancies are 867 and for -- we're projecting 1150 by year-end, which is a lot.

ASSEMBLYMAN DILAN: Okay.

ACTING COMMISSIONER ANNUCCI: Twenty-nine hundred under -- in all programs.

ASSEMBLYMAN DILAN: Okay. And currently the age to become a corrections officer is 21.

ACTING COMMISSIONER ANNUCCI: Yes.

ASSEMBLYMAN DILAN: Would you happen to know how many 21-year-olds are currently serving as a correction officer right now?

ACTING COMMISSIONER ANNUCCI: I think we're going to have to get back to you, Assemblyman --

ASSEMBLYMAN DILAN: Get back to me on that? That's fine.

ACTING COMMISSIONER ANNUCCI: -- I don't have it off the top of my head.

ASSEMBLYMAN DILAN: And, you know, I will have, you know, further questions for you offline about this as they come, but I believe you've covered the basics of what I

was looking for.

ACTING COMMISSIONER ANNUCCI: Anytime, Assemblyman.

ASSEMBLYMAN DILAN: I do want to take some time, with the little bit of time that I have left, to talk about your educational programs.

I guess -- how many incarcerated individuals in DOCCS custody are enrolled in the college degree-granting program?

ACTING COMMISSIONER ANNUCCI: In the college programs?

ASSEMBLYMAN DILAN: Yeah.

ACTING COMMISSIONER ANNUCCI: Sixteen hundred, I believe, is what we currently have enrolled.

We're continuing to build on that. As you know, the Governor allows TAP funding now. We just opened up another -- I think it's Jamestown College, out west, will be opening their program at Collins Correctional Facility, and we're continuing to build on all our relationships. I think it's about 28 different --

ASSEMBLYMAN DILAN: So I'm running out of time, but my final and follow-up question would be, in how many facilities do you have these programs? And would you support an expansion?

ACTING COMMISSIONER ANNUCCI: Currently we have it present in 36 different correctional facilities.

ASSEMBLYMAN DILAN: Say it again?

ACTING COMMISSIONER ANNUCCI: And we also have connected with Chancellor King. We had a very nice Webex call with him. He reiterated his commitment to absolutely building on our existing relationships and making them stronger. He believes in education for the incarcerated population. We welcome his partnership with SUNY.

ASSEMBLYMAN DILAN: Okay, thank you, Commissioner.

Thank you, Madam Chair.

CHAIRWOMAN WEINSTEIN: Back to the Senate.

CHAIRWOMAN KRUEGER: Thank you very much.

Our next questioner will be Senator Hoylman-Sigal.

SENATOR HOYLMAN-SIGAL: Thank you, Madam Chair.

Good to see you, everyone here, and thank you for your service.

I wanted to ask Ms. Rosado about the Securing Communities Against Hate Crimes grants. What entities are eligible for those grants?

DCJS COMMISSIONER ROSADO: Say that again?

SENATOR HOYLMAN-SIGAL: The Securing Communities Against Hate Crimes grants. What entities are eligible for those grants?

DCJS COMMISSIONER ROSADO: So organizations, community organizations and others that are -- that could be subject to hate crimes or that have been subject in the past.

DCJS will provide funding to boost safety and security for mostly nonprofit organizations. But there are some private and public reproductive centers at risk of

hate crimes, and we've worked to help them too.

SENATOR HOYLMAN-SIGAL: That's good news. Because I want to see in this year's budget an expansion to include, if possible, LGBTQ bars and night clubs, which are targeted, as our local police precincts can tell you. Many of the patrons who visit there are afraid, even though these places were meant to be sanctuaries for LGBTQ people. A lot of them live in fear of being attacked at one of these bars or night clubs, as we've seen across the country. So I just wanted to plug that.

And then for the acting commissioner, I wanted to ask you about -- Mr. Annucci, I wanted to ask you about the implementation of HALT. And as you know, HALT violations are limited to no more than 15 consecutive days in special housing units. But your own statistics show as of October 1st that 52 percent of individuals in the SHU have been there for more than 15 days. Can you explain this?

ACTING COMMISSIONER ANNUCCI: Sure, Senator.

First of all, we established a comprehensive approach to implement HALT as best we can. We started way in advance, we had four subcommittees that looked at all the different things that we would have to do, from training to infrastructure and class of movement, transfers, et cetera.

We tried to hit the ground running, and when we did, we quickly got overwhelmed by the number of assaults that were happening. And so we didn't have sufficient immediately -- immediate capacity in our RRUs, which backed us up in our SHU capacity.

So we worked very hard to rapidly increase our RRU capacity, which we've done. We've also, for the time being, increased for people that were in SHU the amount of out-of-cell time to seven hours. As you know, they now are required to get four hours of out-of-cell time, which includes three hours of programming --

SENATOR HOYLMAN-SIGAL: So can we

expect to see those percentages drop further? Because as of December 1st, it's still 42 percent.

ACTING COMMISSIONER ANNUCCI: I didn't quite hear that, Senator.

SENATOR HOYLMAN-SIGAL: So can we expect to see those percentages drop further in compliance of HALT?

ACTING COMMISSIONER ANNUCCI: Yes. We believe, if we're not in compliance today, we're very, very close. We worked very hard, we're moving the people out of traditional SHU, which again is four hours, to our RRUs as quickly as possible because we added a lot more capacity. And to the extent, if there are a few people left behind, they'll get seven hours a day until we move them to the RRUs.

SENATOR HOYLMAN-SIGAL: Thank you. Because you -- currently HALT does prohibit this, and I just want to make that clear.

Thank you.

ACTING COMMISSIONER ANNUCCI: Sure.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman McDonald, 10 minutes.

(Pause.)

ASSEMBLYMAN McDONALD: Shouldn't be that difficult.

Thank you all for your testimony and service today.

My questions are for the acting superintendent, two quick ones.

Number one, there's $100 million in there for the forensic labs. So what is happening? Where is this? Is it being built, is it being rebuilt, is it investing? Currently what is the plan?

ACTING SUPERINTENDENT NIGRELLI: Well, thank you, Assemblyman, for the question.

Our current forensic lab in Albany was constructed in 1994 with an RFP that went out in 1992. And as you can imagine, science and technology has changed since then, as has the laws.

The proposed funding will go to build a satellite lab, it's the retrofit of a

facility in Albany, an existing building that we'd retrofit, to be able to move our DNA, our NIBIN and gun analysts and scientists there.

We literally are busting at the seams. Just to give you an example, we are using storage closets now as offices. And a common area that used to be for lunches is cubicle space. It was a great facility in 1994, but technology has made it obsolete, almost.

ASSEMBLYMAN McDONALD: Time and technology does change. But it is going to be in Albany, correct?

ACTING SUPERINTENDENT NIGRELLI: That's correct, sir.

ASSEMBLYMAN McDONALD: Just want to make sure.

The second question actually is a diversion, I guess, it's moving to the conversation about the Park Police. I think currently the Park Police are under your operations, under the State Police.

ACTING SUPERINTENDENT NIGRELLI: That is correct.

ASSEMBLYMAN McDONALD: And I think that was a transfer that happened a couple of years ago, if I recall correctly.

And, you know, when you talk to people sometimes it doesn't seem to be going as smoothly as they would like. I believe the latter part of last year there was supposed to be some kind of meeting to kind of figure out the future of what's going to happen.

Has there been any discussion or any decisions made on is the Park Police staying underneath the State Police, or is it moving back to Parks, or what is going on?

ACTING SUPERINTENDENT NIGRELLI: Assemblyman, I can bring you up to speed.

So in December of '19, under a previous administration, the State Police assumed operational control over the Park Police. And that memo that was issued at that point was only replaced in June of this past year. Starting in June of '22, moving forward to December 2nd, the New York State Police and OPRHP got together, and we created a working group to come up with a joint

operational plan for the future of the Park Police.

I'm happy to report that as we speak, 39 Park Police candidates are in their academy, and another academy is planned for this fall. The process is going on.

I will say this, that for the last three years, we've had the opportunity of operational control over an outstanding agency that's filled with truly dedicated public servants, both men and women, of the Park Police. And they've been serving this state proudly since 1885. And it's been a great opportunity for us to have operational control but, more importantly, to work along with our brothers and sisters in the Park Police.

ASSEMBLYMAN McDONALD: I thank you for the update. You know, as we all know, our parks continue to be overwhelmed, in a great way, that the public is truly using them. By the same token we need to make sure that there's proper resources to make sure everybody has a safe experience.

Thank you.

ACTING SUPERINTENDENT NIGRELLI: You know, just for the committee's perspective, there's 77 -- 77 million visitors to the parks system. Seventy-seven. So we have a great parks system in New York State, and we should be very proud of it. And policing it is an honor for us.

ASSEMBLYMAN McDONALD: Thank you.

Thank you, Madam Chair.

CHAIRWOMAN WEINSTEIN: Senate?

CHAIRWOMAN KRUEGER: Thank you very much.

Next we have Senator Stec for five minutes.

SENATOR STEC: All right, good afternoon. Thanks for being here.

I've got a question first for the State Police superintendent, and then for DOCCS.

First, Superintendent Nigrelli, changes were made last year to the state's concealed carry laws. There's some confusion, argument down here in Albany about

what they meant and how they would be enforced.

Since then, the Governor has announced, in this proposed budget, several changes addressing these: The definition of the park -- Adirondack Park, Catskill Park -- historic reenactment, antique displays of firearms, honor guards. Things that most of us I don't think would consider very controversial, but certainly troubling because a lot of people in my district were concerned, we had a lot of reenactments get canceled. Insurance and attorneys telling them, hey, this is against the law.

So apparently the Governor agrees that clarification needs to be made, as she's proposing to do that in the budget. Fine, I guess. My question is in the interim, until there's clarification, what is the State Police's enforcement policy on those aspects of that concealed carry law?

ACTING SUPERINTENDENT NIGRELLI: Thank you for your question, Senator.

Normally we don't comment on budgetary

or legislative proposals, but I will say, since this is a technical amendment to an existing legislation, I feel I'm able to answer this question. This is a technical amendment to help clarify the intention of the law. As we mentioned earlier with Assemblyman Dinowitz, there is a lot of legal holes on enforcement in some of these areas. And one of them is what you have mentioned.

I could tell you that the New York State Police has not done any enforcement because of these -- there's been no complaints as well of reenactments. And that's one of your points you brought up.

As the law is written, like all laws, we're obligated to enforce them. This law, I believe the clarification of this law and the true intent, we support that, to help clarify not only for law enforcement, but for the public.

SENATOR STEC: Well, I agree. I'm pleased to hear that. Like I said, I apologize that this is part of the budget, except it's in fact included in the budget.

Commissioner Annucci, you and I have discussed the HALT Act many times. As you know, I've got seven correctional facilities in my district; I visit all of them frequently. And I've visited with COs and civilian staff and Honor Block incarcerated individuals. Late last year Assemblywoman Carrie Woerner and I visited Great Meadow, and just two weeks ago -- I'll highlight that just two weeks ago, so it hasn't been a lot of time to ask for your response yet -- we sent you a joint letter, and I'll just read some of the highlighted portions of it regarding our visit.

"We are writing to bring to your attention and ask that you review implementations of Regulations 304.1(a) and 315.2(a)(3), and they're regarding RRUs and the PIMS system use within them.

"As part of our tour, we learned that incarcerated individuals in the RRU are given unlimited access to tablets and phone calls, privileges not afforded to individuals in the general population or on the Honor Block.

"There appears to be a general sense among incarcerated individuals as well as corrections officers that incarcerated individuals value being in RRU over being in the general population, and as a result, the RRU does not serve its primary purpose, which is to rehabilitate the behavior of the incarcerated individual such that they are better equipped to live peacefully and productively in the correctional facility.

"We spoke to an individual who has earned the privilege of residing in the Honor Block, and he highlighted to us this inequity.

"What is the embedded incentive to successful and permanently address behavioral issues if the privileges one receives on RRU exceed what would be provided in the general population or on the Honor Block?"

And the letter goes on, but the gist is is that you're giving it away and you're not letting them earn it, and you're sending a message to the rest of the inmates and even those on Honor Block that it's a better deal

to be in RRU. So how is this going to improve behavior in the correctional facilities? And behavior, to me, equates to safety to the inmate, safety to civilian staff and our corrections officers.

ACTING COMMISSIONER ANNUCCI: So thank you for that, Senator. You made some very good points, both of you, in that letter.

By way of history, when we settled a lawsuit with NYCLU, going back a few years, part of that settlement did require, as a pilot, that we bring in tablets for the then-SHU. So this goes back.

Now, two years ago, one year before we implemented HALT, under the then-agreement between the Legislature and the Governor, which would have taken three years, we knew that there would still be concerns about individuals being housed in traditional SHU until we could get to where we needed to get to. So to help us get there, we decided to mitigate the isolationary effects if we were to bring in tablets that had phone connectivity. We would have individuals

connected to their family, which would allay some of the concerns that it was going to take us three years.

Last year, in 2022, incarcerated individuals in RRU and SHU spent 254 million minutes on the phone with friends and families. So we did mitigate the isolation. But it is a privilege. My long-term intention is to have tablets for the entire population with phone connectivity, which will alleviate a lot of problems. That's down the road; we're going to start to work on it this July.

CHAIRWOMAN KRUEGER: Thank you. I need to cut off this questioner.

ACTING COMMISSIONER ANNUCCI: Okay, I'm sorry.

SENATOR STEC: Thanks, Commissioner.

CHAIRWOMAN KRUEGER: Thank you.

Next, Assembly.

CHAIRWOMAN WEINSTEIN: Assemblyman Giglio, the ranker, five minutes.

ASSEMBLYMAN GIGLIO: Thank you.

Good afternoon, all of you.

My questions will be going to Commissioner Annucci, for the most part.

You started out saying there's 31,000 people in jail right now?

ACTING COMMISSIONER ANNUCCI: Yes. today it's I think 31,000 just over 500.

ASSEMBLYMAN GIGLIO: And so you think that population's going to stay stable or do you believe that when the courts now are back up to full force that you'll be getting more individuals sentenced to state facilities?

ACTING COMMISSIONER ANNUCCI: We are seeing an increase. There was an increase last year of about 700 between the close of 2022 and 2021.

Clearly the courts are getting more active, we're seeing more new commitments. It's very hard to predict exactly when they're going to hit their stride and when we're going to know exactly, you know, how many new commitments are going to be coming our way.

ASSEMBLYMAN GIGLIO: And you started saying there will be no more closures to any

of the --

(Overtalk.)

ACTING COMMISSIONER ANNUCCI: Not this fiscal year.

ASSEMBLYMAN GIGLIO: So you do have enough capacity to handle whatever comes your way?

ACTING COMMISSIONER ANNUCCI: Thousands and thousands of vacancies in the system.

ASSEMBLYMAN GIGLIO: Okay. Secondly, you started out with some unbelievable figures about violence within the facilities. You talked about a bunch of different things, and you mentioned a task force that would help COs deescalate the problem.

But just a couple of years ago you had a very savage attack -- and that was your words -- within one of your facilities and one of your COs was almost killed and had to be saved by the inmates before your teams could get there and help.

Since that time, what has changed?

ACTING COMMISSIONER ANNUCCI: Well,

we're working very hard and we're doing a lot of different things, Assemblyman, to really deal with this.

First and foremost, we're listening. Right? We're listening to everybody that's up front in dealing with the problem in our facilities. That includes both incarcerated individuals and the rank and file. My executive deputy commissioner and my deputy commissioner for correctional facilities, they are literally going around the state having town hall meetings, meeting with the staff, listening to their concern, hearing firsthand.

We're also getting feedback from an inmate liaison committee, incarcerated individuals, what their perspectives are. There's no one single, easy answer to everything. Certainly the recommendations that we have implemented today -- the screening, the copying of mail, the vendor package program. And being concerned with the advocates, we make sure that we have the fresh fruits and vegetables, packages with

fresh fruits and vegetables can come from vendors. That's been a big help. We're looking at a lot of different things.

I'm going to send two people to the State of Washington, where they just have an outside organization that has a contract with the Norweigian correctional services entity, and they have ways of providing deescalation training. So we're going to see if that works.

We have violence interrupters. I've had an individual who is a notorious individual in the Massachusetts system; he's turned his life around, he's offering programs. We'll have him come in and talk to the population.

We will try everything to reduce violence, my number-one concern right now.

ASSEMBLYMAN GIGLIO: I believe that. Thank you.

My next question has to do with staffing. And the State Police had mentioned how much they're recruiting all over the place. And I looked at your staffing, and

you guys have just mentioned how low you are right now, and you're willing to change the age.

My question is not -- has something to do with recruitment, but my very question is since you're operating at that low of personnel, how much overtime is being forced upon the people that -- the COs that work within your facilities? And if it's forced upon them, do you have any maximum of how many days they can be forced or anything like that?

ACTING COMMISSIONER ANNUCCI: Well, it's a very good point, Assemblyman. And we really hear the concerns of the rank and file. It's very demoralizing for somebody to get stuck and really miss their -- you know, their kid's birthday, the wife's anniversary. I think our staff have done a phenomenal job. They came through with the pandemic -- they showed up, they couldn't work remotely. And I hear it all the time, that it is very demoralizing for them.

And we are trying a lot. We have this

open enrollment system right now that is a big change. We got how many this month that signed up?

EX. DEP. CMMR. MARTUSCELLO: Seven hundred fifty just in January alone.

In addition, just in terms of the overtime, it is capped at 16 hours. They can't work past the 16 hours, with the exception --

ASSEMBLYMAN GIGLIO: In one week?

EX. DEP. CMMR. MARTUSCELLO: No, in a day.

ASSEMBLYMAN GIGLIO: In a day. I understand that --

EX. DEP. CMMR. MARTUSCELLO: There's no limit in the number of weeks.

But we're also going through and we've been consolidating dormitories in order to minimize the staffing need on a given shift, as well as we are --

ASSEMBLYMAN GIGLIO: What about consecutive days? My next question --

EX. DEP. CMMR. MARTUSCELLO: They can work consecutive days.

ASSEMBLYMAN GIGLIO: Consecutive days.

EX. DEP. CMMR. MARTUSCELLO: They can work consecutive days.

ASSEMBLYMAN GIGLIO: So they can work 16 four days, five days? How many days in a row?

EX. DEP. CMMR. MARTUSCELLO: Yeah, there's no limit on consecutive days. Typically, obviously, we have had to mandatory overtime people on their RDO, but not both RDOs.

We're also going through and we're doing a deconstruction of all of our plot plans to make sure that we're running as efficiently as possible to make sure that the men and women that are working in our institutions get that relief that they so deserve.

ASSEMBLYMAN GIGLIO: Thank you very much.

CHAIRWOMAN WEINSTEIN: Thank you.

Senate.

CHAIRWOMAN KRUEGER: Thank you very much.

Next is Senator Zellnor Myrie.

SENATOR MYRIE: Thank you, Madam Chair.

My questions are directed at Commissioner Annucci.

So you mentioned in your testimony that you created a Prison Violence Task Force to study the root causes of violence. Do we have the results of that task force?

ACTING COMMISSIONER ANNUCCI: We have their ongoing work and their ongoing feedback, and we're continuing to meet.

I meet every two weeks to look at how we're dealing with HALT. We get feedback from the system. I talk to my superintendents to see how things are going. It's a very, very important process that will continue to work, and hopefully we'll bring the level of violence down.

We do have some success stories. We have individuals that wrote an absolutely wonderful letter, he was in RRU, he thanked the staff for working with him, he's had his eyes opened, he has changed. I mean, there

are a lot of positives out there. But --

SENATOR MYRIE: I'm sorry, I don't mean to -- excuse me, I don't mean to cut you off, I just have a short amount of time.

So have you identified any of those root causes of violence?

ACTING COMMISSIONER ANNUCCI: One of the ways that we're trying to get at the root causes of violence is all the different programs that we have. We'll be rolling out a moderate aggression program, we have an advanced aggression program, we have our traditional ART. We have our volunteers that come in.

It's now officially the season of nonviolence, the 64 days between the assassination of Martin Luther King and Mahatma Gandhi. His workgroup comes in, and individuals sign contracts that they're going to refrain from violence --

SENATOR MYRIE: Again, forgive me, Acting Commissioner, I just don't have that much time.

ACTING COMMISSIONER ANNUCCI: Okay,

Senator.

SENATOR MYRIE: I did not hear particulars on the root causes of violence that this task force is ostensibly supposed to identify, so I'm hoping that at some future point we can get that.

I want to shift very quickly to the SAVE initiative. In that, you state that you identify individuals under supervision who are at the highest risk of recidivating. How do you identify those individuals?

ACTING COMMISSIONER ANNUCCI: There's an algorithm that our research unit looks at and identifies the individuals. So when they're coming out, they're identified and we'll now put them into GPS and the high-risk reporting standards.

SENATOR MYRIE: And just on that point, as you know, we here in the Majority at least have supported several pieces of legislation to have individuals who do not pose a risk of violence, have them have the opportunity to go before the board. And I'm wondering why that same level of care and

attention can't be given to that subset of individuals to identify whether they would pose a risk.

ACTING COMMISSIONER ANNUCCI: I'm sorry, Senator, we don't comment on pending legislation.

SENATOR MYRIE: So I'm not asking you about the legislation, I'm asking if you use the algorithm to determine the alleged risk of a parolee, why that can't be used for an individual in DOCCS's custody.

ACTING COMMISSIONER ANNUCCI: I'd have to sit down with my research team and see if there's a way to predict risk coming before the Parole Board as well.

SENATOR MYRIE: Thank you.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Morinello for five minutes, ranker.

ASSEMBLYMAN MORINELLO: Good afternoon. And thank you for your testimony.

This is for Commissioner Rosado. On June 6, 2022, there was a law passed regarding microstamping ammunition, and you

were to engage in and complete an investigation to certify the technology and viability of microstamping-enabled pistols within six months.

What progress has the division made in investigating the viability of microstamping technology, and do you have any results?

DCJS COMMISSIONER ROSADO: So thank you for the question, Senator {sic}.

DCJS has assembled a working group tasked with fully exploring the viability of microstamping technology and its use in New York. This includes a review of scientific materials, discussions with various stakeholders, and requests for data being done by our office for forensic science.

And given the scope of the inquiry and the great volume of information available on the subject, DCJS has been unable to make a clear determination of viability or nonviability, and we're going to continue that evaluation in 2023.

ASSEMBLYMAN MORINELLO: Thank you very

much.

The Governor's Executive Budget doubles funding for local alternatives to incarceration programs, from 15.7 to 31.4 million. How does DCJS determine which organizations this funding goes to?

DCJS COMMISSIONER ROSADO: So we use RFP -- the procurement process, so people apply to those. We have a -- we also have a large group of nonprofits who presently apply for those funds, so we know who the folks are in the space.

And this is an area where, you know, we have had many requests -- and again, in dealing with the crisis of the last three years, we weren't able to invest beyond what was urgent. But in this -- with this funding we're also going to work on diverting New Yorkers who have challenging mental health needs, and to be able to connect them with the case.

According to our folks who do this, between 63 and 83 percent of justice-involved individuals reportedly have either substance

abuse disorders or requirements for health services. So with this money we'll be able to direct them, through our partners, to the organizations that are doing this work. And it goes a long way, you know, to reduce recidivism in the end.

ASSEMBLYMAN MORINELLO: Thank you.

One of the concerns that I've had, and some of my colleagues, is whether or not these programs are audited regularly, to make sure that they are performing the functions that the money is going to -- so that, if not, that money can be directed to other organizations that are actually performing the duties.

So how often are regular evaluations done on various organizations?

DCJS COMMISSIONER ROSADO: Yes. So I would say, first of all, we believe strongly in evidence-based practices and we have built in capacity at DCJS in different departments to be able to measure that and to measure performance.

We have folks on contracts from our

two offices in OPDF and OPCA, and they are monitor -- they're in constant communication with the contractors, but we also have measures. We can tell and -- we can tell if some -- you know, if money -- not money, but, you know, if the programs are not going well, we can intervene, we can redirect. And in extreme cases, you know, we can, you know, reallocate those funds.

But most of the time we're able to work with these community groups to get them, you know, on the right track.

ASSEMBLYMAN MORINELLO: Wonderful.

I have one more question.

DCJS COMMISSIONER ROSADO: And we do also have an audit function.

ASSEMBLYMAN MORINELLO: The Executive Budget includes 40 million in funding for counties to hire new prosecutors. How do you determine which counties would get that money?

DCJS COMMISSIONER ROSADO: It goes to all the counties.

ASSEMBLYMAN MORINELLO: So every

county can expect some on a pro rata basis, possibly?

DCJS COMMISSIONER ROSADO: Yes, it's based on the number of arraignments and traffic.

And also I wanted to add, when Assemblyman Dinowitz asked earlier, one of the things the DAs expressed they wanted to invest in are these anti-fentanyl innovation grants. So that, you know, folks can have a task force that's focused not just on bringing those cases in, but then prosecuting them.

ASSEMBLYMAN MORINELLO: Very good. Thank you. Appreciate your testimony, and I appreciate your patience in the timing. Have a good day.

CHAIRWOMAN WEINSTEIN: Senate.

CHAIRWOMAN KRUEGER: Thank you very much.

Next, we have Senator Murray.

SENATOR MURRAY: Thank you very much. First let me, first and foremost, say how much I appreciate what you do, respect what

you do. And thank you. And for everyone that you represent, what you do.

But Commissioner Rosado, I have to take exception to some of your operating testimony when you were quoting the data. So we held hearings last week, and in direct testimony, when they talked about the failure to appear numbers, I directly asked, Does this include desk appearance tickets? No, not at all. Which is basically every misdemeanor.

So how can we accurately say that the data shows that the numbers are stable when we're not even counting the desk appearance tickets?

DCJS COMMISSIONER ROSADO: So I do have a clarification on that from last week, since we went back and looked at it.

So DATs can be issued for certain felonies and misdemeanor charges that require fingerprinting at the time of arrest. However, there is no data that would support the belief that the overwhelming majority of law enforcement agencies are not securing

fingerprints for individuals arrested -- there may be a delay, in some cases -- but on a felony or misdemeanor charge.

It's my understanding that the common practice in New York City is to ensure the fingerprint response from DCJS is received by NYPD prior to releasing an individual with a DAT that involved fingerprintable arrest charges.

SENATOR MURRAY: But we're saying it doesn't happen all the time, everywhere in the state.

DCJS COMMISSIONER ROSADO: It doesn't happen all the time, everywhere in the state.

SENATOR MURRAY: Okay. So again --

DCJS COMMISSIONER ROSADO: Well, what doesn't happen is -- it's about the timing between the DAT and the fingerprinting.

And what -- you know, Lee was here last week with us, our research person, was saying we start to get the information at the moment of fingerprinting.

SENATOR MURRAY: Okay. And then one quick -- I'm running short of time, and I

have a question for Commissioner Annucci.

So real quick on the rearrest numbers too, it was -- the testimony was that if someone were rearrested, released, rearrested again, released -- and this happened 16 times, they're counted as one rearrest. Is that accurate?

DCJS COMMISSIONER ROSADO: In our data, yes.

SENATOR MURRAY: So again, I can't see how we can use that data and say it's completely accurate when we do that.

Commissioner Annucci, real quick. I'm from Suffolk County. Lou Viscusi, the head of the corrections unit down there, we've had many conversations about how hard it is to recruit and to retain. Can you explain -- what are some of the problems you're facing?

ACTING COMMISSIONER ANNUCCI: I think it's a generation issue that everybody's having -- I think every corrections department in the country, because we belong to an association.

The challenges are there. I think in

general there's been a lot of negative blowback against law enforcement for the problems that a small number cause. Which is unfortunate, because it's a profession that deserves a lot of respect. And corrections officers don't just provide security, by the way. They can be changers of lives. They can be the individuals that convince somebody to change the course of their life.

So it's a rewarding career if we can convince people. We have to aggressively go out and sell ourselves to a lot more people, including the high schools. They get them out of high school, we may get more into it.

SENATOR MURRAY: Agree. And they do great work. Thank you very much.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Assemblyman Lavine.

ASSEMBLYMAN LAVINE: Thank you. Thank you, Commissioner Rosado, for clarifying the issue about fingerprints and desk appearance tickets.

So in New York City, before people are released on a desk appearance ticket, they're fingerprinted.

DCJS COMMISSIONER ROSADO: Yes, 99 percent --

ASSEMBLYMAN LAVINE: No question. Thank you.

DCJS COMMISSIONER ROSADO: Ninety-nine percent in New York City and 87 percent in the --

ASSEMBLYMAN LAVINE: Very good. Thank you very much.

Can you tell me have either Nassau or Suffolk drawn down on the money available for assistance with respect to the discovery law changes?

DCJS COMMISSIONER ROSADO: We'll have to check.

ASSEMBLYMAN LAVINE: If you can advise, that would be great. Thank you very, very much. And I look forward to having the continuing conversation with Governor Hochul about steps we can take to make sure that New Yorkers feel safe as well. Thank you.

Commissioner Annucci, as someone who spent, as a public defender and as a probation officer, plenty of time in correctional facilities -- and as a defense lawyer as well -- I have great respect for what you and your folks do.

Can you describe in one minute, if you can, what is the vendor package program?

ACTING COMMISSIONER ANNUCCI: Sure. That is a change where entities, individuals can no longer send packages from home. We found a lot of contraband hidden in things that look like Campbell's soup cans, et cetera --

ASSEMBLYMAN LAVINE: I'm sorry, when you say vendor package program, we're talking about --

ACTING COMMISSIONER ANNUCCI: So families can send their own packages, they have to get them from a vendor. Any vendor. They can get them from Walmart's or any number of companies, they can send packages in.

And they can send two packages a year

themselves. We still allow that, just non-food items.

ASSEMBLYMAN LAVINE: All right. And that doesn't mean that that packaging is safe or free from contraband. The fact that it comes from a vendor.

ACTING COMMISSIONER ANNUCCI: No, it doesn't absolutely ensure that there's no way for them to beat us, but it makes it a lot harder.

ASSEMBLYMAN LAVINE: Thank you.

And Superintendent Nigrelli, so 138 percent increase in recovery of illegal weapons from August '21 to December '22. Now, I know we're only -- and that includes ghost guns, do-it-yourself guns, does it not?

ACTING SUPERINTENDENT NIGRELLI: Yes, it does.

ASSEMBLYMAN LAVINE: Yes, it does.

And I know we're only a month into 2023, but are there any projections about how that statistic is working out so far?

ACTING SUPERINTENDENT NIGRELLI: I'm not sure if I'm supposed to say sadly, or

that I'm happy, but the number's tracking towards increased amount of gun seizures. So it shows that what we're doing is effective, but it's a sad statement on our society.

ASSEMBLYMAN LAVINE: Yes. So let me just end on this editorial note. After January 6th there were reports that other insurrectionists were going to attack the State Capitol, and the State Police were out in force. That gave me great peace of mind.

Thank you.

ACTING SUPERINTENDENT NIGRELLI: You're welcome, sir.

CHAIRWOMAN WEINSTEIN: Senate.

CHAIRWOMAN KRUEGER: Thank you.

The next is Senator Oberacker.

SENATOR OBERACKER: Thank you. And thank you all for your testimony today, and you have my undying respect and gratitude for all you do for my folks in the 51st Senate District.

My question is for Commissioner Annucci. And in 2021 you sent a memo about the increased violence in our prisons, and I

heard you say in your testimony today that assaults on staff in 2022 were up 25 percent and incarcerated on incarcerated up 34 percent. Is this a trend that we're continuing to see here in the first part of the new year?

ACTING COMMISSIONER ANNUCCI: Unfortunately it seems to be a trend that is continuing, Senator.

SENATOR OBERACKER: Okay. And I've also heard a lot of questions concerning the difficulties in getting retention and recruitment going. Do you feel that this is a continuing or a possible factor in the challenges that we're having getting retention?

ACTING COMMISSIONER ANNUCCI: Unquestionably it is a factor. And we worry about staff wellness. We have a lot of initiatives that are targeted just for staff wellness. We have all kinds of training that's coming on -- Desert Waters, the VALOR training for de-escalation.

And, you know, we care about our

staff. We will -- we brought in televisions to play DVDs so that we can record messages on health. I have wellness committees. We get ideas from other correctional systems. We're trying everything we can to improve the quality of life for our staff. They're very stressed. The assaults really add to that stress, and we're trying to mitigate that as best we can.

SENATOR OBERACKER: Thank you for that.

And, you know, representing parts of Ulster and Sullivan County where I have four facilities in there, I want to say -- and if you could communicate this too to our COs -- I don't know how they get motivated to go to work; I'm just glad that they do every day.

Thank you all for the jobs that you're doing. Appreciate that.

ACTING COMMISSIONER ANNUCCI: Thank you, Senator.

CHAIRWOMAN WEINSTEIN: Assemblyman Tannousis.

ASSEMBLYMAN TANNOUSIS: Thank you.

Can you hear me?

Okay, my question is for the police superintendent. Superintendent, two years ago this body passed the recreational marijuana bill, okay? And during the budget hearings, the Public Protection budget hearings two years ago, I believe your predecessor who was the police superintendent at the time, came to these hearings and he heard from myself and my colleagues that were concerned at the time about people operating a motor vehicle while they were under the influence of marijuana.

And your predecessor sat in the chair and basically assured us that -- not to worry, that there was going to be some kind of mechanism similar to a portable breath test that State Troopers and State Police and local police as well were going to have access to, that they were going to be able to test people on the roadside to determine their level of intoxication in regards to marijuana.

I ask you today, two years later, I

haven't heard anything or any update in regards to this mechanism, and I'm asking you, sir, do you have any update on this? What is the status of this? It's been two years since this law has passed, as people continue to drive on our streets under the influence of marijuana.

ACTING SUPERINTENDENT NIGRELLI: Well, thank you, Assemblyman, for the question.

And as far as I think you're referencing oral fluids testing, which will give you someone's THC level. As any emerging technology, it takes time for scientific peer review and validation. That study, that device, that test is still being worked on. It is not ready to be put into the field. It's going to have to withstand legal challenges but, more importantly, validation in the scientific community.

So to answer your question, it has not progressed to that level at this time.

ASSEMBLYMAN TANNOUSIS: I appreciate your honesty. But with all due respect, Superintendent, we had your predecessor here,

under a different governor, and he testified in regards to this mechanism, basically assuring myself and other colleagues, or attempting to assure us, that this mechanism was somehow going to be ready for use.

Because as -- myself and my colleagues, we were worried about this potential problem.

He didn't say that in his testimony two years ago. While I understand, as a former prosecutor, that perhaps a Frye hearing was not conducted on this mechanism, correct, he made it appear to us that it was in the final stages of development.

So as you sit here today, Superintendent, are you saying to us, to my colleagues, that this mechanism is not in those final stages and is not near completion for use by the State Police?

ACTING SUPERINTENDENT NIGRELLI: Assemblyman, I can tell you on this date and this time, that device, that test, is not ready for use in the field.

I cannot predict how long it will take, but I can assure you that it's not in the field today.

ASSEMBLYMAN TANNOUSIS: Thank you for your honesty.

CHAIRWOMAN KRUEGER: Senator Borrello.

SENATOR BORRELLO: Thank you. Thank you, Madam Chair.

And thank you all for being here today. Thank you for your service to our state.

My time is short, so I'm going to focus my questions with Acting Commissioner Annucci.

We've seen a spike in violence since the implementation of HALT. We've seen most recently Collins; Attica, in my district; Elmira -- the list goes on. You know, I've heard the rhetoric that we have solitary confinement and that there are torturous conditions. Can you please describe to me solitary confinement in New York State?

ACTING COMMISSIONER ANNUCCI: Well, having spent 24 hours in SHU several years

ago, as well as my executive deputy commissioner here, it is not extreme isolation. At that time we were locked in for 23 hours, we got one hour of outdoor rec. We did get a tablet.

The current conditions of SHU do require four hours of out-of-cell time, three programming, one recreation. And it does include a tablet that has phone capabilities so you can make the calls.

I may have misspoke earlier when I said it was 254, I meant to say 54 million minutes they spent on the phone in 2022.

But in addition there are also regular contacts by staff while you're incarcerated in a cell. You get approached by the officer: Do you want hot water? You get your meals brought to you, you get medical staff that check on you. So there's a lot of interaction that is not extreme isolation.

SENATOR BORRELLO: So working technology, outdoor spaces, food brought to you -- it sounds nicer than most of the hotel rooms in Albany that I've been in, actually.

So -- but let me also say what do you do after 15 days, that 15-day limit on the SHU? You have gang violence, you have fights between gangs within the prisons. How do you deal with that after that 15-day limit?

ACTING COMMISSIONER ANNUCCI: Well, it is a challenge. And right now I've had to suspend the provision of HALT that requires us to basically allow individuals to move from their cell to the program unrestrained and be in the program unrestrained.

Given the amount of violence and the attacks, I've temporarily put a halt on that for two reasons. Number one, I'd be violating the 8th Amendment rights of individuals were they to get attacked again because they have -- there would be a failure to protect. That's an 8th Amendment violation.

And then for staff there's a PESH violation, the Public Employee Safety and Health Act.

So I meet every two weeks, we look at what's going on, we look at the numbers, and

we are very surgically, slowly, making some changes where we feel that we can do so safely, like at Adirondack and at Hudson. We'll look at a couple of other facilities. But we have to proceed very slowly.

In a nutshell, things are a little bit out of balance right now in the whole system. I need to balance everything, bring the temperature down. Because basically -- I learned this many years ago -- 95 percent of the problems that are caused by the population are caused by 5 percent of the population.

SENATOR BORRELLO: Absolutely. And we need to protect our employees and certainly the fellow inmates. That's job number one.

Thank you.

ACTING COMMISSIONER ANNUCCI: Sure.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: We've been joined by Assemblyman Meeks.

And we go to Assemblywoman Rajkumar, three minutes.

ASSEMBLYMAN MEEKS: Thank you. Assemblyman Meeks --

CHAIRWOMAN WEINSTEIN: Oh, no, no. Nope. You're -- there's a lot of people ahead of you, Demond.

(Discussion off the record.)

ASSEMBLYWOMAN RAJKUMAR: Thank you, Acting Commissioner Annucci, Superintendent Nigrelli, and Commissioner Rosado, always a pleasure to see you.

So limited time, so I'm going to put out three questions and then go at it.

So first I want to ask about extreme risk protection orders. How do we stop a repeat of the Buffalo shooter, Payton Gendron? About a year before the shooting he said to a teacher, "I want to murder and commit suicide." The police were alerted, and they took him to a psychiatric hospital, but they did not file an ERPO because it was a non-specific threat to murder.

As a result, there was no blemish on his record and he passed a background check to purchase an assault rifle and commit a

mass shooting.

So how do we assure that we don't ignore such red flags again? I know that DCJS released a model ERPO policy. Is that enough, and what do we do?

DCJS COMMISSIONER ROSADO: I'll take first crack and then pass it to the superintendent.

I can tell you that since the Buffalo shooting, with the Governor's EO and then the law, 4,000 ERPOs have been filed and we've done repeated training, you know, of everyone in law enforcement who wants it. We've done by Webex, by Zoom, training of how to do that. It's a lot of work, but it's being done.

I'll turn it over to you.

ACTING SUPERINTENDENT NIGRELLI: Thank you, Assemblywoman.

Since the legislation that went into effect after the Tops shooting in Buffalo -- where I'm from, and I used to be a Tops employee in the city of Buffalo, so it's home -- the State Police have done over

600 ERPO -- and that doesn't include TERPO, the temporary part of it, but 600 ERPOs.

The law that was enacted after the Tops massacre will address that gap, that little technical gap that existed. It will make sure that people like that shooter and other potential shooters are flagged and will be prohibited from purchasing weapons in this state.

ASSEMBLYWOMAN RAJKUMAR: Okay, thank you so much.

With my limited time I want to ask you about human trafficking. New York State sadly ranks fourth in reported cases of sexual exploitation and labor trafficking, and just last month in my home bureau of Queens, a man was sentenced for sex trafficking a 14-year-old girl. And there's a hotbed of sex trafficking of Chinese women, mainly undocumented immigrants.

So I would like to ask you, because I know DCJS has made progress through their task force on human trafficking, and our legislative body has attempted to pass new

laws. But what more can we do to solve this epidemic?

DCJS COMMISSIONER ROSADO: That's a good question. And I'm not sure I have the answer to -- it's not strictly DCJS, but we participate with OCFS, I think State Police is there with a large group across the state agencies that are working on human trafficking.

And we do two big things. One is to train law enforcement to detect it and to report it, and two is provide information for communities to help victims seek help.

ASSEMBLYWOMAN RAJKUMAR: Thank you. My time is up, but I'll ask you about anti-Sikh data after the hearing.

CHAIRWOMAN WEINSTEIN: Thank you.

We go back to the Senate.

CHAIRWOMAN KRUEGER: Thank you.

We're going to be joined by Senator Mayer, borrowing a seat.

SENATOR MAYER: Thank you.

And I apologize for being late, but I rushed back. And I did have some questions

for the commissioner with respect to DOCCS.

I have had, for the last several years, both Bedford and Taconic in my district and have visited them both, and I have some concerns about Taconic which I don't think are addressed in your budget proposal. Which is that, as you know, to go into it you still have to go through basically a temporary structure that's been there for at least 10 years, for visitors and for staff.

So one is, are there any capital expenditures to improve the facility?

And secondly, with respect to in-person education at Taconic -- which, as you know, many of those women are getting out quite soon -- I wondered if you can speak to specific proposals to increase in-person, not virtual, education for those that are incarcerated there.

ACTING COMMISSIONER ANNUCCI: Well, let me take that question first, because we do have in-person college programming at Taconic. It's delivered by Bard. And I've

been to graduations there, where they've been very uplifting events.

And as a matter of fact, filming of that was included in the documentary that aired on PBS across the entire country, where people were able to see the value of education and see it delivered at Taconic Correctional Facility.

We have a very expansive capital rehab plan that's over $421 million. I don't believe there is a specific plan to address what you're describing. I will personally look at it. Sometimes, if it's an emergency, we can intervene.

I can tell you that we want to be as welcoming as possible to visitors. That's why we have visitor processing centers. That's why we want them to feel comfortable before they get into the visiting room, whatever they've got to do to fix themselves up after a long journey. Because we put a huge priority on all visitors and family reunification.

So I'll look into that to see if it's

something that needs immediate attention or is more long-range. Thank you for that.

SENATOR MAYER: I'd appreciate it if you could look at that.

And also this education situation post-COVID. I understand what was pre-COVID.

ACTING COMMISSIONER ANNUCCI: Yeah, it's in-person now. They're coming back.

SENATOR MAYER: The second thing is, could you just address the process by which those who are incarcerated from downstate and are in facilities upstate can get on the list to be moved closer to their home?

ACTING COMMISSIONER ANNUCCI: Sure. And we just submitted the report to the Legislature on proximity to minor child. We did a very elaborate program, had staff from all the different disciplines come together, we consulted with OCFS to determine what does it mean for the best interests of the child.

And we moved -- I forget the number -- 1500 individuals received transfers to be close to their minor child.

So that is something that has

happened. That's one way that we -- and then we have, in addition to that area preference, where people who have been in the system, have demonstrated good behavior, can transfer to facilities closer to home.

SENATOR MAYER: I'd just ask that you continue to give attention to the need for those that can be closer to their home, and that we work together on making sure transfers can occur.

ACTING COMMISSIONER ANNUCCI: Sure.

SENATOR MAYER: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRWOMAN WEINSTEIN: Assemblywoman Walker.

ASSEMBLYWOMAN WALKER: Thank you.

So I just wanted to clarify, Commissioner Rosada, that we had the Acting Chief Administrative Judge here. And when asked about whether or not judges were confused about well-settled law that has existed as early as the Bail Reform Act of 1966; again, the Bail Reform Act of 1984; again, in United States v. Salerno in 1987.

The least restrictive means test is a standard in Family Court dating back to the 1960s. It occurs in the mental hygiene law, juvenile justice law, special education law.

And we asked whether or not judges are confused, and she indicated that they were not.

However, the Governor's bail proposal will not only eliminate the constitutional "least restrictive condition" standard from the bail statute, but it would also leave it to every trial judge in arraignments to decide what purposes bail, in any particular case, is supposed to serve.

Experience has shown us that when judges have unfettered discretion and no guidelines, implicit bias will fill the vacuum. Are you concerned that if the Governor's bail proposal becomes law, already existing racial disparities, based on data that we've found with DCJS and OCA in our jails, will be exacerbated?

DCJS COMMISSIONER ROSADO: I think we have the tools, through the measurement and

through the data set, the files that we're reporting on, to measure that and to take action if needed. So I am not concerned that that would be the cause.

I think that -- I heard the testimony this morning, and I don't know if, you know, judges say one thing to the courts and another thing to the Governor. I think she's trying to respond to the complaints that she's hearing, and she wants to have a conversation about it.

ASSEMBLYWOMAN WALKER: Well, I also heard you indicate that you provide training to police officers. Do you likewise provide training on the least restrictive means standard to judges as well?

DCJS COMMISSIONER ROSADO: No. That is OCA. We have no -- the only thing we -- our responsibility, we work with OCA to post the file. So it's a research -- it's a function of our research and data.

But we have no role in the courts.

ASSEMBLYWOMAN WALKER: Okay, thank you.

DCJS COMMISSIONER ROSADO: We don't have any oversight in the --

ASSEMBLYWOMAN WALKER: So however, multiple studies, as you've mentioned so eloquently each and every time we have an interaction, that bail did not result in an increase in violent crime or rearrest rates across the state.

Do you think that DCJS has an affirmative obligation to correct misinformation about its own data?

DCJS COMMISSIONER ROSADO: Yes. And we do.

ASSEMBLYWOMAN WALKER: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly. Oh, excuse me, that was the Assembly.

CHAIRWOMAN WEINSTEIN: No, that was the Assembly. We go back to the Senate.

CHAIRWOMAN KRUEGER: Back to the Senate. I knew that. Excuse me.

Senator Jamaal Bailey, three minutes, second round.

SENATOR BAILEY: Thank you.

Commissioner Annucci, so HALT, there's been a lot of conversation about HALT. How has DOCCS spent the over $50 million allocated that was specifically for the HALT implementation in previous budgets?

(Discussion off the record.)

EX. DEP. CMMR. MARTUSCELLO: Senator, so the money previously allocated, the 48 million that you referenced, was for personal services. So it was to augment staff for the out-of-cell programming as well as to support positions within the Office of Mental Health as well as the Justice Center.

SENATOR BAILEY: Anything on capital projects at all, in addition to that?

EX. DEP. CMMR. MARTUSCELLO: That was a separate funding source that we received a few years prior to, 69 million, which we exceeded those funding and spent over 110.

In this budget we'll continue to implement recreational areas that will allow us to fully facilitate the law. And that's included in this year's budget.

SENATOR BAILEY: And in conversations

with Chair Salazar, who is unfortunately unable to be with us today, she's indicated that she has met -- excuse me, visited a number of prisons and she hasn't seen evidence of DOCCS' ability to comply with HALT. Can you speak to that?

EX. DEP. CMMR. MARTUSCELLO: I'm sorry, can you just repeat the last part of that?

SENATOR BAILEY: Given that there are certain facilities that have still not complied with HALT, like what -- what would be the commentary related to that?

EX. DEP. CMMR. MARTUSCELLO: Again, other than what the commissioner spoke to earlier in terms of the restraints, people are going to SHU for 15 days. If they receive a disciplinary sanction in excess, they are transferred to an RRU.

We did have some capacity issues early that the commissioner directed us to turn to. We expanded our capacity. And as of today, we have 21 people that are past the 15. We've ameliorated that with giving people in

SHU seven hours out of cell to be in compliance with the definition of segregated confinement.

And when in RRU, they are receiving the seven hours out of cell. I know there's some discussion and misinterpretation in what that program is. Right now it's a cognitive behavioral therapy that includes core components of programming in our general population. People feel as if we should give program completion, which would lead to merit time and early release.

We certainly don't want to incentivize bad behavior to get to an RRU, but fully support giving out-of-cell programming and changing behaviors and working with the unions, our stakeholders, and certainly you folks in making sure we continue to drive violence.

SENATOR BAILEY: Certainly we'd like to correlate that with some of the data that you have on record -- probably post-hearing, given that I have 25 seconds -- in consultation with the chair of the committee.

I wanted to have a conversation about the IDs. You know, there's going to be implementation of state IDs. In conversation, and based upon the Transportation hearing yesterday, it was indicated that they hope to have this up to speed in 20 facilities.

What's the -- that's still less than half of our prisons. What is the plan to make sure that everybody in DOCCS custody can be given a state ID once they're released?

ACTING COMMISSIONER ANNUCCI: So we have a good working relationship with DMV. It does require high-tech equipment to be put into the facilities. So far it's worked very well, but we have plans to expand it.

I'll have to get back to you with the exact schedule when they'll be rolling out in the next facilities. But the first three have been working well, and it's a great partnership.

SENATOR BAILEY: Certainly we appreciate the notion of that. We just want to make sure --

CHAIRWOMAN KRUEGER: (Inaudible overtalk.)

SENATOR BAILEY: -- sorry about -- Thank you, Liz. Sorry.

CHAIRWOMAN KRUEGER: Sorry.

SENATOR BAILEY: Thank you, Commissioner.

CHAIRWOMAN KRUEGER: You'll get back to him, yes?

EX. DEP. CMMR. MARTUSCELLO: Absolutely.

CHAIRWOMAN KRUEGER: You will.

(To Senator Bailey.) He will.

Thank you. Assembly.

CHAIRWOMAN WEINSTEIN: So yes, now we are going to Assemblyman Epstein for three minutes.

ASSEMBLYMAN EPSTEIN: Thank you, Madam Chair.

And thank you all for your testimony and all your work.

Just back to Commissioner Annucci, just on your statement about people who are in the SHU and getting seven hours out of the

cell. When you're saying that, are you saying that they're being locked in a different cell outside? Or when they say seven hours out, where are they going to be?

ACTING COMMISSIONER ANNUCCI: No, what I was saying -- and I apologize if I wasn't clear. When we had a shortfall in demand for RRU capacity and people were backed up in SHU beyond the 15 days, which is what HALT requires, as the next best measure, had they been in RRU they would have gotten seven hours, so we were trying to give them that seven hours while they were in an SHU cell.

Normally they'd be allowed four hours of out-of-cell time in SHU.

ASSEMBLYMAN EPSTEIN: But where are they for those seven hours? Are they -- like are they free to roam around, are they just in --

ACTING COMMISSIONER ANNUCCI: No, no, they're not free to roam around.

ASSEMBLYMAN EPSTEIN: Are they in a pen, like --

ACTING COMMISSIONER ANNUCCI: They're

escorted into areas, typically classrooms, where they'll get their programming and staff will deliver like aggression programming or, you know --

ASSEMBLYMAN EPSTEIN: Because I've been to where people have been let outside, and it's like a little box, where like they're outside in a little box.

That's not where they're spending the seven hours?

ACTING COMMISSIONER ANNUCCI: No. It's -- it's an open area where you can deliver programming to -- in a group setting.

ASSEMBLYMAN EPSTEIN: And it's inside, not outside.

ACTING COMMISSIONER ANNUCCI: Yeah, inside.

But the recreation is outside.

ASSEMBLYMAN EPSTEIN: Great.

And what percentage of people in the SHU got that seven hours outside, versus the four hours you said earlier? What percentage of people who are in SHU got those seven hours out of the cell?

ACTING COMMISSIONER ANNUCCI: (To deputy commissioner) Do you remember the numbers?

EX. DEP. CMMR. MARTUSCELLO: Yeah, I mean at any one given time -- I mean, we report monthly on the HALT statistics. I think at one point we had over 200 people that were beyond the 15 days. As of today, we're down to 21.

So those individuals would be offered the seven hours while in a special housing unit, until which time they can transfer to a residential rehabilitation unit, where they'd receive the seven hours out of cell.

ASSEMBLYMAN EPSTEIN: Great.

And so what -- do you know the numbers of people pre-HALT versus now in SHU? What percentage of people are now in these special assignment units? Do you have the numbers in relationship to pre-HALT and now? Is it higher, is it lower?

EX. DEP. CMMR. MARTUSCELLO: So when you -- certainly I can give you the numbers offline.

ASSEMBLYMAN EPSTEIN: Thank you.

EX. DEP. CMMR. MARTUSCELLO: And we have been publishing them under a previous settlement agreement with NYCLU, as the commissioner alluded to. And we're now publishing those in segregated confinement.

So when you add segregated confinement and RRU together, we have had an increase. And that's a direct correlation to the increase in violence in the system. As the commissioner testified, 25 percent increase of assaults on staff, as well as 34 percent incarcerated on incarcerated. So that's resulted in more people in an SHU and/or an RRU, residential rehabilitation unit.

ASSEMBLYMAN EPSTEIN: And the 1600 people who are in school programs, how often do you see them getting involved in violent activity or involved in being sent to the SHU?

ACTING COMMISSIONER ANNUCCI: Well, let me just say that people that are involved in programs like college typically don't get involved in violence. Education is a way to

help bring the violence down in our system.

And they're great role models. I'd rather have the classroom leader than the gang leader be the role model for our population.

CHAIRWOMAN WEINSTEIN: Thank you --

EX. DEP. CMMR. MARTUSCELLO: I just -- I would just add one thing. I'm sorry. That in our programs typically we don't see violence in our program areas. Unfortunately in our RRUs, in the program areas, we have seen violence, which has taken both the incarcerated and our staff back. Because they've typically been sanctuaries, because the people that want to engage in programs typically aren't involved in violence.

CHAIRWOMAN WEINSTEIN: Thank you.

So now we're going to go to the Senate.

CHAIRWOMAN KRUEGER: Thank you.

Next we're going to hear from Senator Rolison.

SENATOR ROLISON: Thank you, Chair.

And thank you for all being here. My

first question is to Commissioner Rosado.

With the additional GIVE money that is included in the Governor's proposal, will that be used to bolster current GIVE cities? I have two in my district. And also will it be able to be used to expand GIVE to other jurisdictions that currently are not eligible based on the crime data?

DCJS COMMISSIONER ROSADO: Yes.

SENATOR ROLISON: Yes on both?

DCJS COMMISSIONER ROSADO: The short answer is yes.

SENATOR ROLISON: Okay.

DCJS COMMISSIONER ROSADO: But also I want you to know that the program supports 20 police departments in 17 counties, and that that represents approximately 80 percent of the violent crime outside of the City of New York. So -- and we -- you're right, you have Poughkeepsie -- we're in Dutchess.

SENATOR ROLISON: Yeah.

DCJS COMMISSIONER ROSADO: And we're in --

SENATOR ROLISON: Newburgh.

DCJS COMMISSIONER ROSADO: Newburgh.

SENATOR ROLISON: Correct.

To DOCCS, Commissioner Annucci. There's been a lot of discussion today, this afternoon, on recruitment, retention. Specifically on the retention side of your challenges, with 2900 under your budgeted amount, what are you seeing losswise by corrections officers who have started their career and then have decided to leave?

You know, not wanting -- I get the recruitment end, I understand that, challenges, difficulty. But just on retention. I mean, what is, you know, the overall look of that?

ACTING COMMISSIONER ANNUCCI: There's a lot of reasons for it. I mean, obviously there's concern for their personal safety, they're upset about the violence. As I said, a small number of individuals can be responsible for a disproportionate amount of violence.

When I talk to my superintendents, who have been in the system many years -- and our

superintendents basically are like parental figures as they walk through a prison. If they're good at their job, people look up to them, the superintendents, and they take their questions and they try and solve their problems.

And I'm hearing from my superintendents a small number of individuals that just -- you know, challenging their authority. When -- you have to follow the rules. Everybody has to follow rules, whether it's staff or the incarcerated population. You can't keep your curtain up in front of your cell because, you know, you might be doing self-harm. So if you're told, okay, you've got to remove your curtain. And then that superintendent's authority is challenged, that's an element, that's a problem, and it can spiral out of control.

So our staff are dealing with that, and they're getting frustrated.

SENATOR ROLISON: So just real quickly, because I only have 36 seconds left, I know you're addressing -- you talked about

the violence task force. Is that report memorialized someplace? Or is that constantly being updated? Is that something that members of this body could see or review, depending on -- I guess is it specific to specific facilities?

ACTING COMMISSIONER ANNUCCI: We certainly provide briefings. I'd be happy to do that for any member --

SENATOR ROLISON: Okay, thank you. I would like that. And then just one other quick question. And thank you for all that you're doing and trying to do.

Have you considered a retention program for current corrections officers?

EX. DEP. CMMR. MARTUSCELLO: Yeah, we are currently in contract negotiations right now, so that's something that's a focus. The Office of Employee Relations leads negotiations between the bargaining units.

SENATOR ROLISON: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: We go to

Assemblyman Palmesano.

ASSEMBLYMAN PALMESANO: Yes, Commissioner Annucci, I'm sure you expected my three minutes to be used for you.

I'm just going to make a -- I have a couple of quick questions I'm going to ask at the end, but I wanted to make a couple of points up front.

First of all, I will say about HALT, I believe it's an absolute disaster and should be repealed, which is unlikely with this Legislature. The fact of the matter, as you know, it severely restricts the ability of our law enforcement and correction officers to segregate the most dangerous and violent inmates from the rest of the general population.

You've seen it from your own statistics already in your report, a 25 and 34 percent increase over last year. Since the implementation of HALT in April, we've seen that dramatic increase, and you've said it's continuing today. It's a powder-keg environment that's at our correctional

facilities, and you know it.

I think it's hard for many of us -- we have the lowest levels of our prison population. You expressed your outrage in a memo, as was mentioned, to the prison population. You had the prison violence task force, all those things in 2021, but yet in 2022 we had the highest level of assaults covered in our correctional facilities: 300 more than last year.

I have a suggestion -- you know, you talked about some of the things that you're doing. I have a suggestion to you to take to Governor Hochul, as overseeing Corrections and our staff that work inside there, because I know you're concerned about them. Repeal of HALT is unlikely with this Legislature, but the Governor can declare a state of emergency, as she's done for COVID, monkeypox, and gun violence.

If she were to declare a state of emergency, then she could suspend the HALT law, HALT Act, get things under control, get things back to where they need to be, and

then maybe you won't see a vacancy of 800-plus corrections officers and them being burnt out with double overtime.

So my question for you, though -- and you can address that in a different way -- under HALT there are certain inmates that fall within the definition of special populations.

ACTING COMMISSIONER ANNUCCI: Yes.

ASSEMBLYMAN PALMESANO: Those under 19 and those over 55 years old. Do you keep -- and they can't be put in the SHUs if they commit violent acts against staff or other inmates.

Do you have the stats on those data for those special inmate populations that commit assaults for those -- do you have that data for those individuals?

ACTING COMMISSIONER ANNUCCI: Well, I can tell you that we had two homicides in 2022. One homicide was committed by a 54-year-old who was six months shy of being 55, which would have defined him as special population, which would have meant the very

next day he would have been -- he would have been required to be in an RRU and seven hours of out-of-cell time.

I can try and get the total numbers of special population of 21 and under --

ASSEMBLYMAN PALMESANO: I think it would be helpful, since they're exempt from going to the special housing units, how many assaults is this population creating.

And my other question is, what happens to this population, the special population, in 19 and under and 55-plus? When they do commit a violent act, what happens to them?

ACTING COMMISSIONER ANNUCCI: We'd have to transfer them to an RRU. And in our medium-security facilities, this is one factor that's put a lot of stress on officers because we have to -- they have to be transported. It's not a planned-for transportation; you can't put them on central transportation. So it requires a lot of labor to move these people immediately to an RRU. So a lot of stress.

Twenty-one and under, yes.

CHAIRWOMAN WEINSTEIN: Thank you. Thank you. To the Senate.

CHAIRWOMAN KRUEGER: Thank you.

Next is Senator Palumbo.

SENATOR PALUMBO: Thank you, Madam Chair.

Thank you all. Good to see most of you again.

I'm just going to follow up. I'm not going to beat the dead horse; we've talked a lot about HALT.

So, Commissioner Annucci, I actually had some members of corrections crying in my office -- females -- about the sexual assaults. So do we have a breakdown of these numbers? So when you have assaults, I'm assuming that's physical contact, physical violence, including sexual assaults on staff.

So if you could just comment about that and tell me if that's also been in higher incidence, if that's increased. And -- well, I'll have maybe one quick follow-up or comment on it.

ACTING COMMISSIONER ANNUCCI: First of

all, nobody should be subjected to any kind of mistreatment, any kind of assault, any kind of sexual touching, inappropriately, in the workplace.

So I can say that we react immediately. The person does face disciplinary consequences. They are separated. I think part of the problem, part, is that there's a perception by some of the worst of the individuals that there are no consequences for their behavior. That's not the case. There are consequences. You do get separated. You do get placed in SHU if you're not a special population. You'll get your four hours of out-of-cell time, but then from there, after 15 days, you get moved to your RRU.

I don't know if I have the ability without manually looking at every unusual incident report to see what percentage of assaults are somebody forcibly touching, you know, a staff member. I believe it's a misdemeanor now. You know, maybe at some point the Legislature might want to think

about, you know, whether it should be elevated.

But no matter what, no staff person, male or female, should be subjected to that kind of treatment inside a correctional facility, doing their job.

SENATOR PALUMBO: Certainly, of course. And I think we all absolutely agree.

But with respect to other than physical contact of the intimate parts, I'm saying is there any statistic or any sort of discipline imposed for someone who is saying vulgar things. Not actual physical assault, but they're misbehaving by cursing and saying things that are sexual in nature. Because that was also of significant concern from the individuals I was speaking with, some union members who were really concerned that that has, in their mind, increased significantly as well.

ACTING COMMISSIONER ANNUCCI: Yeah, it is an act of misbehavior. But it's I believe harassment, which is now a Tier 2. And a Tier 2, if you're found guilty of that, you

can end up with a confinement sanction. You can't end up with a disciplinary surcharge or whatever other penalty we impose -- loss of privilege, et cetera -- but there's no confinement sanction.

So it's got to rise to the level of a Tier 3 in order for somebody to end up being confined as a result of that misbehavior.

SENATOR PALUMBO: Okay, understood. Thank you, commissioner.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Assemblyman Reilly.

ASSEMBLYMAN REILLY: Thank you, Madam Chair.

Thank you to the commissioners and the superintendent for your testimony.

My first question is going to be to Commissioner Rosado. First I want to thank you for working with us. And I know the deputy secretary worked as well for the retired peace officers, the amendment to the concealed carry. Something that I can

identify with, because being a retired NYPD member during the SAFE Act, when it passed, I -- unfortunately it was a felony for having a 16-round magazine. So I'm glad that that correction's being made.

The next thing I wanted to touch on -- and it's actually a question. A few years back I advocated for additional funding for DREs, drug recognition experts, and my colleagues were gracious enough to add that to the budget. Is there still funding for an increase of DREs, especially with the marijuana, driving under the influence?

DCJS COMMISSIONER ROSADO: We continue to do training on that. That's what Joe just told me.

ASSEMBLYMAN REILLY: So do you think we might need additional funding so that we can have that training throughout the state, especially with the increase of driving under the influence of marijuana?

DCJS COMMISSIONER ROSADO: So we have existing resources. And we're working on that right now. That's not done yet, but

it's especially focused on the cannabis, as was mentioned earlier.

ASSEMBLYMAN REILLY: Okay. Thank you.

Superintendent Nigrelli, I wanted to ask you a question about the Forensic Investigation Center. Currently with firearms, if there is a firearm recovered or an arrest made and it's simply just for criminal possession of a weapon, they can't submit it for DNA testing. It's not accepted.

I'm hoping to expand that to allow that for -- say, one example, you have a carload of four people in a car, a gun is found in the car. We can't pinpoint who actually had the illegal firearm. So being able to submit that would help exonerate the three that may not have had the firearm, and it will hold the one who does have the firearm accountable.

Is that something that we could work on?

ACTING SUPERINTENDENT NIGRELLI: You know, Assemblyman, as a law enforcement

agency we will take any initiative, law, practice that's passed by this body and by the Governor that will help us do our job.

Three simple jobs: Deter, prevent, solve crimes. If you really boil what we do as an agency, as a profession, those are the three things. Simple as that. If there's a bill, a proposal that will help us do our job, we support it.

ASSEMBLYMAN REILLY: Thank you.

CHAIRWOMAN KRUEGER: (Mic off; inaudible.)

SENATOR O'MARA: -- crime statistics hearing we had a couple of weeks ago that you were not a part of and DCJS, I asked these questions of them. And they don't keep stats on gun crimes committed by an individual that was the lawful owner of that gun, whether it's a handgun or a long gun.

Does the State Police keep any such statistics?

ACTING SUPERINTENDENT NIGRELLI: We do not, sir.

SENATOR O'MARA: Do you keep any

statistics on whether a gun -- again, a long gun or a handgun -- utilized in the commission of a crime that was stolen from a lawful gun owner, do you keep any stats on that?

ACTING SUPERINTENDENT NIGRELLI: We do not, sir.

SENATOR O'MARA: That's all I have. Thank you.

ACTING SUPERINTENDENT NIGRELLI: Thank you, sir.

CHAIRWOMAN KRUEGER: Assembly.

CHAIRWOMAN WEINSTEIN: We go to Assemblywoman Simon.

ASSEMBLYWOMAN SIMON: Thank you.

Commissioner Rosado, I have a question about the Extreme Risk Protection Order data and how frequently that is released, and how easily available is it to legislators? I -- that was a bill that I passed, and it was very difficult for me to find out actually who is using it, how many had been requested, how many had been imposed.

And then I have another question for

Commissioner Annucci.

DCJS COMMISSIONER ROSADO: So it's OCA data, actually.

ASSEMBLYWOMAN SIMON: Yeah, they wouldn't give it. It took forever.

DCJS COMMISSIONER ROSADO: That's produced on a monthly basis. And -- oh, it's not ours at all. We don't touch it.

ASSEMBLYWOMAN SIMON: Okay. I was hoping to go around them to you, because they were taking too long. Oh, thank you. And -- sorry, but that's reality.

So, Commissioner Annucci, I have -- you know, I know there was a Columbia University report showing that incarcerated people in New York State prisons, there's somebody who dies every three days. Do you have a number for how many incarcerated people died in DOCCS custody in 2022 and what that demographic breakdown is?

ACTING COMMISSIONER ANNUCCI: Oh, okay. I didn't quite hear it the first time.

But in 2022 we had 113 deaths, and that's a decrease of 24, or 18 percent, from

2001.

I can give you a breakdown, it's 55 natural causes, 17 suicides, two homicides, one accidental death, and 38 currently awaiting final autopsy results to determine final cause of death.

ASSEMBLYWOMAN SIMON: And when you do an autopsy, how long does that take to turn around, do you have any idea? I'm curious.

EX. DEP. CMMR. MARTUSCELLO: I mean, it really varies by county because it's done by the coroner. We await the results.

ASSEMBLYWOMAN SIMON: Okay. Thank you.

EX. DEP. CMMR. MARTUSCELLO: Thank you.

CHAIRWOMAN WEINSTEIN: Senate?

CHAIRWOMAN KRUEGER: Thank you. I think I'm the only one left at the Senate.

So unfortunately Senator Salazar couldn't be with us today because she's sick, but she has submitted some questions to me. But she's listening. We just didn't want her here, nothing personal, because there was a

little contagion issue.

She's particularly concerned about what is happening with HALT in the jails, and points out that an answer to a slightly earlier question -- I'm sorry, this is to DOCCS -- that it was admitted that, for the record, nearly a year after the HALT implementation period, DOCCS has not complied with the law yet. And what do you think we need to do to make sure that we are complying with the law and that you have the tools you need?

I think Senator Salazar points out that the law gave you $50 million to implement in the budget that passed two years ago. Have you spent that money? What has it been used for? Do you need more to make sure that you continue this road of meeting the requirements of the law?

EX. DEP. CMMR. MARTUSCELLO: Sure. So thank you for the question. In terms of HALT implementation, as we spoke to earlier, the initial issue was going beyond the 15 days. And really that became a result of the

increase in violence in the system that we couldn't predict as we took a year to enact the law.

We had a three-year plan. It got expedited by a year based on the passage of HALT, which we had enough capacity in place. But with the 25 percent increase on assaults on staff and a 34 percent on incarcerated, it quickly dissipated that capacity.

So we've turned -- we are now compliant with the 15 days, with the exception of those 21 individuals.

In terms of the restraints, as the commissioner spoke to, we do have still an increase in violence in the system. And we did see an increase in violence in our residential rehabilitation units. And as a result -- and again, that wasn't just against staff, that was against staff and the incarcerated. So we reinstituted placing the restraints on individuals.

So I think from -- and then lastly, in terms of hiring, we talked about we're 2900 positions down. So the budget funds us for

the appropriate level of positions. We need to go out and recruit those.

The Governor's been steadfast in her commitment to build back the state workforce, which will be critical to us moving forward to ensure we can deliver programs in general population similar to what we do in segregated confinement and the RRUs.

At the end of the day, I think the number-one goal is to work with our unions, our workforce, interested stakeholders and this Legislature to continue to identify ways to drive down violence. And I think your partnership in that regard, regardless of how that's done -- and I think it could be done in a multitude of ways -- that's what we really need to be committed for -- to, is to drive violence down.

CHAIRWOMAN KRUEGER: And again, I may have statistics wrong, because this is not really my territory, but I think the numbers I saw show that almost 40 percent of the people who are in this subsystem also are on the OMH caseload for mental illness. So

clearly there's some correlation between what happens or doesn't happen to mentally ill people who end up in our prisons. And the situation, once they're there, and also potentially the increased problems for your staff.

So I don't think any of us want to see mentally ill people doing harm to themselves or others wherever they are. And yet they're in our prisons. So is there another model we should be looking at to address such a large percentage of the population that seems to be having added issues? Other solutions that you see from your perspective?

EX. DEP. CMMR. MARTUSCELLO: Yeah, thank you for the question.

So I mean previous to, you know, the laws passed recently with HALT, going back to 2008, 2009 when we passed the SHU exclusion law, we created specific units dealing with people with mental illness that were SMI, seriously mentally ill, that were diverted and go to residential mental health treatment units.

So those units still exist. They're operational. We co-manage them under the auspice of OMH, who provides mental health services within the system. So we do have mechanisms to divert those individuals to give them more specific care to deal with their mental health as well as their disciplinary behavior, without cell-time programming, talking about you know, violence and their mental health illness.

ACTING COMMISSIONER ANNUCCI: And the caseload includes levels 1 through 4, which are defined in the Correction Law. And obviously we are very concerned about SMIs, seriously mentally ill. The people that are level 3 and 4 can function in general confinement. And when they're moved to an RRU, they're getting seven hours of out-of-cell time. So we believe we're still providing the appropriate level of care, not exacerbating their condition in particular.

CHAIRWOMAN KRUEGER: And we have I think talked about it at last year's budget hearing, or perhaps right before, the issue

of the fact that a disproportionately growing percentage of people who leave DOCCS end up going just into a pipeline directly into the New York City shelter system.

And I believe the data that I was shown was that in 2014, 23 percent were heading into the shelter system, and by 2017 it was 50 percent. And recent estimates show about 50 percent.

So what can we be doing to do something about this? Because as you well know, the New York City shelter system is beyond blowing up at this point. If people go from prison to the shelter system, the increased likelihood of them simply being returned to the prison system also skyrockets.

And I believe you had talked about a plan to actually provide some kind of supplemental rent money to actually make sure people didn't go directly into the shelter system. Were you able to start that program? What have you learned? Can we expand?

ACTING COMMISSIONER ANNUCCI: Yes,

Senator. We have started the program. It's at Edgecombe Transitional Housing. individuals heading for New York City that would otherwise head to homeless housing can instead opt there.

It is not like a correctional facility. They have a lot of freedom, they have treatment and programming. They go out and look for a permanent home and a job. They can have their cellphones, things of that nature.

We have people in the pipeline. I think the capacity's 175 -- I'm sorry, 70. And we are now creating a DVD to advertise that option for the general population.

A second option: Years ago, Fulton Correctional Facility was closed and given to the Osborne Association. They're very close to operationalizing that. We're working with them, so that will be another place where individuals could go.

I don't know if the grant that PLS got where they're giving actual stipends to people that are releasing to I believe

Manhattan, but perhaps the Bronx as well -- that is another avenue. There's a lot of not-for-profits. We have our community-based residential programs that we fund. I think that's 175 beds.

So it is a complex problem, but we try to do everything possible to support families. But 64 or 66 percent of our population has never been married, so they don't have a married spouse to go to when they leave. Perhaps they have a common-law wife or somebody else, or children, et cetera. But a lot of individuals don't have those family connections, so we try to maintain them as best we can while they're in our system.

CHAIRWOMAN KRUEGER: You talked about contracting. Is that through your budget, so those are contracts with DOCCS to provide -- so we can get a list of those and the amount of money being put into those contracts?

EX. DEP. CMMR. MARTUSCELLO: Yeah, we have $4 million dedicated through Aid to Localities for beds, residential treatment

beds that are dispersed throughout the state, depending on where our needs are.

And just to go back to your percentages, last year about 31 percent of the population that we're releasing were undomiciled.

The commissioner talked about Edgecombe. That does include a stipend program where, when they find permanent housing, to offset feeding an additional mouth, they can get up to $100 a week for 12 weeks to help incentivize people being willing to take those individuals in.

Lastly, our reentry folks, we have a whole reentry division that works with our parole officers and those that are in the shelter system to get them some type of transitional housing or permanent housing. The average -- the last time we looked at it, the average time that a parolee spends in the New York City shelter system is 37 days. So that's the average. Which is better than the typical stay in the shelter system generally.

So a lot of work goes on. The last

thing that I would say is we recently completed a report that was due through -- in collaboration with OTDA and DOCCS that talked about the barriers to reentry, and it talked about education and housing and all of those things that are barriers. DCJS was -- also assisted in there, in the report.

So that has been published, sent to the Legislature. If you're interested, we can send you a copy directly, Senator.

CHAIRWOMAN KRUEGER: Please.

And with my last 20 seconds -- it's a big one. So if you look at the data going back through time, we've cut the prison population from 60,000 to 30,000 between 2010 and 2023. But we haven't cut the money. In fact, your budgets fluctuate, obviously, but even adjusting for inflation, really have not gone down.

So how is it possible that we cut DOCCS's population in half and yet we didn't see any savings to invest in other programs or activities, including for people who have been reentering our communities?

EX. DEP. CMMR. MARTUSCELLO: Sure. So, I mean, throughout the years, particularly around prison closures, we have seen a reduction in our budgets. But whether through policy initiatives or legislative initiatives, we've had to refund things like -- such as HALT, which called for extra funding. Or increasing in programs, which this budget calls for increasing CDL and automotive tech. So we're matching vocational programs with real-time jobs in the community.

And then also the cost of living with our workforce -- you know, 80 percent of our budget is personal services. And as contracts are negotiated and percentage raises, that all has to get rolled into our budget and absorbed.

CHAIRWOMAN KRUEGER: So I have to cut myself off on this time, since we're past time.

(Laughter.)

CHAIRWOMAN KRUEGER: But I would love to follow up with you more about looking at

the historical patterns of spending and where money moved to and what we're getting for that. So thank you.

And I will hand it over to the Assembly.

CHAIRWOMAN WEINSTEIN: Good, I was about to cut you off.

We go to Assemblyman Burdick.

ASSEMBLYMAN BURDICK: Thank you.

And the question for Acting Commissioner Annucci -- and thank you for the work that you've been doing, and I especially wish to commend you for what you're doing in the area of transitional housing, with the ribbon cutting last year, and further what you're doing.

I also wanted to give a shout out to your deputy, Daniel Martuscello, for the great work that he's doing with community-based organizations and the Prison Relations Advisory Committee. I think it's a great model for the entire state for the kind of partnership and collaboration.

I just wanted to go further in the

questions that Chair Krueger was asking regarding transitional housing. And I'm certainly pleased to hear that the stay in the homeless shelters and the shelter system is less than the average.

But I guess my question goes to, you know, clearly DOCCS' mission is not housing. We get that. It's a conversation that we had a while back. I had that conversation as well with Commissioner Visnauskas. And I guess the question is, where do you feel it's most appropriate for there to be a focus on the state level for transitional housing for those who come out of our correctional facilities? Should it be OTDA? Should it be continuing some of the work that you folks are doing? Should it be entirely in the private sector with community-based organizations such as Osborne or Freedom House or the Center for Community Alternatives and such?

I'd be very interested in what direction you think is appropriate, particularly since the Executive Budget does

include a pilot program.

ACTING COMMISSIONER ANNUCCI: I think it's all of the above, Assemblyman.

ASSEMBLYMAN BURDICK: All of the above?

ACTING COMMISSIONER ANNUCCI: All of the above.

I think right now there's a lot more goodwill out there. The private sector wants to step up and contribute; they want to, you know, respond meaningfully to mass incarceration. The not-for-profits are stepping up to the plate. People, private sector, are supporting them with funding. OTDA brings a lot of expertise to this, but we have a partnership with them.

If you read the report that Dan Martuscello just mentioned, which we only recently submitted to the Legislature -- and it was overdue; it was delayed by COVID -- it really goes in depth to the challenges, the barriers, the solutions that we made.

So I think you'll find a lot of answers to your question of --

ASSEMBLYMAN BURDICK: And OMH, do you think that OMH should have a role?

ACTING COMMISSIONER ANNUCCI: There's no question about it. OMH is another partner; they're mentioned prominently in that report because of people leaving our facilities.

But I'll tell you, we have processes in place to make sure that the individuals, for example, either get the medical services they need -- you know, if you have hepatitis C and you have to be in a continuity program, we have a discharge planning unit within our health services to make sure that happens.

And the same thing with mental health. If you need to be placed in a treatment program, we will escort you there --

ASSEMBLYMAN BURDICK: Appreciate that.

ACTING COMMISSIONER ANNUCCI: -- coordinated with OMH, to make sure there's no interruption.

ASSEMBLYMAN BURDICK: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

The Senate has no more questioners, so we'll go to Assemblyman Flood.

ASSEMBLYMAN FLOOD: Thank you, Chairwoman.

My question is for Commissioner Rosado. Sorry. Can you hear me now?

So when we talk about the data collection, are there any plans now to try and figure out how we can capture some of that, like we said with the non-fingerable -- the non-fingerable offenses? And for the desk appearance tickets where we're not having defendants show up to court? Is there some way we can incorporate this data such as, you know, work with the police to actually get ahold of the number of DATs, compare them with who's actually going to court so we can get a more clear picture, a more accurate picture of the actual data that's going on?

DCJS COMMISSIONER ROSADO: I'm sorry, were you here earlier when I talked about this?

ASSEMBLYMAN FLOOD: I've been here the

whole time.

DCJS COMMISSIONER ROSADO: Okay, fine. So I'll just -- I did report back that we went back -- you know, we went back and looked at it. And for the -- the DATs are for fingerprinted within a day; we said that was 99 percent for New York City and 87 percent in the rest of the state.

I know we -- you know, we cast some doubt on that last week in our data presentation, but we kind of got to the bottom of it. And I reported on it earlier, and I'm happy to come back and report to you.

ASSEMBLYMAN FLOOD: All right, so you're saying that 87 percent of all people who get a desk appearance ticket are actually then fingerprinted?

DCJS COMMISSIONER ROSADO: Yes. In the rest of the state, right, and 99 percent in New York City.

ASSEMBLYMAN FLOOD: Okay. So and then what about these -- the -- so the other 13 percent, is there a way that we're going to try to incorporate that data in?

DCJS COMMISSIONER ROSADO: We're looking at it, right?

DCJS EX. DEP. CMMR. POPCUN: So yes, it is something we're looking at. Our breakdown when we went back -- because we had done an analysis before of the time between the DAT and the fingerprint. And as the commissioner reported, 87 percent are -- outside of New York City reported at the same time.

The breakdown, the majority of them then are captured within that same week. We obviously are always looking to improve our data collection, and we'll continue to work with our law enforcement partners to make sure that there's not that delay between the DAT and the fingerprint.

ASSEMBLYMAN FLOOD: All right, thank you.

CHAIRWOMAN WEINSTEIN: Assemblyman Brown.

ASSEMBLYMAN BROWN: Thank you, Chairwoman.

Thank you all for being here. Thank

you for your service. And thank you for the men and women that work for you.

In a prior life I used to an assistant attorney general, so I represented the State Police and the Department of Corrections officers. So I have one question for each of you, so I'll just go down the line.

Commissioner, just based on the answer that you gave to my colleague a second ago, I think the important data point that we're missing that we're trying to determine is from the number of desk appearance tickets, how many people are actually appearing in court. So I think if we could get that statistic, that's the one that we're missing.

Do you have any methodology that you track because of bail reform -- as you know, I brought up at the hearing last week we lost an important tool in substance abuse, in that do you know how many people now, as opposed to before bail reform, are agreeing to involuntary treatment in lieu of incarceration? Is that a data point you

keep?

DCJS COMMISSIONER ROSADO: No. I mean, we could probably dig it up.

ASSEMBLYMAN BROWN: I think that's really important. Right? Because we don't have something similar today to deal with those people that want to voluntarily go into treatment because they have a substance abuse problem.

Superintendent, if I could ask you, my colleague before, the ranker of Judiciary, he brought up the fact of driving while impaired. As you know, New York State currently does not have a law that deals with people who are driving impaired on drugs, whether it be marijuana or any other drug. A couple of states have looked into it. There's eight states that did a study on swab tests, Michigan being probably the lead.

But are you supportive of efforts to change the law in New York State -- we had Assemblyman Magnarelli last year was going to have a hearing on it. You know, it was something that I pointed out in the

newspaper. What's your gut feeling on it?

ACTING SUPERINTENDENT NIGRELLI: I would encapsulate it like this. That I really don't -- can't, it's not appropriate for me to comment on any proposed, current or future legislation.

However, the New York State Police would greatly support any initiative that this body passed as a law that will give us tools to detect, investigate and solve crimes, crimes including driving while intoxicated, driving while ability impaired by drugs --

ASSEMBLYMAN BROWN: Sorry, I see my time is running short. So are you tracking the number of accidents and fatal accidents that are caused by marijuana use, either before legalization of marijuana or after?

ACTING SUPERINTENDENT NIGRELLI: The answer is yes. And I can meet with you offline to go through this step.

ASSEMBLYMAN BROWN: That's fantastic.

I have 17 seconds. So, Commissioner, I want to ask you, do you track in the

Department of Corrections how much work you're doing in terms of substance abuse for prisoners?

ACTING COMMISSIONER ANNUCCI: Oh, yeah. We can tell you how many individuals are in need of substance abuse treatment. I think it's 70-something-percent or higher. And we base that upon a mass test and another score that --

ASSEMBLYMAN BROWN: And then the big question for all of you, is there any money in this Executive Budget that is directly addressing the opioid/fentanyl crisis that we're having in this state?

You would all say yes?

ACTING COMMISSIONER ANNUCCI: Yes, absolutely.

DCJS COMMISSIONER ROSADO: Yes.

ACTING SUPERINTENDENT NIGRELLI: Yes.

ASSEMBLYMAN BROWN: Thank you very much.

CHAIRWOMAN WEINSTEIN: Thank you.

And we go to Assemblyman Meeks.

ASSEMBLYMAN MEEKS: Okay, this

question is for Commissioner Annucci.

You spoke earlier about the vendor package system. There was a package ban in which families couldn't send packages into facilities across the state, there was a ban that was put in place. Can you speak to that?

EX. DEP. CMMR. MARTUSCELLO: So prior to the vendor package program, families could mail in packages directly from home that they pack, or they could bring them to the facility when they came to visit.

So we've now moved to a vendor package program where they can order from any vendor they'd like, there's no restrictions on vendors unless they get put on a disapproved vendor list, meaning they violated our protocols and tried to introduce contraband. And then twice a year they can send a package from home but it has to be non-food items. Because we've had a lot of contraband secreted in vegetables, canned goods and things of that nature.

So the package program continues. We

continue to receive tons of packages via the new mechanism.

ASSEMBLYMAN MEEKS: So when you say vendors, like any grocery store chain, or is it particular vendors that contract with DOCCS?

EX. DEP. CMMR. MARTUSCELLO: No, no, no, it's not a contract with DOCCS. It's any vendor that will ship directly to the facility. So if you want to go on Walmart and order food, including produce and goods, and have it mailed to the institution, any vendor that you so choose, as long as it's not on a disapproved vendor list.

We tried that in 2018, and we failed abysmally. We listened to our superintendents, the incarcerated population and advocates, as well as our workforce. This is a new program. It's not a secure vendor where it's a limit on who they can buy from. They can use anyone to ensure that we keep economies of scale and they can buy the cheapest products that they can find on the market.

ASSEMBLYMAN MEEKS: So with the implementation of this new system, have you seen a decrease in contraband that has come into the facilities?

EX. DEP. CMMR. MARTUSCELLO: Yeah, so in --

ASSEMBLYMAN MEEKS: And what's the percentage on the decrease?

DCJS EX. DEP. CMMR. POPCUN: I'm sorry, in 2020 we had 924 instances of contraband found in packages. 2021, we had 710. Since we've implemented this program, we've had 30.

ACTING COMMISSIONER ANNUCCI: And a significant reduction in the use of Narcan to bring people back from an overdose.

ASSEMBLYMAN MEEKS: So when you say a significant reduction, like what is that number?

EX. DEP. CMMR. MARTUSCELLO: So in terms of Narcan, we've seen -- sorry, we've seen a 13 percent decrease in Narcan usage. In 2021 we had 415 instances. 2022, we were at 360.

We've also seen, as a direct result, we believe, a significant increase in visitor arrests. We've caught often attempts to bring in drugs and weapons via the package room, and as a result we've seen a 64 percent increase in visitor arrests. And that's directly correlated to not only the package program, but our increased utilization of canines. Which not only sniff visitors, they also sniff staff.

ASSEMBLYMAN MEEKS: I've got five seconds here, so let me ask this last question as it relates to the practice of shipping individuals across the state.

So for instance a person is charged with a crime in New York City, they house them in Attica or Orleans County. Why such a practice as far as shipping people eight hours away from their hometown, as opposed to maybe an hour or two up the road?

EX. DEP. CMMR. MARTUSCELLO: Well, again, as the commissioner previously testified to, when you first come in and you go through the reception process, we identify

what needs you have and then we identify a facility that can meet those needs from a medical, mental health and security standpoint.

When we talk about proximity to minor child, that's driving a lot of the beds that are in close proximity to where the population's coming from, so they take priority.

And also we have an area preference, which is based on good behavior, where we incentivize behavior. As we continue to leverage tools to drive violence, that's a critical tool to (a) get people closer to their children, as well as getting people closer to home based on their good behavior.

So it's a matter of where the population's coming from, where facilities are situated, and some of the laws that are in place to house people close to their minor children.

CHAIRWOMAN WEINSTEIN: Thank you.

The final legislator to ask questions, Assemblywoman Anna Kelles.

ASSEMBLYWOMAN KELLES: Thank you so much, all of you, for being here and for your endurance.

So first question, I wanted to first thank you; I've heard a lot of you bring up earned time, merit time, good time as another incentive that we really could be using. And I know from my own research that it has been correlated with reduction in violence against corrections officers, which we all want to see, you know, associated with reduced recidivism rates. Great data with this.

So I know in New York we have one of the most conservative earned time act programs from the state analysis that I've been looking at. So I'm curious if you would be open to reevaluating, looking across what has worked across all states. I know even Alabama and Texas, I was recently looking at, were somewhat more expansive. So I know it's a nonpartisan issue but -- the benefits from it in particular. So I'm just curious if you would be open to doing a deep dive and reevaluation and expansion, potentially, of

that program.

ACTING COMMISSIONER ANNUCCI: Well, we're always open to whatever the Legislature thinks is appropriate.

I can tell you we've saved billions of dollars in prison cost avoidance with programs like shock incarceration, merit time, and limited credit time. And, you know, when you say we're very restrictive compared to other states, the traditional good time you can earn on an indeterminate is one-third. We went conservative with the VFOs when we enacted those laws. But even then, we can cut into that with the limited credit time allowance to allow the additional six months, so --

ASSEMBLYWOMAN KELLES: Absolutely. I'm talking about also making it available to everyone who is incarcerated, because it's such a great incentive. That is something we certainly could do.

So there's some things like that, looking into. We've talked about the roots of success program; I'd love to see that

implemented. So further conversation, but that's wonderful.

ACTING COMMISSIONER ANNUCCI: Sure, absolutely.

ASSEMBLYWOMAN KELLES: Just some other data. I know, looking at the research, there's been a reported increase over the last 10 years of violence among incarcerated. So given that, I'm wondering what the difference is that we're seeing here and if we could dive a little bit more into the data, because that's always helpful in looking at possible prevention.

Are they often with someone who's in a cell by themselves? Is it cases -- do you have the distinction, for example, where we have some that's been identified as assault that would be identified as an assault under criminal law? How are they defined? Are they broken up?

Can you speak a little bit more to the data and the definitions and the details?

ACTING COMMISSIONER ANNUCCI: Sure. So for starters, our definition of assault is

broader than in the Penal Law. Penal Law does require physical injury, which is a threshold. So -- but if you bump into a correction officer, that's an assault, but it's challenging the officer's authority, and it's something that's serious.

In terms of analyzing why we're seeing the upward trends, what's changing -- especially since the population has gone down, so all the traditional things you looked at like, you know, double celling when we were overcrowding, 90 inmates in a dorm when we were overcrowding. That's gone away. The maximum now is 50 in a dorm. There's no single cells that we're using anymore for double cells.

So there's a lot of other dynamics that are going on which I think you're seeing in outside society. We're no different. The forces that are driving some of the increases in violent crime and homicide are bleeding into our correctional facilities as well.

EX. DEP. CMMR. MARTUSCELLO: Just two things I'd like to just add and leave you

with is that the demographics of our population have also shifted.

So right now, based on instant offense, 74 percent of our population are violent felony offenders. And if you look at secondary crimes and/or past crimes, that number jumps to 84 percent. So, I mean, obviously the demographics of our population have shifted, which I think is also helping, you know, contribute to the violence.

And in terms of where we're seeing it, we report on unusual incidents, a five-person fight or above. So just to leave you with a statistic, in 2021 we had 70 five-man-plus -- and I use "man" -- five-person fight or above, right? In 2022, we had 110 instances of five-plus-person fights. So just in a year, a huge shift.

CHAIRWOMAN WEINSTEIN: Thank you. Thank you.

ASSEMBLYWOMAN KELLES: I'd love to look at that with you. That would be good.

CHAIRWOMAN WEINSTEIN: The Assembly is finished with witnesses -- I mean, with

questioners.

CHAIRWOMAN KRUEGER: So I want to thank all of you for coming and being with us today, and I probably will get some follow-up questions from a number of people. So you're free, so to speak. Thank you very much.

And everybody can take their conversations out to the hallways if they need to grab these people outside. And we're going to quickly move to the next panel. We've now moved to the citizens.

All right, so we're going to be calling up the Center for Justice Innovation, the Urban Justice Center, the Release Aging People in Prison Campaign, and the Center for Community Alternatives.

Again, if you can please take your conversations outside.

CHAIRWOMAN WEINSTEIN: Colleagues, can you take your seats, please.

(Discussion off the record.)

CHAIRWOMAN WEINSTEIN: If you don't leave, we're going to make you stay to the end with us.

(Discussion off the record.)

CHAIRWOMAN KRUEGER: All right, I see three out of four, so perhaps we just have worn people down and we only have three out of four.

All right, Senators, behave.

(Laughter.)

CHAIRWOMAN KRUEGER: Wow, that worked almost.

Are you coming down to be with us? Fine, we'll give you a -- don't rush. Be careful on the stairs.

Good -- is it evening yet? Yes, it's good evening. And I'm just going to go from that side of the table back to that side.

And also please know when you're leaving, if you don't want to go up the stairs again, if you just go out either side, there's an elevator and you don't have to climb the stairs. Maybe it would be helpful if we told you that before you came down the stairs. But the best I can do is point it out now.

Hi, everybody. Please let's start

with this side.

MS. BRYAN: Hello, yes. Can everyone hear me okay? Great. I think you -- oh, you can't --

CHAIRWOMAN KRUEGER: Introduce yourselves and --

MS. BRYAN: Oh, yes, I'm Courtney Bryan, with the Center for Justice Innovation. Sorry.

The mic isn't on?

UNIDENTIFIED LEGISLATOR: Could you put the mic a little closer?

MS. BRYAN: Sure, of course, yeah.

UNIDENTIFIED LEGISLATOR: Thank you.

CHAIRWOMAN KRUEGER: Great.

MS. BRYAN: Okay. I just wanted to acknowledge and thank you all for your endurance -- I think other people were acknowledged for their endurance -- for taking the time to listen and be so engaged in this important topic.

And I'm pleased to have met a few of you over the last couple of weeks over Zoom or in person as the newish executive director

of the Center for Justice Innovation.

You may have known us as the Center for Court Innovation for the last 25 years, but we changed our name in the last few weeks to kind of reflect the breadth of our work and our mission which, as you may know, is to continue to work in partnership with government and with communities to help create a fair, effective and humane justice system.

We're a unique organization in that we are -- we run programs, operating programs on the ground in courts and communities, mostly across New York City but also in Syracuse. But we're also a research institution, and then we work with reformers and practitioners, policymakers around the world, to help them improve their justice systems. We do obviously a tremendous amount of work here in New York State.

Some of you may also know us through programs that we operate in your districts, and I'm seeing some nodding heads who I know. Thank you. We operate about 30 court-based

or community-based programs that seek to reduce gun violence, that seek to reduce the use of incarceration, help keep people in housing or connect them to housing, transform public spaces so that we're creating thriving communities.

CHAIRWOMAN KRUEGER: Forgive me, I'm just going to -- just one second. So for everyone, you have three minutes.

MS. BRYAN: Three minutes, yes.

CHAIRWOMAN KRUEGER: So with all due respect, don't use your time telling us about your organization, tell us what you need us to hear --

MS. BRYAN: Yup. Yup. Of course. So I'd like to focus on --

CHAIRWOMAN KRUEGER: -- about the budget.

MS. BRYAN: -- three urgent items.

One, and you all have engaged in this already, continuing to reduce the use of unnecessary incarceration. This is obviously imperative, both for safety and for justice. It was mentioned even -- the Midtown

Community Court, by a few folks earlier today, that was the founding of our organizations. We've been committed to this to help people improve their lives, keep them out of jail.

We have been working recently to increase access to pretrial services, to increase felony alternatives to incarceration, and young people charged with weapons possession. And I would just encourage you all to continue to support that and seek to support those efforts even more. Frankly, we're getting more referrals from judges than we can handle and that the funding allows for. So there's a grave need for expansion there.

Gun violence, again, has so dominated the headlines and conversations and people's experience over the last couple of years. We have been running the Cure Violence program in New York City in a few neighborhoods for more than a decade, but we're continuing to study and to learn from experience in doing that, to think about ways to enhance the

Cure Violence model. We have a number of ideas for how to do that so that it's not just putting all of our eggs in this one basket, but how can we invest in people and communities more and talking to young people for that.

And the last is mental health and substance use. We, with the Bronx Hope and Brooklyn mental health courts as examples, seeking to invest more in communities but also court-based diversion programs, but would ask again for your support on that.

Thank you so much for your indulgence.

CHAIRWOMAN KRUEGER: (Mic off.)

Sorry, you don't need to go through your whole testimony, you can't in three minutes. And don't use your time just telling us who your organization is because then you don't get to tell us what you care about in our budget. And we already have everyone's testimony.

Okay, next person.

MS. SCHAFFER: Hi, all. Thank you for the opportunity to testify today. I'm Katie

Schaffer. I'm the director of advocacy and organizing at Center for Community Alternatives, CCA.

We are here to testify in opposition to the Governor's Executive Budget proposal on bail reform and in support of the Clean Slate Act and the End Predatory Court Fees Act.

In her Executive Budget, Governor Hochul proposes eliminating the least restrictive standard to ensure return to court and replace it with nothing -- no standard whatsoever. There are 33 other states in the country that use a least restrictive standard; there are none that have no standard at all. This is both legally unworkable, it will lead to increases in incarceration, and it will prompt judges to engage in the worst forms of bias.

It is also -- the lack of a standard will guarantee widespread confusion, which makes it particularly bewildering given that the Governor's justification for doing so is judicial confusion. Having no standard at

all will result in arbitrary decision making and generate far more -- far greater confusion.

The second item that we want to testify about is what will actually increase community safety. The Governor herself has acknowledged that bail reform has not increased crime, as we heard also earlier today. But we do know what works. There is very clear data about the kinds of services, supports and opportunities that increase community safety. Thriving communities are safe communities.

And one way that we can increase community safety is through passage of the Clean Slate Act. A recent study of Michigan's sealing law found that when people had access to having their records sealed, they were more likely to be employed, they were earning more, and they were less likely than members of the general public to be convicted of a crime.

This makes sense, that when people have access to jobs, are able to support

themselves and their families, that is what strong communities look like and that is what safe communities look like.

So we urge both the Assembly and the Senate to include the Clean Slate Act in your one-house budgets. There is dramatic support for the legislation across the state from businesses, from labor unions, from local governments. Even better, pass it pre-budget. But since this is a budget hearing, please include it in your one-houses.

And finally, the End Predatory Court Fees Act we would also encourage you to include in the one-house budgets. Right now New York State has a regressive form of taxation through court fees that criminalizes poverty, that fails to generate revenue, and that results in really terrible forms of government transparency.

So we urge you to include the End Predatory Court Fees Act in the one-houses as well.

CHAIRWOMAN KRUEGER: Thank you.

Next?

MR. SALDANA: Is this on? Can you hear me good? Okay.

Okay, I'm Jose Saldana, director of the Release Aging People in Prison Campaign. I'm here to address something that was excluded from the Governor's budget, and I'm hoping that it will be a priority for y'all.

Mass incarceration has created an inhumane crisis in our prison system. Harsher sentences in the front end, and in the back end the Parole Board re-sentencing people to sometimes years and decades past the minimum set by the New York State Supreme Courts. In between, men and women and nonbinary people are just getting older, sicker and, sadly, in a lot of cases dying.

The money that is used to incarcerate elder people in our prison system, elder people who do not pose any risk to public safety, as well as those who are infirm, those who have illnesses that are almost terminal, instead of languishing in prison until they die or are released at an age

where they cannot be productive, we can save a half a billion dollars a year -- money that could be better used for services that are included in the budget.

And I'd just like to mention that the Governor talked about funding violence interrupters. Where does she think that violence interrupters are going to come from? They're going to come from our prison system. They're going to come from men who have mentored me and men that I have mentored, women who have been mentored by Val Gaiter, the longest-serving woman in our state prison system, who died because she was misdiagnosed. She actually helped an entire generation of younger women transform their lives. She should have been in our communities helping younger women, giving them a vision of a future that does not involve violence or drugs or gangs.

So I'm here to just propose that this esteemed body pass the two bills that will address mass incarceration in our prison system, the Elder Parole bill and the Fair &

Timely Parole bill.

And I'd like to just add that last year the former chair of the New York State Parole Board wrote a letter to me, a personal letter, and she said that she admits to being wrong, she was on a panel that denied me parole and she now says that I have shown evidence, irrefutable evidence, that I was not a risk to public safety, that I was ready to return back to the community then when she denied me. She was "I was wrong, and I apologize."

An apology does not fix this crisis. The crisis has to be fixed by our esteemed body right here. Pass these two bills. They will address these questions and they will address the money that is misused. And, more importantly to me, they will bring families home and address the crisis of families in our communities just living in pain and suffering and despair from generation to generation.

Thank you.

CHAIRWOMAN KRUEGER: (Mic off.)

CHAPLAIN DR. PHILLIPS: Peace and blessings, everyone. Can you hear me?

CHAIRWOMAN KRUEGER: (Inaudible.)

CHAPLAIN DR. PHILLIPS: Peace and blessings. You can hear me now? Okay.

Well, you have my written statement, so it's evening now, so blessings, Chairs and everyone else. I'm Chaplain Dr. Victoria A. Phillips, and today I'm here also -- I'm the founder of Visionary V ministries, and I'm here representing the Urban Justice Center Mental Health Project, which I've worked at for the last eight years. And I'm here today to talk about the Treatment Not Jail Act in Senate 1976 and Assembly 1263.

And you have my testimony, so I just really want to touch base, because I know I don't have much time, on -- you know, I've sat on the Department of Corrections Advisory Board for six and a half years, even after my brain surgery, so I am someone who lives with invisible disabilities. And I'm now the cochair to the DOC Young Adult Task Force in New York City.

And I say that because I've sat here and there's so many things I want to respond to today, but I just want to be clear. As an Army brat on domestic soil with a mother buried in a military cemetery, I want to remind everyone in this room that you all have a duty to protect the heartbeats in your district, to protect your constituents, to protect every vulnerable individual in your community that cannot protect themselves, that might be going through a crisis, that might have a downtime.

And I've listened to how we talk about them versus us today, and I'm here to let you know that I am them. And so are you. And I've realized that during the pandemic. I knew it before, but during the pandemic so many more community members and peers had to wake up and rise up to the fact that we all deal with mental health in some way, fact or form.

And as a chaplain, I take on a lot of secrets. And I just want to highlight that because we talk about people as if their

crisis defines who they truly are. And I'm here to tell you, who you are in the moment is not who you have to be for the rest of your life. And as a chaplain I know what I hear in the moment, many times you will put your own self away, based on your own judgment that I heard today.

And so I just want to highlight how important it is to pass Treatment Not Jail, because jails are not safe. I've worked in the jail system in nursing, doing cognitive behavioral therapy, some forms of chaplaincy and some forms of monitoring for those who have a broad-range diagnosis of serious mental illness. And what I can say is jail is never the way. Jail is never the case.

I've trained judges who do not know what to do with someone and are afraid to release them because they don't have the proper resources and tools for what's going on in the community.

And I just want to say, reinvest back into your community. Take that money from the DOC budget and make sure there's respite

centers, make sure there's clubhouses, make sure there's adequate social workers. Make sure you're saving your community. Because when you take care of your most vulnerable, you take care of yourself.

Peace and blessings.

Any questions?

(Laughter; scattered applause.)

CHAIRWOMAN KRUEGER: Thank you.

First, Senator Zellnor Myrie.

SENATOR MYRIE: Thank you.

It is Tuesday, but I felt like it was a Sunday --

(Laughter.)

SENATOR MYRIE: -- being in church. Thank you, Chaplain.

Questions directed at Ms. Bryan and Mr. Saldana.

First, Ms. Bryan, we've worked with your organization. Can you talk to us a little bit about the work that you do with individuals that are directly involved with the violence that we're trying to stop? And what the value is in working with this

population in a way that doesn't cast aspersions on them, tell them to fix themselves, but really looks at the solution.

And then to Mr. Saldana, if you could speak to what public safety threat, if any, our older incarcerated individuals pose to the population. We heard from the acting commissioner that they can assess the risks of public safety for people who are outside of their custody, but for inside their custody they have no idea how to make this assessment. So I'm hoping you can speak to that.

And then I cede the rest of my time to both of you.

MS. BRYAN: Thank you, and I'll be brief.

But as you so eloquently said, Chaplain, we are them, they are us. And so that is such a powerful message when it comes to the use of credible messengers and peers, people who have been involved, been victims, often, and perpetrators of violence, engaging them and figuring out what the solutions are.

So instead of seeing them only as problems to solve, sort of looking at them as assets to tap into to develop solutions for those community problems and the violence that's in neighborhoods.

So with the SOS program that we run, Save Our Streets, in Brooklyn, for example, in your district, Senator, we are targeting the folks who are most impacted, who are most engaged in and victimized by violence. Instead of offering them, frankly, a social service, we're really seeing them as assets.

And so paying them for their time to be engaged in civic work that identifies what the problems are in those neighborhoods, and how to solve them. So I think seeing that reframe is very helpful, and we've seen a reduction in gun violence in those neighborhoods.

MR. SALDANA: You know, last year during the same budget hearings Acting Commissioner Annucci said that the best credible messengers are the old-timers who did a lot of time. What he didn't

mention is that very concept came from incarcerated people in New York State. The concept of violence interrupters also came from the state prison system, of men who were consumed, who were passionate about not only changing their lives but changing the lives of those around them.

So we're talking about people who have addressed harm in the most productive way in the worst conditions. So if men and women can do that in our prison system, with people who have been convicted of violent crimes, they can do it anywhere.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Assemblywoman Kelles.

ASSEMBLYWOMAN KELLES: Hi. Thank you, all four of you, for being here.

I wanted to note, you know, one of my concerns with policy debates is that we can always find an anecdote to support our case. As an epidemiologist when I was in grad school used to say, there's literally only

one that you can't -- smoking and lung cancer. Which even then you can find cases.

But so I want to ask you about data, statistics, a little bit to get them out there. First of all, how many -- what percentage of people do we know who are incarcerated have been diagnosed with mental health and concurrent, in many cases, mental health and substance use disorders? Do we have that data?

CHAPLAIN DR. PHILLIPS: One of out four.

ASSEMBLYWOMAN KELLES: So one out of four has been diagnosed with mental health -- my understanding is it's over 60 percent that is co-occurring.

CHAPLAIN DR. PHILLIPS: Yeah, one out of four has a --

ASSEMBLYWOMAN KELLES: It's been a long day.

CHAPLAIN DR. PHILLIPS: -- and with substance abuse disorder.

ASSEMBLYWOMAN KELLES: Okay.

And another question I have, for

people who are released who are from the elder population, 55 and older, what is the percentage of recidivism that we see in that population versus younger populations?

MR. SALDANA: You're talking about percentage of recidivism or the rate of recidivism?

ASSEMBLYWOMAN KELLES: Yes, mm-hmm.

MR. SALDANA: I was released when I was 66 years old. The rate of recidivism of someone 66 years old is zero percent. So we're talking about a population that is the least likely to ever commit a crime.

But I don't really go by that. I go by what men have done for decades, the decades they've been incarcerated, what they have done for themselves and for others. This is the measure of who they are. This is the measure of who they will be once they are returned back to our communities.

ASSEMBLYWOMAN KELLES: Thank you.

And the other thing I wanted to point out, from the two pieces of legislation that you identified, this is not an instant

release when you hit 55 years if you've been in for 15 years. These are both cases where you are then eligible for a parole hearing, right?

MR. SALDANA: That's exactly right. It just literally, in reality, it gives men who don't have hope, it gives them a degree of hope.

ASSEMBLYWOMAN KELLES: Okay. And also an incentive for good behavior and -- right?

A question, you mentioned the predatory practices, court practices, court fees. Can you describe a little bit -- you said something, that it doesn't actually create any funding but it does -- can you describe a little bit more what you meant by that?

MS. SCHAFFER: Yeah, so New York's mandatory court surcharge was created as a revenue-generator. It is not part of your fine or your sentence or your punishment. It was just supposed to raise revenue for the court system.

It is wildly ineffective at doing so.

New York is a very bad keeper of this data, despite being statutorily obligated to do so. But we know from other states that the cost to collect can surpass the cost that is ever collected, the revenue that is ever generated. In some localities it's 60 cents on the dollar; in some localities it's as high as $1.17 on the dollar.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

CHAIRWOMAN KRUEGER: Jamaal Bailey.

SENATOR BAILEY: Thank you, Madam Chair.

Jose, I'm very sad that I've lost you as a constituent, but thank you for your advocacy, continued. Appreciate all that you do.

The rest of my comments were for Ms. Schaffer in relation to Clean Slate. You spoke about it and the necessity of it. There are a lot of misconceptions about what the bill is and what it does. In this time, if you could, in the two minutes and change, if you could just tell us what the economic

benefits would be and how it would help to increase public safety, if you could.

Thank you.

MS. SCHAFFER: Of course. Thanks, Senator Bailey.

So the economic benefits are very clear. Recent research shows that the benefits to New York State could be as much as $7 billion for people who are currently unemployed or underemployed who would have access to jobs. At a national level, that looks at $87 billion as being lost in potentially wages.

And then at the individual level we see that the research out of Michigan is that people are 11 percent more likely to be employed a couple of years later and are earning 25 percent more.

So this is something that boosts economic opportunity in the state, tax revenue for the state, helps businesses hire employees. And then at the individual level, it is something that helps break cycles of poverty. That if parents can support their

children, and there are hundreds of thousands of children with currently incarcerated parents and even more with formerly incarcerated parents or parents with old conviction records, that that makes a tremendous difference in terms of those children's economic opportunities as they grow up.

And that economic benefit and those economic opportunities contribute directly to increases in community safety. That if people don't have access to jobs, don't have access to housing, can't support their children, I think there's a very real question about what it is we expect people to do.

And the Clean Slate Act directly allows people to take care of themselves and to take care of their families.

SENATOR BAILEY: So I guess I would just say, what I would proffer with the remaining amount of my time, is back to Jose.

Is it fair to say that if an individual has meaningful opportunities at

gainful employment, that just from your life experience, it's much less likely that they would be recidivists? Is that something that's fair to say?

MR. SALDANA: Absolutely.

The men and women returning from our prison systems, they come out with a mission. They're the most socially conscious human beings in our commission. Just take it from me. I was a member of your council, your criminal justice council. I was also a member of Chris Burdick's correction advisory committee.

You know, we've come out to repair harm. We've come out to revitalize communities that we helped destroy. So this is our mission, and this is how we should be valued.

SENATOR BAILEY: I appreciate all of your time and effort. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Any other? No, okay.

Then I want to thank everyone on the panel for being with us today. Appreciate

it.

And I'm going to call up the next panel: The Firefighters Association of the State of New York, the New York State Police Investigators Association, the New York State Park Police Sergeants Benevolent Association, and the New York State Correctional Officers and Police Benevolent Association.

And again, if you want to avoid the stairs, you can just go straight out and around, and you don't even have to go up the stairs. Okay, fine. I just wanted to make sure you knew that. Everyone is welcome to avoid the stairs.

Is there anyone else who is going to join us? I see three out of four groups. You're missing one? Well, maybe they'll show up. Well, I see the firefighters. So why don't we start on this side and we'll go down, and perhaps a fourth will join us.

Hi. Please.

MR. TASE: Well, good evening, and thank you very much for the opportunity. Thank you, and my name is Ed Tase. I'm the

president of the Firefighters Association of the State of New York, the voice of New York State's 80,000-plus volunteer firefighters.

We were down 20,000 volunteer firefighters in New York over the last 20 years, and most of the remaining ones look a lot like me.

Volunteer fire departments both here in New York and nationwide are struggling to recruit new members and retain existing ones who are rapidly aging out. At the same time, annual call volume has nearly doubled, as volunteer operational responsibilities beyond fire protection -- like weather-related issues, operations -- continue.

The training necessary to perform these expanding responsibilities safely and effectively, and the time committed expected of a volunteer, has increased -- a result of the crisis that cannot be understated, as it impacts the protection of lives and properties in our local communities. It is a serious concern, as almost 80 percent of the fire protection services in the State of

New York, outside the City of New York, are provided by volunteer fire companies and combination departments.

My goal as FASNY's president is to recruit 10,000 new volunteer firefighters or EMS providers during my two-year term. So I welcome and embrace creative strategies to address the complex problem. There is no silver bullet, and it's going to take a comprehensive statewide approach to be effective.

In regards to the budget proposal, FASNY is very encouraged that Governor Hochul has clearly prioritized the crisis of volunteer fire recruitment and retention. Her leadership on this issue is mission-critical, and we applaud the executive.

PPGG Part H proposes local governments to have the ability to pay a nominal fee to volunteer firefighters responding to emergency calls. Paid per call is a new idea in New York, and exploring new solutions is commendable. The volunteer fire service

looks forward to seeing the specifics and remains open to ongoing discussions with the Executive and OFPC.

Another way to approach the concept is to allow authorities to have jurisdiction to provide nominal reimbursement for expenses incurred, for training and expenses incurred by that volunteer firefighter.

Additionally, OFPC is authorized under the budget proposal to create a stipend fund for volunteer firefighters who complete basic training programs. FASNY is fully supportive of this. It represents out-of-the-box thinking by the Governor and her public safety team.

For this proposal to be truly successful, it needs a permanent statutory funding mechanism. It should also be available for ongoing training as well.

I would like to focus my remaining time --

CHAIRWOMAN KRUEGER: I'm sorry, you don't have remaining time.

MR. TASE: Okay, thank you very much.

Thank you.

CHAIRWOMAN KRUEGER: Thank you very much.

Again, we have all of your testimony. And so we just ask everyone to bullet point the key issues for themselves. Thank you.

MR. TASE: Thank you very much.

CHAIRWOMAN KRUEGER: We'll go to my right, her left.

Hi. Introduce yourself.

MR. McGARITY: Thank you.

Good evening. My name is Frank McGarity, and I'm the director of the New York State Park Police Sergeants Benevolent Association, part of the PBA of New York State.

In my 20 years with the Park Police I've seen a dramatic change within my agency, including at least a 40 percent reduction in the number of Park Police officers.

Our current 178 officers are tasked with protecting 287 Office of Parks, Recreation and Historic Preservation sites, from Montauk to Niagara, in a variety of

terrain and environments, rural and urban.

We are stretched to the breaking point both in terms of manpower and resources. Our current academy class is scheduled to graduate in May with 38 new officers. Sadly, these officers will barely offset current attrition.

The elephant in the room is: Why are our numbers so low? Why did one-third of our job leave since 2019? Why do we lose officers to other agencies -- municipal, county and state?

The answer is simple. Nearly every other law enforcement officer in New York State receives a 20-year retirement benefit, while we continue to work under an outdated and inequitable 25-year retirement plan.

The officers being poached away by competing agencies include our diverse officers. This makes it increasingly difficult to represent the diverse communities we serve.

The record 78-plus million people who visit our state parks and historic sites each

year come from across the state, the nation, and the world. To be blunt, our park police officers are largely white and largely male.

We recognize that diversity is important and a fundamental aspect of our specialized mission of community policing.

This past year Governor Hochul committed the Park Police to the 30x30 initiative to increase the number of women in law enforcement to 30 percent by 2030. We embraced this effort, but we've lost 11 women since 2019. The 20-year retirement benefit would have helped with that.

The State Legislature has been incredibly supportive in passing our 20-year retirement bill year after year with near unanimous bipartisan support. Thank you very much for that. It's greatly appreciated. Unfortunately, the bill has been vetoed repeatedly, citing a need to include it as part of the budget. Our members respectfully and strongly urge the Legislature to include the 20-year retirement benefit as part of

your budget proposal.

Last year a joint working group was convened to explore the future of the Park Police. Despite requests from our union to participate, we were not included. In December a report was issued from the group, but as of yet we have not been provided an opportunity to review it.

On behalf of my fellow Park Police officers, I thank you for the opportunity to testify, and I welcome any questions.

Thank you.

MR. DYMOND: Good evening, Senate and Assembly members. My name is Tim Dymond, and I'm a senior investigator with the New York State Police and currently the elected president of the New York State Police Investigators Association. I represent roughly 1150 State Police senior investigators and investigators located throughout the state. We make up the BCI.

Much has been spoken of public safety and our communities during the budget discussions, and I would like to say that our

members handle the most serious crimes on a daily basis. We are the ones that handle murders, rapes, robberies. We handle human trafficking, kidnappings, counterterrorism, undercover narcotic investigations, and most recently our members have handled the large majorities of TERPOs and ERPOs in the rural areas of New York State.

Each of our members starts their career as a uniformed Trooper. Then our membership is a group of hand-selected, experienced Troopers taken from the mass and made into investigators.

The State Police as an agency has proven to be highly adaptable to current law enforcement forms, and we continue to take a leadership role in the law enforcement community. To maintain this level of service, I detailed a few items that I think deserve consideration in the pending budget.

Our highest priority continues to be replacement of retiring members within our ranks. Like most law enforcement agencies in this country, recruitment and retention are

reaching a troubling point. We continue to lose our most experienced members to retirement at an alarming rate. Our BCIs are down 100 investigators statewide from where we were just a few years ago, and realistically we're about 200 investigators from where we would operate most effectively. Our backroom BCI units are short, and special details statewide are running at a reduced level.

At the same time, the workload continues to increase exponentially due to the increase in violent crime and the recent explosion of TERPO cases. In 2022, my membership handled nearly a 470 percent increase from 2021 in TERPO cases. Each of these cases is important and requires roughly eight hours of work to prepare for hearings.

This year we asked the Legislature to support the Governor's proposal of four additional State Police recruit classes to replenish the ranks necessary to keep New Yorkers safe.

We were pleased to hear the Governor's

support for an increase in the funding that is used to battle the spike in gun violence across the state. These are CSU units, community stabilization units, that you've heard much about earlier today from Superintendent Nigrelli.

These are made up and led by senior investigators and investigators, and they target gun crime throughout the State of New York in our most troubled neighborhoods. They have proven to be very effective, seizing hundreds of ghost guns just this past year.

Lastly, we ask the Legislature to support additional funding to bolster the ICAC, the Internet Crimes Against Children, and the CCU, Computer Crimes Unit members across the state. There is no mission more important than protecting our children statewide.

Thank you.

CHAIRWOMAN KRUEGER: And let's go -- we went around without you, so please.

MR. POWERS: Thank you.

Thank you, distinguished chairs and members of the Legislature. I'm Michael Powers, president of NYSCOPBA. On behalf of more than 30,000 active and retired members, thank you for the opportunity to discuss the current state of New York's correctional facilities.

Let me start by saying we support several items in the Executive Budget proposals, including body scanners, lowering the hiring age of correction officers from 21 to 19, and of course with no prison closures in the fiscal year.

But I'd like to focus on the current conditions in our correctional facilities. To put it bluntly, they're deteriorating and our members are burned out. Over the past several years the decisions made by elected leaders have resulted in tremendous consequences for the brave men and women who work in our prisons.

2022 was the most violent year in our history. Single-year records were set in both inmate-on-staff and inmate-on-inmate

assaults. The state-tracked data shows the beginning of record-setting violence immediately following the enactment of the HALT Act on April 1.

Not only have the number of assaults significantly increased, but the severity, boldness, and brazen activity has also increased. Within the last year, a female correction officer working at Attica Correctional Facility was sexually assaulted by an inmate as she was escorting him from a COVID-19 testing site. In plain sight of others, incarcerated individuals and staff, the inmate brazenly attacked the female officer, grabbing her in the groin and other multiple areas.

Thanks to the HALT Act, this individual was afforded seven hours out-of-cell time with other rule-breaking inmates only days after this attack. I ask, how does this make prisons any safer?

The viciousness of the attacks isn't targeted just towards staff but the incarcerated community alike. Just a few

short weeks ago, after the enactment of HALT, two inmates were murdered by other inmates. These reprehensible acts match the total of in-facility homicides over the previous three years. Now, under the HALT Act, inmates who murder fellow inmates are legally required to receive out-of-cell time in congregate settings a mere 15 days after their horrific crime, putting other individuals and staff at risk of being the next victim.

How do you expect us to separate murderers now? How do you expect us to separate rival gangs now? The proponents of HALT refuse to acknowledge the data and equate individuals who are housed in Special Housing Units as being tortured to deflect their own culpability in creating these horrific conditions.

How is it torture to be secured in a cell after violent behavior when other people need to be protected from that very violence? How is it torture to be provided in their cell with an internet-connected tablet for

reading books, listening to music, playing games, emailing, making phone calls to friends and family and other loved ones?

In society, lawbreakers go to prison to keep them separate from the population. The same used to be true in our correctional system. For the good of staff and those trying to safely do their time and move on with their lives, I ask you members of the Legislature, when will you act? I propose it's time for our elected leaders to listen to the subject matter experts, recognize the factual data, and reform HALT to keep everyone safe.

Thank you for your time.

CHAIRWOMAN KRUEGER: Thank you.

SENATOR HINCHEY: Thank you very much. And I appreciate all of you staying -- and staying for your testimony.

I have a couple of questions. My first one is for President Tase. So in my district I represent 56 towns, and only one provisional fire department, so the rest of them are volunteers. And so I thank you and

your members for everything that you do.

Taking a little bit different look at funding, more capital funding for firehouses. So I have a firehouse in my district that is deemed a FEMA shelter. It is tiny, it cannot fit the equipment, it does not -- cannot be an actual, real functioning shelter.

We have $300,000 in the bank from a SAM grant that was given to them, and yet the cost of -- as we know, to redo a firehouse is upward of over a million dollars. So they can't even touch that money.

Most of the requests that I get from my office for help with funding come from our volunteer firehouses for help with capital projects. Can you talk a little bit about that and what that scale looks like?

MR. TASE: That is a very serious problem within the volunteer fire service. Most of the volunteer fire services do -- they work under a budget, they get contract money from their municipality to provide both fire protection, equipment for their volunteer firefighters, and there's usually

no money for buildings.

That's where they go to the feds, FEMA for grants, and things like that, to assist that. It's very difficult for a volunteer fire company to decide do they need a building or do they need turnout gear to outfit their firefighters.

SENATOR HINCHEY: And am I right to say even some of those buildings they can't even fit the new equipment that they're required to have because of the old buildings that they're in. Is that right?

MR. TASE: Yeah. It's very expensive for the equipment for the firefighters. You know, it takes in excess of probably $10,000 to outfit a volunteer firefighter. You know, recruitment could be a problem, but -- it's tough, though.

SENATOR HINCHEY: We -- in the budget last year, we put in a fund for capital improvements for Legions and VFWs to get because we know they're struggling with capital as well. Would a fund like that be helpful to our volunteer firefighters?

MR. TASE: Yes.

SENATOR HINCHEY: Thank you.

And in my last 44 seconds, my next question is for Frank McGarity.

Thank you for being here. I want to just put on the record I'm incredibly supportive of the 20-year retirement bill. If we have to get it done in the budget, I support that.

Can you talk a little bit, in our last couple of seconds, about other things that we could do, the Legislature and the state could do to help with recruitment and retention? Because you were writing these -- especially in places like the Catskills Park that I represent -- are critically important, and yet we know we are struggling. So how can we help you?

MR. McGARITY: Just to answer your question quickly, the Comptroller put out a report recently in the fall of '22, and 95 percent of police and fire retirement systems have 20-year retirement. We are the 5 percent that do not.

In the Budget Book, page 126, they talk about rebuilding the workforce, the state workforce, and one sentence stuck out to me, and that was leveling the playing field with the private sector. And I think that we should take that concept and level the playing field in our own house, within the state, across state agencies.

CHAIRWOMAN KRUEGER: Thank you.

MR. McGARITY: I think that could help with recruitment and retention.

SENATOR HINCHEY: Thank you.

MR. McGARITY: Thank you.

CHAIRWOMAN KRUEGER: Assembly.

CHAIRWOMAN WEINSTEIN: Assemblyman Norris.

ASSEMBLYMAN NORRIS: Thank you, Madam Chair.

My questions are directed to President Tase. I'm honored to have him as a constituent of mine in the Town of Lockport. And thank you very much, Mr. President, for all the work you do and for FASNY across the state.

My question for you is, what is the number-one need for recruitment and retention for our volunteer fire service?

MR. TASE: Well, as we've stated in our written testimony, that to recruit the volunteer firefighters today -- it's unfortunate, we need to get the younger folks in the fire service. We need to get tangible needs in their hands. The LOSAP program that we have is great, but the younger folks aren't waiting until they're 65 to get that. They need something right now, something tangible that they can get, either a gas card, reimbursements for their equipment like their blue lights or flashlights or something like that, that the young gentlemen and ladies can get in their hands right now.

If we could give -- somehow work out to give a gas card where the volunteer firefighter goes to the gas station and saves 3 cents on a gallon for their gasoline, that would be tangible for the local -- the individual, that they can enjoy right now.

The property tax thing is great. But

I think with the property tax exemption we have, we need to take a look at the New York State income tax credit that we have right now. It's over 20 years old. At $200, we need to make -- we need to increase that. It's 20 years old, and they're getting $200. We need to increase that to a level that helps.

And we need to be able to use the tax credit and that at the same time, and not pick between one or the other. A lot of our younger volunteer firefighters don't own property. So that's what we've got to take a really serious look at.

ASSEMBLYMAN NORRIS: So President Tase, just so I'm clear, right now we know inflation is up, gas is up, and our motor vehicles, wear and tear -- they're going to our scenes every day, volunteers, so it's important that we provide some sort of either tax credit or gas card to make sure they can afford to do the services of volunteer fire service. Correct?

MR. TASE: That's -- that's true. You

know, the volunteer numbers are decreasing. Again, if you look at -- in 2015, FASNY did an economic value study. The value of the volunteer fire service in the State of New York, if they didn't have us, it would be $3.3 billion in increased taxes to the State of New York.

ASSEMBLYMAN NORRIS: And President Tase, if I could just add. I mean, I have over 25 districts -- fire companies in my district. We appreciate everything you do. And it's just not fire companies, right, in terms of firefighter services, it's the natural disasters, the blizzard we just had. You know, it's also chemical spills that happen. All types of things. Because of the service of our volunteers that serve, you know, $3.3 billion a year across the state.

So we appreciate what all of your membership does. And I just want to tell you for me, as your representative, thank you for what you do. We appreciate it.

MR. TASE: Thank you very much.

CHAIRWOMAN KRUEGER: Senator Rolison.

SENATOR ROLISON: Thank you, Chair.

And thank you for all being here.

Just a quick comment to President Powers. We have spent the past two weeks in our hearing rooms talking a lot about data, the data that DOCCS and the commissioner had spoken about before and you're reiterating again. When it comes to the situation within our correctional facilities that relates to assaults on correction officers and staff and inmates, it is irrefutable. Something has to be done on that to create the atmosphere in there both for everyone that is inside those buildings. And obviously I think you know that you have the interest of I would hope all of us in trying to do something.

To Director Frank McGarity, you had spoken about the staffing. What was the number that you used for your current staff in the Park Police?

MR. McGARITY: Current staffing right now is 178 officers. That does not include the 38 that we have in the academy right now.

SENATOR ROLISON: And what has the number traditionally been, you know, pre-pandemic, pre-people not wanting to get into law enforcement and obviously all the issues related to the 20-year retirement, to pay and retention issues. How high has it been?

MR. McGARITY: Well, when I first got on the job back in 2003, we were 300-plus. As -- we had 266 officers in 2019. Then we went through a period where the pandemic happened, and we then were under the operational control of the State Police.

We were under a restriction that to my knowledge -- we endured a restriction that no other agency endured in the state, and that was no transfers, no promotions, no hiring. From that, 88 officers left the job. So one-third of our job left.

SENATOR ROLISON: And with new officers coming in in Tier 6, there's issues related to that, calculation of overtime, et cetera, which makes base pay a more important, you know, thing for police

officers.

What if anything has your organization done -- I've asked this to previous individuals testifying here -- done for retention? Has there been a retention program discussed, thought about, to say, all right, how do we keep our well-trained park officers here in our park system?

MR. McGARITY: Recently we -- we've had a couple of things. So we have the academy. Prior to that, we didn't have a -- we didn't hire since October of 2018. We have an academy in session right now --

SENATOR ROLISON: What about money and things such as that?

MR. McGARITY: The -- there is a geographic pay differential for downstate counties on our job, and that has helped. We'll see where we are with that, if it will give us some stability.

SENATOR ROLISON: Okay. You know what, in the interests of time, we can follow up offline.

CHAIRWOMAN KRUEGER: I'm sorry, I have

to cut you off. Thank you.

SENATOR ROLISON: Thank you, Chair.

CHAIRWOMAN KRUEGER: Assembly.

CHAIRWOMAN WEINSTEIN: Assemblyman Ra.

ASSEMBLYMAN RA: Thank you.

Mr. Powers, thank you for the work that you and your members do. I just wanted to know if you could talk a little bit more regarding HALT.

I think it's clear that your feeling is that you don't have adequate opportunities to address violence when somebody is engaging in these type of acts, because of that law. So can you elaborate on the type of reforms that the legislature should be doing to keep both your officers as well as the inmates safe?

MR. POWERS: Yeah. I mean, we've introduced legislation to this body for the last three years. You know, we've asked for a violence study in our correctional facilities. You know, because this is a trend that's been happening since 2014, and it's only been accelerated since the HALT Act

of April 1.

And then -- then the data shows it. You know, it's very clear to us. Ultimately at the end of the day, I mean, we all want a safe working environment. We want not only for ourselves, but the civilian staff and the incarcerated individuals, to maintain the rehabilitation model that -- as was discussed earlier with the commissioner and the deputy commissioner.

You know, it seems to be everything is driven towards the RRUs now in the general population. I think the question this Legislature needs to ask the department is, is the general programs in the general population being hindered due to the programs in the RRUs? You know, I think if you take a good look at that, that's one of the concerns that's come forward.

But, I mean, we want answers. We want to work with this body to find those answers so that we can have a safer work environment and a living environment for the incarcerated individuals as well. I mean, you know, we're

not -- we're not just, you know, keepers of the gate. As the acting commissioner said, you know, we have a lot of functions. We serve a lot of roles, and it's not just turning the key and opening a gate, you know. We're the ones that are on the front line with them. And we listen to them. And, you know, we assist them in many other ways than just security.

ASSEMBLYMAN RA: Thank you again.

CHAIRWOMAN WEINSTEIN: Senate.

CHAIRWOMAN KRUEGER: Senator Bailey.

SENATOR BAILEY: Thank you.

Good evening, gentlemen. Thank you for sticking it out and waiting. Thank you for testifying. And thank you for the work that you -- and the people that you represent in public service. I sincerely mean that, so thank you.

This question is for Mr. Tase. This is in reference to the Rural Ambulance Task Force. Yes, there are rural parts of the Bronx, apparently. But I'm asking this question for some of our friends in more

rural areas.

There's a Rural Ambulance Task Force, to my understanding. What is the status of that, to your knowledge? And have there been any appointments and have there been any meetings of that task force?

MR. TASE: I am sorry, but I didn't really understand.

SENATOR BAILEY: The Rural Ambulance Task Force.

MR. TASE: I would refer to my secretary, John, if I could, please. He's my guru when it comes to --

SENATOR BAILEY: Absolutely. As long as he gets on the mic. He has two minutes to get down here so we can make it happen.

It's the only question I have, so we'll do what -- we're all good.

MR. D'ALESSANDRO: Senator, our organization represents volunteer firefighters and volunteer EMS personnel. They are generally associated with a fire department, part of a fire department. So we have not been asked to participate in that

task force.

SENATOR BAILEY: Excellent. And again, on behalf of all of us who call 911 and all of us who need help and things like that, when we're running away and you all run in, I just wanted to make sure I thank you all for the record.

No further questions.

MR. D'ALESSANDRO: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Assemblywoman Kelles.

ASSEMBLYWOMAN KELLES: I wanted to thank you all as well for being here.

I can't ask all of you questions, so I want to get to some new questions for myself and my district.

Director McGarity, thank you so much. I absolutely support the 20-year retirement. I just wanted to note that, very important in my district.

But I am going to direct my questions at you, President Tase. In particular, you

know, I'm looking through the budget, the recommended budget -- or the proposed budget, and some of these are wonderful. My concern is operating costs. You know, of all the conversations we have with pay, the fact that you all do it for free, by the way, I just want to honor that and acknowledge that and repeat that. Because the work you do -- you know, what I've seen that you do and the lives that you put in harm's way of your own, for free, for all of us -- thank you.

But again, my concern of where you are with operating costs. Because what my conversations have been with my local firefighters is that they do not have the funding that they need and they're closing one after another after another. And we are seeing larger and larger service areas that are not realistic.

So I just wanted to address that, because I do not see that support in the budget.

MR. TASE: Well, the volunteer fire service has changed over the last 20 years.

Okay? It used to be we used to run out and put fires out. But now we do traffic control, we do EMS, we do auto extrications in auto accidents. And I'll tell you, the Western New York volunteer firefighters worked their butts off in December of 2022.

ASSEMBLYWOMAN KELLES: Right.

MR. TASE: They bailed people out of snowdrifts, out of cars, rescued people. And that's what volunteer firefighters do.

As I've said to everybody I've ever spoken to, the volunteer fire service will never say no. We are here to service the communities that we protect.

ASSEMBLYWOMAN KELLES: So one of the things that I've been noticing is that for EMS services, the -- it's a public service. You are the first step of public health at this point. You can do up to almost surgery, multiple -- you know, superficial, small-scale, but surgery in EMS.

And my concern is that they can't be funded by local funding because the service areas aren't necessarily associated anymore

with just a municipality.

MR. TASE: Right.

ASSEMBLYWOMAN KELLES: So where are your other sources of funding if you can only do municipality and Medicaid rates are not reaching the actual cost?

MR. TASE: Are you speaking of EMS?

ASSEMBLYWOMAN KELLES: Correct.

MR. TASE: EMS was gracious enough that we fought in the one-house budget last year and we got the EMS cost recovery bill passed, which made it available. Because up till then New York State was the only state in the United States that could not -- their volunteer firefighters could not charge for their ambulance services.

ASSEMBLYWOMAN KELLES: Yes, that was one piece.

MR. TASE: That has helped tremendously, okay? The implementation of getting that in has helped. It's helped with the recruitment side of it, and it's helped with them to provide quality service.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

Senate?

CHAIRWOMAN KRUEGER: I'm sorry.

Senator Palumbo.

SENATOR PALUMBO: Thank you, Madam Chair.

And just a brief follow-up. You may have seen a previous panel with the commissioner that -- and President Powers, this is really directed to you, representing the men and women on the front lines in our correctional facilities.

And it wasn't anecdotal, it actually was actually a story of some of your members had come in and said, Look, this is -- it's awful, what's going on. This one woman who was extremely upset, obviously, said: Look, I just want to go to work. I need my job. I'm married, I have a family.

So the concern was when you don't have a system of discipline within the -- and I'm a former prosecutor. I've represented people on both sides of the aisle. So when you see these numbers -- not just on staff,

necessarily, you have them on inmate-on-inmate. And when someone sends a loved one off to prison, it's an awful day. And they get that, and they have a debt to society to pay. They want to come home and hopefully be reassimilated back into society.

So these -- obviously we have a 34 percent increase inmate-on-inmate. So obviously this should be everyone's concern, regardless of your political ideology and position. This is -- those folks deserve to serve their time safely. That doesn't mean that they can, you know, be fought with and -- and you get my point.

So when I talk about this internal system of discipline, carrots and sticks -- you behave, you get more privileges; you don't, you get less. And we are continuing to talk about HALT. So when you have, for example, a sexual assault where someone physically grabs -- we get it, there is a system of discipline, they can go to SHU. If someone is saying awful, vulgar things -- not physically touching them -- and these were

some of the complaints, that it escalates and they can get away with it.

So what is -- what sort of discipline is imposed for someone who's saying disgusting things, for example, to one of the staff? You know, sexual in nature.

MR. POWERS: Well, over the course of the last couple of years, I mean, the commissioner -- the acting commissioner and his deputy talked about it earlier. In 2017, the NYCLU settlement, you know, there was a three-year plan to implement and roll out disciplinary standards. But that got expedited within one year, with HALT, which has to come with the money and fiscal, you know, obligation from the state in order to implement within the system.

And everything got -- basically just got pushed and watered down. And our biggest concern going forward is not that we weren't willing to implement the programs. We're more than happy to implement the programs, but you've got to have the infrastructure and the staff to do it. And with that came a

higher model of violence, a significantly higher model of violence.

SENATOR PALUMBO: And even in a nonviolent situation, though, is there any type of discipline? So if they do it one day, are they --

MR. POWERS: It's -- you know, there's discipline across the board for certain activity. But an act such as yours of vulgar -- and we've seen it, this Legislature's tried to pass aspects of that in the past as far as language being used against staff or staff using it against incarcerated individuals or likewise, you know, so --

SENATOR PALUMBO: Any other workplace, though, but yours.

(Laughter.)

CHAIRWOMAN KRUEGER: Thank you. Thank you, Senator.

SENATOR PALUMBO: Thank you, Madam Chair.

CHAIRWOMAN KRUEGER: Assembly.

CHAIRWOMAN WEINSTEIN: No, we're done.

CHAIRWOMAN KRUEGER: We're done?

CHAIRWOMAN WEINSTEIN: We're done.

CHAIRWOMAN KRUEGER: Okay, and no other Senators? Great.

Oh, Phil Palmesano.

CHAIRWOMAN WEINSTEIN: I didn't see your hand raised before, sorry.

ASSEMBLYMAN PALMESANO: Thank you.

First, I just want to say thank you to all of you for the commitment and dedication of your members to keep our communities safe. So thank you.

And President Tase, I want to especially say thank you to you. As our volunteer firefighters, you know, I've said often they're the backbone of our rural communities. I mean, not only are you protecting your neighbors and community members, you're protecting the taxpayer. Because -- the property taxpayer, because if those services you provide had to be paid, there'd be $3.3 billion in additional property taxes. So thank you to you and your members.

MR. TASE: Thank you.

ASSEMBLYMAN PALMESANO: My questions are really for Mr. Powers.

Mr. Powers, you heard the commissioner talk about the extreme vacancies, the 867 vacancies of corrections officers, 1150 by year's end. You know, and the staggering violence that you talked about that we continue to talk about.

And when we talk about the bail reform law, one of the biggest complaints about it was it didn't engage our law enforcement and our district attorneys. When they went to pass the HALT Act, were the correction officers -- were you guys at the table? Did they invite you to the table and really take any serious input from you from that perspective, or --

MR. POWERS: No, sir.

ASSEMBLYMAN PALMESANO: Not at all. Shocking.

I guess the thing I wanted to ask -- I mean, I know the best thing we -- one of the things we could do that would help on a safety perspective -- we know HALT's been a

disaster -- I said it here, I'll say it again -- not giving you the ability to segregate the most dangerous inmates from the general population.

Repeal of HALT probably will never happen with this Legislature. The Governor could declare an emergency, and with that she could suspend the HALT Act because she would have that power in her state of emergency.

Are there additional things that you could see that can be done, whether it's with HALT, from a reform perspective? Or what other steps can we take that might help provide tools and resources to help protect your members to be safe doing their job, and other inmates that really are just trying to do their time but continue under attack and onslaught by dangerous and violent inmates that don't care who they hurt or who they affect?

MR. POWERS: Well, it's going to be a heavy lift at this point. The morale of our members is the lowest I've seen, and I've got 33 years in this agency. And I've been

serving this union for the last nine years, and it's the worst I've ever seen it, hands down.

You know, we need -- we need staff. We need -- we need more training. You know, which we work in conjunction with the department to achieve. But ultimately at the end of the day, you know, the violence study. You know, let's get to the root of it. You know, let's figure out what programs can offset it so that we can have a safer environment for all that are employed. And more importantly, you know, at the end of the day -- I mean, whether you repeal it or at least walk it back, let's have a conversation and let's go over the data so that we can all sit down and talk about it and bring about positive change for a safer environment for not only the state employees but the ones that are wards of the state.

ASSEMBLYMAN PALMESANO: Thank you. And I know I only -- that I've got only six seconds, but DOCCS has this safety task force. Have you seen any details of that, is

that being shared with you at all?

MR. POWERS: Yeah, we played an important role in it.

ASSEMBLYMAN PALMESANO: Good. Thank you.

CHAIRWOMAN KRUEGER: Okay. Thank you very much.

Senator Tom O'Mara.

SENATOR O'MARA: Thank you.

Gentlemen, I want to thank all of your membership for the varying roles that they all play in protecting and serving our communities across the state -- and yourselves as the leaders of those entities.

I want to, you know, acknowledge what you've all talked about with difficulties with recruitment, retention and attrition currently in this "defund the police" environment that we have. And you all are experiencing that for a variety of reasons, different reasons, each of you, frankly, so I think we need different approaches to each of the issues.

But one of the most concerning ones to

me right now is with our correction officers. And Mr. Powers, I've been with you for many rallies, tours of facilities, the facilities I have in the district I represent. If you could just speak a little bit -- I got a phone call just last week from a young woman in my district, very interested in going into law enforcement. She's going to sit for the correction officers exam. But very, very concerned about the safety of going into that field and going into that job.

And you mentioned in your testimony, Mr. Powers, since the HALT Act has gone in, I think you mentioned the brazenness and the boldness of the inmates now. Can you just extrapolate that out a little more for us on really why you think that's happening? And actually what it is, what you're seeing, what your officers are witnessing in the environment behind the walls.

MR. POWERS: Since the 2017 NYCLU settlement that DOCCS had entered into, you saw a watered-down discipline system. Basically, there's no consequences for their

actions. Whether it be illegal inside the penal system or at the end of the street, whatever the case may be, there are no consequences for much of that, that activity.

A variance -- and it happened this morning, Fishkill Correctional Facility, in an RRU, where an individual -- an incarcerated individual was laying up in his bed, appeared to be incoherent, appeared to be out of it. Staff responded accordingly with medical. They went into the cell. He popped up with a weapon in his hand and started to attack the staff.

We're concerned about the system of HALT. The way it's established and the way it's rolling going forward, it's going to be a model for this agency going forward and it is going to take away from the original rehabilitation model. We spent hundreds of millions of dollars for this unit. And the general population, what did they get? That are toeing the line and actually working to achieve rehabilitation.

CHAIRWOMAN KRUEGER: Thank you.

SENATOR O'MARA: Thank you. Thank you again for your service and that of all of your members.

CHAIRWOMAN KRUEGER: Thank you.

MR. POWERS: Thank you.

CHAIRWOMAN KRUEGER: Just checking. Any other Assemblymembers? I don't want to be rude to you over there. Senators?

All right. Then I want to thank you gentlemen for your work, for the work of your members, and for staying with us so late to come and testify. Thank you.

MR. TASE: Thank you for your time. Thank you very, very much.

MR. POWERS: Thank you.

CHAIRWOMAN KRUEGER: Thank you very much.

And we're going to ask people not to talk to them as they leave unless you want to go out in the halls.

And we want to call up the next panel, which will be the District Attorneys Association, the Vera Institute of Justice, the New York Immigration Coalition. That's

it for that one.

Senator O'Mara's implying I get no respect.

SENATOR O'MARA: Now imagine dealing with inmates.

(Laughter.)

CHAIRWOMAN KRUEGER: I deal with you.

(Laughter.)

CHAIRWOMAN KRUEGER: Okay, take your chats outside. Senator Hinchey, Assemblymember Kelles, move it out.

No, no one listens. Okay --

CHAIRWOMAN WEINSTEIN: Out, out.

CHAIRWOMAN KRUEGER: Good evening. All right, good evening, ladies.

Do we have anyone else joining? Is there a -- hello.

UNIDENTIFIED SPEAKER: How are you?

CHAIRWOMAN KRUEGER: I'm fine, thank you.

CHAIRWOMAN WEINSTEIN: Excuse me, can Hinchey -- Hinchey, Kelles, take your conversations outside, please.

(Off the record.)

CHAIRWOMAN KRUEGER: Okay, out the door. We have to get a gavel.

Okay. Good evening. Hi. All right, if everyone would -- we'll start with my left, your right, and we'll just go down that way. And you have three minutes, be concise. We have your full testimony. Thank you.

MS. DONNELLY: Good evening, Madam Chairwoman. I'm Mary Pat Donnelly, Rensselaer County DA.

I'm here on behalf of the District Attorneys Association of the State of New York, here on behalf of President Anthony Jordan of Washington County. I do know that you have his testimony. I'm looking to highlight a couple of points.

Before I get into what I have prepared, I want to say the DAs as a whole are on board with infusion of funds into treatment courts, drug and alcohol treatment, mental health treatment, and anything that is going to be brought into our cities and our towns to help our youth. So that's an overarching statement that we are all 100

percent behind.

My comments going forward are going to be somewhat limited to discovery and the dire need for funding therein. However, I'm available for questions about any relevant topics.

In order to successfully implement the changes that were made to discovery, DAs are in dire need of increased and sustained funding so that we can ensure fairness and equity for defendants in New York State. We need staff. We need staff training, and we need updated technology.

Prosecutors around the state have spent a great deal of time and energy establishing new mechanisms for discovery, discovery storage, and protocols for the exchange of discovery materials. This process requires monetary resources which grossly exceed what most counties can provide to prosecutors' offices.

DAs' offices in 2023 are operating with significant increases in workload while dealing with dramatic staffing shortages. In

Rensselaer County I'm funded for 15 ADAs, and I currently have 10. I lost five attorneys in 2022; each left for higher-paying jobs. The pace of discovery was cited as a reason for departure in multiple conversations.

Prior to the reforms, approximately 3 percent of cases engaged in discovery because discovery only occurred on demand as a case headed to trial. With the implementation of Article 245, discovery is required in every case within 20 to 35 days, depending on release status.

Almost concurrently with this major shift, the New York State Police deployed body cameras, as did many cities and town agencies around the state, and 50-a was repealed, once again adding massive volume to the amount of data and information which must be collected and turned over. But before it's turned over, it must be analyzed.

The only way to fully implement the reform without triaging crime is to increase funding to the DA's office in order to decrease the caseload of each prosecutor and

to provide support staff for each prosecutor.

That said, I continue to support certain substantive changes which I believe would provide some relief to DA staff without impacting the fairness and equity of prosecutions. For reference, a simple DWI case can yield up to eight hours of body camera -- a more complex case, over 20 hours. And before we can turn that footage over, it must be reviewed -- for example, to blur out a license plate or to obscure the face of an uninvolved bystander.

Other materials such as medical records and x-rays also must be reviewed and redacted to remove identifying information such as Social Security numbers and dates of birth. This takes time, and this takes training.

In sum, we need funding so that we can make sure this is done right. We support the changes at this point, we are on board with doing it, we just need the manpower to make it happen. Thank you.

MS. KESSLER: Good evening. Thank you

very much, and thank you for your time and perseverance this evening.

My name is Shayna Kessler. I'm the state advocacy manager with the Vera Institute of Justice. And I am pleased to testify in support of two areas this evening -- legal representation for immigrants and pretrial reforms in the criminal legal system.

Regarding immigration, we urge the passage this year of the Access to Representation Act, the ARA, which would establish a right to representation for people at risk of deportation in New York, along with increased investments in immigration legal services.

Specifically, we seek $55 million to implement the first year of the ARA, a $35 million investment in the Liberty Defense Project, and a $10 million investment to support rapid response services for newly arriving immigrants. Totaling $100 million, this would advance New York's leadership in support of welcoming immigration policies

that center human dignity and promote safety and stability for our entire state.

As asylum seekers seeking safety arrive in New York, and as long-term immigrant neighbors continue to be at risk of detention and deportation, New York's investment in representation provides a beacon of hope. Immigrant New Yorkers are deeply woven into the fabric of our state. One in three New York children have an immigrant parent. More than a quarter of our workforce is foreign-born, and immigrants own more than 280,000 businesses in New York.

We know legal representation works. The data shows that immigrants with counsel are far more likely to win their cases than those without representation.

Governor Hochul included $43 million in her Executive Budget for immigration legal and social services, but that number falls short, as we have over about 60,000 estimated to be fending for their lives in immigration court in New York today without access to counsel.

By passing the ARA, enacting a right to representation and immigration court, and increasing investments in these services, we can center dignity, family unity, and economic stability. New Yorkers agree that this is the fair thing to do. Polling shows that 93 percent of New Yorkers support representation for people in immigration court, funded by the government.

Separately, regarding pretrial reforms, the bureau is also deeply concerned about the Governor's proposal to again change New York's bail laws. You have our separate written testimony on this topic which outlines the ways the proposals would gut the 2019 legislation and eliminate longstanding protections in state law. The proposal would make the system even less fair than before the reforms.

My colleagues from Vera's Greater Justice New York team work on reducing incarceration in New York, and they can certainly answer any questions you may have should you have them on that topic.

Thank you very much for your time and your support for investments in immigration legal services and in criminal legal system reforms.

MS. KELECHIAN: Thank you, and good evening. My name is Kayla Kelechian, and I am the manager of organizing and strategy for Central New York with the New York Immigration Coalition, or the NYIC. I'm based in Syracuse, and the NYIC represents over 200 immigrants' rights organizations across the State of New York.

The NYIC is grateful to the New York State Senate and Assembly for convening this important hearing. We have long been vocal advocates of the critical importance of access to legal representation for immigrants in removal proceedings and while applying for immigration benefits.

State-funded legal services have provided help to children fleeing persecution in Central America, Afghan refugees newly arrived in the United States, and long-time permanent residents facing deportation. The

funding has protected access to justice and literally has saved lives.

We urge the inclusion of 100 million in funding for immigration legal services in the fiscal year 2024 New York State budget and the immediate passage of the Access to Representation Act.

So unlike in criminal court, you do not have the right to a government-appointed attorney. In fact, if you are pleading for asylum, you must defend yourself alone if you cannot pay for representation. And that goes for everyone, including children.

I can give a grave example in Buffalo immigration court, which serves all of upstate New York. We have witnessed a three-year-old indigenous Guatemalan child have to plead her case in front of an immigration judge and ICE attorney alone. Of course her mother was there on the side, but no child should have to defend themselves in court alone.

New York State must take responsibility in providing legal

representation for all New Yorkers to have a fair day in court. Because of the Trump administration's aggressive enforcement activities and the near-total shutdown of immigration courts during the pandemic, there is a record backlog of cases awaiting adjudication, including nearly 190,000 in New York State. An estimated 40,000 asylum seekers have arrived in New York City, the majority of whom will eventually have to make their case to remain in the United States in immigration court.

And as mentioned at the beginning of my testimony, even young children facing gang violence in their home countries are forced to defend themselves in a complicated asylum hearing without the help of a government-appointed attorney. We know from extensive research that having an attorney on a case significantly affects the outcome. A study published in 2018 in New York City shows that having an attorney increased chances of winning and gaining the ability to legally remain in the United States by

1,100 percent.

Therefore, the NYIC endorses the continued funding of immigration legal services, the expansion of funding to 100 million, and the immediate passage of the Access to Representation Act.

Thank you for your work on behalf of immigrant communities, for calling this hearing, and for the opportunity to testify today, and I'm happy to answer any questions.

Thank you.

CHAIRWOMAN KRUEGER: Thank you very much.

Senator Jamaal Bailey.

SENATOR BAILEY: Yes. Thank you, Madam Chair.

Good evening, everyone. Thank you so much for waiting.

DA Donnelly, I want to thank you. Just really quick, in terms of the discovery -- and I was reading the testimony as you were speaking. In relation to discovery, it had been my understanding, you know, by again reading certain media reports

and having certain conversations that certain district attorneys had applied for discovery funds. Is that accurate?

MS. DONNELLY: I believe that is accurate, and there's a variety of reasons for that. I'd be happy to discuss those.

SENATOR BAILEY: Okay. So why would certain -- like obviously -- and I agree that district attorneys do need funding. I would also agree that defendants need funding as well. But you guys need funding. Why wouldn't district attorneys apply for funding that was available?

MS. DONNELLY: Sure. I'm glad you asked that question.

The money was given to county governments, and district attorneys had to collaborate with our county governments to come up with a plan before they could submit it to DCJS. There are a variety of reasons -- 62 different counties -- as to why things went the way they did.

I know we had at least one county where the county government did not agree

with the reforms and therefore did not want to take the money.

Many counties were required to wait until after their budget had passed to make sure that the county government would sign on to the plan that they had come up with.

Another concern that came up in multiple counties was, Thank you for the money, but our county government won't allow us to give these raises and to create these new positions, and they will not promise that the money will be there going forward, because it came in as an infusion. So that caused a lot of problems for a lot of people, because we didn't want to take our staff and say Hey, here's your raise, or Hey, do you want to come work for a year, I'm pretty sure we're going to have money for you next year but we don't yet know.

So there was a lot of confusion as to how to get that done. I think at this point -- last time I checked there may have been 19 counties still that were working on it, and I know that as -- at our meeting last

week at DAASNY that was a lot of the discussion, is it was quite difficult to negotiate with the county government to make it happen.

So we were hoping, going forward, perhaps it would be something more directed towards DAs' offices.

SENATOR BAILEY: Directly from the state to the district --

MS. DONNELLY: It would be incredibly helpful.

SENATOR BAILEY: -- to the DAs' offices, a centralized fund or something that you wouldn't have to, I guess, have the concern with county governments.

And again, I'm hopeful that you're able to ameliorate this concern with the counties. Because if the money is there, the county should not be able to hold up some of the progress that we've been able to make. And I'm glad you said that because, hey, as I've said in public, in the past in public, and I'll say it again, you need money to be able to run the operation that you run. All

right? And I'll be the first one to say that.

But, you know, we can't have the conversation in the public saying that we don't have the resources but there are other reasons besides the state that are happening.

So last question, and what I'll say is that you -- there is obviously -- you're obviously in support of funding for you. Are you also in support of additional funding for defense practices as well?

MS. DONNELLY: As far as I understand it -- and at least I can only speak to my own county -- they seem to have a significant amount more than I do at this point.

Quite frankly, I don't have any opposition to anybody being funded to do their job right. I don't have a problem with it.

SENATOR BAILEY: DA Donnelly, you're preaching to the choir.

Thank you.

CHAIRWOMAN KRUEGER: Thank you. Thank you, Jamaal.

Assembly.

CHAIRWOMAN WEINSTEIN: Assemblywoman Simon.

ASSEMBLYWOMAN SIMON: Thank you.

Thank you all for your testimony.

I wanted to speak to the issue of the migrants coming into the state. You know, I was just recently at one of the big facilities in Brooklyn. And while they're doing everything they can to connect people, there's a real shortage of attorneys who know anything about immigration law. And another real shortage of people who can speak other languages, especially those who are attorneys who are speaking other languages.

So I think it goes to the issue about who's coming into our law schools and how we're training them. That's not quick enough. What if any recommendations do you have for addressing that real shortage that we have of attorneys, practicing attorneys, in a field such as immigration law where the need is so great?

MS. KESSLER: Yes. Thank you so much

for that question, and I think it's really important.

And what we see is that the Access to Representation Act really is, once passed, a law that would address -- would establish a long-term, stable system to ensure that, first of all, we wouldn't have to scramble to welcome people with the services they need when they come to New York.

And secondly, a component of the bill -- to get to what you're asking at in particular -- would ensure that there are investments in building up the infrastructure in the legal services field to make sure that we have those immigration attorneys with the right skills and the teams, the legal services teams with the right skills, with the right capacity, in the right places across the state to meet the need.

And so there's a six-year implementation period that's built into the bill so that investments could increase and services like, you know, law school clinics, fellowships, and things like that could be

invested in, to ensure that the services that are needed are in place across the state.

ASSEMBLYWOMAN SIMON: Thank you.

CHAIRWOMAN KRUEGER: Senator Tom O'Mara.

SENATOR O'MARA: Yes, thank you.

Thank you for sticking it out and testifying here this evening. I could spend probably an hour on immigration issues with you right now, but I need to talk about discovery a little bit first, so I apologize for that.

But on the discovery -- and I'm a former district attorney, and I agree that these discovery changes were warranted in large part; too aggressive on the timeline. And the ramifications and implications for errors in the process -- we've seen quite a bit of draconian outcomes in cases. And, you know, I just read about a high-profile one in New York City last week where a police officer was on trial for fabricating evidence, perjury. Some things weren't turned over. I don't know all of the details

of that case. But, you know, I think even the proponents of this legislation, as extreme as it went, you know, we don't like these outcomes and what we're doing.

So I've seen some proposals about trying to stagger the timeline of -- and prioritizing certain things to be turned over and a timeline rather than all within, what is it now, 15 days?

MS. DONNELLY: Twenty if they're at liberty and 35 if -- I'm sorry, 20 if they're incarcerated, 35 if they're --

SENATOR O'MARA: And I've talked to District Attorney Jordan a little bit about this. But if you can expound a little bit for us kind of what that concept would be on what you think should be prioritized and then staged as far as turning over to the defense in a reasonable fashion that, you know, may also lessen some of the costly fiscal implications of this.

MS. DONNELLY: Sure. There is a proposal that was supported by DAASNY to have that staggered, where we would have the

imperative material turned over first, the duplicative material turned over at a later date, and then any impeachment material at the end, at least 15 days after the conclusion of omnibus motions.

So that would require the DAs to file three different certificates of compliance, and it would give each -- it would give an opportunity at each run to see how the case was going to proceed. And that is something that I would hope we could discuss with an open mind at some point, because that's what's -- that's what's getting lost in the weeds, is that we have officers with body cameras. I work in the City of Troy, it's a smaller department compared to New York City, but it's large for Rensselaer County. You have a major event, you have 15 officers respond. You have four to five who are engaged, you have several on the sidelines. Somebody forgets to sign the log-in sheet. I don't find out, until a period of time later when I'm able to have everyone in, that this particular officer was there. And the judge

doesn't want to hear it, because it's required that we turn it over.

We don't know what we don't know, and we haven't yet figured out how to make that work. So we feel like the staggered procedure would definitely give us an opportunity to get it right and to make sure that the most important material is turned over first.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Assemblyman Epstein. (Inaudible.) Thank you,

CHAIRWOMAN KRUEGER: The Senate is -- no? -- done.

So thank you all very much for your testimony here tonight. We appreciate your sticking with us all day. And we have your testimony.

And I'm going to call up -- sorry, thank you -- Panel G: The Katal Center for Equity, Health and Justice, and @HALTSolitary. I think you call it "at" -- I don't know. "Hash." I'm sorry, I'm very

old. Hashtag, HALTSolitary. If they're here. Somebody's coming down, okay.

And then just to move us along, I'm going to announce the next group, which will be -- so just to get you on board. It will be the New York Defenders Association, the Brooklyn Defender Services, the Prisoners' Rights Project of the Legal Aid Society, and the League of Women Voters, even though originally it was a different panel but only one of the panelists is left.

So is anybody else showing up for this panel? Yes, okay. Not this one? Okay.

And you are?

MR. ZEITZ: Yonah Zeitz, from the Katal Center.

CHAIRWOMAN KRUEGER: From which group, I'm sorry?

MR. ZEITZ: The Katal Center.

CHAIRWOMAN KRUEGER: Thank you. Welcome.

UNKNOWN ASSEMBLYMAN: Could you move your microphone a little closer to your mouth?

MR. ZEITZ: Is that better?

CHAIRWOMAN KRUEGER: Yes.

CHAIRWOMAN WEINSTEIN: Yes.

CHAIRWOMAN KRUEGER: Please.

MR. ZEITZ: Thank you, Senator Krueger and Assemblymember Weinstein, for the invitation to testify at today's hearing.

My name is Yonah Zeitz, and I'm the director of advocacy at the Katal Center for Equity, Health and Justice. We're a community-based organization focused on building the leadership capacity of neighborhood residents and ending mass incarceration and the war on drugs.

And we submit this testimony to bring your attention to Governor Hochul's proposal to jail more New Yorkers simply because they can't afford to pay for their freedom.

The Governor's proposal to gut bail reform as a part of the budget is bad for all New Yorkers, but it will be particularly bad for Black, brown, and low-income New Yorkers who will face the brunt of this retrograde approach. And this proposal will also

further delay, if not even outright wreck, the plans to close the notorious Rikers Island jail complex.

And in particular, it's unconscionable that after a year in which 19 people passed away on Rikers -- the most deaths on the island in the last decade, and the highest death rate in 25 years -- the Governor would put forth a proposal that will send more New Yorkers to be jailed there.

And just this weekend alone, a 65-year-old who was held on unaffordable cash bail on Rikers died. And so this is unacceptable.

And this proposal will be very, very expensive for New York taxpayers, who are already picking up the excessive costs of pretrial detention as is, including more than $500,000 per year per person for everyone held at Rikers.

So in short, the Governor's proposal moves New York backwards and must be rejected.

And for years prior to my work at

Katal, I worked at a community bail fund in New York City, and during this time I paid bail for about 500 New Yorkers who but for the bail fund would have continued to languish in the city's jails while legally innocent simply because they couldn't afford bail. And so this is, for me, a clear window into how utterly grotesque, unjust and predatory the state's pretrial system was.

And so the Legislature must reject the racialized fearmongering and misinformation, because it's clear that bail reform is working. People are returning to court at extremely high rates while being afforded their liberty, and it has had no impact on violent crime. So if politics followed the data, we wouldn't be here, because data is clear. Bail reform works, so we should be doing more of it.

Unfortunately, the Governor's proposal gives judges unfettered discretion to set unaffordable bail on the most marginalized New Yorkers, and it creates a pseudo "dangerousness standard" that will further

exacerbate racial disparities and drive up the number of people held in pretrial detention.

And so we call on the State Legislature to reject the Governor's baseless proposal once again to amend the state's bail laws. Instead of proposals that will increase jail populations and keep Rikers open, the Governor must work with the Legislature to pass a budget that will reduce our reliance on jails and prisons, close Rikers and other daily jails, and invest in real public safety -- things like housing, jobs, healthcare, and education.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Any questions from the Senate?

Any questions from the Assembly?

Well, then thank you very much for being with us here tonight.

MR. ZEITZ: Thank you.

CHAIRWOMAN KRUEGER: We appreciate it. And we appreciate your staying so late.

And we're next going to call up our

final panel: The New York State Defenders Association, the Brooklyn Defender Services, the Prisoners' Rights Project of the Legal Aid Society, and the League of Women Voters of New York State.

Hi.

MS. BRYANT: Hi, good evening.

CHAIRWOMAN KRUEGER: Good evening.

MS. BRYANT: I am Susan Bryant. I'm the executive director of the New York State Defenders Association. It's good to see all of you, and thank you for the invitation to testify today.

And I'm actually thrilled that it's this time of the evening; usually I'm later. So thank you for keeping to the time. I really appreciate it.

I'm here, as I am every year, to ask for a restoration of the New York State Defenders Association funding. We are an organization that since 1981 has operated the Public Defense Backup Center, which is a support center for all the public defenders throughout the state, and we provide that

support.

The Governor every year puts in a million dollars for our budget, and that is nowhere near enough to do the work that we do every year. So we appreciate very much the Assembly's support over the years in particular to restore funding -- and last year, in fact, gave us additional funding to create the Statewide Discovery in Forensic Support Unit.

And we have now hired for that unit, we are rolling out services for that unit, and I'd really love to keep that staff and to provide the services that you decided were necessary for public defense.

We're also coming to ask for an additional $450,000. You've heard a lot about recruitment and retention issues in all sorts of employment, including district attorneys. Well, it happens in public defense too, and my colleagues can certainly speak to that.

We're looking to create a project that would go to law schools, undergraduate

institutions both in New York and other states, to attract people to this work, so they understand what the work is and to come to it. We need to build a new crop of defenders and investigators and social workers that want to do this work.

We're just getting to the 60th anniversary of Gideon vs. Wainwright, and we want to make sure that public defense continues to thrive in New York. And our request would allow us to support all of these offices around the state in trying to recruit and retain attorneys that are well-qualified to do this work. So I greatly appreciate your support for that.

I also want to mention, even though it's not part of the public protection table, that New York State Defenders Association operates a Veterans Defense Program that provides support to any defender who is representing someone who is a veteran, who is in the reserves or active-duty military, that is charged with a crime or is in Family Court.

We provide support to anyone who asks for it. We provide peer-to-peer mentoring from veterans themselves who are case managers. And our attorneys provide mitigation support. And we estimate that we've saved the state probably close now to $100 million in incarceration costs alone saved. And that's not including any of the savings to human beings and their families in keeping them getting treatment in the community.

We ask that you restore the funding for the Veterans Defense Program.

Thank you very much.

CHAIRWOMAN KRUEGER: Thank you.

Good evening.

MS. SCHREIBERSDORF: Good evening. Lisa Schreibersdorf. I'm the executive director of Brooklyn Defender Services. I'm also speaking on behalf of the Chief Defenders Association of New York, which is the same asks. And you have written testimony -- you will have written testimony from them.

Look, we've been here all day, I just really want to get to the point. I have two, really, pointed asks I want to make of you all today.

The first one is relating to criminal cases -- so just to, you know, back it up a second, my office does criminal cases and family cases. So you heard earlier from ILS that we have a crisis, a real crisis in Family Court when it comes to funding for lawyers that represent parents.

That work is very labor-intensive and it involves a lot of social work assistance. And when you represent a parent properly, you're more likely to keep the child at home safely.

And we are extremely successful in reducing the amount of time that a child spends in foster care, as well as avoiding foster care altogether. You know, this is the Public Protection Hearing, and you know that once somebody goes into foster care the chances of them getting arrested later on in life is much higher. So all around, I think

it's a huge, very positive investment.

You did ask -- or somebody asked a question about a lawsuit around Family Court. And I think Patricia Warth from ILS said all the elements are there. I did want to address that, because I do think all of the elements are there but the Hurrell-Harring lawsuit on the criminal side took 10 years to resolve, and we can't wait 10 years.

So ILS asked for $28 million in the budget, which is modest. I sat here all day and heard about hundreds of millions of dollars. It's a $28 million ask. The chief defenders from around the state are asking for $28 million for five years, every year for five years. So it would go up just where the Hurrell-Harring settlement went up, in much the same way.

I am asking you to make that part of your one-house budgets. And I'm asking you please to advocate for that for us with the Governor.

I'm sorry, I know my time is up. But I really have --

CHAIRWOMAN KRUEGER: You have 57 seconds. Keep going.

MS. SCHREIBERSDORF: So one minute.

Criminal. So what I heard here today -- and, you know, we all sat here all day. I heard some horrifying things today, I'm going to be honest. But what I heard that really struck me was that about 60 percent of people in the upstate prisons, which are 31,000 people, have a mental health issue. I can bear that out that most of -- probably the majority of our clients.

I also heard Corrections say that they see themselves as a paramilitary organization. My heart just dropped out. What I want to say to you is this. What do you think stands between somebody with mental illness and that fate? It's a good defense attorney. It's a defense attorney that has the resources to investigate the case and make sure that person isn't innocent or has mitigating circumstances, can get treatment instead of jail, like in our Mental Health Court. That is the resource that stops that

straight line.

So I just ask you -- so I've got to finish this. So the DAs have been given almost $100 million in this budget, and the defenders have only gotten 7.5 million. Many of you have asked about the defense funding. It is clear that that money is allocated to the DAs.

We are asking you to match the funding that the DAs got for discovery and other resources, as well as give us the 40 million that they got last year that we didn't get also -- which they got for discovery and they still have not implemented, you know, really efficient procedures.

So that is our ask of you, and I don't want to use any more time. I'll be back to discuss that further.

CHAIRWOMAN KRUEGER: Thank you.

Good evening.

MS. HAAS: Good evening. My name is Katherine Haas, and I'm a staff attorney with the Legal Aid Society's Prisoners' Rights Project. Thanks for the opportunity to

testify here today.

I fully echo the call for funding parity that Brooklyn Defender Services just made so eloquently. But I'm here to talk about something different, which is the implementation of HALT -- or, rather, the lack thereof.

So in 2008 this Legislature passed the SHU exclusion law, a leading segregated confinement reform requiring DOCCS to divert people with serious mental illness away from segregated confinement. But for years DOCCS took advantage of exceptions in that law and simply ignored some of its most important provisions. Thousands of people with serious mental illness languished in segregated confinement as a result, and some died there.

I'm here today to tell you that history is repeating itself. Recognizing that segregated confinement is nothing short of torture, in 2021 this Legislature passed the Humane Alternatives to Long-Term Solitary Confinement Act, or HALT, requiring DOCCS to severely curtail its use of segregated

confinement. But the reforms promised by HALT have yet to materialize because DOCCS has failed to faithfully implement the statute.

Based on numerous credible reports my office has received from incarcerated people, as well as data and policies that DOCCS itself has provided, we know that the use of long-term segregated confinement is still widespread in New York prisons, in flagrant disregard of the HALT statute.

Whatever DOCCS has done with the millions of dollars this Legislature has already provided for implementation of HALT, it has not made the law a reality. People are still living in segregated confinement for weeks and even months on end. For many, the lights are on all night, the temperatures are frigid, and insufficient food leads to constant hunger.

Some cells are filthy, with human excrement from prior occupants covering the walls. Recreation may be nothing more than access to a small individual cage attached to

one cell, where there is nothing to do but pace back and forth alone. Those who are lucky enough to leave their cells at any other time are shackled whenever they do so.

These torturous conditions are the state of HALT's implementations in New York prisons. Unsurprisingly, incarcerated people report that these conditions severely damage both their physical and mental health. Some even report instances of self-harm. This type of anguish is exactly what HALT was designed to prevent.

A lengthy description of the many provisions of HALT that DOCCS consistently violates can be found in our written testimony. But the bottom line is that nearly every major provision of the law has been either misconstrued or ignored. DOCCS still holds numerous people with disabilities, including people with mental illnesses, in segregated confinement, despite HALT's blanket ban on that practice. People still regularly face segregated confinement for far longer than 15 consecutive days.

Segregated confinement makes prisons less safe. Unsafe prisons make for unsafe communities. HALT, if implemented properly, will make New York's prisons both safer and more humane. It is time for DOCCS to do its duty as an executive agency and professed steward of public safety and implement the law.

Thank you for your time.

CHAIRWOMAN KRUEGER: Thank you.

And our last testifier. Yes, please share the microphones.

MS. SMITKA: Thank you for the opportunity to testify today.

My name is Erica Smitka. I'm the legislative and deputy director for the League of Women Voters of New York State.

First of all, we greatly appreciate the tremendous gains that have been made in the past few years to make voting more accessible, and we applaud the Legislature for enacting these reforms.

The League was pleased to see that the State Board of Elections was adequately

funded in the Executive Budget. However, many reforms still have not been sufficiently funded at the local level. We ask that a minimum of $20 million in funding be allocated to county boards of elections. The recent expansion of polling sites on college campuses and early voting reforms require additional support for counties to ensure compliance.

County boards must hire additional staff, secure additional sites, and purchase new equipment. These reforms will continue to strengthen the voting process for many voters, but only if counties have the resources they need to implement them.

Outside of county funding, we wanted to highlight a recent reform that we expected to see support for in the Executive Budget. The passage of the John R. Lewis Voting Rights Act of New York State was historic. It includes critical protections against voter suppression. However, in order to effectively implement the NYVRA, we must fund it and pass the companion database bill this

session. The League urges the Legislature to include this bill as a part of their budget proposal and to include the $5 million that would be required to support both the AG's office and establish the database.

Regarding campaign finance reform, the League applauds the Governor for including $14.5 million in funding to support the administrative needs of the Public Campaign Finance Board. However, the underfunding of the matching portion of the program by $75 million will not build the trust necessary for candidates to opt into the program.

This year is the first opportunity for New York State to demonstrate a commitment to campaign finance reform and to reduce the influence of big money in our politics. So we urge members of the Legislature to fully fund this request at $114.5 million for the program.

As it relates to bail reform, we urge any changes, discussion, or decisions on bail reform to be made based on data, facts, and

experience under the law as it was amended last year, not the continued rhetoric around this issue.

In conclusion, the League is greatly appreciative of the improvements the Legislature and the Governor have made to New York State's elections. But in order to realize the pro-voter goals of both legislative leaders and the Governor, we need a serious commitment to funding to ensure that these progressive reforms are not unfunded mandates.

Thank you so much.

CHAIRWOMAN KRUEGER: Thank you.

Senator Zellnor. Myrie. Excuse me. Senator Zellnor Myrie.

SENATOR MYRIE: I'm also Senator Zellnor.

(Laughter.)

SENATOR MYRIE: So I appreciate that. Thank you, Madam Chair.

CHAIRWOMAN KRUEGER: You aren't only Senator Zellnor, let's be fair.

SENATOR MYRIE: That's right. Thank

you, Madam Chair.

And thank you for all of your patience waiting for an entire day.

Lisa, I was hoping that you could expound a little bit on the needs of the defense bar as it relates to discovery. I think we have heard in ample amount the needs for the prosecution, and I happen to agree that more resources are necessary, but if you could go into some more detail about what the extra burden has been on the defenders and why it's important for us to make that allocation equitable.

MS. SCHREIBERSDORF: Absolutely.

Can you hear me?

The -- look, you heard from the DAs Association that there are multiple webcams with hours and hours and hours of video on these cases. So while it is true that they also need resources, which I believe they do -- and we support them getting resources -- we have the same obligation. We have to watch every single video, because it could be the one angle that

somebody's looking at that can change the whole case.

So we also have to look at every video. We also have to store all that data. It's provided digitally by the DAs, and we have to store it, we have to sort it, we have to be able to use it, organize it, and we have to also share. We have things that we also need to share with them, this reciprocal discovery.

So we actually joined together with the New York City DAs -- the five DAs in the city and all the heads of the defender offices joined together to make an ask of the city -- you know, of the mayor's office. And we jointly asked for one paralegal for every three attorneys. We jointly asked for a 25 percent increase in our salaries, because we have the same issue with attrition and we're losing a lot of our more senior people who we need to train the newer people. And we also asked for money for technology. Because the storage, the amount of storage that we need and the ways to store it, we

have to build whole new systems in order to store it in a way that we can utilize it.

Does that answer your question?

SENATOR MYRIE: Thank you.

CHAIRWOMAN KRUEGER: Assembly.

CHAIRWOMAN WEINSTEIN: Assemblywoman Kelles.

ASSEMBLYWOMAN KELLES: Attorney Haas, I just have one question for you. We had a several-hours conversation about HALT. One of the statistics that was given -- and so I'm very confused, and I'd like to hear your thoughts on this -- that there are currently 21 people incarcerated who are currently out of the allotted or allowed parameters in HALT of 15 days. That was the statistic.

Maybe I misunderstood. Maybe it was 21 at any one time. I'm unclear.

I'm curious if you have any contradictory data, any other understanding of that data, because it seems there's something different in your testimony from what we've heard.

MS. HAAS: Yes. So my understanding

of the data that DOCCS releases regarding who is in solitary confinement beyond 15 days is it's a snapshot of how many people are in segregated confinement for 16 or more days on one given day. And they release that once a month.

And so it's not a total of all the people over any length of time, it's the number of people on that given day.

ASSEMBLYWOMAN KELLES: It's a point in time.

MS. HAAS: Yes.

ASSEMBLYWOMAN KELLES: So it's 21 -- if I went any single day for the whole state, I would find, on average, 21 people who'd been in for longer than 15 days.

MS. HAAS: I'm not sure if 21 would be average. I would say actually they release the data once a month, and the number has been higher than that in the past months many times.

In our written testimony I think it was far higher, it was dozens of people, just the month before January 1, 2023. And that

data is in our written testimony.

ASSEMBLYWOMAN KELLES: Detailed, careful analysis and interpretation and communication of data is critical.

Thank you for the enlightening statement.

MS. HAAS: Absolutely.

CHAIRWOMAN KRUEGER: Senator Jamaal Bailey.

SENATOR BAILEY: Thank you, Madam Chair.

Thank you so much for your patience and for your testimony, most importantly for the hard work that you do on a day-to-day basis for New Yorkers. It is truly appreciated.

In relation to discovery -- and, you know, we've had a lot of conversations in the past about discovery. It's fair to say that, you know, you have the same obligations, so to speak, as prosecutors. Would that be fair to say?

MS. SCHREIBERSDORF: I would say equivalent. It's not exactly the same, but

it's very equivalent.

SENATOR BAILEY: That's what I meant. Equity versus equality, right? Like it's one of those things. Yes, obviously the state is the state, and you're representing the defendant. I didn't mean it in that way.

But -- so the funding should be equal, because you're equally representing -- and I just want to make sure that I'm not putting words in your mouth, that I'm just adequately reflecting your testimony, that you're not asking for any more but you're not asking for less.

MS. SCHREIBERSDORF: Exactly.

SENATOR BAILEY: You just want -- you just want parity.

MS. SCHREIBERSDORF: Right.

SENATOR BAILEY: So as far as discovery goes, specifically in Brooklyn, have there been programs that you've been able to engage in that would be able to be a cost savings to the State of New York?

MS. SCHREIBERSDORF: Well, I think there are a lot of different ways that this

could have been done a lot more efficiently. And if people had banded together to try to do that, I think there was a lot of things that could happen. And I don't think it's just a simple program that would answer that.

We have identified a program called Ignite that's a document storage program that's working very well for us. I mean, it costs us upwards of a million dollars even just to figure all this out.

But I think one of the biggest problems -- and, you know -- is that the police are not sharing the information with the DAs in a way that they can easily access it and then share it in a timely manner. Right? I think they also have the problem with, like you heard earlier, being able to see everything in a short amount of time. I get that.

But the real reality is that they're not getting that information in a way that they can easily download and then provide it to us. So I think if we're really going to look at solutions, I think that could really

be studied a lot more carefully. I know in New York City that's one of the big problems.

SENATOR BAILEY: In terms of the police/district attorney --

MS. SCHREIBERSDORF: Right.

SENATOR BAILEY: -- relationship.

MS. SCHREIBERSDORF: I --

SENATOR BAILEY: I shouldn't say relationship --

MS. SCHREIBERSDORF: The sharing of information. Right? I don't want to get --

SENATOR BAILEY: The sharing of the information. I want to be precise with the language --

MS. SCHREIBERSDORF: -- into the whole marriage.

SENATOR BAILEY: -- you're right.

MS. SCHREIBERSDORF: You know, it's like -- you know, that is a big problem. But ultimately, also, the DAs have -- right now the DAs have everything in OneDrive, which is a Microsoft program. But for us to get it from them, we actually have to -- we can't just sort of transfer it over to our account.

We have to download it from their account, which takes time, and then re-upload it.

So that takes a huge amount of time and a huge amount of energy, and a lot of space is being used. OneDrive is a particularly bad program for sorting, finding, filing and using. Right? You can't, you know, chop up documents online. It's very complicated, which is why we moved to a different one.

But, you know, it's not good for them either. So, you know, I think that work could be done to try to find something better.

SENATOR BAILEY: Right. And as I close, I just want to again say thank you.

Are there any statutory changes that you think that should be made to the discovery law at all?

MS. SCHREIBERSDORF: No. And none to bail either, thank you.

SENATOR BAILEY: I just wanted -- just wanted to get it on the record. Thank you.

Thank you for your time.

MS. SCHREIBERSDORF: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly?

CHAIRWOMAN WEINSTEIN: We're done.

CHAIRWOMAN KRUEGER: We're done?

Okay. Well, then I want to thank you all for testifying tonight. I thank you for waiting so long to get our attention. But we have your full testimony.

And for anyone else who's here, I'm assuming you didn't think you were going to testify, you just are enjoying yourselves.

I want to thank all the staff for staying and remind everyone that tomorrow's hearing starts at 9:30. The topic is education. So, you know, bring snacks and popcorn. We will be back here tomorrow morning. Thank you.

(Whereupon, the budget hearing concluded at 7:38 p.m.)