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

JOINT LEGISLATIVE HEARING

In the Matter of the
2025-2026 EXECUTIVE BUDGET ON
PUBLIC PROTECTION

Hearing Room B
Legislative Office Building
Albany, New York

February 13, 2025
9:33 a.m.

PRESIDING:

Senator Liz Krueger
Chair, Senate Finance Committee

Assemblyman J. Gary Pretlow
Chair, Assembly Ways and Means Committee

PRESENT:

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

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

Senator Brad Hoylman-Sigal
Chair, Senate Committee on Judiciary

Assemblyman Charles D. Lavine
Chair, Assembly Committee on Judiciary

Senator Zellnor Myrie
Chair, Senate Committee on Codes

Assemblyman Jeffrey Dinowitz
Chair, Assembly Committee on Codes

2025-2026 Executive Budget
Public Protection
2-13-25

PRESENT: (Continued)

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

Assemblyman Erik M. Dilan
Chair, Assembly Committee on Correction

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 Shelley B. Mayer

Assemblyman Alex Bores

Assemblywoman Jo Anne Simon

Assemblyman Philip A. Palmesano

Senator Anthony H. Palumbo

Senator Rob Rolison

Assemblywoman Latrice Walker

Senator Daniel G. Stec

Assemblyman Chris Burdick

Assemblywoman Marcela Mitaynes

Senator Dean Murray

2025-2026 Executive Budget
Public Protection
2-13-25

PRESENT: (Continued)

Assemblywoman Catalina Cruz

Assemblyman Angelo J. Morinello

Senator Jessica Scarcella-Spanton

Assemblywoman Anna R. Kelles

Assemblyman Demond Meeks

Senator Jabari Brisport

Assemblywoman MaryJane Shimsky

Assemblyman Anil Beephan, Jr.

Assemblywoman Mary Beth Walsh

Senator Siela A. Bynoe

Assemblywoman Karines Reyes

Senator Gustavo Rivera

Assemblywoman Jodi Giglio

Senator Roxanne J. Persaud

Assemblywoman Gabriella A. Romero

Senator Cordell Cleare

2025-2026 Executive Budget
Public Protection
2-13-25

LIST OF SPEAKERS

	STATEMENT	QUESTIONS
Honorable Joseph Zayas Chief Administrative Judge NYS Office of Court Administration	16	22
Patricia Warth Director New York State Office of Indigent Legal Services -and- Robert H. Tembeckjian Administrator and Counsel New York State Commission on Judicial Conduct	139	157
Joseph J. Popcun Executive Deputy Commissioner NYS Division of Criminal Justice Services -and- Daniel F. Martuscello Commissioner NYS Department of Corrections and Community Supervision -and- Steven G. James Superintendent NYS Division of State Police	205	227
Dru Rai CIO NYS Office of Information Technology Services -and- Terence O'Leary Executive Deputy Commissioner NYS Division of Homeland Security and Emergency Services	406	423

2025-2026 Executive Budget
Public Protection
2-13-25

LIST OF SPEAKERS, Continued

	STATEMENT	QUESTIONS
Robert Ricks Father of Robert Brooks -and- Alice Fontier Project Managing Attorney, Criminal Defense The Legal Aid Society of New York City -and- Amanda Wallwin State Policy Advocate Innocence Project	477	487
Rosie Wang Senior Program Associate Vera Institute of Justice -and- Taina B. Wagnac Senior Manager of State and Local Policy New York Immigration Coalition -and- Luba Cortes Civil Rights and Immigration Lead Organizer Make the Road New York	520	530

2025-2026 Executive Budget
Public Protection
2-13-25

LIST OF SPEAKERS, Continued

	STATEMENT	QUESTIONS
Darcel D. Clark Bronx County District Attorney -and- Mary Pat Donnelly Rensselaer County District Attorney -on behalf of- District Attorneys Association of the State of New York -and- Kevin Stadelmaier Legislative Committee Chair and President-Elect New York Association of Criminal Defense Lawyers -and- James M. McGhan President Chief Defender Association of New York -and- Susan C. Bryant Executive Director NYS Defenders Association	545	564
Patrick Hendry President Police Benevolent Association of New York City -and- Timothy M. Dymond Executive Director NYS Police Investigators Association -and- Chris Summers President NYSCOPBA	590	600

2025-2026 Executive Budget
Public Protection
2-13-25

LIST OF SPEAKERS, Continued

	STATEMENT	QUESTIONS
Kristin Brown President and CEO Empire Justice Center -and- Sal F. Curran Cochair, Legislative Steering Committee NY Legal Services Coalition -and- Joan F. Gerhardt Director, Public Policy and Advocacy NYS Coalition Against Domestic Violence (NYSCADV) -and- Theresa Hobbs Executive Director NYS Dispute Resolution Association (NYSDRA) -and- Hailey Nolasco Senior Director of Government Relations Center for Justice Innovation	634	651
Alyssa Bradley Senior Policy Associate Center for Employment Opportunities -and- Thomas Gant Community Organizer Center for Community Alternatives	658	666

CHAIRWOMAN KRUEGER: Good morning, everyone. Hi, I'm Liz Krueger, chair of the Senate Finance Committee. I live in this room. I'm joined by my partner Gary Pretlow, Assembly -- pardon me?

CHAIRMAN PRETLOW: We live together.

CHAIRWOMAN KRUEGER: He said we live together. We'll have to explain that at home later. But we do seem to, lately.

Gary Pretlow, chair of Ways and Means.

Just some rules of the road that we try to do before we officially start the hearing each day.

There's clocks. Everyone can see them, whether you're on the panel or going to be testifying. And there's green light, yellow light, red light, to let you know where you are and how much time you have left.

We always encourage everyone testifying, even if you sent us 35 pages of documents and data, you only have, if you're a state official, 10 minutes to present. If you're everyone else in the world, you only

have three minutes to present. So you're not going to read your testimony, you're going to bullet-point your critical issues. That's my advice to you.

Legislators, you want to ask lots of questions. If you have three minutes to ask questions and you either ask a three-minute question or decide that you want to make a speech -- and we're in that business, I understand that -- and that you take two minutes and 40 seconds to make you're speech, you won't get an answer because there won't be enough time. So we don't let the person have additional minutes to answer questions if you've used up all your time making your statement or asking your question.

So just everyone be aware what those clocks are. And Gary and I are both very strict taskmasters, and we will shut you down and turn off your microphone. So try to stay in the context of the rules.

All right. So there's lots of committee chairs and rankers today because

there's lots of issues under the rubric of public protection. So yes, it is going to be a long hearing. And chairs are allowed 10 minutes to ask questions of the state government representatives, and rankers are given five minutes. Everyone else gets three minutes.

The only people who ever get a second round are the chairs, who can ask for a final three minutes at the very end of the entire process if it's the relevant committee for them.

And it is a little confusing, because we have so many chairs and rankers. But some chairs only apply to some guests and not all guests. But that will become more clear as we go along.

Again, nongovernment witnesses only get three minutes to testify, and all legislators only get three minutes, it doesn't matter whether you're a chair or a ranker.

Make sure that if you are interested in asking questions you let, if you're an

Assemblymember, Gary Pretlow or Assemblymember Ra from the Republicans, if you're a Senator, Liz Krueger or Tom O'Mara, the ranker on Finance -- you have to let us know you want to ask questions, because we don't read your minds. So then you're half an hour in and you're like, What happened, you never called on me. Because you didn't ask us to put you on the list.

So that's also just a rule of the road.

I think that's where we're going to start. And I will just read formally the opening statement. You already know I'm Liz Krueger, this is Gary Pretlow.

Today is the ninth of 14 hearings conducted by the joint fiscal committees of the Legislature regarding the Governor's proposed budget for state fiscal year '25-'26. 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, State Commission on Judicial Conduct, Office of Indigent Legal Services, New York State Division of Criminal Justice Services, New York State Department of Corrections and Community Supervision, New York State Division of State Police, New York State Division of Homeland Security and Emergency Services, and New York State Office of Information Technology.

Following each testimony there will be some time for questions from the relevant members of the Legislature, as I just laid out to you.

We always start, also, by introducing everyone who is here so far. And people will have to come and go during the day, so we may be making further announcements as they come in.

So we have Senator Salazar, Senator Mayer, Senator Myrie, Senator Hoylman-Sigal, Senator Scarcella-Spanton, Senator Brisport.

And to the Assembly.

CHAIRMAN PRETLOW: Thank you, Senator.

We have with us today Assemblyman Dinowitz, Assemblyman Lavine, Assemblyman Dilan, Assemblyman Otis, Assemblyman Bores, Assemblywoman Cruz, Assemblywoman Mitaynes. And that's it right now.

CHAIRWOMAN KRUEGER: And Senate Republicans?

SENATOR O'MARA: Good morning --

CHAIRMAN PRETLOW: And Assemblyman McDonald, I'm sorry.

SENATOR O'MARA: On the Republican side of the Senate we're joined by our ranking member on Crime and Corrections, Rob Rolison, and Senator Dean Murray. And Senator Tony Palumbo, our ranking member on Judiciary.

CHAIRMAN PRETLOW: Assemblyman Ra?

ASSEMBLYMAN RA: Good morning. We are joined by Assemblyman Morinello, who is our ranking member on the Codes Committee, and Assemblyman Phil Palmesano, who is playing the role of ranker on Corrections today.

CHAIRWOMAN KRUEGER: Okay. So our first presenter today is the Honorable Chief Administrative Judge Joseph Zayas, of the Office of Court Administration.

You have 10 minutes. Good morning.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Good morning. Good morning, everyone.

Chairpersons and committee members, it was very gratifying for me to have an opportunity to meet with so many of you over the last few days. As you know, my name is Joseph Zayas. I'm the Chief Administrative Judge of the New York State Unified Court System.

It is really a pleasure to be with you this morning to discuss the judiciary's budget request for the 2026 state fiscal year.

When I spoke to my wife today, she said, "You know, last year when you did this, the week before you came up here you were stressed out." And she said, "This time you seem perfectly calm." So I said, "That's what happens when you do something the second

time."

So I do appear before you today on behalf of my friend, Chief Judge Rowan Wilson; the Unified Court System's dedicated leadership team, all of whom are also my good friends; and the over 17,000 judges and nonjudicial employees who help run our courts every day. Collectively, we are committed -- we are committed to ensuring that our Judiciary has the resources it needs so that all New Yorkers have access to the fair, efficient, and thoughtful administration of justice.

Chief Judge Wilson speaks eloquently about reimagining our courts as vehicles for solving problems, rather than merely assigning blame and liability. We should, in the chief's vision, "think of courts as problem solvers, not solely as adjudicators of which party is right." Our leadership team has wholeheartedly embraced this approach.

Like you, we want New Yorkers to count on our courts to resolve their disputes

expeditiously, impartially, and with compassion and empathy. But for the Judiciary to properly serve this most critical function, and for New Yorkers to have confidence in the judicial branch, our courts need to be adequately resourced. We need enough judges, court attorneys, court reporters, clerical staff, court officers, and interpreters so that our courts are operating at full capacity and every case promptly receives the attention it so desperately deserves.

We need modernized, accessible facilities with the right tools and technologies so that we can, for example, pivot seamlessly between in-person and virtual court proceedings, and facilitate access to justice by making it easier to file court papers and obtain court documents.

Last year's budget, which followed more than a decade of flat funding, allowed us to make meaningful progress in achieving these ambitious goals. Among other things, it permitted us to add much-needed judges --

and thank you to all of you for that -- and to begin to address a historically low nonjudicial personnel staffing level.

With this year's budget request, we aim to continue building on this momentum. Our state operating cash estimate of $3 billion reflects a base increase of $171.2 million, which is necessary just to maintain our existing court operations, including the annualization of new judgeships which all of you approved last year and over the past two years, and contractually mandated raises and benefits for nonjudicial employees.

We're also requesting $97 million of additional funding that will, among other things, expedite justice for litigants, families and victims by improving case-processing efficiency and reducing backlogs in our busiest courts; assist indigent New Yorkers by significantly increasing funding for civil legal services organizations and Attorney for the Child providers, many of whom I know will be

testifying today, who are facing a staffing crisis because of chronic underfunding; facilitate expeditious settlements of disputes by expanding our successful alternative dispute resolution programs; divert more criminal defendants into treatment and substance-use programs by increasing funding for our problem-solving courts; and improve the administration of justice by restoring our nonjudicial personnel level to 17,000.

New York's court system is, without a doubt, among the largest and busiest in the country. Our judges and nonjudicial personnel address and dispose of millions, millions of new case filings annually. Unfortunately, too many judges in too many of our courts have crushing inventories, hundreds upon hundreds of cases, that make the timely disposition of cases extremely challenging.

As far as criminal cases, since the pandemic we have seen significantly slower case-processing times in our felony-level

criminal courts, meaning that in some cases victims are waiting too long for justice and in others, defendants are waiting too long for the resolution of serious criminal allegations. In our view, this is an unacceptable status quo.

The only way to address these backlogs and ensure that cases are resolved more efficiently going forward, is to have adequate judicial and nonjudicial staff. At the end of 2021, our nonjudicial staffing was just 14,000 employees, nearly 3,000 personnel fewer than the Judiciary employed in 2009. In recent years we've started to rebuild our depleted work force, and this year's budget request would finally allow us to return to a staffing level of 17,000.

In my written submission I've outlined the types of new employees we intend to hire to accomplish our goals.

So new court attorneys will support our New York City criminal case processing initiatives which we launched last year, with the goal of implementing a series of targeted

case-management strategies to address the most significant causes of delay, including discovery delays, in felony-level criminal cases. We expect that these measures will reduce the amount of time that individuals spend on Rikers Island, decreasing the population of those jails, a goal which I know is important to all of you.

The adequate staffing of our courts is a prerequisite for the efficient and fair administration of justice. But it is not enough, by itself, to ensure that our courts are operating smoothly and effectively. The reality is that our adversarial system does not work as intended if both parties are not represented by counsel. Unfortunately, too often this is the case, with too many low-income New Yorkers forced to confront legal issues affecting the most important parts of their lives without representation.

To continue to address this longstanding problem, our 2026 budget requests $150 million for civil legal services, reflecting a significant increase

of $45.5 million. In addition, we're requesting 211.2 million to support our Attorney for the Child Program.

Our 2026 budget will also allow us to sustain and expand innovative court programs that help address problems that are of deep concern to so many New Yorkers. We now have over 350 problem-solving courts in New York, each dedicated to addressing a particular kind of issue that often results in involvement in the criminal justice system, such as mental health and substance abuse issues.

Diverting New Yorkers suffering from mental illness off the typical criminal justice system track, and into treatment, is one of our court system's highest priorities. Our goal is to have, throughout the state -- mental health courts throughout the state.

We continue to innovate in other ways as well, modernizing courtrooms and piloting a new court appearance platform and expanding e-filing.

I would be remiss if I did not mention

that we also require the passage of our program bills.

Let me close by saying that on so many issues I believe that we are aligned with you, and I appreciate the collaborative partnership we have developed.

Thank you very much.

CHAIRWOMAN KRUEGER: Thank you very much. That was perfect timing, Judge. Very impressed.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: I'm looking at the timer this time.

(Laughter.)

CHAIRWOMAN KRUEGER: All right. Our first questioner will be our chair of Judiciary, Senator Hoylman-Sigal.

SENATOR HOYLMAN-SIGAL: Thank you, Madam Chair, and to my colleagues.

Welcome, Judge Zayas. First let me just say -- well, you timed that perfectly. Maybe that's -- one year of experience will help you there. But I just want to thank you and in particular the Chief Judge for his historic State of the Judiciary address this

week, which I know my colleagues Senator Salazar and Senator Myrie agree that the focus on redemption and rehabilitation, the moving comments that the Chief Judge made, including both formerly and currently incarcerated individuals, was absolutely inspiring. So thank you for that.

And I want to also just touch on -- before I get into a question about problem-solving courts -- and want to specifically call out Midtown Community Justice Center in my district, which I know you and the Chief Judge have visited, and has resumed its operations to five days a week. And it really is those problem-solving courts that can address so many of the quality-of-life concerns that our constituents contact our offices about and that we witness every day on the streets in our districts. So thank you for your continued support there.

I wanted to first ask about the issue which is on I think many people's minds, which is ICE and the -- in 2019 we passed a

bill that I sponsored prohibiting ICE from detaining participants in court proceedings while at the courthouse or in transit to or from the courthouse without a warrant or court order. And as we know, regrettably, the new federal administration -- immigrants in New York City are once again under threat of detention and deportation. We know that New York State is home to nearly 700,000 undocumented immigrants. They're our Neighbors, family members, colleagues.

In the first week of the Trump administration, 100 immigrants were detained and arrested by ICE. And we know that when victims and witnesses are afraid to come to court -- which is why we passed this bill -- when domestic violence victims are afraid to get an order of protection, and when tenants are afraid to file a complaint against their landlord, our state is really less safe.

So my question to you, Judge Zayas, is, what is OCA doing to ensure New Yorkers are safe from unlawful detention in courthouses? And has ICE attempted to enter

a New York State courthouse, to your knowledge?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Great. That's a great question. Certainly appreciate that we have the Protect Our Court Act and that we had the -- we were prescient enough to see the need for that. I understand that in some of the meetings that our folks have had with regional ICE officials that they are aware of that act as well and have -- there's bulletins and advisories that they are required to follow state acts along those lines.

So what we've been doing is we immediately set up meetings and we have an administrative order directly on point, we have directives from our department of public safety directly on point. We have protocols that we just recently revised and sent around to all of the folks in our courts. And we've set up meetings with the ICE regional directors in New York City and the suburbs of New York City, and now we're setting up additional meetings with the ICE regional

directors in -- you know, upstate.

And we met about this numerous times already. And we then spread all of this information not only to the judges, but all the meetings with the commands in every single courthouse throughout the state.

And we're prepared to do whatever it takes to make sure that the Safe Courts Act is followed.

SENATOR HOYLMAN-SIGAL: Are you aware of any attempts to enter courthouse property by ICE?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yes. And we've raised the level of that where it comes directly to our top leadership team. If there's anything, we want to know about it. And we haven't had any indication that the ICE offices have done anything other than follow our procedure.

So they need a warrant now, so the protocols we put in place is they cannot expect to make any arrest without a judicial warrant. And as soon as these folks come into our courthouse, they are directed to a

designated judge who reviews the purported warrant or detainer to determine whether it is a judicial warrant.

If it's a judicial warrant, we follow and -- you still can't make an arrest in a courtroom under any circumstances. But the next best thing, when there's a judicial warrant, that's in our law that they are allowed to do that, so.

SENATOR HOYLMAN-SIGAL: Where do they effectuate the arrests, then, if it's not in a courtroom?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Sometimes outside of the courthouse or sometimes in a hallway of the courthouse. Which they're allowed to do if there's a judicial warrant.

If it's just a detainer, they're not allowed to make any arrests in any of our courthouses. It's a civil arrest, so -- unlike a bench warrant, for example.

SENATOR HOYLMAN-SIGAL: And do you have any statistics you could share with us in terms of how many of these arrests have

occurred on courthouse grounds?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Sure. I'm sure. Not in front of me right now, but I'm sure and we'll send them to you.

SENATOR HOYLMAN-SIGAL: Okay. Is it several? Is it dozens? Is it --

CHIEF ADMINISTRATIVE JUDGE ZAYAS: I mean, sometimes I hear things from defense attorneys that this happened, that happened. I's not an extraordinary amount of -- it's not a deluge of folks coming in, but it's sort of I would say moderate. But it's happening.

SENATOR HOYLMAN-SIGAL: It is happening.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yup.

SENATOR HOYLMAN-SIGAL: And other than meeting with the ICE administrators, any other -- do you have any recommendations for us to make sure that witnesses are not fearful of coming forward, particularly those who are undocumented?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: I

mean, I think prosecutor offices also have their -- I mean, they're the ones who are meeting with the witnesses -- should have their own protocols in place explaining to them that this can happen.

And the other agencies that deal with this should be also be meeting with ICE to help folks understand that to the extent that ICE wants to come into our courthouses to make civil arrests, it will deter victims, witnesses, et cetera, from coming in, and it's a bad idea.

SENATOR HOYLMAN-SIGAL: Well, thank you. That's good fodder for some questions later this afternoon.

I just wanted to touch on an issue of separation of powers that seems to have become pretty perilously flimsy in recent days. We know that courts have issued orders to freeze some of the Trump administration's most radical actions, but there's evidence in different states that these orders are being ignored. The vice president himself declared that "Judges aren't allowed to control the

Executive's legitimate power."

On Monday Judge John McConnell in Rhode Island accused the administration of failing to unfreeze billions of dollars in federal grants, in clear violation of his judicial order.

We know that the judiciary has been termed the least dangerous branch of government because it really -- solely its power rests on the legitimacy of the public and respect from other institutions. And when judicial orders are disregarded by the Executive, the judiciary truly has little recourse.

I was wondering from your perspective, Judge Zayas, how strong is the rule of law in our state? And what can we do to preserve faith and confidence in the work of our judges?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: I think the rule of law is strong. And we will -- if any federal agent attempts to disobey our rule of law, we will take -- I think we have a strong Attorney General,

obviously.

And I think almost everything that -- every executive order that attempted to do one thing or another has been by now either stayed or paused. There was the stretch to pause discretionary funds that went to the states. That too was paused.

SENATOR HOYLMAN-SIGAL: Thank you very much.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRMAN PRETLOW: Thank you.

Assemblymember Lavine for 10 minutes.

ASSEMBLYMAN LAVINE: Good morning, Your Honor. It's good to see you. I also want to say, as someone who literally, or close to literally, grew up in our state and federal courts, how proud I am of the work that you and our Chief Justice and our other judges are doing. So many, many thanks for that, my friend.

So last year's budget included a provision relating to protection of judges and their families. It was something that

I'm very proud myself to have worked on, and very pleased that the Governor and the Assembly and the Senate have adopted that as our law.

So Can you tell me, has this provision provided some peace of mind and benefited our judges?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yes. Thank you. First of all, thank you and your colleagues for passing that legislation. It was something that the judges across our state, 1400 judges across our state, really appreciate. And I think it has been effective in terms of scrubbing the internet of judges' addresses, et cetera.

We -- in our program bills we're requesting a few very minor amendments to it that I'm sure we can reach out to your office to share with you. We might have done that already.

But it's been very effective. We actually used the opportunity to contract with a group called DeleteMe, and so instead of the judges having to -- and the judges

will do this. They reach out to the appropriate parties, pursuant to the statute.

But we invested some money into contracting with DeleteMe, where these folks are constantly monitoring judges in social media and scrubbing that. And they're doing it every month, and they're sending the judges their reports. And the judges have to sign up for this.

And we thought it was important -- an important sort of add-on from our own budget to get that done for our judges. As you probably have heard, it's difficult to gauge, but judicial morale over the last 20 months has skyrocketed. And we're very happy about that, because we think the happier our judges are, the less gripes they have with things that are going on, the more they can focus on the work of delivering justice and doing good work.

ASSEMBLYMAN LAVINE: So it's a sad indictment of the world in which we live when judges have to be fearful. And in an atmosphere in which too many electeds,

elected officials have taken it upon themselves to unfairly criticize our judges and judicial rulings, I'm pleased that this is not part of our law.

Do we have any sense of how many judges have pursued these protections?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: I think a high number. I mean, the DeleteMe, I think I saw a stat that said 80-something percent of our judges have opted into DeleteMe. And other judges are also doing either one of those programs or both. Most judges are doing both of those programs.

ASSEMBLYMAN LAVINE: Very good.

So now I have a couple of questions about ADR or alternative dispute resolutions and court improvement programs. So the judiciary is requesting $14.3 million, an increase of $3.8 million over last year's budget, with 3 million earmarked for expanded ADR services statewide.

Can you describe which specific areas or regions of the state may or will be prioritized for expansion of ADR services?

And how will needs be assessed in those --

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Sure. So we hired a director of ADR at the Unified Court System. And we have ADR coordinators in every judicial district and every part of the state. And so it's something that we expect to benefit all of the courts throughout the state.

And that was -- so we hired ADR coordinators in each judicial district, and that was the reason for the budget. And they are coordinating with each other. The director is, you know, helping them to do that. And it's been a very effective program that we're trying to promote even more than it's been spreading.

ASSEMBLYMAN LAVINE: And Judge Zayas, do you expect that ADR expansion is going to help us to address and alleviate cases? Too many cases in our courts pending right now.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yes, absolutely. So there are a host of things we're trying to do. We're not just trying to, you know, pursue one avenue that

we know will reduce the backlog. It's ADR. It's the program that we have in New York City. It's mediation. And we're trying to use all of these to get that job done.

ASSEMBLYMAN LAVINE: And will this help with respect to Family Court backlogs as well?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yes. Yes.

ASSEMBLYMAN LAVINE: Thank you. I have no further questions. I rest my case.

(Laughter.)

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Thank you, sir.

CHAIRWOMAN KRUEGER: Thank you very much for the legal debate.

We've been joined by Senator Bynoe.

And our next questioner is Senator Myrie.

SENATOR MYRIE: Thank you, Madam Chair.

Judge, good to see you. I echo the sentiments of my colleagues on the welcome and refreshing collaboration with your

administration. And thanks to Chief Judge Wilson again for his State of the Judiciary. Very, very powerful.

I want to focus my questioning around discovery. And I know we're going to be talking about this with a number of stakeholders throughout the day. And we have had some previous conversations around this as well. And so I'm hoping to start with, if you could, as best you can, describe why there might be a discrepancy in discovery compliance in the city, in New York City, as opposed to outside of the city.

We see those numbers as OCA has provided to be starkly different, although the law applies the same way throughout the state. So I'm wondering if you have thoughts on why that discrepancy exists.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: That's a really good question. The court system obviously is over-the-top supportive of discovery reform that continues to meaningfully, meaningfully incentivize the early and full production of discovery by the

prosecution, while at the same time developing a procedure that ensures compliance -- that the compliance challenges to whatever discovery they received are raised within a reasonable amount of time.

I really can't tell you why it's been more difficult in New York City. Some people have speculated that it's the New York City Police Department having to deal with the particular DAs in New York City, and maybe that there's a different system outside of New York City. But there's definitely been a difference in terms of compliance.

And there's -- you know, as you know, there's some issues raised about why cases are being dismissed for -- on speedy trial grounds, that there's been this unmistakable increase in New York City of cases getting dismissed on speed trial grounds as opposed to -- so if you compare the 2019 numbers, pre-COVID, pre-discovery reform, and you compare them to what happened after that, in misdemeanor cases and in felony -- non-indicted felony cases, so before the

indictment, there has been a precipitous increase in the number of speedy trial dismissals.

Now, there's no such thing as dismissing it because of the failure to file discovery. But the numbers alone raise a very strong inference that they were at least in part -- the failure to comply with the discovery rules were at least in part the reason for the dismissal.

We do not see that trend happening in indicted felonies. So our more serious cases are not getting -- it's more negligible in terms of the difference.

I hope I answered your question. I know you asked me about upstate and downstate, and I'd like to get back to you on that because I haven't been so familiar with -- we haven't heard a lot from difficulty upstate.

But I do think that -- look, the discovery statute is extraordinarily daunting because of how many categories of documents that have to be turned over and the

voluminous nature of it. You know, a big situation happening in upstate or New York where police officers are showing up with body cams and now they have to get all of these body cams and, you know, hundreds and hundreds of documents for discovery. If there's an injury, medical records, thousands, sometimes, pages of medical records. It's not an easy thing to do.

SENATOR MYRIE: Thank you. The answer was helpful, and you began to answer what my next question was going to be.

You know, we can talk about discovery in this context and, you know, between lawyers and judges and prosecutors and the defense bar. I think sometimes the public does not have a real understanding of what this means, what it is. And so I was going to ask if you could, a little further than what you just did -- just for the public's understanding on what the requirement is on both the prosecutor, the court, and the defense bar. And why, according to the report that OCA issued last year about

discovery compliance and the time consumption, why there would be an increase in compliance time, in time consumption, because of what we did in 2019.

And, you know, I want to be clear -- and I think you have communicated this as well -- I and my colleagues instituted this reform because of injustices in the system, that there were defendants that were being bombarded with evidence at the last minute and not able to make an informed decision about their own liberty.

That remains true today, that principle remains true today. And what we need to get to the bottom of is whether or not there are things that have to be changed in order to ensure that that principle is upheld, but that the wheels of justice continue to turn smoothly.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Right. So, I mean, from the -- aside from our full-throated support of the discovery reform in 2019-2020, I think there was universal support in the Unified Court System

that that needed to happen. I know that needed to happen, not only as a judge but as a practitioner.

And when we talk about delay of these cases, the old discovery statute was responsible for causing all sorts of delays because something wouldn't get turned over, and then the judge's way of mitigating the late disclosure, the damage that was being caused by at the last minute giving it over to defense counsel, was always: Well, I'm going to give you another month. On an old case in Rikers Island already.

So a case that's on for trial, something that's closed late, the remedy is always going to be: Fine, I'll give you another two months to digest this information, read these 2,000 pages, you know, hire a DNA expert.

So that's the problem that we were trying to fix with discovery. And then the discovery statute itself is, as I said, very daunting. It requires all sorts of documents from -- sometimes from a variety of police

agencies. One of the differences between New York City and upstate is New York City, the five counties, the 8-point-whatever million residents of the county, have only one police department to deal with. Whereas some of the upstate counties are dealing with multiple police offices. And so -- and so that is one of the -- that is a serious problem.

And once discovery is turned over to the defense, the defense now has a constitutional obligation to review everything. So if you give a defense attorney 30 body cams of officers, somebody in that office -- I mean, you're not giving discovery just to say I gave it to them. Now the defense has this incredible responsibility of looking at it and reading and looking through all of those. And so there, that adds again to the delay.

And what we think is important is for the prosecutors to give over this delay as soon as they can and to present it in a way that categorizes the discovery that's being,

you know, being given to the defense. So that when the defense opens that website, that -- that -- I forgot the word of that, but you know what I'm talking about. When they go into the link, we want -- it's important that the discovery that's being turned over is categorized and not just, you know, miscellaneous this, miscellaneous that. Because it will help the defense bar to speedily work through and look at all of those documents and then be able to quickly, we hope -- we think there needs to be a way for the defense bar to quickly, if they want to challenge something, to quickly bring it to the attention of the judge and file a motion to strike the certificate.

SENATOR MYRIE: Thank you, Judge.

CHAIRMAN PRETLOW: Assemblywoman Walsh, substituting for -- {inaudible}.

ASSEMBLYWOMAN WALSH: Thank you very much.

Good morning, Judge Zayas.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Good morning.

ASSEMBLYWOMAN WALSH: I think the last time we met was up in Lake George -- yes, last summer.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Good to see you again.

ASSEMBLYWOMAN WALSH: I do have a couple of questions for you.

The first has to do with ERPOs, extreme risk protection orders. So currently ERPOs are only issued by a New York State Supreme Court judge, even though county court judges are generally the judges who review and issue pistol permits. In 2024, just in Saratoga County, where I primarily represent, there are around 171 ERPOs that were issued just in that county alone.

The Network Operations Center, who was called by law enforcement after hours, is hiring more staff. State Police and the Attorney General are also adding staff. What is OCA doing about the extra duties, the nighttime calls for judges?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: So we are trying to spread out those

responsibilities. We often make County Court judges acting Supreme Court judges so that they too can handle those. And it's a, again, daunting process for -- especially given the 24-hour rule.

But there are also side agreements with the judge who might be on duty to handle that, and personal phone calls are given to the police departments in those places where the officer, unless it's an absolute emergency, would wait until, you know, 9 o'clock, 7 o'clock, as opposed to calling judges at night.

And so I think that what many of the AJs have been doing upstate is expanding the number of judges who would be able to be handle those. I don't -- there's nothing --

ASSEMBLYWOMAN WALSH: To make a County Court judge, in other words, an acting Supreme for the purposes of the ERPOs?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: That's right. Right. And many County Court judges do that, so -- but it's still done in -- it's done in civil, I think, upstate.

Somehow in lower -- in the city, the Criminal Term Supreme handles those ERPOs.

But conceitedly, we don't have a lot of them.

ASSEMBLYWOMAN WALSH: Yeah, that's right. And that kind of leads me into my next question.

So I would ask that you consider supporting an investment in another County Court judge for Saratoga County. As you know, Saratoga County has the fastest-growing population out of 53 upstate New York counties over the past decade, and all indications are that we're going to continue to grow for the foreseeable future.

In the 11 counties comprising the Fourth JD, Saratoga County has 26 percent of the entire district's population, but only one of the 16 County court judges assigned in the Fourth JD. This includes four significantly smaller counties in the district that have at least two County Court judges assigned. And I understand that some of these are tri-hat judges and do, you know,

everything -- Family Court, Surrogate's Court, County Court work.

Saratoga County is close in population to Dutchess and Oneida counties, for example, which both have two. The Saratoga County administrator has written me for the past two years asking for this. And I do believe that the numbers justify it. I've been told by leadership that OCA would need to support this to make it happen, which is why I'm asking you today.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: So I think you should ask Judge -- AJ Singh. He's the administrative judge up there.

ASSEMBLYWOMAN WALSH: We have.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: -- To handle all of those ERPOs. He's very agreeable, you know.

(Laughter.)

CHIEF ADMINISTRATIVE JUDGE ZAYAS: No, I'm just kidding. But you should -- I'll have a -- I'll promise you this. I will have a conversation with the administrative judge in the Fourth JD about this issue.

ASSEMBLYWOMAN WALSH: Thank you. Thank you very much. Appreciate it.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: You're welcome.

ASSEMBLYWOMAN WALSH: I yield my time.

CHAIRWOMAN KRUEGER: Thank you.

So just for clarification, the committees that overlap the Judiciary are Codes and Judiciary. So the chairs and rankers are entitled to the extra time from those committees for the judge.

In the Senate, the ranker for both Codes and Judiciary is Senator Palumbo. So he's not getting 10 minutes per se, he's getting two five-minutes that we will put on the clock as 10 minutes.

(Laughter.)

SENATOR PALUMBO: I'll be sure and pause between the two rounds of questioning. Thank you, Madam Chair.

Thank you. And it's good to see you, Judge Zayas. Good to see you again.

And I just want to say -- and I know I mentioned this the other day when we met --

that I just think you're doing a fantastic job. There's a lot of leeway within the budget for the Administrative Judge to allocate funds to where there's areas of need, and I think the trains are running on time thanks to you. So you're really doing great work dealing with even the COVID backlog and everything that you do. So thank you.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yeah, appreciate it.

SENATOR PALUMBO: My pleasure.

Now, there were a few comments from some of my colleagues as well about the State of the Judiciary and comments from the Chief regarding maybe a refined Second Look Act. And regarding just the overall motion practice that would result, I don't know if you've tried to speculate this. I don't want to get too far in the weeds. But generally speaking, if all of those inmates now every three years would be mandated an opportunity to file essentially a 440 motion. Although that vehicle already does exist, this would

expand it.

Do you have any comments on what you think the possible -- you know, the effect that would have with regard to motion practice in our trial courts?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yeah, I do think that our motions like that, that our current judges in the -- who sit in the Criminal Superior Court would not have a problem handling them. There's been the Survivor Act, which was a little similar motion practice, the 440, and we -- they get distributed among all of the judges. And I do not think that we would have any trouble handling them.

There is at least the current version of the bill, if I'm remembering it right -- and maybe Senator Salazar could correct me -- that there's a 10-year waiting period. So someone has to serve 10 years before they are able to make their initial application.

And so these are typically things that are done in chambers. If a hearing is ordered, then that will take up some

additional time. And -- but I do think it's not going to overwhelm our courts in any way.

SENATOR PALUMBO: Very good. And do you think -- as far as refining it, do you have any comments in that regard? The current version that I see presumes release -- although having been involved in the practice of law for many years now, those mitigating factors are obviously part of -- 90-some-odd, probably 95 percent or higher amount of cases are pled because there's an agreement between the parties, and they weigh aggravating and mitigating factors.

So you're really dealing with very serious crimes if they're serving more than 10 years in the aggregate.

So do you -- would you have any ability to comment with regard to any ways that we could tweak the Second Look Act and maybe even have -- because we already parole as well, so there are already bites at the apple regarding release.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Right. Right.

SENATOR PALUMBO: So any comments -- because obviously the Parole Board gets comments from the victims in a victim-sensitive case. This looks like the victim is completely ignored. So do you think that would be something to consider, or any other comments on how that could be refined as suggested by Judge Wilson?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yeah, I mean, I don't think it needs to be limited to only people who have been found guilty at the trial. I think someone who's taken a plea and -- to a lot of time might even be in a better position because he or she has already taken responsibility on day one when he or she took the plea.

And so with respect to the other part of the question, I do think that everything is on the table. So once someone sets -- once someone begins to serve their prison time, there's nothing I don't think should be wrong with that person's full record being -- you know, prison record should be before the judge who's making these applications.

You know, this is not the first time we've done this. I think when Governor Pataki was the governor and I think that the other side of the aisle had the majority, we -- you adopted the effort to reduce the Rockefeller -- the effects of the Rockefeller Drug Laws, and we sent all of those cases back to the trial courts.

So we do have some experience in having dealt with this, and that -- I mean, I was obviously really impressed that this was done by folks from the other side of the aisle. This is I don't think a conservative or progressive or liberal issue. This is something, for example, that was done, Assemblymember Palumbo, by the federal government. So we had President Trump advocating for this, and a Republican legislature actually enacted a law.

Now, I don't think there are -- I don't know the extent of the similarities between the Salazar and Walker bill. But this is being done in our federal courts, and during a Republican administration.

So I hope that this -- I mean, to me it's a very important piece of legislation, and I hope that it doesn't get bogged down in, you know, discussions about, you know, folks being soft on crime or -- because there's no better way to see whether or not someone would recidivate than to see what their life has been like while they were in prison.

It really tells a judge -- and there's no way for a judge to actually know that when the judge is sentencing a defendant, because you need it to happen first. And obviously prison is not an easy place to serve time. And if there are people who, during their prison term, are doing extraordinary things and graduating from college -- and we heard someone, someone said, Senator Myrie talked about the folks who testified at the State of the Judiciary, and this person was convicted of a murder, but he said he never had a single discipline in his many, many years of being -- he was sentenced at the age of 17, you know.

SENATOR PALUMBO: And that's basically the purpose of incarceration, right, is rehabilitation. So I think that we all feel that in our hearts, that that's the intended act, that you pay your debt to society and hopefully you come out a different person.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yeah.

SENATOR PALUMBO: I totally get that, and I'm sorry to cut you off, but I'm running low on time and I just want to talk about guardianship reform.

My office -- I actually have a bill that would just create presumption of visitation, essentially. We see a lot of these Article 81 issues where you have people -- and there are some famous people who have been dealing with this -- Wendy Williams. And remember the Free Britney regarding her conservatorship?

It's almost counterintuitive, because these folks and the lawyers make money off of the estate of the incapacitated person. And it's a long and convoluted motion practice

where the lawyer gets paid to basically exclude family members, even family members who have not done anything untoward, like financial, physical, mental abuse of any kind, they just want to see their loved one.

Casey Kasem didn't see his kids for the last two years of his life because his new wife didn't like them. And that's really insane. And I know the Attorney General started an investigation.

Actually, I have a bill -- and you could maybe even comment on that, if you'd like, too so I can get the question out as to any proposals to fix it. This would simply -- it would allow an order to show cause hearing within 10 days, presumption of visitation. Just to visit your loved one at that time in their life when they're obviously struggling. Many are at the end of life.

And I have someone from Long Island who -- Christine Montanti, she had this with her mother -- just trying to see her mom, she spent almost three-quarters of a million

dollars, her entire savings, just to see her mom, and did nothing untoward.

So do you have any comments on that, Your Honor?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yeah, I mean, those are the types of cases that pull on our heartstrings. I cannot say that I am that familiar with that bill, but I would be happy to have my team reach out to you and give you our thoughts. I'm just not that familiar with -- I can't keep up with all of the bills that are coming out --

SENATOR PALUMBO: That's great. That's okay.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: -- as hard as I try.

SENATOR PALUMBO: I see Brielle's pen wiggling, so she's probably writing it down.

Great. Thank you, Your Honor. And thanks again for the work that you do for us in the state.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Thank you.

CHAIRMAN PRETLOW: Thank you.

Before I go on, we've been joined by Assemblywoman Kelles, Assemblyman Meeks, Assemblywoman Shimsky, Assemblywoman Simon, and Assemblywoman Walker.

And I'm calling on Assemblyman Dinowitz for 10 minutes.

ASSEMBLYMAN DINOWITZ: Good morning, Judge, and thank you. This new administration, I think there's been a lot of refreshing changes and we certainly appreciate a lot of the work that's been done.

So I wanted to talk about discovery. The Governor has in her Executive Budget several proposed changes. I'm not sure why it's in the budget -- it's not budget stuff, but it's in the budget. And we read a lot about the impact of the reforms that were passed six years ago. I stand by what we did with respect to discovery. But I'm trying to really understand what has been happening.

And, you know, you talk to the DAs, you talk to those who represent defendants, and you get totally different stories. It's

like if you watch the story on TV, MSNBC, Fox, it's diametrically opposed. So you don't really know all the information. So I want you to be like CNN and try to get me information.

So here's my concern. There's no question there are people whose cases have been dismissed because of violations of the new law -- well, it's not so new anymore -- whether they are modern technical violations or serious violations.

And I'm just trying to figure out how many cases, both serious felony cases and even misdemeanor cases, you know, how many more cases are being dismissed? And maybe just as importantly, how many of the people whose cases are being dismissed are then being arrested for committing another crime, a crime that they may not have been able to commit or alleged to have committed, but for the fact that they were released because their other case was dismissed?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: So there's a lot in there. Let me try to unpack

some of that. There are not a lot of serious felony indicted cases where cases are dismissed for the failure to file compliance with discovery.

Those cases that -- that is prevalent in the less serious area, the felonies that the district attorney's office, for one reason or another, has been unable to indict. Some people might say they were unable to indict them because there are weaknesses in the case, et cetera. And misdemeanors.

The question of whether or not a document that the prosecutor failed to turn over timely is a technically inconsequential document and should warrant dismissal really comes under the -- what is called the Bay. You know, the Court of Appeals has weighed in on this issue and they said that the -- there's two factors that have to be considered on this question of speedy trial dismissal.

And that is did the prosecutor exercise due diligence to find that document, and did the prosecutor act in good faith. So

1 those -- that's the current law.
2 And so if there is a document out
3 there that the prosecutor failed to disclose,
4 the defense would have to show that the
5 prosecutor did nothing to go after that
6 document, to find that document, to
7 investigate to get that document -- and that
8 the prosecutor did not exercise good faith.
9 So that's -- those are the findings a
10 judge has to make before they charge the
11 prosecution with the responsibility for the
12 delay that was created by that. If it's --
13 you mentioned the word "inconsequential."
14 That has not -- except to the extent that it
15 might inform the prosecutor's due diligence
16 and good faith, it has not become a factor
17 that the Court of Appeals set forth in its
18 decision on this matter.
19 ASSEMBLYMAN DINOWITZ: Okay --
20 CHIEF ADMINISTRATIVE JUDGE ZAYAS: I
21 hope I didn't use too many legal -- legalese
22 in explaining that, but I'm happy to talk
23 further with you --
24 ASSEMBLYMAN DINOWITZ: Don't worry, I

take 12 hours of those exciting mandatory continuing legal education classes every year, so I can probably understand some of it.

Okay. I mean, I would love to -- I like to look at numbers and data. You know, whether or not we need to make some changes in discovery, I mean, that remains to be seen. But I certainly think whatever we do should not be based on, you know, tabloid headlines. It should be based on facts and figures.

But I want to switch gears and -- go on.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Just a follow-up. Look, we are talking to all sides of this. So we have folks talking to the Governor's people, I believe we have folks talking to the DAs' folks and the defense folks.

And we feel like we can be helpful in coming up with some type of compromise that might address all of the sometimes differing opinions. But it may be that findings aren't

disagreeing about everything that they think they're disagreeing about.

And so I hope that we would continue to be part of that process of -- to the extent that there's a will and a way to change the new discovery statute, I think that the folks from my team that are involved in this I think can be very helpful. And we want to be. And we have been. And we are the ones in the courthouses dealing with this every day, so we will tell you our honest opinions about -- and be transparent about what we think should be done.

ASSEMBLYMAN DINOWITZ: Okay, thank you. I'm running low. I just want to switch gears.

So in the Bronx our facilities are substandard. You know, the courthouse, as we call it, 851 Grand Concourse, is -- the building's -- I guess it's about a hundred years old and there are tremendous needs there.

The Hall of Justice, the Criminal Court building, is a relatively new building

with apparently serious construction defects. I hoped that's been rectified. The Family Court building on the Grand Concourse, also a relatively new building -- I mean, it was amazing when it was built, but the Bronx has approximately the same number of Housing Court cases as Brooklyn, and Brooklyn is almost twice the population of Bronx. And so there are tremendous needs. You know, hearings being held in the hallways there and just all kinds of really bad things.

So my -- I'm not even going to ask a question, I'm just going to say that I think that there are significant needs to either build more or expand or rehabilitate. But there are tremendous needs in the court facilities in the Bronx -- and I'm sure in other places too, but I know the Bronx. And I hope that both in the short term and the long term that the Judiciary will start -- can focus on those needs.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yeah, and I appreciate that. I don't disagree with anything you've said. The

Bronx did get a brand-new, very expensive Hall of Justice building that has had problems.

One of the things I've been concerned about is that every county in New York City has gotten a -- Staten Island is in the process of building a brand-new Family Court, Queens got a brand-new Family Court, Brooklyn got a brand-new Family Court, and Manhattan has -- you know, not as new, but they got a new Family Court a while ago.

And it's time, I think, for the Bronx to get a new Family Court. The problem is we don't control the buildings that -- they're not our buildings, they are the city's buildings.

So to the extent that, Chair, you and other Bronxites -- and I know that there are many that have talked to me about this -- can -- because I think what needs to happen in the Bronx is there needs to be a new Family Court. And a Family Court and maybe a Housing Court. And I understand there's a new school right behind, a new Catholic

school that's going under. And that's a big space. And I talked to the borough president about this. I would love to see that happen, because Bronx deserves that.

And you should know, however, and I know Chair Lavine and Chair Hoylman-Sigal, we have this Facilities Review Board which basically is designed to enforce the statute which requires these municipalities to do their job and fix their building. And you can talk to -- well, call me or us off the record later.

ASSEMBLYMAN DINOWITZ: (Nodding.)

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Thank you.

CHAIRWOMAN KRUEGER: Thank you very much.

Next up is Senator Salazar.

SENATOR SALAZAR: Thank you, Judge Zayas, good to see you.

A quick follow-up question on questions that were asked by Senator Hoylman-Sigal. If no arrests are permitted in the courtroom. But let's say

ICE were to show up and they have a valid warrant and it's assessed by an OCA judge to be a valid warrant, what then happens? Where is the arrest made?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: So the act that this body enacted allows, and our protocols allow, if there's a determination made that the warrant is from a judge to arrest the -- I don't want to call them a defendant because it's a civil arrest, they can arrest that person in a portion of the courthouse. That's the law.

But ICE, Homeland Security, has assured us that they will do nothing -- there's even a bulletin that they have said in that bulletin, in writing and orally, that they will do nothing that violates -- they will make every effort to abide by our Protect Our Courts Act.

SENATOR SALAZAR: Thank you.

To pivot to discussing second-look legislation, which Senator Palumbo brought up, other states have passed sentencing reforms in recent years, including

second-look legislation. You wrote in the New York Law Journal, published last month, in support of the idea of second-look legislation. Judge Wilson, not only at the State of the Judiciary earlier this week, but previously has publicly supported second-look legislation, as has the New York State Justice Task Force that Judge Wilson -- under his leadership.

Given this support from within the Judiciary, what barriers do you see to making sentencing reform such as the Second Look Act a reality in New York?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: I hope that the extraordinary State of the Judiciary that happened this week, and the specter of having those young -- not so young, but young when they were convicted -- testify the way they did alone would persuade folks who watch it that it's worthy of passage.

In terms of some of the operational issues that still need to get resolved, there obviously needs to be some discussion about

whether the application goes back to the judge who originally sentenced the defendant or a new judge who can take a new fresh look.

There's questions about --

(Time clock sounds.)

SENATOR SALAZAR: Thank you.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: You're welcome.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRMAN PRETLOW: Assemblyman Morinello, five minutes.

ASSEMBLYMAN MORINELLO: Good morning, Your Honor.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Good morning.

ASSEMBLYMAN MORINELLO: Thank you for the privilege of being before you.

I'd like to do a discussion -- I'm wearing two hats. I'm a retired judge and also a legislator. But I would really like to have a positive discussion, and I'm really excited to see the emphasis on problem-solving courts. I wonder if you

might just briefly give us an explanation of the theory so that we have a better understanding as a group of what the problem-solving courts are, please.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Sure. So I'm sure it may go back before Judge Kay's time, but Judge Kay was a big proponent of problem-solving courts because of this revolving door of justice. We would have a defendant appear, we would release the defendant, and then before you knew it the defendant came back with the same difficulty -- the substance use issue, mental health issues. And it was a revolving door of justice that did not solve problems.

And so that is the origin of that. And we've expanded it everywhere we could, because -- I'm sure in the back of everyone's mind, legislators and judges included -- we can't send everyone to jail. And it doesn't make sense to do that.

Because once a defendant completes a drug treatment program or a veterans' program, it reduces recidivism. It avoids

what some have called -- what is, you know, overincarceration. And so instead of -- and some of these cases are not serious crimes being committed. So the question is, should they do 30 days in jail or should they do, you know, nine months of treatment?

And it's certainly much better and more efficacious and crime-reducing if you give people treatment so that they change their lives, begin building families. There's so many success stories that I know me and you have seen in our lives as judges. So that's really the foundation of that.

ASSEMBLYMAN MORINELLO: I think you and I both were problem-solving-court judges. And I think it's important that they understand that judicial discretion is an important part of problem-solving courts.

There's been discussions on the need for more mental health focusing, more drug focusing. But I would like to put on the record of the importance of the programs that are administered through the courts on these programs.

I'd also like to put on the record that they do have to appear in front of a judge. So you almost have a family figure overseeing these individuals.

Judicial diversion. That is a form of the problem-solving court, am I not correct, directed at more serious crimes?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yeah, diversion is the statute -- if you're referring to the statute that was enacted that dealt with drug treatment courts and efforts to divert defendants out of jail and into programs. Yes, more -- it was felonies.

ASSEMBLYMAN MORINELLO: So right now the court system focuses on all aspects of what may be the underlying cause of someone committing a crime.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: That's right.

ASSEMBLYMAN MORINELLO: And as is my understanding, if I'm correct, that the determination is if there is an underlying cause, the courts do have programs to assist them in absolving that, with guidance. Am I

correct on that?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Absolutely. Absolutely.

ASSEMBLYMAN MORINELLO: I'd also like to place on the record that there were many times when some of the programs I oversaw faced financial difficulties because of the lack of funding. Is the focus of part of the funding in this budget so that those programs can continue with the courts so that we don't have to interrupt treatment of those that we can send back to a quality family life?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yes, that's an excellent question. I know -- I looked at the schedule of speakers today, and there are many who will be testifying before you today who run these treatment programs. And we, the court system, will only be as good in problem-solving courts by the adequate funding of all of those programs. So when they appear before you, I hope that that would be granted, yes.

ASSEMBLYMAN MORINELLO: Thank you, Your Honor.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: You're welcome.

CHAIRWOMAN KRUEGER: Thank you.

Senator Rolison.

SENATOR ROLISON: Thank you, Madam Chair.

And good to see you again, Judge.

On the Second Look Act -- and the Chief Judge had talked about it, refining it, being part of the process, essentially, is what I am reading from this.

Now, this is my third year here. I don't remember a time -- and correct me if I'm wrong -- where OCA, the Unified Court System, the Chief Judge or any judge was weighing in on legislation that was being proposed by one of the bodies. Is that an accurate statement, somewhat, to you, Judge?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: I think sometimes it might have depended on the Court of Appeals judge or the Chief Administrative Judge. I think Jonathan Lippman, for example, was very vocal about the things he supported, et cetera.

But to the extent that you're suggesting that our administration is doing things differently, I think that's absolutely true. We want -- we've asked legislators to give us the bills ahead of time so that we can -- because oftentimes when the bill passes and now it's going to go to the Governor, they're asking for our opinion.

So we -- it was intentional on our part to try to find out what legislators are trying to do and to get a sense, get an understanding of those bills before they are sent to us at the last minute and then we're almost required to either rubber-stamp them or not take a position. So we've made a deliberate attempt to treat these matters a little differently.

SENATOR ROLISON: So is there someone -- and thank you for that explanation. And so we may see this in the future. Is there going to be -- like in this particular piece of legislation, which I certainly have some questions about for a later time, is there someone in the

Unified Court System that I can speak to about my concerns about this, especially as it relates to crime victims?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yes.

SENATOR ROLISON: Because that's currently written that you're going to have the possibility that crime victims are going to be continually having to weigh in on a crime against them -- could even, if this was enacted as is, that someone may say, I'm not going to report that crime because I don't want to relive it again and again and again.

And I think, you know, we spent many years -- many years in this state really advocating on behalf of crime victims. And I think as this is currently written, it would set that back and could potentially have people say, You know what, I'm not going to seek justice.

So I would love to have that conversation, Judge.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yeah, we're always open to that.

I only have a few seconds. I will say that in my many years doing death penalty work and other matters, that there also are a lot of victims who would welcome an opportunity like this.

SENATOR ROLISON: Thank you, Judge.

CHAIRMAN PRETLOW: Assemblyman Otis.

ASSEMBLYMAN OTIS: Thank you, Judge. Thank you for your testimony and thoughtful comments.

And I'd also like to thank Chief Judge Wilson for coming to visit one of the problem-solving courts in my community, in New Rochelle, Judge Jared Rice's Opportunity Youth Part. And I've seen firsthand how effective that work is in saving the lives and the futures of emerging adults. And Judge Wilson spoke about this at his State of the Judiciary event earlier this week.

The question that I have, these courts need resources. It's not just the judge and the judicial staff, they need the kinds of social service providers out there to work with the participant in the program and turn

their lives around.

How can we grow -- and I'll just say I'm an advocate for increasing funding for these kinds of programs. But what model do you think is the best way in terms of getting money to the system to help grow these ancillary services that make these programs successful?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Sure. Sure. So I said this earlier, I looked at the number of people testifying before you today, and I know that even outside of this hearing that you are probably getting reached out to by the folks who run these programs.

And we are only going to be as best as we can if there are programs that people can get sent to. So we don't feel like it's right for us to be not only the judge and then be in charge of the program that they're getting sent to -- that has to be another independent agency.

So we've been urging the mayor of New York City and the mayors of all of the

other big cities who are responsible for creating these programs to which we send the people that we want to help.

One of the things that I think is important to say is when a person successfully completes a drug treatment program, mental health treatment program, veterans treatment program, it reduces crime, it reduces recidivism. It makes those folks more responsible and wanting to build families. And those are the stories we hear. Those are what the stats would show.

And so it's critically important for us to fund all of the programs that are receiving the defendants that we want to send to them. And that's happening in some places, and it's not happening in some other places.

ASSEMBLYMAN OTIS: I'd also like to thank your court staff in the Office of Court Administration that help the judges that want to do these programs and grow these programs. We need to get you more money.

CHIEF ADMINISTRATIVE JUDGE ZAYAS:

Great. Thank you so much.

CHAIRWOMAN KRUEGER: Thank you.

Senator Shelley Mayer.

SENATOR MAYER: Thank you, Madam Chair.

Thank you, Judge. Nice to see you.

It's clear that the Protect Our Courts Act applies to town and village courts outside of the OCA control. But has OCA either collaborated or communicated with the town and village courts to make sure they understand that that law applies to folks that appear in those courts as well?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: I believe we have, but I will -- there's been a lot of discussions about this, and I think this was brought up and we will get back to you on it. I don't want to misrepresent that we do that.

But we had all of our folks in management reach out to all of our judges, and I'm assuming it included the town and village judges.

SENATOR MAYER: Well, thank you,

because for many of us who represent communities where a large number of our immigrant communities appear in these town and village courts, that's an important fact.

You asked for additional money for the virtual court appearance proceedings, and to enhance the way you do that. Is that non-Family Court appearances, or does that include Family Court appearances?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Can you read the first part of that again?

SENATOR MAYER: The virtual court appearance --

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Oh, yes, yes.

SENATOR MAYER: -- that you've asked for additional funds for, is that applicable to Family Court proceedings as well as non-Family Court proceedings?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: We do want to -- yeah. Yeah. I mean, I want to make sure we're talking about the same thing.

So there's a program bill where we're trying to amend CPL 182. That applies only

to criminal cases because several cases you can do virtually without a statute.

But there are certain cases that we'd like to do virtual, and there are certain cases that they're -- we feel like it's better to have someone come in, at least on the first appearance. It's a daunting process for litigants in Family Court, to keep having to take off of work to come to court.

So -- but it's with the consent of the parties, when they consent. And particularly support proceedings --

SENATOR MAYER: Support proceedings in Family Court.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: We want those -- those can be virtual because it's really mathematical. I mean, obviously there's some discretion.

And, you know, there are times in which it helps the parties to be able to not have to take a day off of work, or half a day off of work, to come into the court for that.

SENATOR MAYER: I understand that,

Judge, but I'm always sensitive to pro bono, particularly women litigants in Family Court who don't have an attorney, who they may consent without really understanding they don't have a chance to sort of make their case in person.

So I always have concerns. I understand the advantage for many people, virtual appearances in Family Court, but again, I think many people without an attorney want the ability to see a judge or a magistrate in person and may be able to make their case --

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Let me clarify, but it is with consent only. So if there is a litigant --

(Time clock sounds.)

SENATOR MAYER: We'll follow up, thank you.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Okay.

CHAIRWOMAN KRUEGER: Assembly.

CHAIRMAN PRETLOW: Assemblyman Ra.

ASSEMBLYMAN RA: Thank you.

Good morning. Thank you to you and your team for meeting with us yesterday to discuss some of the aspects of the budget.

I wanted to just talk a little bit about court security. And my colleague had gotten into some of the initiatives from last year, and I know we discussed them a bit yesterday. But --

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Assemblyman, would you mind just speaking up?

ASSEMBLYMAN RA: Sure.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: My wife tells me I can never hear her, and I think maybe she's right.

ASSEMBLYMAN RA: Sorry. Is that better?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yeah, it's helpful.

ASSEMBLYMAN RA: So I wanted to just talk a little bit about court security. I know we discussed yesterday some of the initiatives from last year's budget, and now you're implementing that. But in particular, about some concerns that have been brought to

me on local courts.

Now I know, obviously, it's a big part of the OCA's budget to provide court security or court officers. Is there any funding that's provided to local courts for safety for town and village judges?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: You know, I do not think that there is. I think the town and village justices have to provide their own security.

Sometimes they might use court officers, experienced court officers, who would do that in their evening sessions. But they are required to -- I'm pretty sure that's the correct answer. If I'm wrong, my team will correct me and reach out to you.

ASSEMBLYMAN RA: Okay. Thank you.

And one of the things I've heard, particularly at that level, because I think it varies greatly -- you know, as you saw yesterday, one of our staff members who is a local judge, you know, was telling us how things are done in his courthouse and thankfully there's always police on staff so

that, you know, if he's leaving at the end of the night and somebody he just sentenced or somebody is out there, that they make sure, you know, he's getting home safely.

So it has been brought up, the idea of at the village and local level, that some judges who are legally licensed to carry firearms might be interested in doing so. Is that something OCA would support?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: You're talking about judges who want to --

ASSEMBLYMAN RA: If they are licensed to carry a firearm, to be able to do so when they're, you know, on the bench and working.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: You know, that's -- I think that's -- I think we allow that. But let me get back to you on that too.

ASSEMBLYMAN RA: Okay.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yeah, but a lot of judges are licensed to carry. I think we had a policy in place some time ago where we preferred them not to bring their firearm in the courthouse. But we'll

1 get back to you on exactly the policy now.
2 ASSEMBLYMAN RA: Okay. And then
3 lastly, you've had -- I know we've talked a
4 little bit about the discovery changes in the
5 proposals. But I think it's worth repeating
6 something you talked about yesterday for my
7 colleagues here regarding some of the
8 initiatives that you have already undertaken
9 to deal with dismissals, particularly down in
10 New York City.
11 CHIEF ADMINISTRATIVE JUDGE ZAYAS: Oh,
12 sure. So what we -- we were concerned about
13 this. You know, we have old cases in
14 Rikers Island -- this is New York City
15 only -- and we had all sorts of strategy to
16 deal with these old cases where defendants
17 were in jail. And our AJs in each of these
18 respective counties were all over that.
19 Then we had this whole big bucket of
20 cases which are getting bogged down in motion
21 practice and all sorts of other delays
22 related to discovery.
23 And so our case processing initiative,
24 which we just piloted in Brooklyn, and we

understand it's doing really well, required -- basically required an acceleration of when the discovery, the important discovery needs to -- all discovery is important. But there were some particular pieces of discovery -- body cam, police reports, and all of those things that needed to be turned over quickly.

So we accelerated the prosecutor's burden. We expected the defense to review that discovery quickly and within 35 days, I think, determine whether they're going to challenge. We required the parties to confer with either a judge, a JHO or a law clerk and, if there is something still missing, to quickly get the prosecutor's office to provide that information.

And it's early, but it does appear to be successful.

ASSEMBLYMAN RA: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Senator Scarcella-Spanton.

SENATOR SCARCELLA-SPANTON: Good morning. Thank you, Judge Zayas.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Hi, how are you?

SENATOR SCARCELLA-SPANTON: Very good. Thanks for being here with us.

I know we've talked a lot about discovery and I feel like we each kind of have a role to play in it. What can be done or what has been done by OCA to expedite criminal cases and to resolve some of the discovery issues early to abate dismissals due to the speedy trial time running out?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Right. So a lot of the things I've explained is we've put into practice -- we had all of these stakeholder meetings, we agreed to a conference order. So as soon as a -- particularly someone who is incarcerated at Rikers, to have those folks confer with the judge immediately. And if there are disagreements, they have to come before the judge again.

And we put into practice these timelines by which these things needed to be done. And, you know, sometimes if a -- but

we put in safeguards too. It's guardrails and then these are the dates by which you have to do these things. But if there's good cause, because of the voluminous nature of the discovery, we can extend it.

So there was hyper-oversight of the discovery process. And when you do that, it avoids these motions that come later which slow things done and might take months and months to solve.

SENATOR SCARCELLA-SPANTON: Thank you.

And my next question is we spoke earlier about Family Courts as well, and we're really excited Staten Island's getting a new Family Court. But I know it's been quite -- it will be quite a long project.

Do you have any updates on this project? Because right now the Family Court lawyers, they're working out of trailers. I've gone to tour some of them just to see; they're right next door to my office.

But we're excited for it, I just wanted to see if you had an update on that project.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: I just saw an update. I can't tell you I remember it all. But there is an update. I mean, I saw renderings of it.

We did move a lot of the Family Court judges into Supreme Court. We are making sure that my other courthouses are accommodating Family Court judges as well. You're right, there are these trailers as well.

And I'll tell you that the courthouse looks beautiful.

SENATOR SCARCELLA-SPANTON: It's definitely going to look beautiful.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yeah, it's going to look beautiful.

SENATOR SCARCELLA-SPANTON: And I think in the interests of time, we can talk about this another time. But I just wanted to mention that I do know the hardships that judges go through with guardianship cases, and I would love to work with you to figure out how we can better support those cases moving forward.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Sure. And I'll take this opportunity to tell you all that I'm happy to have me and my team meet with anyone, anyone who wants to talk to us about anything. It doesn't have to be at this hearing.

SENATOR SCARCELLA-SPANTON: Thank you very much.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRMAN PRETLOW: Assemblywoman Cruz.

ASSEMBLYWOMAN CRUZ: There we go. Judge Zayas, always great to see you. Two quick questions.

I'd love to hear updates on the implementation of Clean Slate and how that's going and if there are additional resources that you need from us in order to support that process to ensure that it's done in a timely manner.

And then going back to some of the questionings around the interactions with ICE inside of the courtroom, my understanding from the way that the law was written and the

way that the process actually works is there's not necessarily a connecting point. Because if ICE is conducting the activity that they are allowed to conduct in the public spaces when there is a judicial warrant -- because it's happening in public spaces, there isn't necessarily a connector to the court system whereby you can track when it is actually happening.

Is there a way for us to perhaps fix that, help in fixing that? I don't want to create more paperwork, but I think it's important for us to know when it is happening. One of the things that we are seeing now is lots of confusion, lots of rumors, lots of -- I mean, I heard stories of -- there were 20 buses outside a courtroom outside of Long Island this week. No one can actually verify this. And that 20 people were taken -- no one can verify it.

It's because there's a missing link or seems to be a missing link there.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Right. So let me address your -- well, the

Clean Slate issue is easier because we're all over that. I talked to Senator Myrie about that. We've had meetings with you, and we'll continue to do that.

We feel like we're on track to get that done. Our research people are going to get that done.

With respect to ICE, the protocol requires that when anyone from ICE enters our courthouse, they have to present our officers with whatever documents they have that they think might give them the right to do something in the courthouse. And so that is tracked. That is sent directly to -- those paperwork -- that paperwork is tracked. The chief of -- or the major in that courthouse is sending that information downtown.

Immediately, that case is -- that paperwork is brought to a judge who is going to be deciding whether or not this is the type of warrant that's a proper warrant, a judicial warrant, or just a detainer. If it's just a detainer, they are not allowed to arrest in the courthouse, in the courtroom,

or anywhere. Maybe down the street somewhere, et cetera.

And that I think is being chronicled, and there's a reporting requirement of requirement that.

ASSEMBLYWOMAN CRUZ: So perhaps I misunderstood what you responded to earlier on this particular question. So I'm glad to hear that it is being tracked. And it would be great, especially with everything that is happening, to get a timely reporting on that. Thank you.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yeah, we can provide the protocols to you as well.

ASSEMBLYWOMAN CRUZ: Thank you.

CHAIRMAN PRETLOW: Thank you.

Senate.

CHAIRWOMAN KRUEGER: Thank you.

Senator Murray.

SENATOR MURRAY: Thank you, Chairwoman.

Thank you for being here, Judge.

So in your statement -- and I'm kind

of cherry-picking here, but you had said you want to make sure all New Yorkers have access to the fair, efficient and thoughtful administration of justice. You also said you want New Yorkers to have confidence in the judicial branch.

My good friend Judge Morinello earlier used the word "discretion."

So about a year or so ago, America saw -- the world saw as a group of men brutally attacked, assaulted, beat, kicked police officers in Times Square. The police did their job. They arrested most of them, brought them to court. And the next day America also watched as these defendants walked out literally flipping the bird in the camera to all of us, laughing, giggling as no bail was set and they were released. Come to find out, several of them fled the state and were caught later.

What do you think that does to the confidence that the public has in the judicial system? And does that have any impact on the morale in the courts?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: That's a really good question that has been keeping me up at night. Because in New York we are sometimes sentencing folks to prison -- and it's devastating to the rule of law, devastating to judges who are, you know, sentencing people to jail for maybe even less serious things. And then to see that happen, it is not good for judicial morale, obviously, and it's very, very, very concerning to us all.

SENATOR MURRAY: Do you worry that the public's confidence in the court system is eroding when --

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yes.

SENATOR MURRAY: -- they see things like that?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: So the National Center for State Courts recently issued a report which said that the public's perception of the federal branches of government -- the federal courts is the worst that it's ever been, but the public

confidence in state courts are going up.

It's still -- it's still too low. And we're doing everything we can to increase the public's confidence in the courts. Civic participation -- we're going out to the community more, we're bringing the community into the courthouses more to -- and doing all sorts of things, truly, to make that happen, to increase public confidence in the --

SENATOR MURRAY: But specific to New York, we're the only ones where you have no discretion when considering the dangerousness or the past record when setting bail. Does that hurt the public's confidence, in your opinion?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yeah, I'm not sure -- I'm not sure the --

(Time clock sounds.)

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Happy to talk to you later, then.

SENATOR MURRAY: Sure. Thank you.

CHAIRWOMAN KRUEGER: Okay, it's your turn now.

CHAIRMAN PRETLOW: Assemblyman

Burdick.

ASSEMBLYMAN BURDICK: Thank you, Chairs.

And Your Honor, thank you for your testimony and your work. And I also want to thank you for your response to Assemblywoman Cruz regarding the protocol where ICE intends to enter a courtroom.

I have a question that came out of the budget hearing on the environment, where we heard testimony about concern that there was a general lack of experience, expertise on complex environmental litigation. And while, you know, I suppose a separate environmental court system could be created, I know that there are specialized environmental parts, at least in New York City and Suffolk County, but I'm not aware of anything outside.

And I'm wondering if, since you have the authority, as I understand, to issue an administrative order to allow, say, Westchester County -- part of which I represent -- to give them the authorization to do so, have you given consideration to the

expansion of the system of the specialized environmental parts? And particularly since I don't think that it necessitates the appointment of an additional Supreme Court judge.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: So I am intrigued, because this is the first time I've heard of this. I didn't -- I never knew that there was an interest in starting these parts.

They sound interesting to me. I don't know anything about them. I'll admit when I lack knowledge about something. As you know, I try to be transparent. So maybe we can set up a meeting and you can tell me more about it. Or your staff can meet with my staff.

But I want to be honest with you, I have not heard about this.

ASSEMBLYMAN BURDICK: You also emphasized the crushing inventory and really the need for more judges. Part of it I understand is a space issue. Has OCA considered recommending to the Executive that it include help for capital needs, either

leasehold improvements or building additions and so forth?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: You know, by law, it's the county that's required to do this.

ASSEMBLYMAN BURDICK: No, I recognize that.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yeah. I mean, we have, for example, in extenuating circumstances created a lease space that really the county should have given to us, but sometimes it takes so much more time.

One of the problems is if you mean -- "mean" is not the right word. But if you go after the municipality, then you breed a bad relationship.

ASSEMBLYMAN BURDICK: I understand.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: So we try to deal with it much more diplomatically.

ASSEMBLYMAN BURDICK: Great, thank you.

CHIEF ADMINISTRATIVE JUDGE ZAYAS:

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Senator Gonzalez.

SENATOR GONZALEZ: Hi, good morning.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Good morning.

SENATOR GONZALEZ: It's so good to see you again, Judge Zayas.

I saw that there were some items in the budget regarding the use of artificial intelligence in the court system. And I've so enjoyed working with you and your colleagues on the AI Working Group that you put together last year, so I just wanted to ask if you have received any initial insights, how you think the technology should be used and how the courts should approach creating a framework for AI use.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yeah. And first of all, thank you. And several Assemblymembers are on that as well. And thank you for being willing to do that with your specialty.

We think that the advisory committee

is doing an extraordinary job. I hear everybody's learning a lot with respect to that.

I'm particularly interested in the subcommittee work, one of which is on evidence, deep fakes. There's a concern about how easy it is to manipulate a -- using AI to manipulate a particular video, for example. And the subcommittee that's discussing the admissibility of foundational requirements, authenticity, et cetera.

And then from -- as an administrator of 17,000 employees and judges, 1400 judges, I'm -- there's a subcommittee that's going to help us to come up with recommendations as to how our own people will be able to use AI in their work.

We did -- we are in the process of experimenting with all of these interesting projects. I've used a few to help me to write a speech. And we're learning. We're learning. And we appreciate all the work that you and the cochairs and so many others have done on that work, and I appreciate you

taking time to be a part of that.

SENATOR GONZALEZ: Absolutely. And certainly appreciate your leadership in this area.

I've certainly found being a part of the working group really enriching, and certainly want to call out the work and focus being put towards bias and discrimination, ensuring that any new technology is not amplifying existing inequities.

And to my -- the second question just is if the courts need any additional support from the Legislature for modernization efforts, new technologies, and more.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: I might have missed your question there, but what --

SENATOR GONZALEZ: If you need additional support from the Legislature. How can we help?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yeah. So I think once our advisory committee issues a final report, hopefully that will be part of it.

I think the legislation part is going to be a big part of the ask eventually.

SENATOR GONZALEZ: Perfect. Thank you so much.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Thank you.

CHAIRMAN PRETLOW: Assemblyman Bores.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yes, Senator Bores -- I mean Assemblymember Bores -- we support lifting the caps.

(Laughter.)

ASSEMBLYMAN BORES: Couldn't have said it better myself.

(Laughter.)

ASSEMBLYMAN BORES: Could you talk a little bit about the impact of the backlog, especially in the State Supreme Court? You mentioned it in your testimony. Can you say a little more?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Sure. I mean, let me just clarify. The backlog in our felony-level courts is really limited to New York City. And some say it's a lack of -- we don't have enough judges to

handle these cases.

And if you've read my budget request, I'm asking for 10 additional Criminal Court judges who I expect to sit in Criminal Court, but then I would be able to elevate those who are already sitting in Criminal Court to Supreme Court.

And so the effect is that defendants are staying on Rikers Island longer. I mean, that's one effect. But I hesitate to say that because judges are always, always, always available to try any case that is presented to us as ready.

You will never find a judge say, when a defense attorney and the prosecutor comes in and says, We're both ready for trial -- that case is going to trial. It's not getting adjourned. It's the parties who say -- and sometimes it's the prosecutor, sometimes it's the defense -- We cannot try this, I'm not ready, I didn't get this, et cetera.

And so a judge's responsibility is to push and push and push --

ASSEMBLYMAN BORES: I'm giving you a softball here to ask for more resources. You don't need to caveat the --

(Overtalk.)

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Okay. That's what we're looking for.

(Overtalk.)

ASSEMBLYMAN BORES: One other question. Given our need for more judges, one way that sometimes we lose them is certificated judges choose to retire because they're worried that their spouse might lose benefits or the pension if they were to die while they're still there, often known as the "death gamble."

As you know, this Legislature passed a bill last year to correct that for judges. And you've said this in other venues, but just to be clear, with this budget and going forward, would you be able to cover the cost of fixing the death gamble without additional appropriations?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Absolutely. Absolutely. And we've asked the

Senate Majority Leader as well as the Speaker to put these death gamble bills in their one-house bill.

ASSEMBLYMAN BORES: Great. And I think just because the recording didn't capture it before I started speaking, could you say what you said right at the start of my questioning?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Oh, yes. We absolutely support the lifting of the caps.

ASSEMBLYMAN BORES: Thank you.

CHAIRMAN PRETLOW: Thank you.

Assemblywoman Shimsky.

ASSEMBLYWOMAN SHIMSKY: Thank you very much, Mr. Chairman.

Good morning. First of all, I want to thank you for working on making the courts more accessible, bringing down the cost of litigation with changes like video conferencing, e-filing and so on.

While we're on the subject, in the 9th Judicial District we are 13 judges short.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: We

are what?

ASSEMBLYWOMAN SHIMSKY: Thirteen judges short, according to the Constitution.

And we certainly do have backlogs in our courts. So anything we could do to get one or two more this year and --

CHIEF ADMINISTRATIVE JUDGE ZAYAS: You're talking about Supreme Court judges?

ASSEMBLYWOMAN SHIMSKY: Yes. Yes. So that's going to be very important to us.

One issue I want to have a little bit more dialogue on concerns continuing professional education for our judges and for related staff. You know, we've done a lot of substantive legal reforms the last few years, including bail reform. We are trying different things with procedure and with rules, you know, as with the filing and everything.

What are we doing to make sure our continuing legal education for the employees in our court system, including our judges, is keeping up and they're getting the kind of deep understanding they need to be able to

rule on cases in these matters?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Right, yeah. So we are doing all sorts of things. And it's -- in Westchester we have the Judicial Institute, which I'm sure you're familiar with. And judges are regularly trained and go to training in July for a week.

Oftentimes judges are part of associations, judicial associations; they get another three or four days of training. Dean Davidson is doing an extraordinary job and is regularly -- I'm telling you it seems like almost every week I get an email from her offering judges additional training, remote webinars, et cetera.

And so I do really believe that there is training available quite regularly. And Dean Davidson is doing an extraordinary job not only in putting these panels together, but also in making folks aware of it. I understand in Nassau County recently Dean Davidson and a bunch of other educators went to Nassau County. So they're actually

taking their show on the road and coming into the courthouses to work on things. Things like -- I think that --

ASSEMBLYWOMAN SHIMSKY: Thank you.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Thank you.

CHAIRMAN PRETLOW: Assemblywoman Walker.

ASSEMBLYWOMAN WALKER: Thank you, Your Honor. Your testimony today has been, you know, quite frankly very inspiring. And it's an amazing thing to have someone who is of your caliber and experience at the helm.

You did explain to us, with respect to discovery, the due diligence standard: That prosecutors have to act in good faith, that defense attorneys have to produce the document that they are purporting exists but has not been turned over in discovery, and indicated that those are procedural safeguards with respect to having cases dismissed on speedy trial.

But my question is, is there an instance where the speedy trial clock can

stop?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yes. So the speedy trial clock stops when the defense makes a motion to challenge the prosecutor's certification of compliance with discovery. And other events -- there are many events which stop the speedy trial clock.

ASSEMBLYWOMAN WALKER: Is there an event that would stop the speedy trial clock if the prosecutor requests more time, or some other instance, as well as the defense counsel?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: I don't think so. I think the prosecutor gets to stop the speedy trial clock when he or she files and answers "ready for trial." That's what stops the speedy trial clock.

ASSEMBLYWOMAN WALKER: Okay, no problem. So there is no instance where, if they are requesting more time -- or if they ask the judge that the speedy trial clock can stop.

But you did, I believe, mention that

it can be extended, based on the conference timeline that gets presented whenever it is the parties are able to meet with the judge.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yeah, let me add something else. There is a provision in the Speedy Trial Statute that refers to extenuating circumstances. So if they can persuade a judge that there was extenuating circumstances which prevented them from doing something -- it's not something to choose a lot, because it's really got to be extenuating circumstances -- that might also stop the speedy trial clock.

ASSEMBLYWOMAN WALKER: Thank you.

And there is another question that I have with respect to U.S. Bank. In many of the foreclosure cases, large financial institutions like U.S. Bank have lack of capacity and they also lack transparency and accountability in residential foreclosure cases.

What steps is the court system taking to ensure the integrity of these processes and proceedings?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yes. I see -- I have a lot to say about that, but I see I only have three seconds left. I know our offices have been talking, and I'm happy to meet with you and talk further about it.

ASSEMBLYWOMAN WALKER: No problem. Thank you.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Thank you.

CHAIRMAN PRETLOW: Assemblywoman Simon.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Good morning. I think the last time you asked me a question, I misinterpreted your question and gave you an off-the-wall answer. I will try not to do that again.

ASSEMBLYWOMAN SIMON: Well, thank you, Your Honor, I appreciate that.

So I'm not going to ask you the same question again. But -- and I do want to say thank you for agreeing to speak with me offline about that other particular matter I raised.

I did want to say that I'm very pleased to see the attention that's being given to the capital improvements and the accessibility of our courts, which have really lagged for people with disabilities, including their participation in court proceedings. And some of which, of course, being remote will make a big difference.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yes.

ASSEMBLYWOMAN SIMON: I'm curious, years ago there used to be a committee that was mostly people from the court system but a few of us outsiders on it to advise the court on ADA matters. Do you still have a committee like that that you're working with that include people with disabilities?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yes. We have an advisory committee which now has I think three cochairs that make recommendations to us on what we can do to increase accessibility and access to justice for folks with disabilities.

It's something that came up in -- when

a blind juror, and you might have heard about this, who shows up for jury duty, and there were some questions about how we handle that. And so that caused our team to immediately reach out to our advisory committee and give us some input on what we can do.

The question is can a blind person sit on a jury where there are things that they might be required to see in order to -- you know, the other question is credibility. When a witness testifies, if you can't see the witness, how do you judge credibility?

But we've been looking into whether there's accommodations that could be made, and that's ongoing. The -- they're still looking into this.

ASSEMBLYWOMAN SIMON: There's an early DC Circuit Court opinion on that saying yes, the blind person can serve. But just FYI. I'll send you that case.

I also wanted to just thank you -- I don't know whether you were personally involved or not, but the Red Hook Justice Center, as you know, is really a crown jewel,

and Judge Calabrese handled that for so many years. And the fellow who is there now is really, really excellent. So he's a fitting, you know, successor.

Thank you.

CHAIRMAN PRETLOW: Thank you, Assemblywoman.

Assemblyman Palmesano.

ASSEMBLYMAN PALMESANO: Yes, thank you, sir, for being here.

I have one question -- I think this should be just a yes or no answer -- and then I have another question I want to follow-up with.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Can you get closer to the mic? I'm having --

ASSEMBLYMAN PALMESANO: Yes. Yes.

I have one question, it should be a yes-or-no answer, regarding the discovery laws --

CHIEF ADMINISTRATIVE JUDGE ZAYAS: That's what judges usually say, "yes or no."

(Laughter.)

ASSEMBLYMAN PALMESANO: Yes, I know.

But if you have to elaborate, maybe we can do it offline, but I don't think you should.

Because we've been talking about discovery, I'm curious -- and I don't want to get into the nuts and bolts of it. I'm just curious, does an OCA document have the statistics pre-discovery and post-discovery on the number of cases that have been dismissed? And is discovery compliance cited for reasons for dismissal?

Do you have that data? And if so, could you share it with us? Yes or no.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Okay, so you asked a compound question, so I object --

(Laughter.)

CHIEF ADMINISTRATIVE JUDGE ZAYAS: No, I'm just kidding. I'm just kidding.

No -- yes, we do have that data. The second part of your question, I'm not sure we have the data. But we do have the data, 2019, before discovery was enacted, and how many cases were dismissed. So we're happy to

share that with you.

ASSEMBLYMAN PALMESANO: Okay, thank you.

My next question is on the bail reform laws. In the Governor's State of the State she said the new changes basically give the judges the ability they need to combat reoffenders, and that no new changes are required. However, the new NYPD commissioner recently published an op-ed for the City of New York outlining the surge in recidivism and argued that it really stems from the failure to adequately address our state bail reform laws.

Do you agreed with the NYPD commissioner that the surge in recidivism across the state can be attributed to the reluctance to bring commonsense changes to our state bail reform laws, like allowing judges the discretion to consider the dangerousness of an individual when setting bail? Or do you agree with Governor Hochul that what she's done is enough to keep the public safe?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: You spoke very quickly there, so I'm not sure I picked up on everything and I'm not sure I understand the question. Please forgive me for that. But I'm happy to --

ASSEMBLYMAN PALMESANO: I'll try to summarize.

The Governor said the inactions of the bail reforms we passed are good enough. The NYPD commissioner just did an op-ed saying there's a surge in recidivism, and basically it cited the bail reform laws as the reason.

Do you agree with the NYPD commissioner that recidivism can be put back to the bail reform laws, or do you agree in allowing things like judges have discretion on the dangerousness of an individual? Or do you think the Governor is right in saying enough has been done on bail reform to keep the public safe?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: I mean, the way I heard the Governor say that is not to take discretion away from the judges.

But there's some folks who think that just because a judge has discretion to do something, that they must do it. But it only gives them the choice to do it or not with respect to bail.

ASSEMBLYMAN PALMESANO: Do you agree with the NYPD commissioner that --

CHIEF ADMINISTRATIVE JUDGE ZAYAS: I haven't read that. Really, I haven't read that, I haven't heard about it.

ASSEMBLYMAN PALMESANO: I'd like your opinion after you read it.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yeah, I'm happy to read it, yeah. I just haven't come across it.

ASSEMBLYMAN PALMESANO: Thank you, sir.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: I've been preparing for this meeting -- I haven't had a chance to read anything.

ASSEMBLYMAN PALMESANO: I understand. Thank you.

CHAIRMAN PRETLOW: Assemblyman Meeks.

ASSEMBLYMAN MEEKS: There we go.

Thank you for joining us here this morning.

I have a couple of questions. One of them is pertaining to professional development. What are your thoughts and views on ongoing professional development for judges as well as the court system? Judges from top to bottom across New York State. Because what we find is laws apply one way in Monroe County another way in Kings County.

Can you speak to that?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Sure. So I am very proud of the work of Dean Davidson in terms of the webinars -- I mean, it seems like almost every week the dean is putting out programs for judges, and it's -- they're doing this at their desk.

But there's also so many programs, trainings in July for all of the judges. If you're a new judge, you get almost two weeks of training, depending on your particular specialty. You get additional training locally in the courthouses that you get sent to.

So I am very satisfied with our

training program and professional development.

ASSEMBLYMAN MEEKS: You mentioned new judges. Should that apply for tenured judges as well?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: What type of judges?

ASSEMBLYMAN MEEKS: Should that apply for judges -- longstanding judges?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yes. Yes. No, everybody is required to do this training. And it's -- I mean, I just saw something on medicine, how to deal with medicine, that was done in Nassau County recently.

But we are constantly making presentations to judges on different areas of the law. There is archives that judges can go to. There is -- I mean, the other thing is I was an administrative judge in Queens for a while. And even though it was not my technical responsibility to train the judges, we appoint mentor judges to newer judges.

And every time the Court of Appeals

would issue a decision, I would summarize that decision personally and then send it to all of the judges so that they would be -- criminal cases, because I sat in criminal -- so that they would be familiar with the Court of Appeals cases that just came out.

ASSEMBLYMAN MEEKS: Thanks.

And as it relates to the special courts, 350-plus special courts around the state, are there any that focus on not just the individuals, like say it's drug court, but that reaches to the families? Like, for instance, children often experience adverse childhood experiences based upon the parent's lifestyle. Are they far-reaching to touch the children of these individuals?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yes. Yes. I mean, there are efforts to do that. And sometimes if it's a young person, the parents are in the courtroom. So in a sense, the judge talking to the parent and the child -- the parent not directly, but the child directly.

ASSEMBLYMAN MEEKS: Thank you.

CHAIRMAN PRETLOW: Assemblywoman Giglio.

ASSEMBLYWOMAN GIGLIO: So we come from Riverhead, Suffolk County, New York, and our court has been out of compliance for many years. We have 10,250 cases on the docket, including criminal, traffic, civic, and no mechanism to make the courts come into compliance. So attorneys can meet with incarcerated individuals on their arraignment, and also for our justices to be safe and also the connection of funds for tickets to be -- those people to be safe.

We've -- the Town of Riverhead has purchased a new building, it will cost them $12 million. And the building that the town board was in remains vacant, waiting for retrofit for the justices and for the court to move into that building.

The estimated cost is $3 million. And there is no mechanism to try and get that funding in order to make the courts safe and also to help the people that are meeting with their attorneys to prepare for trial or to

prepare to go before the judge.

What can you do to help them?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: So when you say you're out of compliance, you don't have places for your Supreme Court --

ASSEMBLYWOMAN GIGLIO: Our holding cells are insufficient. Our mechanisms for the attorneys to meet with people before they go before the judge -- there's just no -- there's no place for them right now in the current court. And they need to retrofit that building in order to make it so that it's compliant.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: This is the Supreme Court and the County Court in Riverhead? Or is there another place?

ASSEMBLYWOMAN GIGLIO: No, it's the Town Court. It's the justice court for criminal, civil and for, you know, tickets.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: But is it serious -- is it felony criminal?

ASSEMBLYWOMAN GIGLIO: Yeah, yeah, it's their arraignments. It's when they're

coming before the judges.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: It's the Riverhead Court that -- I'm familiar with Riverhead Court.

ASSEMBLYWOMAN GIGLIO: Yeah, there's several courts in Riverhead, so -- we happen to be the county seat. But the Town of Riverhead itself, their court.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Is it a town and village court?

ASSEMBLYWOMAN GIGLIO: It is.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Okay. So that -- I'm asking for a really particular reason.

ASSEMBLYWOMAN GIGLIO: Understood.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: So town and villages are required -- we don't have any authority to do anything in those courts in terms of facilities.

If you were talking to me about the Riverhead where Supreme Court is and County Court is, then that's under our jurisdiction.

ASSEMBLYWOMAN GIGLIO: Okay, so I

should ask this to somebody down the road in further testimony today?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yeah, it's really the town board that does that. We don't have any control over the town and village courts --

ASSEMBLYWOMAN GIGLIO: And quickly back to what my colleague on the other side, the Senate side was saying about consideration of seriousness and dangerousness when setting bail. You know, everywhere else in the country you can consider how serious or dangerous someone may be in order to set bail. And why are we not doing that?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yes, I think that's a good question for everybody in this room why we're not doing that.

(Laughter.)

CHIEF ADMINISTRATIVE JUDGE ZAYAS: It's really not a judicial question, right? I mean, the --

(Time clock sounds.)

ASSEMBLYWOMAN GIGLIO: Thank you.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: You're welcome.

CHAIRMAN PRETLOW: Assemblywoman Kelles.

ASSEMBLYWOMAN KELLES: It's still morning, right? Yeah, fifteen minutes.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: How are you?

ASSEMBLYWOMAN KELLES: So I just wanted to add my two cents about authorizing environmental courts. We desperately need them. We have so many environmental laws and so few law enforcement --

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Could you -- I have a hearing problem.

ASSEMBLYWOMAN KELLES: I was talking about environmental courts, the authorization, just an extra plug in supporting that. We desperately need them.

So four quick questions. Your OCA dashboard shows that dismissal rates in New York City have not increased in Superior Courts where indicted felonies are

prosecuted, correct? That's how I read it.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: I'm really having trouble hearing you. But with respect to --

ASSEMBLYWOMAN KELLES: The dashboard, the OCA dashboard that you have --

CHIEF ADMINISTRATIVE JUDGE ZAYAS: You said something about environmental -- I think they're a great idea.

ASSEMBLYWOMAN KELLES: Fantastic.

(Overtalk.)

ASSEMBLYWOMAN KELLES: The way I'm looking at the OCA dashboard, it is not showing an increase in dismissals in New York City specifically related to the indicted felonies.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Not showing --

ASSEMBLYWOMAN KELLES: It is not showing increases in Superior Courts where indicted felonies are prosecuted, the dismissal rates. Is that correct? Did I read that correctly, the dismissal rates in New York City in the courts?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: I'm so sorry, I really --

ASSEMBLYWOMAN KELLES: I'm just going to say yes, they are flat.

(Laughter.)

ASSEMBLYWOMAN KELLES: Okay? You aren't showing increased dismissal rates in the indicted felonies in the New York City dashboard.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Indicted felonies are not getting dismissed.

ASSEMBLYWOMAN KELLES: Correct.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: In New York City.

ASSEMBLYWOMAN KELLES: Correct.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: That's true.

ASSEMBLYWOMAN KELLES: Correct.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: It is the felony complaints and the misdemeanors that are getting dismissed on speedy trial at like way higher rates than they used to be.

ASSEMBLYWOMAN KELLES: Do you have -- can you share with us why you think that is?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Oh. Yeah. I mean, I have some thoughts.

ASSEMBLYWOMAN KELLES: I'd love to hear them.

(Laughter.)

CHIEF ADMINISTRATIVE JUDGE ZAYAS: When -- the fact that something is getting indicted, right, tells me that prosecutors see that as a really serious case that they want to prosecute robustly.

And so they then are focusing on -- and I know there's prosecutors here who can feel free to, you know, correct me. But they are -- they are complying with their discovery because that is their really important case. And so there's no way they're going to let that important case that gets indicted --

ASSEMBLYWOMAN KELLES: Let me ask you, do you think that there are cases in which the misdemeanors that are coming forward, it's because there isn't enough information or evidence to proceed with those, but there are potentially more that are coming in?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: I mean, there are misdemeanor cases as well that don't get dismissed for speedy trial and it might be that the prosecutors, again, are focusing, hyperfocused on the misdemeanor -- the recidivist misdemeanor and they feel like they have to do something with that. And so those cases go forward.

ASSEMBLYWOMAN KELLES: So I'll get the other three questions maybe offline.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yeah, and I'm happy to meet with you.

ASSEMBLYWOMAN KELLES: Sure. Thank you.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Sure. You're welcome.

CHAIRWOMAN KRUEGER: Thank you.

We're now on to the chair of Judiciary's three minutes of follow-up, Brad Hoylman-Sigal.

SENATOR HOYLMAN-SIGAL: Thank you, Madam Chair.

Wanted to ask you, Judge, about the January 6th pardons. And there was a

question earlier about judicial security. We know that some of the defendants who were pardoned had been on social media taunting prosecutors and judges after that decision by the Trump administration. Are we seeing that in New York? Can you assess any impact of those pardons?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: I haven't heard anything about that. I mean, does it affect judges, is that what you're asking?

SENATOR HOYLMAN-SIGAL: Yeah.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Yeah. I mean, if I'm an elected Supreme Court judge, it's very disturbing for me to see the extent to which we put young men and young women in jail in New York for things way less serious than what happened on January 6th.

And I'm not saying I would do this, but there's a temptation, I think, on judges, like particularly judges of color, wondering like, Wait, here we are putting people in jail for less serious things than these

people got pardoned for.

And I'm not saying judges will do it, but that transparency -- you know, you know me, I speak my mind. It's something that I've heard judges say. Like here we are putting people in jail for less serious things, and they're the ones that get pardoned.

So, I mean, it's -- I'm not saying it's going to work its way into how we dispense justice, hopefully. But it's certainly something that is very annoying to us.

SENATOR HOYLMAN-SIGAL: Something more on the ground, judges -- Housing Court, last year, in conjunction with you, we added five new judgeships. But that doesn't seem enough, as I think you would agree. We've heard from legal service providers that tenants can wait months to get on the calendar. And that means additional months living in potentially dangerous living conditions. And it means that landlords don't have a decision either.

What, could you tell us, is OCA doing to, one, address ongoing staffing shortages in Housing Court and, two, ensure that tenants can seek timely justice in these proceedings?

CHIEF ADMINISTRATIVE JUDGE ZAYAS: So we recognize that it's been difficult. We approved tons of court attorney positions to help facilitate resolutions of these cases. They are hard to hire. People aren't applying for them. So we're thinking of other ways to get them in.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRMAN PRETLOW: Thank you.

And we have the chair of Judiciary, Assemblymember Lavine, for his three-minute follow-up.

ASSEMBLYMAN LAVINE: Thank you, Chair Pretlow.

I have a compunction to try to correct the record, and it's thanks to working for so long with judges like you. But I do want the record to reflect that this Legislature

passed, and Governor Hochul signed into law, Section 539.20(1)(b)(xx) of the Criminal Procedure Law providing that bail may be set on any felony or Class A misdemeanor involving harm to a person or property. And harm includes theft or damage to property.

So now I have a question for you. Do you imagine, do you think judges in general believe or imagine that the pardoning of the January 6th people who were convicted of storming the United States Capitol adversely affects public morale?

Oh, let me withdraw the question. And thanks.

(Laughter.)

CHAIRWOMAN KRUEGER: I think we have now run out of legislators who are entitled to more time, so we are going to thank you very much for being with us today. Please extend our thank you to the entire judicial system for the important work you do.

I think this moment in history reminds all of us how crucial it is that we have a Judiciary who actually understands their

obligation to uphold our laws and our Constitution. I think there will be more demands on you than ever.

So go and do good, and do good work. Thank you very much.

CHIEF ADMINISTRATIVE JUDGE ZAYAS: Thanks. Thank you so much. It was an honor to appear before you. Thank you much.

CHAIRWOMAN KRUEGER: Thank you.

And no one surround the judge as he's leaving. If you need to, talk to him outside the room, so that we can call up our next panel, which is the New York State Commission on Judicial Conduct and the New York State Office of Indigent Legal Services.

(Pause.)

CHAIRWOMAN KRUEGER: And with a few minutes to spare, I can still say good morning. And I'm going to ask both Patricia and Robert to just first introduce yourselves so the video team knows which name to put with which face when you testify.

ADMINISTRATOR TEMBECKJIAN: Happy to. I'm Robert Tembeckjian. I'm the

administrator and counsel to the New York State Commission on Judicial Conduct. And it's nice to see you all.

CHAIRWOMAN KRUEGER: Thank you.

DIRECTOR WARTH: And I'm Patricia Warth. I'm the director of the New York State Office of Indigent Legal Services.

CHAIRWOMAN KRUEGER: Thank you.

Shall we start with you, Robert?

ADMINISTRATOR TEMBECKJIAN: If you don't mind, I think Patricia would --

CHAIRWOMAN KRUEGER: Oh, she would prefer? Whichever.

ADMINISTRATOR TEMBECKJIAN: -- care to go first, if that's -- if you don't mind.

CHAIRWOMAN KRUEGER: Okay. Patricia first.

DIRECTOR WARTH: Good afternoon, I think. I want to thank you for this opportunity to talk to you about ILS's budget request. But I also want to thank you for your ongoing support of ILS as we work to improve the quality of public defense in New York, which includes both the

representation of people in criminal cases and also the representation of parents in Family Court matters.

I'm going to start with a story that Andy Correia, the Wayne County Public Defender, shared with the ILS Board this past December. And it's a story that describes how state funding has effectively transformed or is transforming what was a broken criminal defense system.

So last year a 46-year-old woman who I will call Michele called the Wayne County Public Defender's Office, and she explained that when she was 17 years old, in 1995, she was arrested for and charged with the misdemeanor offense of endangering the welfare of a child. She showed up at her first court appearance, her arraignment, as instructed. She of course couldn't afford an attorney, and there was no public defender there to represent her, so she was on her own.

She pleaded guilty to the misdemeanor offense, and the judge sentenced her to a

fine. She had no idea when she pleaded guilty that this conviction, this sole arrest, would mark her record permanently. And it did. In the next 29 years Michele lost several job opportunities because of this misdemeanor conviction as well as a small business loan.

So she had called the Wayne County Public Defenders Office to see if there was anything that could be done. Mr. Correia managed to find the court record, which corroborated what Michele told him. But as he reviewed the record and listened to her story, he realized that a grave mistake had been made.

Because she was only 17 years old at the time of the arrest, and because it was her sole arrest, the law actually mandated that Michele be adjudicated a youthful offender, which would have vacated the conviction and sealed the records. But again, because she was without an attorney at her first court appearance, nobody knew this. Nobody reminded the judge of this. Nobody

made sure that the judge actually applied the law.

Mr. Correia was able to work with the district attorney and the judge, and everybody agreed to vacate the conviction against Michele and to dismiss the charges. But nobody could give her back the 29 years of opportunities that she had lost.

Now, Mr. Correia finished this story by emphasizing emphatically that what happened to Michele in 1995 would not happen today in criminal cases, and that's because of the state commitment to fully funding the Hurrell-Harring settlement initiative statewide.

It used to be the norm that people were arraigned without defense counsel. Now the norm is representation at arraignment. Since 2017, over 420 new attorney positions have been hired by public defender offices, and over 600 specialized professionals, providing the caseload relief that is foundational to quality representation. And Mr. Correia said now he has attorneys who

have access to the resources that they need to provide quality representation in their criminal cases.

And all of this is because of the Hurrell-Harring settlement. And it's a story of how the settlement and the state's commitment to fully funding it has really been effective in transforming public criminal defense.

So it's with that as context that I want to focus on ILS's two budget priorities. And the first is the dire need to address the crisis in Family Court representation. And the second is the imperative of maintaining the integrity of the Indigent Legal Services Fund.

So I'm going to start with the first imperative by saying simply that what happened to Michele in 1995 in her criminal case is happening today to low-income parents in their Family Court cases. Why? It's because the Hurrell-Harring settlement applied only to public criminal defense. It didn't include Family Court representation.

And family defense has been left behind.

So while the state is devoting almost $274 million per year -- thanks to your support -- to improved-quality public criminal defense, there's been no comparable investment to improving the quality of representation provided to parents in Family Court matters. And the data that ILS collects from family defense providers across the state reveals just how far behind Family Court defense is.

Family Court attorneys, their weighted caseloads are 85 percent higher than their Criminal Court counterparts. And they have access to less than two-fifths of the resources and time to represent their clients than their Criminal Court counterparts.

So what this means in practice is that when parents have their first Family Court appearance, low-income parents, they are often most likely not represented by counsel. Like Michele, they're alone.

And when eventually they are assigned an attorney, the attorney that they are

assigned often is working under overwhelming caseloads with limited access to the resources needed to provide quality representation.

Children are needlessly taken from their parents because of this poor-quality representation. And because we know that Family Court has a disparate impact on communities of color, what this really translates to is Black and brown families being torn apart.

There's a solution to this, and we know there's a solution to it because we're implementing it right now in public criminal defense. We need to extend and implement the Hurrell-Harring settlement initiatives in Family Court representation just as we have done in Criminal Court representation. And the foundational initiative is caseload relief.

So ILS did some research over the last couple of years, obtained data from family defense providers from across the state, and we've determined that it would cost

$150 million, conservatively, in state funding to provide caseload relief to Family Court defense just as we have done to criminal defense.

And we suggest that this $150 million, that it be phased in over three years. So that's why, in our budget request this year, we're requesting $50 million for improved quality Family Court representation.

Now, I know I don't have to persuade you of the importance of this funding. It's because of your support that last year's final enacted budget included 19.5 million for improved-quality Family Court representation. And we are glad to see that the Executive Budget proposal continues this 19.5 million for the State Budget.

But it's still not enough. It's far short of the 150 million that is needed to provide caseload relief across the state to every family defense provider. And it leaves many defense providers in your districts behind. And, of course, families continue to suffer.

So what I'm asking of you today is that in the next several weeks, as you're working with the Executive on the final enacted budget, that you make it a priority to include in the final enacted budget the $50 million in ILS's Aid to Localities budget for improved quality Family Court representation, with the goal of achieving $150 million by fiscal year '27-'28.

Now, importantly, this funding needn't come from the General Fund. You can do this without jeopardizing balancing the General Fund. In fact, the funding can and should come from the Indigent Legal Services Fund, which is a special fund that's dedicated solely to improving the quality of public defense.

But this is a segue to my second imperative, which is maintaining the integrity of the Indigent Legal Services Fund.

In the Public Protection and General Government Article 7 bill in the Executive proposal, there's a proposal to

transfer $234 million from the Indigent Legal Services Fund to the General Fund. Now, 114 million of that is to partially reimburse counties in New York City for the expenditures that they incur for the 2003 enacted increase to assigned counsel rates. And so from our perspective, that's related, directly related to the purpose of the fund.

But the rest of the 120 million has no public defense discernible relationship. And so we're asking you, as you negotiate again the final budget, the final enacted budget, that you reduce this sweep from $234 million to $114 million.

And I will talk to you a little bit about the fund and what that means if I have an opportunity to answer questions, but I see my time is running out.

And thank you, and I look forward to answering any questions that you have.

CHAIRWOMAN KRUEGER: Thank you.

Good morning -- good afternoon, Robert.

ADMINISTRATOR TEMBECKJIAN: Thank you.

Again, my name is Robert Tembeckjian. I'm the administrator and counsel to the Commission on Judicial Conduct.

And as I have communicated to the leadership of the various committees represented here today, I'm in the unaccustomed position here of not asking you for additional money this year. Because I'm happy to say that the Governor and the Division of Budget -- led by someone very well known to you all, Blake Washington -- and I agree on what the appropriate budget for the commission ought to be in the coming year, which is $9.33 million.

And I think the reason that we are in agreement is because there is a recognition by the Executive, as there has always been by the Legislature, of the unique constitutional role that the commission plays in really advancing the twin pillars of public respect for the courts.

And the first is a recognition that the judiciary has to be independent. Judges have to have the ability to call the cases as

they see them, without outside pressure, without political pressure, and without any other untoward influences.

At the same time, for public confidence in the court system to sustain and to grow, judges do have to be accountable for when they transgress and violate the ethical rules that bind them all.

It is an important aspect of what the commission does in enhancing both the independence of the judiciary and the accountability of the judiciary to deal with the extraordinary number of complaints that we receive every year.

New York State has approximately 3300 judges, and last year we received 3,250-some-odd complaints against them. Every one of them has to be analyzed, interpreted, researched, and ultimately decided, which is an enormous amount of work. Even though, as you might imagine, that the majority of those complaints don't really allege that a judge violated the ethics rules -- they are essentially disagreements

with the outcome of cases.

What that means, those nearly 3300 complaints against 3300 judges, is that the commission absorbs a lot of the anger that those who have proceedings in the courts might otherwise direct to the judiciary. We sort of deflect from the judiciary the animosity, the anger, the upset that litigants feel when they lose a case and consider that they have no other recourse but to make a complaint against the judge.

We are not an appellate court. We don't pass judgment on the merits of a ruling. And we explain to those 3300 complainants why it is that their complaints really weren't alleging misconduct or other inappropriate activity by the judge.

At the same time, last year we publicly disciplined 2400 judges throughout the state, 16 of them either removed from office for egregious misconduct or agreed publicly to resign with a commitment never to return to the bench. Which is an extremely important function that we perform.

However, there are some judges who can evade disciplinary responsibility for serious misconduct by resigning and not agreeing publicly never to return to the bench. And the commission, because of the current state of the Judiciary Law, has a very, very limited time to complete its proceedings and impose discipline, and the only discipline we can impose after a judge resigns is removal from office. And that's because under the Constitution, removal disqualifies a judge from ever returning to the bench.

But if a judge resigns early and has not done something that was removable but perhaps should result in censure or public admonition, we have no authority to act. And we are time-constrained. And this was brought to significant public exposure just in the last week, when we announced the resignation of a judge, with a commitment never to return, from a City Court in Western New York who resigned 10 years ago when his misconduct had been revealed. That judge, who was an attorney, was ultimately

suspended from the practice of law for two years, but because we didn't have time enough to complete a removal proceeding which would have disqualified him from ever coming back, and because he did not stipulate publicly with us to never coming back, he was in a position to be reappointed to the bench, which he was.

And then we renewed our proceeding and after some motion practice in which the judge attempted with effectively a laches argument to say that we had no authority to remove him from his conduct that had occurred in a prior iteration of his judgeship. When he lost that challenge, he entered into a stipulation to leave and never to return.

Legislation that was introduced last year by Senator Hoylman-Sigal and by Assemblyman Lavine, which passed the Senate, addressed that issue, and it would have removed that artificial cap on our ability to continue to discipline a judge who resigns in an attempt to evade responsibility, knowing that the clock is ticking very fast on us.

And I hope that the Legislature will renew its interest in looking at that legislation and that we might have, you know, a full exposition of it and perhaps even have it passed in both houses this year and sent to the Governor.

In any case, we appreciate beyond measure the degree to which the Legislature and particularly the leaders of Finance and Ways and Means and the two Judiciary committees over the years have been forceful advocates for the commission having the resources to do the job that it needs. Those 3300 complaints this year set a record, breaking last year's record of about 2900.

The more our work becomes known, the more sophisticated the public becomes in researching and determining how they can follow up on their legitimate grievances, the more work we are going to have to do.

And the fact that we dismiss the vast majority of the complaints that come in to us serves a public service in that it separates the illegitimate criticism of a judge to the

legitimate criticism of a judge. And I think it reinforces to the public that there is an accountability process, one that, as some of you know, I've written and advocated the federal judiciary ought to adopt.

There is no federal equivalent to the Commission on Judicial Conduct. And I think if there were, it would go a long way toward bolstering public confidence in the integrity and the impartiality of the federal courts, and it might have the beneficial effect of countering what I consider to be the rather reckless, broad-stroke criticisms of the judiciary where disagreement with a judge's decision leads to calls for mass impeachments and replacements of judges, as if the courts and the judiciary were not an independent and a very important branch of government.

They need to be protected by the Executive and the Legislature because they don't have the power of the purse and they don't have an enforcement mechanism. They have only, as the Federalist Papers told us way back at the adoption of our Constitution,

the integrity of their pronouncements.

We believe that we bolster public confidence in the integrity of the judiciary by holding accountable those who transgress and giving the so-called clean bill of health to those against whom complaints are made but that are not meritorious.

And I think in explaining our reasons to those who complain, we do important work in bolstering the independence of the critical third branch.

So thank you for your support, and whatever questions you may have I'd be happy to answer.

CHAIRWOMAN KRUEGER: Thank you.

I would like to start with Senator Hoylman-Sigal or Senator Myrie? Senator Hoylman-Sigal.

SENATOR HOYLMAN-SIGAL: Ms. Warth, thank you again for being here.

You spoke about the negative impacts in your testimony about a woman named Michele who experienced going to criminal proceedings without an attorney -- loss of job

opportunities, denied a loan, you said.

What negative impacts might parents experience if they don't have an attorney at a Family Court proceeding?

DIRECTOR WARTH: Loss of their children. Which is, you know, from a child's perspective and from many of our clients' perspective, even more serious than the loss of representation and sometimes even the loss of liberty that can attach to a criminal case.

And so, you know, when people are not represented at their first court appearance, they get confused, they sometimes say things that, you know, they think will help them but doesn't. They sometimes agree to things that they think will help them that doesn't.

I mean, I think anybody here, if a loved one was facing a court appearance, whether it be criminal or family, you would do everything you could to ensure that that loved one had access to a lawyer at that first court appearance. And we need to make sure that low-income parents also have access

to lawyers.

SENATOR HOYLMAN-SIGAL: Thank you.

Now, I understand that ILS is seeking, as you say, $30 million in additional funding for Family Court representation, which we hope to support this year.

And the Executive Budget proposes, though, sweeping $120 million from the Indigent Legal Services Fund. But doesn't that suggest that there's enough money in the ILS Fund to support that $30 million request?

DIRECTOR WARTH: Exactly. You know, the ILS Fund right now, because of legislation -- thanks to you -- that was enacted in 2017 to increase the fund's revenue, that legislation is working. So the fund is quite robust right now.

And it's robust enough to fully support the Hurrell-Harring settlement implementation across the state. It's fully supporting partial reimbursement to counties in New York City for the increased assigned counsel rate. And you're right, the sweep says it can do more.

But from our perspective, the more really needs to be the imperative to improve the quality of representation provided to parents in Family Court representation. The more shouldn't be using the ILS Fund as a piggy bank to balance the general budget.

SENATOR HOYLMAN-SIGAL: Yup. I agree. This Hurrell-Harring-style lawsuit is going to force us -- it's going to force our hand. I'm surprised it hasn't already.

Do you agree?

DIRECTOR WARTH: Yeah. I mean, the -- what teed up the Hurrell-Harring settlement or the Hurrell-Harring lawsuit -- you know, a commission and several reports over the years bespeaking the poor-quality representation or public criminal defense, and sort of not enough action from the state on that -- I mean, that exists today in Family Court representation.

We have several commissions, several reports that have repeatedly said the same thing: We're not fulfilling our constitutional and statutory obligation to

low-income parents in New York. And it's ripe for a lawsuit.

SENATOR HOYLMAN-SIGAL: Just to pivot to Mr. Tembeckjian, thank you again for being here. And we've been really proud, I think as a body and as a conference, to support your efforts in the past.

I wanted to ask you about the case of former judge Erin Gall. Judge Gall was accused in 2022 of threatening in a profane manner to shoot Black students at a high school graduation party. They submitted their resignation in December of 2024, ending the case but also ensuring that they -- that she could not be barred from returning to the bench.

And you laid it out there in support of our legislation that passed the Senate.

But do you believe that the case was investigated and resolved in a timely manner?

ADMINISTRATOR TEMBECKJIAN: It was certainly thoroughly investigated, including finding some witnesses that we only knew by first name. There was a significant amount,

about 80 minutes, of police body cam video that was critical in presenting the case and proving the case.

What happened in the case of Judge Gall is that after the commission satisfied all of the due process requirements of statute and rules and issued a removal decision, was that she exercised her statutory right to have the Court of Appeals review the case. She filed a record, she filed a brief. We filed our own brief in response. She then filed a reply.

The court scheduled the matter for argument in December, but then postponed it when the judge resigned and ultimately was able to prolong the process whereby she was drawing a state salary, Supreme Court justice salary, while pursuing her statutory right to an appeal that she then gave up at the last minute. That added about nine months to the process that might otherwise have been abbreviated.

The commission in that instance had the time it needed to complete its proceeding

because she didn't resign until after we had issued a removal order. Which meant that when the Court of Appeals pro forma closed the case and issued a removal order, it constitutionally bars her from coming back to office.

That's a different circumstance from one in which she may have resigned before asking the Court of Appeals to take jurisdiction, in which case we would have had no ability to force her into a permanent departure.

But she can never come back to the bench under New York law, and I think that is absolutely the right result.

SENATOR HOYLMAN-SIGAL: Thank you for that.

And then I wanted to follow up on the funding that we've successfully worked together to achieve.

ADMINISTRATOR TEMBECKJIAN: Over the many years, yes.

SENATOR HOYLMAN-SIGAL: Over the many years, and in last year's budget in

particular.

What has that meant for you hiring investigators and your work in general?

ADMINISTRATOR TEMBECKJIAN: It has meant that last year we were able to hire three additional staff, a lawyer and investigators. We intend to hire three more this year. We're already in the process with the funding that you provided last year, and that will carry over with the Executive recommendation this year.

Over the course of about 10 years, the Legislature was responsible for putting $3 million more into our budget than the Executive had recommended. And I'm happy to see that with the Governor this year and the Budget Director, that they seemed to have recognized this trend and pattern and rather than recommend less than we've deemed was appropriate or required, we were able to agree on the number this year. And -- which is why, as I said, at the outset, I'm in the unusual position of not asking you to supplement this year. You can actually spend

your time worrying about other entities, including Ms. Warth's.

SENATOR HOYLMAN-SIGAL: Yeah. And I think we should thank Governor Hochul and her Budget Director --

ADMINISTRATOR TEMBECKJIAN: Absolutely. Without question.

SENATOR HOYLMAN-SIGAL: -- for correcting, you know, decades of underfunding.

ADMINISTRATOR TEMBECKJIAN: Changing this trend, which you have reversed repeatedly, and now I'm happy to see that the Executive has as well recognized.

SENATOR HOYLMAN-SIGAL: And it goes without saying that what you do is integral to the legitimacy of our judicial system. So thank you for your work.

ADMINISTRATOR TEMBECKJIAN: Thank you for recognizing it, Senator.

SENATOR HOYLMAN-SIGAL: And thank you, Madam Chair.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRMAN PRETLOW: Assembly Chair Lavine.

ASSEMBLYMAN LAVINE: Thank you. I want to thank you both for the good work you do for the people of the State of -- of our State of New York.

Mr. Tembeckjian, have you ever had a challenge to the enforcement of a judge's agreement never to return to the bench?

ADMINISTRATOR TEMBECKJIAN: It has happened twice that judges who left office with a commitment not to return then came back. They broke the agreement, and we resumed our proceedings against them.

Had we been able to remove them in the first instance, they would have been ineligible to return, under the Constitution. But because they resigned and broke the commitment, we -- actually, three times in our history that has happened.

Not a lot, given that we have publicly disciplined about 970 judges over the 48 years of the commission's existence. And about 180 of those have been removals, and

about 140 have been resignations. So it's not a large number.

But there are many who left office for conduct that was less than removable that we had absolutely no authority to pursue once they left. And you would be in no position to know that if they ran for reelection or if a local official wanted to reappoint them to a position. We would not be able to say "This judge left under a cloud, may have been censured, it's something that you ought to consider" -- because we have no authority to do that under the current law.

ASSEMBLYMAN LAVINE: Thank you.

And Ms. Warth, let me ask you this. Fifty million will help provide services in the Family Court. But given that Family Court is one of the most difficult -- in fact, it probably is the most difficult of all the courts for everyone, including judges, litigants and lawyers -- how do you imagine you're going to be able to assemble a group of attorneys who are going to be ready, willing and able and knowledgeable, also,

about practicing in our Family Courts?

DIRECTOR WARTH: That's a very good question. The plan that we would -- we would work with each county and New York City on a plan that's specific to that particular county and city needs. And specific to the particular needs of the public defense providers.

Recruiting attorneys is a challenge. Many of the family defense providers are learning lessons from their Criminal Court counterparts on strategies for recruitment, which includes a vibrant internship program as well as a vibrant training program, a student internship program and a law scholar program.

And then we'd also allow and encourage the providers to use the funding not only for attorneys but for other professionals -- parent advocates, social workers, case managers, investigators. All of those services right now parent attorneys don't have access to. So if they're doing the work, they're doing it on their own.

And so if they can hire those resources, those professionals, that in itself is also caseload relief.

But, you know, I will be honest with you and I will say our 150 million is a conservative request.

ASSEMBLYMAN LAVINE: I don't know the answer to this question. But how much money is in that ILS Fund?

DIRECTOR WARTH: Right now? As of December 31, 2024, there's about $957 million in the ILS Fund.

Now, because our contracts to disburse funding for the Hurrell-Harring settlement initiative statewide are cost-reimbursement contracts, that means that sometimes it takes time for the money to come out of the fund. Right? So there's often a significant gap in time between when the county implements the program, hires the staff, and spends the money and then applies -- you know, submits a claim to ILS to be reimbursed for it.

So, you know, I think that $957 million could be a little misleading.

We are trying to figure out how much of that is actually needed for -- to reimburse the counties and New York City for what they've already implemented.

ASSEMBLYMAN LAVINE: Thank you.

And Mr. Tembeckjian, you described the case involving a judge whose name is Erin Gall. And I ask you this. Do you think it enhances public confidence in American law when someone who's the subject of one of your proceedings and then resigns is hired by a county?

ADMINISTRATOR TEMBECKJIAN: Well, I think --

ASSEMBLYMAN LAVINE: Which shall go nameless.

ADMINISTRATOR TEMBECKJIAN: Don't you want to withdraw that question too, as you did to your last one to Judge Zayas?

(Laughter.)

ASSEMBLYMAN LAVINE: Even better, Mr. Tembeckjian, let me do what the bad lawyers do. Strike that.

(Laughter.)

CHAIRMAN PRETLOW: Senate?

CHAIRWOMAN KRUEGER: Thank you.

Shelley Mayer.

SENATOR MAYER: Thank you, Madam Chair.

I have a question for you, Ms. Warth.

On the -- your analysis of the extent of representation in Family Court is based on this weighted caseload model, which may have lots of value for you in terms of the funding. But from a litigant point of view, what percentage of Family -- do you know what percentage of Family Court litigants are not represented by counsel?

Do you track it that way, as opposed to the caseload demand on people who are participating in this program?

DIRECTOR WARTH: Yeah, I wish we could track that. And I would love to find a way to do it. But the best way to think about it is when Michele called the Wayne County Public Defender Office, they didn't have a file on her, right, because they never represented her.

So it's sort of trying to figure out how to know what you don't know. And, you know, I would love to try to figure it out, but we don't have a good estimate of how many people should be having counsel at their first Family Court appearance and don't. Although we do know that in many types of proceedings, that's -- that's the norm.

Nor do we know how many times people are wrongfully being denied assignment of counsel, which I think happens in Family Court just because of the overwhelming caseloads that attorneys currently have.

SENATOR MAYER: Well, can I just ask respectfully why you don't -- why OCA or you don't know how many individuals, for example, in serious Family Court proceedings -- involving children, particularly -- there's not an actual measurement of the number of individuals who walk in and leave without counsel?

DIRECTOR WARTH: Yeah. I mean, we could circle back and talk to OCA about that. I know that they've been trying to make sure

that they're collecting data on whether people have counsel or not, and I don't know how well that's going.

SENATOR MAYER: Okay. Just the last thing is with respect to -- I appreciate the focus on Family Court. Do you have an analysis by county of the fund distribution and how each county is doing? Not considering your proposal for future county-specific plans. Do you have that?

DIRECTOR WARTH: When we did our analysis of the funding needed for caseload relief, we did do that county by county. We would want to get a little bit of updated information from counties, because this was two years ago. But yeah, we do have a good estimate.

SENATOR MAYER: Okay, thank you. Maybe you can share that.

DIRECTOR WARTH: (Nodding.)

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRMAN PRETLOW: Assemblywoman Walsh.

ASSEMBLYWOMAN WALSH: Hello, there. Good afternoon. I really appreciated your comments regarding improving representation in Family Court, since that's where most of my practice has been in recent years.

I wanted to ask you specifically about what I understand to be a disparity in representation. When there's an enforcement action, when that's brought in Family Court, the court may assign a public defender to both parties, if they financially qualify, if the enforcement action relates to an order of protection or custody, but not support. That's my understanding.

When there's a support enforcement order, only the respondent or the alleged debtor can get a public defender, not the petitioner or the person that is owed the support, allegedly owed the support.

That makes absolutely no sense to me, and I just was wondering if you could give me your thoughts on that.

DIRECTOR WARTH: Yeah. You know, I think there's been -- Judge Zayas talked

about this in his testimony, that we have the right to counsel under County Law Article 18-B. So that's the right to counsel in criminal cases and certain Family Court cases.

But you're right, it's not all Family Court cases. But the reality is, and Judge Zayas said this, that's not enough. you know, nobody has that expertise -- like if I had a Family Court proceeding I probably would retain counsel. And, you know, people need that expertise, that assistance in navigating the court system.

And so we would support efforts to better fund the legal services that do provide counsel when it isn't mandated under County Law Article 18-B. So we agree with Judge Zayas on that, the importance of funding that.

ASSEMBLYWOMAN WALSH: I appreciate that. Because what I've heard from the Family Court judges that I've spoken with is it's particularly confusing because you can have multiple petitions coming in from the

same family, some entitling you to public defender representation, or 18-B, and some not.

So it's -- and then how do you parse that out as a judge to figure out when you can and for what parts. I mean, if you're in the middle of a hearing that's a hybrid, you know, how do you separate that out? It's just it's very -- it makes -- like I said, it makes no sense to me at all.

And in an enforcement action involving child support, if ever there is, you know, a power disparity or the need for appropriate counsel, it seems like certainly as far as the other proceedings as well with custody and with orders of protection, but also with support. So I appreciate your comments very much.

Thank you. That's all I've got.

DIRECTOR WARTH: I'll also briefly add, you know, everything you're saying is true. But if we're not even doing the baseline, which we're not right now, we're not even providing adequate representation

where it's statutorily and constitutionally required.

So while I agree with everything you're saying, I hope we also focus on at least achieving quality representation where the law requires that we have it.

ASSEMBLYWOMAN WALSH: Well, I do think it was -- it's -- speaking as an attorney for the child in part of my practice, I mean, I would say that at least increasing that amount per hour did help. It's still very hard, you know, when the matrimonial bar can command $350 or $400 an hour for a matrimonial case where they're doing -- in my neck of the woods. I think that, you know, 150 an hour for an AFC who has to go through all that additional paperwork -- it's still hard to fill the panel, but at least it's doing -- it did some good, I think, by doubling it, so.

DIRECTOR WARTH: Yeah, we're hearing from providers that it has led to a marginal uptick in the number of attorneys on the panel.

They are concerned, of course, that there's nothing in the statute that allows for a periodic increase. And so that does cause some people to hesitate to join a panel if they know that their pay's going to be flat for a long time. And the last time it was flat for almost 20 years.

ASSEMBLYWOMAN WALSH: That's right. That's right. We'll, we're tying a lot of other things to inflation, so maybe that ought to be too. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Other Senators that I don't see on my list? Then there's me.

Hi. So Robert, I think that this Legislature knows how important it is to assure that we have a judiciary that knows their jobs and does their jobs well. So just I think on behalf of everyone, what you do in this commission as an independent commission is so important.

ADMINISTRATOR TEMBECKJIAN: Thank you.

CHAIRWOMAN KRUEGER: Even people who don't understand that you're out there.

So I was trying to do a little pitch. We hope that every judge in every courtroom is handling their jobs superbly. But if you're in a courtroom and you think something's amiss, you can file a complaint with the commission. This is like a commercial for you. I'm not even asking you a question.

ADMINISTRATOR TEMBECKJIAN: Thank you.

CHAIRWOMAN KRUEGER: And sometimes lawyers get very nervous about filing a commission complaint even if they do also feel something went wrong, because they need to continue to, you know, work in that courtroom.

So again, Part 2 of my commercial, people can file the complaints themselves. They don't need their lawyer to file. Is that correct?

ADMINISTRATOR TEMBECKJIAN: That's absolutely correct.

And the commission also has the authority in law to commence investigations on its own motion, based on information that

comes to it from sometimes anonymous sources, sometimes from information that we come across in -- in investigating one complaint, we might come across indications of misconduct on another matter, and we have the authority to initiate those inquiries on our own.

So individuals can, even anonymously, if they provide credible information to us to give us a basis to go forward, we can take those complaints and move with them.

CHAIRWOMAN KRUEGER: And because, again, our institutions only work if the people believe they have confidence in them, there was an article this morning that there was some kind of model setup for district attorneys to review themselves on cases that I guess people say didn't go correctly, but the results of that model, at least I guess for the counties outside of New York City, is they never reverse themselves.

So do we need some kind of equivalent commission to what you have for district attorneys?

ADMINISTRATOR TEMBECKJIAN: Well, there actually is one, the Commission on Prosecutorial Conduct, which is just starting up now. And they have modeled their rules based on ours because when the Legislature created it, they modeled the statute, with some obvious and significant differences, based on the Judicial Conduct Commission model.

CHAIRWOMAN KRUEGER: I wasn't sure I remembered that right.

ADMINISTRATOR TEMBECKJIAN: But there is an entity that is now established and getting underway. And I think there is a -- if I'm not mistaken, a $3 million appropriation in the Executive Budget for that commission to get started.

CHAIRWOMAN KRUEGER: Okay. So we need to all be watching that.

ADMINISTRATOR TEMBECKJIAN: Right.

CHAIRWOMAN KRUEGER: Thank you very much.

ADMINISTRATOR TEMBECKJIAN: But I agree with you, self-regulation almost never

works. And one of the reasons why the Judicial Conduct Commission was created in the first place, first as a temporary commission by the Legislature in 1974, is because judicial discipline had been the sole and exclusive province of the judiciary. And in the 25 years before our commission was created, there had only been five complaints investigated against judges. And we know, just as a statistical certainty, that there was more misconduct than that being committed.

CHAIRWOMAN KRUEGER: Thank you very much. That's all the time I need.

Assembly?

CHAIRMAN PRETLOW: Assemblyman Palmesano.

ASSEMBLYMAN PALMESANO: Thank you.

My question is for Ms. Warth.

Just one question. I'm curious, I believe the Governor has proposed to maintain $92 million for the Assigned Counsel Program. I understand that covers --

CHAIRWOMAN KRUEGER: Can you speak up

a little so we can hear you?

ASSEMBLYMAN PALMESANO: Yes, absolutely I can do that, happy to do that.

CHAIRWOMAN KRUEGER: Thank you.

ASSEMBLYMAN PALMESANO: Sorry about that.

The Governor has proposed to maintain $92 million for the Assigned Counsel Program, is my understanding. I understand that covers 50 percent of the county costs. From your perspective, and what you understand, is that enough to meet the need the counties have, especially in our upstate rural areas?

DIRECTOR WARTH: So it covers 50 percent of the increase, so not 50 percent of the full cost of the assigned counsel rates.

And we have been monitoring what -- you know, we set up a streamless {sic} process for counties in New York City to claim on that, and they have been claiming on that.

So far the 92 million has been more than enough to fully claim out or to fully

pay out those reimbursements. It's a little tricky because the vouchers that we're paying out on right now, some of them are cases that existed prior to the rate increase. So they're -- you know, they're mixed-cost, they don't include the full increase.

We anticipate that probably in a year or two, based on the information we're collecting, we'll be able to tell you exactly how much it would cost to fully cover both the partial reimbursement for the rate increase, but also the full reimbursement. Because we've always believed that the state should fully fund the full rate increase, not just 50 percent of it.

And based on what we're seeing so far, my best guess is that there will be enough from the Indigent Legal Services Fund -- if it isn't used to balance the General Fund -- to reimburse counties for the full rate increase.

ASSEMBLYMAN PALMESANO: Just a quick follow-up on that, based on what you just said.

Do you know what the outstanding difference in how much our counties are paying and how much is the state? You know, how much the counties are responsible to pay now for the program, the outstanding amount?

DIRECTOR WARTH: Yeah, it's different depending on misdemeanors and felonies. And I can send you that number as a follow-up. I don't have it off the top of my head right now, and it would require me to do quick math and I'm really bad at math.

ASSEMBLYMAN PALMESANO: All right, thank you. Thank you very much.

CHAIRMAN PRETLOW: Assemblyman Burdick.

ASSEMBLYMAN BURDICK: Thank you both, and thank you for your testimony.

And this is actually a question for Patricia Warth.

I thank you for the work that you do. Not an easy task. And so do I understand correctly that maintaining the level of funding that's in the Executive Budget suffices? I mean, it sounds to me as though

we need hundreds of millions of dollars more. I'm wondering if you could elaborate on that.

DIRECTOR WARTH: So our Aid to Localities budget covers basically four basic programs. The settlement program, what the Executive proposed in their budget is what we requested. So maintaining that is fine --

ASSEMBLYMAN BURDICK: The other question that I have pertains to the transfer --

DIRECTOR WARTH: Can I just finish, though? But what the Governor has proposed for the Family Court is not sufficient. So that's where we're requesting -- the Governor's proposed 19.5 million, or the Executive proposed 19.5 million. We're requesting 50 million.

ASSEMBLYMAN BURDICK: Okay.

Other question. You referred to a transfer of funds out of the Indigent Legal Fund into the General Fund. I'll be honest with you that I have concerns about that, because it might not end up where we'd like it to go. And I'm wondering if you have any

thoughts about that.

DIRECTOR WARTH: We oppose it. We believe --

ASSEMBLYMAN BURDICK: Oh, you do oppose it.

DIRECTOR WARTH: The Indigent -- yeah.

ASSEMBLYMAN BURDICK: That's all I needed to know.

Great, thank you. That's all I have.

CHAIRMAN PRETLOW: Assemblywoman Simon.

ASSEMBLYWOMAN SIMON: Thank you.

Ms. Warth, I wanted to follow up on that line of questioning, actually.

One question is, has the Governor swept funds from Indigent Legal Services in the past to the general budget?

DIRECTOR WARTH: Yes, until -- there's -- there's a history of a small amount of sweeping. And then when the settlement was -- you know, when the Hurrell-Harring litigation was settled and there was a bigger state commitment to improved-quality representation, that stopped

for several years.

This current-year budget, the budget that was enacted last year, there was authorization to transfer 234 million from the Indigent Legal Services Fund to the General Fund. And again, 114 million is related to assigned counsel rates.

ASSEMBLYWOMAN SIMON: Right.

DIRECTOR WARTH: That transfer hasn't happened yet. And typically it doesn't happen until March. So we'll know more in March whether the Executive takes full advantage of that transfer authority.

ASSEMBLYWOMAN SIMON: I understand that the Governor -- she also swept money -- we kept something like 50 million in, but she swept another 50 million or something out of IOLA.

And so my question is -- and that was last year. But has agreed, apparently, this year not to do that.

DIRECTOR WARTH: That's correct.

ASSEMBLYWOMAN SIMON: And whether it's now coming out of your hide. Do you have --

I'm --

DIRECTOR WARTH: I didn't hear the end of that, whether --

ASSEMBLYWOMAN SIMON: Whether it's coming out of your hide, the sweeping. Because she's agreed not to do that with IOLA funds.

DIRECTOR WARTH: Yeah. I think, you know, there was litigation over the transfer of the IOLA fund, and that fund is slightly different from our fund in that it's a fiduciary fund.

I still think, though, that, you know, the state has a constitutional duty for quality public defense. And there's a fund in order for the state to exercise, to implement that duty, and it's deeply concerning if funding is taken from that fund when it's not related to the work of public defense.

ASSEMBLYWOMAN SIMON: Thank you.

CHAIRMAN PRETLOW: Assemblywoman Giglio.

Assemblywoman Kelles.

Assemblywoman Walker.

ASSEMBLYWOMAN WALKER: (Mic problem; inaudible.) I feel like it's like special recognition, you know. They don't accept a Black woman's thumbprint like, you know -- (gesturing).

(Laughter.)

ASSEMBLYWOMAN WALKER: Okay. Thank you so much for your testimony.

I was just wondering, typically in a Criminal Court proceeding, after the defendant makes his -- takes a plea and the plea allocution is conducted, the judge usually has a statement that is made with respect to immigration status. Can you tell me what that is and what effect that may have on the present state of immigration affairs in our country.

DIRECTOR WARTH: Yeah. I mean, the idea of the judge's statement is to ensure that every person understands that if they were not born in the United States, there may be immigration consequences to their conviction.

And that they -- there's a Supreme Court case on this that requires attorneys to advise their clients as to the immigration consequences of their involvement in a criminal case and a conviction.

We -- in New York, we've used some of the Indigent Legal Services funds to disburse funding, competitive funds, to establish a network of six Regional Immigration Assistance Centers across the state so that attorneys have a place to go where they can get expertise on the intersection of criminal and immigration law to do their duty to advise clients as to the immigration consequences of their involvement in the criminal legal system. And we're also finding consequences as to involvement in the Family Court systems as well.

So our Regional Immigration Assistance Centers provide that service to attorneys to make sure that their clients know. And then they go a step further and often help the attorneys fashion a disposition that can ameliorate or at least diminish these

immigration consequences.

ASSEMBLYWOMAN WALKER: Thank you.

And so is the practice that many of the judges take in terms of advising people, you know, about their potential criminal effect, or affect, is that a statewide practice or -- I mean, I know I see it in New York City, but I'm not sure how it happens across the state.

DIRECTOR WARTH: My understanding is that it is a statewide practice. And I think it's important that judges do that. But I think it's more important that the person's attorney is doing that. And that even before --

(Time clock sounds.)

DIRECTOR WARTH: I'll follow up with you after.

ASSEMBLYWOMAN WALKER: Thank you.

CHAIRMAN PRETLOW: Assemblyman Morinello.

ASSEMBLYMAN MORINELLO: This is directed to Ms. Warth. And it's a little more on clarification dealing with

Family Court, and I'm going to focus.

What specific type of cases can you assign counsel in Family Court?

DIRECTOR WARTH: So there's the Family Court Act that requires assignment of counsel in any case involving neglect, allegations of neglect, abuse, or termination of parental rights. Custody. There's also some other matters -- I don't have the full list in front of me, and I can follow up with you on it.

But the main ones are what we call the child welfare matters where parents are at risk of losing their child. And then custody accounts for a big percentage of our defense providers' caseload in Family Court cases.

ASSEMBLYMAN MORINELLO: Do you oversee the attorney for the children?

DIRECTOR WARTH: No, that is actually housed in the Unified Court System.

ASSEMBLYMAN MORINELLO: Okay. When it comes to your Family Court attorneys, or attorneys assigned to Family Court, what specific training requirements are there?

Because it is a specialty.

DIRECTOR WARTH: Yes. I mean, there's what is currently required and what should be required.

(Laughter.)

ASSEMBLYMAN MORINELLO: Okay.

DIRECTOR WARTH: And part of the reason why we're asking for more funding for improved-quality representation is because there's a significant gap right now between the training attorneys are getting and the training that they should be getting.

But it really depends on the particular office for which they work or the particular assigned counsel program.

But I would say that I think that's an important question because I think far too many attorneys don't have access to the training that they need and that they're actually yearning for, because of the lack of funding.

ASSEMBLYMAN MORINELLO: The reason I asked the question is I get many inquiries and complaints about their attorneys just not

speaking up, not showing up. And so what type of -- other than Mr. Tembeckjian's division, okay, and I'll call it a division -- that I never had to use in 14 years as a participant -- what type of a follow-up or checks and balances do you have? Because that seems to be one of the biggest issues.

DIRECTOR WARTH: Yeah. I mean, I think that the first step is making sure that attorneys have the resources that they need.

And, you know, Gerry Spence, he's a famous criminal defense lawyer, once famously said no attorney can provide competent representation with overwhelming caseloads.

And so we have to first address that problem. But in addressing that problem, we work with each county and provider on a plan. And so we do follow up with them on implementation of the plan to ensure that the funding is being spent as intended, for improved-quality representation. And as Mr. Correia's story shows, it's working in Criminal Court. We need to replicate it in

Family Court.

ASSEMBLYMAN MORINELLO: We know that we mentioned abuse, neglect, et cetera. And earlier today, I'm not sure whether you were here, but we spoke about problem-solving courts.

DIRECTOR WARTH: Right.

ASSEMBLYMAN MORINELLO: Do you see any merit to maybe try and massage problem-solving courts into some of the Family Court situations? Because I would believe that a lot of these have to do with underlying drug, alcohol, or other -- or mental health issues that are creating this.

So I'm just curious. And if you haven't thought about it, at some point maybe we can discuss that need.

DIRECTOR WARTH: Yeah. I think that is worth discussing.

The way it currently works is that the county investigating agency is supposed to work with the parent on that problem-solving stuff. But the problem is is that investigating agency is also prosecuting the

parent. Right? And so there's a lack of trust and investment in those programs.

I should also say that often the underlying program isn't drugs, isn't mental health -- it's poverty. And far too many of our parents are hauled into court because of judgments made about them, because they're doing the best they can with not enough money. And so sometimes I think we really have to reevaluate what do we consider neglect, what do we consider abuse. And poverty shouldn't be it.

ASSEMBLYMAN MORINELLO: I think that an adequate number of attorneys, with adequate training, could intercede on that --

DIRECTOR WARTH: Exactly.

ASSEMBLYMAN MORINELLO: -- and assist in moving through that. So --

DIRECTOR WARTH: Exactly.

ASSEMBLYMAN MORINELLO: Thank you. My time's just about up. But I do appreciate the answers. Thank you.

DIRECTOR WARTH: Thank you.

CHAIRMAN PRETLOW: Assemblywoman

Giglio.

ASSEMBLYWOMAN GIGLIO: Thank you, Chair.

And thank you for being here today.

So I'm being told from judges in Suffolk County that Legal Service Society is taking everyone without properly screening them. And therefore a lot of the judges have to reassign the cases to 18-B, which is taking away from criminal representation.

So what are you doing? Because they have to -- there is a conflict of interest between the attorney from the Legal Aid Society to represent -- because they represented a witness or a complainant in the past, and so those cases automatically get kicked to 18-B, which is taking away services from criminal cases.

So what can you say about the screening process to make sure that people are eligible, number one, and to also make sure in Suffolk County, which is a big county, that the attorneys that are assigned to Legal Aid Society are not as conflicted.

Is there a tracking system? Are you checking to see how many cases are getting kicked to 18-B?

DIRECTOR WARTH: Right. I mean, so we don't micromanage the providers, but I hear what you're saying.

We did, pursuant to the Hurrell-Harring settlement, we were required to establish and promulgate guidelines for determining financial eligibility for assignment of counsel. And so -- and we updated our guidelines a few years ago to apply, you know, both to criminal cases and to Family Court representation, under County Law 18-B.

And the Office of Court Administration actually issued rules from the Chief Judge that fully incorporate our guidelines into Family Court proceedings.

And so, you know, to our understanding -- and we do ask our providers about compliance with the guidelines and ensuring we've trained providers, we've trained judges on the guidelines. And so we

are trying to follow up to ensure that these guidelines are followed in determining financial eligibility for assignment of counsel under County Law 18-B.

ASSEMBLYWOMAN GIGLIO: So do you have statistics on the number of attorneys that are representing people on behalf of Legal Aid Society that are actually conflicted, how many conflicts there are, and why these cases are getting pushed off to 18-B?

DIRECTOR WARTH: Right. I mean, it's up to every attorney to, you know, before accepting a case to determine if there's a conflict. And ethically, attorneys can't take cases if there's a conflict.

ASSEMBLYWOMAN GIGLIO: So you don't have a record as to how many cases are getting --

DIRECTOR WARTH: Yeah, we haven't asked that information at this point on, you know, how many are getting -- yeah. I mean, I don't think we're collecting that information at this point.

ASSEMBLYWOMAN GIGLIO: Okay. Because

that might save you some money.

But thank you.

CHAIRMAN PRETLOW: Assemblywoman Kelles.

ASSEMBLYWOMAN KELLES: One quick question. When we did discovery reforms, we gave extra funding to DAs to be able to handle the increased amount of -- the smaller amount of time, increased amount of data. How much money was given to --

DIRECTOR WARTH: So the money for defense discovery reform actually does not flow through ILS, but it's flowing through the Division of Criminal Justice Services. And so I think it matched the prosecution.

So 40 million for discovery reform, and then an additional 40 million for -- you know, for improved quality generally.

I would urge you -- the legal aid society submitted written testimony --

ASSEMBLYWOMAN KELLES: I have it.

DIRECTOR WARTH: They did a wonderful job describing what they're doing with that funding.

ASSEMBLYWOMAN KELLES: Will do. Will do. And my apologies.

You mentioned earlier that there was a sweep that you wanted to decrease to a certain amount but you haven't had a chance to explain what the decrease -- at the end of your testimony. Do you recall what I was asking -- what you were saying?

DIRECTOR WARTH: So part of the Public -- the proposed Public Protection and General Government Article 7 bill would be to -- a proposal to give authority to the state to transfer $234 million from the Indigent Legal Services Fund, which right now is fully supporting the Hurrell-Harring settlement, the partial reimbursement to the counties for the ACP rates, and also we want it to support improved quality Family Court representation.

But to sweep 234 million of that into the General Fund -- now, 114 million of that we say is legitimate. It is to offset the costs of the state reimbursing -- partially reimbursing counties --

ASSEMBLYWOMAN KELLES: But the rest would decrease the quality of the services.

DIRECTOR WARTH: Yeah. I mean --

ASSEMBLYWOMAN KELLES: I got you.

DIRECTOR WARTH: -- the fund needs to be used for --

ASSEMBLYWOMAN KELLES: Of course. Of course. And that funds -- that's what's necessary to do the job. Thank you so much.

A question in my last minute. I'm -- if you have cases where a judge -- for cases that are consistently bail eligible -- continually dismisses them and releases on recognizance without consideration of bail, is that at some point considered an ethics issue?

ADMINISTRATOR TEMBECKJIAN: Well, the rules on judicial conduct require, among other things, that a judge be faithful to the law, be competent in the law. And we have had some disciplinary cases in our history in which judges who were demonstrating a lack of competence in the law or a willful failure to abide by the law, can be publicly

disciplined.

ASSEMBLYWOMAN KELLES: Okay. I just wanted to make sure. Because I am hearing of cases over and over and over and over again being dismissed that 100 percent are bail-eligible and being used, of course, then in the public rhetoric as -- as evidence that bail reform did not work. And it's frustrating. Yeah, thank you.

CHAIRWOMAN KRUEGER: All right, I believe that we have all completed the questions we're allowed to ask. So I want to thank you both very much for your testimony today and for your work on behalf of the people of New York State. And I will let you be free, so to speak.

DIRECTOR WARTH: Thank you.

ADMINISTRATOR TEMBECKJIAN: Thank you.

CHAIRWOMAN KRUEGER: It's a bad pun, given what you people do for a living. Sorry.

So our next panel we have the New York State Division of Criminal Justice Services, the New York State Department of Corrections

and Community Supervision, the New York State Division of State Police.

But we have a replacement for Rossana Rosado, the commissioner of Criminal Justice Services. Apparently she is ill, so she's being replaced by her executive deputy commissioner, Joseph Popcun.

Good afternoon, gentlemen. We're going to ask you each just first to introduce yourselves so that the video folks know whose name to put under what picture. And then we'll start with the testimony.

Please.

DCJS EX. DEP. CMR. POPCUN: Joseph Popcun, executive deputy commissioner of DCJS.

DOCCS COMMISSIONER MARTUSCELLO: Daniel Martuscello, commissioner, Department of Corrections and Community Supervision.

STATE POLICE SUPT. JAMES: Steven G. James, superintendent, New York State Police.

CHAIRWOMAN KRUEGER: Thank you. So why don't we just go straight down that line and start with Joseph, the executive deputy

commissioner.

DCJS EX. DEP. CMR. POPCUN: Thank you very much.

Good afternoon, Chairs Krueger and Pretlow, legislative fiscal committee members, and other distinguished members of the Legislature. I am Joe Popcun, executive deputy commissioner of DCJS. Thank you for the opportunity to discuss Governor Kathy Hochul's fiscal year '25-'26 budget for DCJS.

Commissioner Rossana Rosado regrets not being able to be here today with you, but sends her sincere appreciation for your continued support and partnership.

Today marks the commissioner's and my fourth budget testimony for this exceptional agency. From crime prevention to community reentry, DCJS helps our law enforcement and community partners keep New Yorkers safe and ensure a justice system that works for all.

While we've used the term multifunction support agency in the past, what we really mean is that we convene, facilitate and support all stakeholders with

our resources, expertise and information. It is our privilege and power to help those who directly help others.

With the support of Governor Hochul and the State Legislature, we have navigated a series of crises -- the pandemic, social unrest, economic anxiety, violent extremism, and a surge in shootings. Together we answer the call to serve New Yorkers by leveraging our largest ever $850 million budget and growing workforce to deliver proven strategies that uproot crime and tend to its ripple effects.

Last year alone we delivered record funding through nearly 3900 grants; helped reduce gun violence through GIVE, our Gun Involved Violence Elimination initiative; answered 130,000 requests for assistance from hundreds of law enforcement agencies through our 11 Crime Analysis Centers; strengthened 10 communities through Project RISE -- we love acronyms -- Respond, Invest, Sustain and Empower; launched a new $35 million program, STRIVE, Statewide Targeted Reductions in

Intimate Partner Violence; and equipped 378 local law enforcement agencies with $127 million in new technology to better prevent and solve crime.

We also strengthened our partnership between the state's office of Gun Violence Prevention and our nationally recognized SNUG outreach program. This partnership now leverages the best of both public health and public safety. In 14 communities, SNUG teams work to interrupt the cycle of violence by engaging young people and connecting them with the support they need.

Looking back on the last three years, the DCJS story is one of humanity and a holistic focus on the work of justice and safety. It has taken grit, grace and a great deal of resources, but it is working.

We have seen the justice system recover from the pandemic disruptions, crime drop, and gun violence plummet to record lows. Reported crime, for the first nine months of 2024, declined 8 percent outside of New York City, with decreases in both violent

and property crime, compared to the prior year.

In New York City, overall reported crime remained flat through September of last year compared to 2023.

In our GIVE jurisdictions, which as you know, is 90 percent of the violent crime by firearm outside of New York City, we saw the fewest shootings on record last year, a 53 percent decrease from the peak in 2021. In New York City, there were 903 shootings last year, a 42 percent decrease from the 2021 peak.

By cutting gun violence nearly in half throughout the entire state, there were 1,333 fewer people shot, and 251 fewer lives lost in 2024 compared to where we were just three years ago. This is remarkable progress.

As proud as I am that DCJS continues its wide-ranging and far-reaching efforts to build safe and strong communities, we still have more work to do. The Governor's budget again places public safety at the forefront,

featuring initiatives and investments in DCJS to protect and serve all New Yorkers.

This budget expands support for law enforcement analysis and intelligence sharing, secures additional funding for law enforcement technology and equipment, increases the resources available for evidence-based policing strategies, doubles funding for rape crisis and sexual assault programs, reforms discovery, supports safe and vibrant communities in the Bronx and beyond, and increases the police presence on the New York City subways.

As I think about this year's budget, and particularly this moment in time, two questions come to mind. How do we work together to create a more lasting peace, build community and promote opportunity, and how do we make sure that people both feel safe and are safe where they live, work and learn?

At DCJS our answer is simple in words but supreme in action: We must rededicate ourselves to justice and heed the call to act

in service and betterment of others. As we renew our commitment to justice, we must embrace our shared humanity, doing what is right, tending to those in need, healing those in pain, and making communities whole.

The Governor's proposed budget balances safety with fairness and enforcement with prevention. With your support, it will allow DCJS to continue to answer the call, ensuring safer neighborhoods, stronger partnerships, and a fair and equal justice system. This budget empowers us to provide essential resources, training and assistance that local partners rely upon every day.

I want to express my sincerest appreciation to Governor Hochul and Commissioner Rosado for their unwavering leadership on public safety. I want to extend my gratitude to the thousands of on-the-ground partners who are doing the work and truly changing lives.

I also want to recognize the exceptional DCJS team for their dedication and innovation. Their commitment has

strengthened our mission and created a top workplace that values every team member.

Finally, our work is only possible because of the ongoing support we receive from the State Legislature and from members who represent every corner of this great state.

Thank you for your service and your time today. I look forward to answering your questions.

CHAIRWOMAN KRUEGER: Thank you.

DOCCS commissioner.

DOCCS COMMISSIONER MARTUSCELLO: Good afternoon, Chair Krueger, Chair Pretlow, and other distinguished members of the Legislature. I am Daniel Martuscello, commissioner for the Department of Corrections and Community Supervision. It is my honor to discuss the Governor's Executive Budget plan as it relates to DOCCS.

Let me begin by expressing my deepest sympathies to the family of Robert Brooks, who was tragically and senselessly murdered at Marcy Correctional Facility. I've watched

the videos of the assault, each time feeling the same emotions that I imagine all New Yorkers feel -- anger, disgust, and disappointment. The actions of those staff members were repugnant and do not represent our values as an agency. Individuals go to prison as punishment, not for punishment, and I will not normalize violence within our system.

Upon learning of these horrendous actions, I immediately ordered an investigation and made criminal referrals to external investigatory agencies. Thanks to our investigators, we were able to obtain and preserve the video of this event that will be crucial evidence in the disciplinary and criminal proceedings. I am committed to ensuring that justice is served for the Brooks family and that we achieve meaningful reform.

I am thankful to Governor Hochul for her swift and aggressive response to this incident. The Governor announced several actions that we are in the process of

implementing, including termination of all involved staff members, appointment of a new superintendent, funding for fixed cameras and body-worn cameras, expansion of our Office of Special Investigations to proactively identify trends and mitigate risks, and heightened monitoring from external stakeholders to improve culture and accountability within the system.

At my direction, we've expanded our body-worn camera policy, requiring activation any time security staff are interacting with the population. I've increased management rotations outside of normal business hours, expanded the presence of our investigators within facilities, and introduced a whistleblower policy to ensure staff feel safe to report misconduct without fear of retaliation.

We are conducting an independent review of Marcy and other facilities, introducing new and innovative use of force trainings, and evaluating our culture across the agency. I am committed to

transformational reform to ensure that our facilities are operated safely, humanely, and effectively.

The fiscal year 2026 Executive Budget provides DOCCS with the resources it needs to carry out its mission, including new appropriations to meet our goals. These include:

• $400 million to install fixed camera systems in every correctional facility;

• $18.4 million to procure and deploy body-worn cameras; and

• $7.2 million to expand and restructure OSI, including a new Public Integrity Division and Medical Review Team focused on staff misconduct and use of force.

I am a firm believer in the value of cameras in a correctional setting. Cameras are highly effective at enhancing accountability and professionalism and are valuable assets when conducting investigations. The resources advanced by the Governor in her budget plan will greatly improve our ability to identify wrongdoing,

protect both staff and the incarcerated, and improve prison culture.

At the same time, we must take action to enhance safety and security within our institutions. The security incident that occurred at Collins Correctional Facility yesterday demonstrates the challenges faced by the department. I was on-site monitoring our response and thankfully, due to the impressive work of our staff, we were able to deescalate the situation, restore order to the facility, and achieve a peaceful resolution.

The department staffing situation is impacting these and other safety concerns as we remain critically understaffed. We implemented several new recruitment programs with success, including a regional recruitment initiative that offers direct placement to facilities in certain counties. But more is needed to lower the number of vacancies.

The Governor advanced legislation that will remove the residency requirement for

security staff. This will enable us to recruit from neighboring states, which is common practice across the country.

This legislation will help improve our staffing levels so that our employees can do their jobs safely and have the work/life balance that they deserve.

The Executive Budget also includes funding and legislation to advance the Governor's Jails to Jobs initiative. This includes $2 million for DOCCS to establish job training programs in green energy. The department looks forward to training the population in this expanding field and contributing to the economy of the future.

The Governor also advanced legislation to grant DOCCS discretionary authority to add progress eligible for merit time and limited credit time allowance, which are currently set in law. The legislation will enable the department to add eligible programs as they come online and provide more individuals with incentives to engage in rehabilitative programs.

Last year the department announced its commitment to join the Reentry 2030 campaign, a national initiative to improve reentry outcomes for justice-involved populations. DOCCS established several goals to accomplish by the year 2030 relating to programming, employment, housing, healthcare, personal documents, and Medicaid enrollment.

Early indicators are showing success with these initiatives. The recidivism rate among 2020 releasees was just under 19 percent, which is the lowest return rate since DOCCS began tracking this information.

DOCCS Community Supervision continues to promote public safety and reentry services. The department expanded its Supervision Against Violent Engagement -- or SAVE -- initiative to provide heightened supervision of domestic violence offenders and referrals to treatment for releasees diagnosed with a mental illness.

DOCCS is also supporting the Governor's subway safety plan with enhanced monitoring of recidivists committing crimes

in transit hubs. The department will continue to utilize a multipronged strategy to support reentry to the workforce and enhance public safety.

There is no question that this is a challenging time for our agency, following the death of Robert Brooks. It is critical that we meet this moment with a commitment to transparency, accountability and integrity, so that we may achieve structural change. We must operate a humane system that treats those under our care with dignity and respect and prioritizes safety, security and opportunity. Anything less would be a disservice to the Brooks family, all those who interact with our system, and the people of the State of New York.

Thank you for having me here today. I would be happy to answer any questions you may have.

CHAIRWOMAN KRUEGER: Thank you very much.

And New York State Police.

STATE POLICE SUPT. JAMES: Chairs

Krueger and Pretlow and members of the joint committee, thank you for this opportunity to speak about the work performed by the members of the New York State Police and the various proposals put forward in the Executive Budget. I am Superintendent Steven G. James, and I've proudly served as a member of the State Police for more than 34 years.

I'm honored to serve as superintendent, and I am fully committed to ensuring that our members have the resources that they need to carry out their mission to serve and protect all New Yorkers.

I thank Governor Hochul and the Legislature for the continued support of the New York State Police, for without your backing the State Police would not be capable of performing at the high level that New Yorkers have come to expect.

The expectations placed upon our organization continue to expand as new challenges arise. However, our members continue to go above and beyond to meet the

needs of the people we serve. While more is demanded of our Troopers than at any other time in our history, we continue in carrying out the vital undertakings of protecting all people in our great state.

Governor Hochul's top priority is public safety, and she continues to provide the necessary funding and resources required for us to carry out our expanded mission. The fiscal year '25-'26 Executive Budget continues to support the New York State Police and our funding needs with regard to personnel, equipment and technology. With the funding in the Governor's proposed budget, we can continue to boost our efforts to protect all New Yorkers.

One area of concern continues to be terrorism and increased hostilities between multiple foreign nations and terrorist organizations. Over the last two years, Governor Hochul has provided funding to increase staffing at the New York State Intelligence Center, improving our ability to work proactively in gathering and analyzing

intelligence, investigating threats, and sharing information with our local and federal enforcement partners.

In this budget the Governor has proposed $1.7 million to expand the cyber analysis unit, which will provide further enhancements to those capabilities.

In addition, we are looking to strengthen our presence at the northern border. The Governor has proposed $8 million to enhance our criminal enforcement efforts throughout the North Country. This money will fund the purchase of technology and equipment to support intelligence gathering, criminal investigations, interdictions, and enforcement of New York State laws.

Our focus at the border remains counterterrorism, transnational organized crime, and human trafficking.

Another top priority is addressing the spike in retail thefts. Last year we received funding to establish the Organized Retail Theft Task Force. Our work to stand up the unit started last March, and our

members embraced the challenge, making an immediate impact on the problem. We forged partnerships with national retailers, we went into local communities, gather intelligence from local shop owners, and worked alongside local and federal law enforcement partners.

In 2024, task force members arrested 688 people on 1100 charges and recovered nearly $200,000 in stolen goods.

However, our work is not done. While we have made progress, we still have many ongoing investigations involving retail theft, and the Governor has included funding in this budget to maintain the momentum.

We continue our work to reduce gun violence and the proliferation of illegal guns. I want to thank Governor Hochul and all of you again for providing the necessary resources to get guns out of the hands of criminals, address interstate gun trafficking, and reduce violent crime in our communities.

Through our Interstate Gun Task Force, the work of our Community Stabilization Unit,

the Violent Gang and Narcotics Enforcement Unit, and investigators and Troopers on patrol, we continue to have success. In 2024 we seized 1,706 illegal guns, an increase of more than 160 percent compared to 2018. With your help, we can continue this critically important work.

Agency staffing remains to be an area of constant executive-level discussion within the State Police, and ensuring that our organization is at an adequate staffing level is another top-level priority.

The funding provided for additional Academy classes at the Cazenovia location has helped us get closer to our rate of attrition, and we appreciate that support. Last week 176 new Troopers graduated, which was the last class from Cazenovia.

Recruitment remains an area of concern to all law enforcement agencies, and we are no exception. We have an exam sign-up that's been underway since last August, and it runs through July of this year. We continue to examine ways to identify and reach qualified

candidates. The Governor has proposed eliminating the maximum age to become a Trooper, which is currently 35 years of age. We believe this will give us access to a new pool of qualified candidates, particularly those who are retiring from the military service or leaving other law enforcement agencies.

She has also proposed raising the mandatory retirement age to 63. We think it is critically important to retain the most experienced and knowledgeable members of our organization, who are difficult to replace.

I want to briefly touch upon a few other important projects. Our body-worn cameras have proven their value as we investigate complaints by the public against our members. The number of substantiated complaints is a fraction of the total number of interactions we have had with the public, which underlines the continued professionalism of our members.

We continue to prioritize the replacement of high-mileage and aging patrol

vehicles for the safety of our members and to ensure we can respond to emergencies. The proposed budget includes funding to help us continue with our plan, which includes transitioning the entire patrol fleet to the larger SUV vehicles.

I'll close by again recognizing the support that Governor Hochul and the Legislature has provided to our members. We certainly could not provide the high quality of services that we do without that support. And the Executive Budget continues to provide our members with the increased equipment, training and other valuable resources to carry out their duties.

The men and women of the New York State Police serve each day with integrity, pride and dedication, and we'll continue this tradition of excellence with your support. Thank you for your continued investment in the State Police and for the opportunity to address you today.

And I welcome questions that you may have.

CHAIRWOMAN KRUEGER: Thank you very much.

And our first questioner will be Chair Julia Salazar.

SENATOR SALAZAR: Thank you, Chair.

Good now afternoon to all of you, and thank you for your testimony.

I will start, naturally, with Commissioner Martuscello.

First of all, Commissioner, I know that you've made it very clear at every opportunity that the beating of Mr. Robert Brooks to death by DOCCS employees deeply disturbs you and you've taken it very seriously.

I also want to acknowledge that the father of Mr. Brooks, Robert Ricks, is here with us at the hearing today.

I could speak of numerous documented incidents in which DOCCS' process for addressing serious use of force complaints has failed victims of abuse by officers or staff. But to stay focused on the Brooks case, two correction officers and a sergeant

who were directly involved in the killing of Mr. Brooks were previously named in federal lawsuits for brutal attacks on incarcerated individuals that left at least two men permanently disabled by their injuries.

Those incidents both respectively occurred in 2020, and those officers faced no consequences or discipline from DOCCS. Over four years later, those officers ruthlessly beat Mr. Brooks, causing his death.

From DOCCS OSI's role in investigating use-of-force complaints to the disciplinary process that culminates in an arbitrator making final disciplinary determinations, this process has really failed, I believe.

Commissioner, in most cases you don't even have the power to fire abusive officers. What needs to be done to overhaul DOCCS' disciplinary processes? Do you think that the killing of Robert Brooks could have been prevented in the disciplinary process had actually been effective?

COMMISSIONER MARTUSCELLO: Senator, thank you for your question.

You know, as you indicated, I'm totally repulsed with what occurred at the Marcy Correctional Facility and the murder of Robert Brooks. And again, my sympathies go out to his family.

In terms of overall, you know, the Governor has taken a very aggressive stance in giving me funding in deployment of fixed cameras and body cameras. And again, I think cameras keep everybody accountable and tell the truth, and it's critical evidence in this investigation that will be used to criminally as well as administratively hold these individuals accountable.

Had I had that years ago, that may have prevented previous disciplines or prevented previous excessive-force cases and helped us in previous disciplines. So this is a critical step forward in the full deployment of body-worn cameras. And again, with the aggressive policy that they're activated and powered on at all times while on duty.

In terms of it the disciplinary

process, you know, what I'm focused on is making sure we keep people accountable. As you indicated, we have a collective bargaining agreement process where staff are afforded due process. That was negotiated into the contract, and I am bound by the decision of an independent arbiter looking at the facts, rather than me as a 27-year professional.

So anything that allows me to continue to hold staff accountable and run a safe system are things that we should be looking at.

SENATOR SALAZAR: Thank you, Commissioner.

I wanted to ask -- because you mentioned the expansion of fixed cameras in facilities and body-worn cameras. The Executive Budget allocates $400 million for this purpose. And I applaud that. However, my office frequently hears about blind spots -- sometimes referred to as beat-up rooms, even, by incarcerated individuals in prisons -- that are used by staff to evade

accountability being, you know, captured on surveillance.

What is DOCCS's plan and timeline for the installation of the stationary cameras that are funded in the budget? How long do you anticipate it would take for all facilities to have universal stationary cameras and body-worn cameras?

COMMISSIONER MARTUSCELLO: Yeah, thank you for the question.

Certainly as we operate prisons, some of which are over 200 years old, it's very difficult with fixed cameras to cover every single area of an institution. Right now we are at 11 facilities that are fully implemented. We have another 13 that are currently in progress.

And since the Governor took office, she's already invested 413 million in the fixed cameras, and that's before the new appropriation that she's recommending of 400 million, which will allow us to finish the remaining 17 facilities.

We're aggressively working with the

Office of General Services in expediting contracts. We expedited the contract for Marcy, and I have declared an emergency to do the medical area, not only at Marcy but at other institutions.

But to get to those areas where we may have blind spots, body-worn cameras will be critical, where every correction officer and supervisor has a body-worn camera that must be powered on, must be activated any time that they're interacting, and overlaid with the performance metrics where we're doing quality assurance of that. Right? So that can give us full coverage. If we have a fixed-camera system that for some reason didn't cover an area or it was an unexpected area, the body-worn cameras will help us do that.

SENATOR SALAZAR: Thank you. Yeah, and it's encouraging to hear about this change in the policy.

COMMISSIONER MARTUSCELLO: In terms of the deployment of body-worn cameras, all facilities right now have body-worn cameras,

with the exception of Edgecombe, which is now for undomiciled parolees.

SENATOR SALAZAR: Right.

DOCCS COMMISSIONER MARTUSCELLO: Twenty-one facilities are fully deployed, meaning all security staff have them on their person. The remainder have them on supervisors only.

We are working with ITS and the private sector to install switches that are necessary for the upload of the type of volume that comes across body-worn cameras in the video.

So we are aggressively working towards that. I anticipate by the end of June we will be fully completed at every facility and fully deployed.

SENATOR SALAZAR: Thank you.

I want to ask about the prison closures that were authorized -- expedited closures, rather, that were authorized in last year's budget. Obviously Great Meadow Correctional Facility and Sullivan were closed.

I was curious if you have a cost savings update, since that was, you know, supposed to be at least in part an outcome of the closures. And how does DOCCS plan to repurpose those facilities, Great Meadow and Sullivan?

COMMISSIONER MARTUSCELLO: Yeah, thank you, Senator. Definitely a topic of discussion in terms of repurposing.

The overall savings was approximately $82 million. We were able to successfully deploy staff to other institutions because we have plenty of vacancies. We did issue the report to the Legislature as required under that Article VII legislation. We had 50 staff that wound up resigning instead of partaking in reassigning to other facilities.

As you know, the Governor had launched a Prison Redevelopment Commission, which issued its first report. And the ESD is the chair of that committee. I know in this Executive Budget proposal the Governor has proposed $100 million for the purpose of re-utilizing or reimagining closed prisons.

So we'll work closely with OGS as well as ESD in terms of what potential reuses there could be moving forward.

SENATOR SALAZAR: Thank you.

I want to ask a very different question now about HALT implementation. I've heard from incarcerated individuals, I've also seen firsthand from my visits to correctional facilities that congregate out-of-cell time in compliance with HALT often refers to being locked alone in a small recreation pen.

Why does DOCCS count that time as out-of-cell time that complies with HALT's minimum requirements of seven hours of daily out-of-cell time in RRUs, RHUs and other alternative settings?

DOCCS COMMISSIONER MARTUSCELLO: Yeah, thank you for the question.

And you and I have talked about HALT to a large degree since my becoming commissioner, and I'm fully committed to the implementation of HALT and making sure that we are following it to the letter of the law.

In terms of the congregate recreation, individuals aren't typically out there alone. They're typically out there with others. And we are -- we do have multiple projects ongoing right now to put additional recreational areas at facilities. As you know, HALT was one year to implement and it became effective. And some of the infrastructure upgrades take a little longer than that. So we are in compliance with the law, but we do have other projects that are ongoing to even exceed those expectations.

SENATOR SALAZAR: Thank you.

And just to return quickly to basically the impact of prison closures, the closures -- and I'll use this language even if you might not. But it was in part about rightsizing, if I can use that language, right? But that if there was a staffing shortage, closures would allow for the workforce to be redistributed to fill some of those vacancies across facilities.

Does the 380 new full-time employees in the Executive Budget take into account the

closures and, additionally, the many vacancies in current full-time employee positions?

DOCCS COMMISSIONER MARTUSCELLO: Yeah, some of the increases in this budget are to re-fund what was proposed last year that were never materialized in the closures. We closed two prisons -- again, one large prison, one medium-sized prison -- which got us close to the fiscal, but it didn't hit the FTE count.

So there was a redistribution back into the budget for the FTE count. Plus with the expansion of OSI, there's 81 FTEs associated with the redesign of OSI.

SENATOR SALAZAR: So you think that those FTEs additional in the Executive Budget are justified.

DOCCS COMMISSIONER MARTUSCELLO: I do.

SENATOR SALAZAR: Okay, thank you. That's my time.

CHAIRMAN PRETLOW: Assemblyman Dinowitz.

ASSEMBLYMAN DINOWITZ: Okay, I did

have a few questions for -- of course now I can't find my notes, so you'll just have to give me a second.

CHAIRMAN PRETLOW: We can come back to you.

ASSEMBLYMAN DINOWITZ: Yeah, do that. I'm just --

CHAIRMAN PRETLOW: Assemblyman Dilan.

ASSEMBLYMAN DILAN: Thank you, Mr. Chair. And congratulations to you on your new role.

Commissioner, I am -- we've had the chance to talk since the death of -- and murder of Mr. Brooks and before the release of the video. And I see in your testimony you talk about transforming and making your department more transparent. I share that view, and I look forward to working with you in that. And I'd say that it would be the focus of my time as the chair of this committee so long as I have it.

I want to talk about some of the things you mentioned in your testimony regarding whistleblower protections. Could

you expand on that? And then I know that that is done by you, maybe by your order or by rule. But would you support codifying anything that is common sense into legislation?

DOCCS COMMISSIONER MARTUSCELLO: Yeah, so Assemblymember, thank you for your comments. And I certainly look forward to our continued working relationship as we build accountability and transparency and really reform as we move forward.

In terms of the whistleblower, I issued a statewide policy to staff which gave them my clear expectations that we have rules in place that require staff to intervene and require staff to report misconduct. So I gave them clear guidance on what my expectations were as well as the avenues in which to approach that, whether it be through the institution itself, outside to all inside through our hotline number to maintain anonymity, if that's the case, as well as no retaliation.

There's also other avenues such as the

state inspector general's office as well as the Attorney General's office that staff can go to outside of the agency. So I wanted to provide them with clear lines where they can make sure that they're reporting misconduct and that they'll be protected for blowing the whistle in terms of those notifications.

I think Public Officers Law and there's laws on the books that already protect staff from retaliation and those types of activities that are protected in blowing the whistle and identifying misconduct. But certainly any staff that are coming forward, we want to make sure that we protect them to the extent that -- the fullest extent of the law.

ASSEMBLYMAN DILAN: So if we could do this quickly, how -- your whistleblower protections clearly mention staff. How do they also handle complaints of abuse by incarcerated individuals? How will they be protected under your whistleblower policy?

COMMISSIONER MARTUSCELLO: Yes, similarly when incarcerated individuals file

complaints with the Office of Special Investigations, they can do so in a multitude of fashions. But we have a #44, which is a speed dial on the incarcerated phone system, which goes right to the intake unit within OSI.

We're doing technology upgrades right now, so instead of having access phones on the walls, whether in the yard or in the dayroom, every tablet inside of our institutions has a phone application that they can use in the confines of their cell or their cubes and have more privacy in doing so.

When those are reporting and we're investigating, if there's follow-up where staff are retaliating against them for filing a complaint, we investigate that as well and take appropriate disciplinary action as necessary.

ASSEMBLYMAN DILAN: So just moving on to OSI requests, it's for 81, I believe, new FTEs and a budget increase. Can you tell us what will be different, as opposed to what

you already have? I understand this is OSI within the purview of DOCCS and not the Attorney General's office that you're seeking funding for today.

What will be different and what will make it more transparent to the Legislature and to the people of the State of New York?

COMMISSIONER MARTUSCELLO: Yeah, thank you for the question.

So in terms of the restructuring of OSI, we will build out the analytics unit to make sure that we're able to identify trends and mitigate risk, identify where we have -- either at a facility level, at a statewide level, at an individual level, we can better identify trends and get ahead of them rather than be reactionary to that.

In addition, building out a quality assurance unit where we're going to hire investigative attorneys that can assist in complex matters, and making sure they're doing review of those cases to ensure that we are following every piece of evidentiary material and asking questions that are

appropriate to get to the truth.

Also, when we have these excessive use of force cases, we do have a nurse on staff that does a review, and we use an outside provider to do a medical review to determine if the injuries sustained are more likely to align with what the incarcerated said or with the staff. So we're going to bolster that medical unit to make sure that we have a good-quality review and a relationship with that outside entity.

Lastly, we're going to redesign the internal affairs and sex crimes unit to make it a public integrity unit and hire people from outside of the agency as the focus to make sure we're bringing in fresh perspectives when looking at these cases and come with a unique perspective.

ASSEMBLYMAN DILAN: Okay. And the transparency part. Real quickly, do you have anything to add?

COMMISSIONER MARTUSCELLO: Yeah, the transparency, we work very closely with the AG's office, with the State Police, as well

as the Office of the Inspector General.

I'm also looking to move to digital dashboards so I put information about our system on a dashboard available to the public in realtime. We've gone through the RFI process, we're looking to refine it and move it forward this year so we can put that out to the public so people can see exactly what's going on in the system: What do assaults look like, what do use of forces look like, what does excessive --

ASSEMBLYMAN DILAN: If you don't mind, because I'm going to run out of time.

So you mentioned in your testimony about cameras in the infirmaries, in the medical units. It seems -- like I was under the impression that you might have been prohibited by HIPAA in doing this. It seems like, by your testimony, you may not be.

Can you explain how you're allowed to do this? Are you restrained by HIPAA in this regard?

COMMISSIONER MARTUSCELLO: Sure. I'm certainly not a lawyer. I'm sure we have a

lot of you up there. So if I say something contrary, I'm sure you'll let me know.

But we've had it reviewed by our legal team. And we have a business necessity to protect individuals, right, as well as provide the medical care to those individuals. So those -- the camera footage that is supplied will not be shared outside, and it's restricted who has access to that and that they only have a business necessity to do so.

If somebody were to have been -- further disclose medical information for a different purpose, obviously that would be a violation. But the sheer recording of that information is not a violation of HIPAA.

ASSEMBLYMAN DILAN: So you can secure those. Because the number-one complaint I get from incarcerated individuals by letter in terms of abuse do happen in infirmaries, so I'm glad to hear that you can secure those areas. I look forward to you doing so.

The fixed cameras which Senator Salazar touched on, we see the budget

number. But who would have, again, access to the footage? Would it be yourself, the Attorney General and State Police? Who has access to the footage?

COMMISSIONER MARTUSCELLO: Absolutely. When we have an investigation, we turn over all evidentiary material, as was evidenced in the murder of Robert Brooks. Right? Our investigators found the body-worn camera footage. We turned it over to the Attorney General and the State Police immediately to further their investigation. So absolutely.

ASSEMBLYMAN DILAN: Okay. And what processes would you have if your procedures for the body-worn cameras are not implemented properly? How will you enforce that?

COMMISSIONER MARTUSCELLO: So currently we would follow the collective bargaining process and the due process the employees are afforded under the various collective bargaining. It would be progressive discipline based on what exactly is the infraction.

ASSEMBLYMAN DILAN: Okay. So on the FTEs that you spoke on earlier, as it related to the closure under expedited authority that you were granted for prisons in the current year's budget, if I understand your testimony correctly, those FTEs were reduced last year but put back this year. Will there be any new hiring of correction officers? Or what are those lines specifically that are outside of the 81 special investigations team? What are those lines going to be used for, and are they a reimbursement from last year.

COMMISSIONER MARTUSCELLO: Yeah, you understood it correctly. So last year when they put an estimated number of FTEs that would be taken down along with a dollar figure, so with the closures it didn't hit the FTE numbers. So they were refunded in the budget this year under the appropriations. And they cross over a variety of areas, both security and programs, health, the various program areas in the institutions.

But we are certainly at a critical

staffing juncture, so we are aggressively recruiting.

ASSEMBLYMAN DILAN: Thank you, Mr. Chair. I may have more on a second round. But I see I'm going to run out of time shortly.

CHAIRWOMAN KRUEGER: Thank you.

Our other chair, Senator Myrie.

SENATOR MYRIE: Thank you, Madam Chair.

I'm going to direct the balance of my questions in this first round to DCJS. And then we'll use the second round to direct my questions at DOCCS.

But before that, I just want to publicly recognize Mr. Ricks. You are displaying courage and bravery that no parent should ever have to display. And so we are grateful for your attendance today and for what you continue to do for the legacy of your son.

So for DCJS, I had a mass shooting in my district last year at the West Indian Day Carnival Parade. I, along with my

colleagues, made some requests both to the city and the state government to marshal resources to help the community in the wake of this mass shooting. We have introduced legislation in the past that is now law that would redefine what a mass shooting is and what steps should be taken after it.

The Governor has proposed in her Executive Budget $2 million for services and expenses related to responding to mass violence events under the auspices of OVS and DOB. And I'm wondering if you could elaborate more on what that is exactly.

Just for sign posting purposes so we can be efficient on the time, I also want to talk about discovery implementation and NYPD money and some other gun safety things.

Thank you.

DCJS EX. DEP. CMR. POPCUN: Good to see you, Senator Myrie.

So on the -- as you noted, OVS has the appropriation for the $2 million for mass casualty. I would say that after you and several of your colleagues had reached out to

the Governor's office there was a $5 million investment made by DCJS to DYCD to support the CMS network programs. And so we've been working to shore up and support the community violence interruption programs throughout the city. It's work that we haven't talked a lot about, but it certainly goes to your question.

On the OVS funding, again, I would defer you to Director Bea Hanson. But my understanding is that there's been a mass casualty workgroup with OVS and Division of Homeland Security and Emergency Services, and they're looking at how do you respond to mass casualty events in a culturally competent, trauma-informed way. What does the response look like in terms of the team that's deployed.

A lot of that work came out of the Buffalo shooting response. So I think we're trying to, one, avoid and prevent these tragedies at all costs. That's the money in our budget. And then when they do happen, how do we as a state leverage our

partnerships with local agencies but really deploy boots on the ground to make sure that victims and survivors are served.

SENATOR MYRIE: And in that vein, the Office of Gun Violence Prevention was created by executive order a couple of years ago. It has, I think until very recently, been housed in the Department of Health.

And I think we are at a critical juncture in this state and in this nation. The Trump administration issued an executive order eliminating the federal Office of Gun Violence Prevention and an additional executive order meant to protect the Second Amendment.

For what that may entail and implicate for this state, I am curious what DCJS's position is on bolstering the Office of Gun Violence Prevention, ensuring that we have cross-agency conversation. As you know, we have a bill on this to expand the office, to move it to DCJS where it could be a beneficiary of the resources that have been proposed. So I'm wondering if you could talk

to us about that.

DCJS EX. DEP. CMR. POPCUN: While I can't comment on pending legislation, I would say that we share all of the goals that you have articulated. Calliana Thomas, the director of the Office of Gun Violence Prevention, brings an enormous wealth of resources and relationships in the city, and we have started to increase our investments in New York City. Right now $192 million from our budget goes to New York City. And so bringing together the relationship with the resources is going to make sure that we have a statewide picture of community violence interruption.

And so as I noted in my testimony, we've strengthened our partnership. And I think the next, you know, kind of iteration of that is what are the other agencies that need to be at the table. And I think with the convening power of the office and the support of the State Legislature, we're going to get there.

SENATOR MYRIE: Yeah, so I would just

urge for you and the Governor's office to consider when we talk about gun violence prevention, for a long time that has meant solely investing in law enforcement. And we certainly need investment in that area to help prevent and to solve crime.

What we have heard from our communities is that to help prevent it from happening in the first place, that we could have investments in other areas. And that I think requires a multiagency approach, one that I think the Office of Gun Violence Prevention could be a gathering source for -- to help coordinate some of these responses.

Now, on discovery implementation, there have been allocations in previous budgets. This Legislature has fought to include resources for the implementation of discovery. But it has remained unclear to me, at least, how that has been doled out, who is taking advantage of it, where we can see those numbers in realtime.

So my two questions are, is there a county breakdown on where those resources

have gone for discovery implementation? And additionally, have the funds been completely awarded yet? Are there outstanding funds that have not been awarded? And if so, why?

DCJS EX. DEP. CMR. POPCUN: So just as a comment on your last one, the commissioner has been very intentional over the last three years that every dollar we give to law enforcement we also give a dollar to a community-based organization. So if you look at the balance of our budget, we are truly trying to invest in both responding to crime and preventing it in the first instance.

To your questions about discovery, our budget continues $120 million in discovery support to ensure compliance of defenders, prosecutors, police, IT departments, everybody.

The status of that funding is that, you know, again, channeling my inner commissioner, the dollars are out the door. We have been pushing the money out through block grants in many instances to our city partners, including defense and prosecution.

And outside of the city, what we did a few years ago was we have county plans where we've said, okay, here is how much is going to go to the prosecution, here's how much is going to go to law enforcement, to ensure that we were building this kind of muscle for information sharing.

The real pivot over the last two and a half years has been our work with the Defenders Association and the New York Prosecutors Training Institute, to create centralized case management systems that allow the seamless transfer of information, you know, between prosecution and defense organizations and with the courts.

And I think that's really where we've seen, you know, a beneficial kind of removing the patchwork and instead going to a unified system of information sharing.

SENATOR MYRIE: Thank you. And on the plan to increase police presence in the MTA subway system, the Governor announced that the state was going to invest $77 million in that. Do we know what the total cost will be

both to the city and the state for that plan?

DCJS EX. DEP. CMR. POPCUN: So the 77 million is half of the cost. So New York City is picking up the other 77. DCJS's budget has the 77 that's the state share. And our plan is to provide that to the NYPD to, as announced by the Governor, really look at police presence on the subways and the platforms in the overnight hours.

SENATOR MYRIE: And are there any contingency plans for if that number is higher than the total and thus increasing our state allocation?

DCJS EX. DEP. CMR. POPCUN: Not to my knowledge. The $77 million is the state's commitment proposed by the Governor's budget.

SENATOR MYRIE: Okay, thank you.

I do have some time left, so I'm going to shift to DOCCS for a second, and also reserve my opportunity to come back if we run out of time.

I think my colleagues, certainly under the leadership of Chair Salazar, have been quite expressive in what our sentiment is on

what happened to Mr. Brooks. I think the public, seeing that the officers have not yet faced consequences for killing someone in their care, is disturbing. And what we have seen in other contexts, certainly in conversations around other criminal justice reforms, is outrage that individuals who were accused of a crime, or who may have been convicted of a crime, of being let out.

But in this case, in a very high profile, very public way, someone was murdered, and the consequences seem to be evasive.

And so I'm hoping you can communicate, Commissioner, to New Yorkers who feel that there is not the same measure of accountability and outrage for this type of killing, and what you would say to New Yorkers who think that the system is not fair.

COMMISSIONER MARTUSCELLO: Yes, Senator, thank you for the question.

I certainly share your outrage, as well as I know the Governor does. She's

issued many statements on that and encouraged both the Attorney General, when she advocates, and once recused, the district attorney, to move very swiftly to bring charges against those accused of the murder of Robert Brooks.

So I know that the district attorney is working very vigorously to do that, to make sure that they have an air-tight case going forward. I can't speak to the district attorney in terms of when the charging will occur, but I do know that we've made it expressly clear that we want criminal charges filed against all involved.

SENATOR MYRIE: Thank you.

CHAIRMAN PRETLOW: Assemblyman Dinowitz.

ASSEMBLYMAN DINOWITZ: I found my papers.

This is for DCJS. So I also want to talk about the $77 million that the state is providing for the cops on the subways.

So are they going to receive any kind of specialized training in deescalation

1 techniques or other like nonviolent
2 strategies, ways to address situations that
3 perhaps we don't always do but should do?
4 And if so, what? How?
5 DCJS EX. DEP. CMR. POPCUN: I would
6 defer your question to NYPD.
7 But I would say this. DCJS, through
8 our Municipal Police Training Council, sets
9 the basic course for police officers, which
10 requires use-of-force training, deescalation
11 training. We also offer those as in-service
12 trainings to police officers.
13 So you know, we're there to provide
14 technical assistance. I can't speak to how
15 the specialized appointment of NYPD is going
16 to work vis-a-vis their training
17 requirements.
18 ASSEMBLYMAN DINOWITZ: Will there be a
19 system in place to evaluate how effective
20 this is? And we're talking about, what,
21 $154 million being spent. That's still a lot
22 of money. So are we going to be able to
23 determine whether it's working?
24 DCJS EX. DEP. CMR. POPCUN:

Absolutely. I mean, I think the Governor has been laser-like focused on this, and she's announced at a number of kind of press conferences how she's tracking the metrics of success on subway crime. And she's reported that subway crimes are decreasing.

So I anticipate that that kind of measure of what's happening in our mass transit systems is going to continue. And then we'll obviously have a before period of time to look at what was happening and then after the investment, to be able to measure its efficacy.

ASSEMBLYMAN DINOWITZ: Right. I mean, we keep reading about some of these high-profile cases on the one hand, but then the mayor says crime is down. So I don't know how we reconcile -- on the subways. I'm not sure how you reconcile all that. So I don't know what to believe, because we just get conflicting information all the time.

But one thing occurs to me. I mean, I'll admit I don't normally take the subway at 3 o'clock in the morning. But if you have

one cop or two cops, even, on a 10-car subway, I mean, I assume that the officers will be going up and down, back and forth. But I mean even if you have two officers on the train, they're not going to be in 10 places at the same time.

So I'm just wondering how effective that's going to be.

DCJS EX. DEP. CMR. POPCUN: I think one of the things that I would say is the Governor last March announced a surge of State Troopers and others into the mass transit areas. And again, I think one is providing public perception and confidence that law enforcement is there and able to respond if any incidents occur. And then secondly, you know, there is a deterrent effect.

So I think here the same kind of strategies are in play between the mayor and the Governor to say, okay, staffing really, you know, should be dedicated to times where people might feel the most afraid or where they've seen incidents.

And to your larger question, which I think is very similar to the one you asked Judge Zayas is, you know, you have a trend in one direction and yet you have outliers, horrific incidents that happen in another. And the two things can be true. And it's really difficult to kind of disentangle that risk perception, how people feel from what otherwise might be their relative safety over time.

So I'm happy to have the conversation with you anytime and look at all the DCJS data. And it's something that we're trying to disentangle as well.

ASSEMBLYMAN DINOWITZ: I love looking at data.

DCJS EX. DEP. CMR. POPCUN: I have all the data, so.

ASSEMBLYMAN DINOWITZ: I'd rather look at data than look at, you know, crazy headlines in one of our tabloids.

DCJS EX. DEP. CMR. POPCUN: No comment.

ASSEMBLYMAN DINOWITZ: So in another

area, one of the things that's really plagued us everywhere -- I know it certainly has in my area and in the Bronx, Manhattan, everywhere -- has been organized retail theft.

So the Governor has continued funding for $10 million for DAs to prosecute property crimes and $5 million to build capacity for local law enforcement to combat retail theft.

The money -- there was money in last year's budget. Do we have any data or anything to indicate if it's been helpful in any way?

DCJS EX. DEP. CMR. POPCUN: So last year is the first time we've seen larcenies, which is our closest kind of report to this, drop since the pandemic. So we've seen larcenies start to go in the right direction.

Off the top of my head, it's down 3 percent through the first three quarters of last year. That's 1 percent in New York City and about 4 or 5 percent outside of the city.

In terms of the investment, what that money really allowed us to do, in addition to

Superintendent James talking about his organized retail theft work, we have a statewide picture, through our Crime Analysis Centers, on what's happening with organized retail theft.

And so in one instance we saw there was a criminal enterprise that was using our borders, taking rental cars from Canada, driving through the Thruway cities, including my city of Syracuse, and stopping at high-end stores, really kind of professionally kind of raiding them, and then going on to the next city.

The Crime Analysis Centers, along with the State Police, were able to kind of start to stitch together, okay, this is happening, this is the cycle, this is the pattern. And it gave the investigators and law enforcement enough information to say, okay, we now know with what kind of frequency this is going to happen, and get in front of it.

And so that's the kind of value of providing the resources to the Crime Analysis Centers as well as to our law enforcement

partners who enforce and prosecute the laws.

ASSEMBLYMAN DINOWITZ: I guess this is true everywhere. Like a block from my office there's a Walgreens, and across the street from Walgreens people have, you know, little bridge tables or whatever, tables set up selling stuff which very well could have come from Walgreens, you know, 10 minutes earlier.

And it just seems to go -- and maybe I'm making an assumption there, but it just seems to go on and on, and so if the -- if the crime rate is down for that area, hopefully some of the stuff we're doing has an impact. I mean, I happen to personally believe that there is a direct and very close correlation between the waning of the pandemic and a diminishing crime rate.

But I guess next year you'll be able to provide more data.

DCJS EX. DEP. CMR. POPCUN: Yes. And I would just say, you know, there is external research, as a "pracademic" myself, around the effect of inflation and cost of living and particularly the rise in property crimes.

And so this isn't a New York phenomenon, this is kind of a nationwide one. And I think your observations are rooted in reality, which is a data point itself.

ASSEMBLYMAN DINOWITZ: Okay, thank you. I'm done.

CHAIRWOMAN KRUEGER: Senator Palumbo.

SENATOR PALUMBO: Thank you, Madam Chair.

And I guess just to follow up on that question that was just asked by Assemblyman Dinowitz of DCJS, if I may. And good afternoon, gentlemen.

So when you compare those property crime numbers, have you been able to compare them to, say, 2019 or 2018?

DCJS EX. DEP. CMR. POPCUN: Yes. So we have compared them, and I think we're roughly back to where we were in 2017, 2018. I can provide more kind of a breakdown to your office.

SENATOR PALUMBO: Okay. And are they being recorded -- I know there was some testimony in recent years where there were

different ways of recording them through DCJS, that if someone gets seven appearance tickets, appears for one arraignment, that was considered one arrest. Is that still done?

DCJS EX. DEP. CMR. POPCUN: So the crime reporting systems, as we testified to in February of 2023, are still the systems in terms of NIBRS, the National Incident-Based Reporting System, and our summary of crime reporting.

And then in terms of -- the other type of feed that we get is arrests, which are fingerprintable arrests, and those come to DCJS as well.

SENATOR PALUMBO: Okay, so then it still counts as one. Is that just for certain types of crime, or is that for -- if someone commits several robberies, for example, or is it for violent crime?

DCJS EX. DEP. CMR. POPCUN: So if it's all in one crime category, then there would be just one fingerprint, one arrest that comes to us. But I'd have to know the exact

fact pattern to be able to answer 100 percent certain.

SENATOR PALUMBO: Okay, fair enough.

And Judge Zayas was here earlier and was talking about speedy trial dismissals due to discovery violations. Is there any way -- do they parse that out through DCJS? If they have a dismissal, is there a specific grounds listed, or is it just like, you know, 170.40, you know, sub whatever -- you know, just like interests of justice dismissal?

DCJS EX. DEP. CMR. POPCUN: Yeah. We're looking at the same data that's on the OCA dashboard. And as you asked that question, I control-F'd and print screen it. And so, you know, I have the OCA dashboard. There isn't a breakdown of kind of dismissal type, what was the reason behind that.

SENATOR PALUMBO: Okay, very good. Thank you.

Commissioner Martuscello, a few questions. Regarding drugs in our prisons, I mean, we're still seeing -- obviously it's of great concern to you as well, as it is to all

of us, that we have a lot of illegal drugs that are affecting staff, they're getting ill, being hospitalized as a result of fentanyl interactions.

So can you tell us what you're contemplating, intemplating {ph} or what you've been -- what's the word I'm looking for. Any implementation, any way that you're addressing that? If you could just generally comment on that, please.

DOCCS COMMISSIONER MARTUSCELLO: In 2024 we had 706 seizures of drugs, contraband drugs in the system.

We've taken a couple of steps in terms of combating drugs entering the system. First, we've hired K-9 dogs, drug-sniffing dogs. We have 27 K-9s associated with the system that rotate from facility to facility.

We've also implemented a vendor package program, which has cut down on contraband entering the system through packages. And two years ago the Governor advanced and this body approved us to have body scanners. We purchased 88 body scanners

at a cost of $11 million, which are currently operational at all of our facilities.

I also implemented whereby in regular mail we're now photocopying regular mail that comes in, and giving the photocopy to the incarcerated individual.

As a result of the recent incident at Upstate, where I believe one of the areas that drugs are still coming in is on the legal mail -- right? And legal mail has certain requirements for handling how quickly it gets to them, because of court proceedings, making sure we're not reviewing it, opening it in their presence -- we are now calling every law firm to confirm that you sent the mail to your client, and who that client is, prior to delivery.

And we've had instances where it wasn't the case, we've returned to sender and someone has found drugs when they've opened it up when we returned to sender.

So that's a stop-gap measure. We're also looking at some technology, have a few vendors set up to come in and showcase some

things they may be able to help us with as it pertains to legal mail.

As part of the broader national association, legal mail is something that is being focused on.

SENATOR PALUMBO: Okay, very good.

And regarding that -- I only have about 30 seconds left -- those body scanners, do visitors have an option to do that, or can you require them to go through a scanner if they want to come in and visit?

DOCCS COMMISSIONER MARTUSCELLO: Everyone, under law, has an option to opt out, whether it's staff, visitors or incarcerated people.

SENATOR PALUMBO: So they don't have to -- so they can just say "I'm not doing it" and you don't get to scan them?

DOCCS COMMISSIONER MARTUSCELLO: That's correct. Then we would follow other frisk procedures. We have our K-9s available. So we have some follow-ups to --

SENATOR PALUMBO: Does that make sense to you? You can comment sometime. I don't

know if you want to --

DOCCS COMMISSIONER MARTUSCELLO: I follow the law as written.

SENATOR PALUMBO: I gotcha. Thank you.

CHAIRMAN PRETLOW: Assemblymember Morinello.

ASSEMBLYMAN MORINELLO: This is for DCJS.

For the fourth straight year the Governor has included 50 million in capital funding for innovative crime-reduction strategies for gun violence. Could you explain some of the strategies and initiatives that have been supported by the $50 million capital investment to help communities combat gun violence?

DCJS EX. DEP. CMR. POPCUN: Thank you very much for the question.

So the $50 million in capital was used in large part to fund the law enforcement technology and equipment grants that we talked about in our testimony.

So the kind of history on it is we did

a, you know, request for information from law enforcement saying how much do you think you need for technology and equipment, whether it's surveillance cameras or body-worn or patrol equipment. We thought there'd be about $20 million. We got $50 million worth of requests.

And then we did the actual request for applications and we got $127 million of requests from over 300 agencies. And so we had several years of funding that we were able to dedicate to meet the need of all of our law enforcement partners.

And one of the reasons why this funding is so effective is that we also tied it to the surveillance cameras or other data that's collected goes back to the Crime Analysis Centers to -- you know, to have better enforcement and to have better prosecutions. So I think it's been a real game-changer and it's been the backbone of local law enforcement efforts over the last few years.

ASSEMBLYMAN MORINELLO: So if I

understand, you mentioned the Crime Centers. That is gathering the information and then utilizing that to assist law enforcement throughout the state to identify possibly target areas and processes and procedures which I would understand you can't reveal at this point.

DCJS EX. DEP. CMR. POPCUN: Yes. Yeah. It's a copilot model. So there used to be this big kind of tension in the field about, you know, crime analysis should be done only by sworn personnel. I think a lot of times, though, departments realized that they were spending a lot of time, effort and energy training a detective, you know, to do this and then they'd be working on social media analysis that a civilian could do.

And so I think, you know, both the State Police and DCJS have made a conscious investment in advancing the profession of crime analysts to the point where it's now a copilot. So you've got your detective or investigator, but you also have a civilian crime analyst who's running those reports,

doing that pattern analysis, and giving you the investigative leads that make your job better.

What we really want is to make sure that law enforcement is out with the community, building the relationships, pursuing the enforcement actions that we all want to see -- and not spending time having to go back and look up somebody's Twitter account. Sorry, X account.

ASSEMBLYMAN MORINELLO: Thank you.

I'm going to switch over to the northern border protection. You've been sitting there very quietly, so I thought maybe we wouldn't make you feel like we didn't want you here.

STATE POLICE SUPT. JAMES: No worries.

ASSEMBLYMAN MORINELLO: My district is Long Lake, Ontario, and the Niagara River, and we have seen a tremendous uptick. And one of the issues that we've been having is we have a number of individuals along the river who, in the winter, do not live there -- they go to Florida, they go to other

areas.

And what we're finding is some of the coyotes know who's not there and they're utilizing their backyards to bring some of the individuals across the river.

And one of the difficulties has been Border Patrol will see automobiles that they know don't belong there, but they cannot access who they belong to or who they are.

Has there been any discussions on at least allowing Border Patrol, who has to patrol that area, to interact with your State Troopers in allowing them to get some of this information on those vehicles that may be abandoned or in driveways where they know no one is there?

STATE POLICE SUPT. JAMES: Thank you for the question.

Yeah, and as I understand it, that information, more or less proprietary, is with DMV. And that process really rests with DMV, whether you're talking Green Light laws or, you know, the like.

I understand the concern. I

understand what would appear to be the gap there. But in addition to plate information, there's various other aspects.

Part of what the Governor has provided -- obviously 3 million last year, 8 million now for the border -- that's for our intel to work collectively with Border Patrol.

If there's instances where we can bridge that gap, we will work with them, even if it's touching base with our DMV partners to find that out as well. But it's worthy of a discussion with DMV.

ASSEMBLYMAN MORINELLO: Is there any prohibition against Border Patrol calling a Trooper in?

STATE POLICE SUPT. JAMES: No. Short answer.

CHAIRWOMAN KRUEGER: Thank you.

Senator Rolison.

SENATOR ROLISON: Thank you, Madam Chair.

And thank you for being here today.

Commissioner Martuscello, I want to

thank you for your communications with our office as it relates to the two facilities that I have in the 39th District, which is Green Haven and Fishkill Correctional.

Green Haven, when I first came in in '23, was dealing with staffing issues that seem to have gotten a little bit better with the addition of some classes that were designated for the district. In Dutchess County, now Fishkill Correctional is having the same situations.

I've visited both these facilities a half-dozen times, and certainly the staffing issue in the Department of Corrections is the number-one issue in the State of New York, of any agency that we have.

I did see yesterday, in reading about the Collins incident, that there was a directive or a memo from you relating to staffing reductions at 30 percent reduction, or getting down to 70 percent, even though -- I don't know if we're there at 70 now. We're probably not, I don't know. But I believe we're over 2,000 uniformed officers short,

thousands of civilian staff. I mean, those numbers are absolutely staggering.

But do you envision, moving forward -- because everything has to do with staffing. You know, the care, the safety of our officers, the staff, incarcerated individuals, opening recreation yards, industry and all the things that we hear continually that may not be able to be done, which goes to the overall safety and the running of the facility because there's not enough people and they're working 24-hour shifts -- and I could go on. And you know all this.

But do you envision with this review, this analysis of staffing that does not exist, to be able to create a smaller, better-compensated workforce?

DOCCS COMMISSIONER MARTUSCELLO: Yes, Senator, thank you for the question.

You know, I was at Collins yesterday, as I mentioned, and I actually addressed this with a bunch of staff. You know, what I'm doing is listening to my staff.

You know, we are down 2200 correction officers, but yet we're still manning, we're still putting staff on posts as we did 20, 30 years ago. We need to take a look at efficiencies to see where we have overlaps and we can more efficiently do our jobs while still living our progressive values and getting people home to their families instead of working in our institutions.

Let me give you an example. I allow for a vocational instructor and an electrician to do live work with incarcerated people and Class A tools with no correction officers inside the confines of the facility. But the minute I allow an incarcerated individual on a lawnmower, I need a correction officer to supervise him. Doesn't make sense to me. Just because we always did it that way, not a good reason to continue.

So I want to use the expertise of the staff in the institutions to take a real look and redesign how we have job assignments, how we have post orders, to see if we can make it more efficient to drive safety in the

institutions as well as get them home to their families. They are overworked, they're tired, and they need our support.

We've all talked about it for a number of years here, and we're making progress, but they're still tired. And this is a necessary step.

I'm not trying to eliminate current staff. I'm trying to alleviate the burdens on them and their families.

SENATOR ROLISON: Because ultimately, and you're talking about adding, you know, 380 FTEs for special investigations or whatever you're going to use them for, but yet there's over 2,000 vacancies as it is.

And so, you know, adding more staff -- maybe it's for specific types of units -- also, too, do a lot of the special investigation members come from the current ranks as well?

DOCCS COMMISSIONER MARTUSCELLO: So that had been our past model. We've moved away from that. It's now a combination where we bring up -- bring in people from other law

enforcement backgrounds, whether it's the DEA or local police departments, district attorneys. So we have a variety of backgrounds to take a more keen look at our investigations.

So not necessarily. Our focus for OSI is to really hire people outside of the organization, to bring them in from a fresh perspective.

But I'm committed with regional recruitment and with the Governor's proposal to expand and allow me to hire people out of state. I think that it's going to help us to bolster our ranks.

When we did the regional hiring in Chemung and we announced it, people right across the border, we had over 600 calls to Elmira Correctional Facility, and we couldn't hire them because you have to be a New York State resident.

SENATOR ROLISON: Right. I mean, I think -- and I'll end with this. And again, thank you for all the things that you have been doing to try to rectify these issues,

which are very challenging, the most complex in the state.

But I would just say without the people within the facilities, we can't do the things that we want to do for the system which benefits everybody. And I hope that everyone at the state level is looking at it. That's the critical issue.

CHAIRWOMAN KRUEGER: Thank you.

DOCCS COMMISSIONER MARTUSCELLO: Senator, thank you for your service.

CHAIRMAN PRETLOW: Assemblyman Palmesano.

ASSEMBLYMAN PALMESANO: Yes, Commissioner Martuscello, of course my five minutes -- this is my five minutes -- is for you. Thank you.

We talked, and I hope we can -- you know, five minutes is enough to go over everything. I hope we could talk offline sometime.

DOCCS COMMISSIONER MARTUSCELLO: Absolutely.

ASSEMBLYMAN PALMESANO: And when we've

spoken in the past, we've both agreed that violence inside our correctional facilities is absolutely unacceptable. And certainly what happened to Mr. Brooks was absolutely horrific, totally unacceptable, and those individuals must be held accountable.

But getting back to the violence inside our correctional facilities, as you know, it has skyrocketed in the past three years. It points right to HALT. If you look at the numbers, people say we need more time to evaluate HALT. It's been three years, and the numbers just on assaults -- inmate on staff assaults have increased 76 percent over that time, from 1100 to just over 2,000. And more staggering, inmate on inmate assaults have increased from 1100 to 2,983, for an increase of 169 percent.

So HALT should be repealed or seriously reformed. And I hope you're delivering that message to Governor Hochul in your conversations. But I want to go on from there.

It is quite frankly -- you know we

have a staffing crisis in our correctional facilities. We've had prison closures, inmate population is up. Violence is at record levels, which we just talked about. mandatory overtime, sometimes triple overtime. It makes me wonder, who would want to do this job in the current working conditions? And they're not. They're not saying yes.

And then I read a memo that was sent out this week that you talked about a little bit, maybe, that would eliminate open jobs and impose -- not because they're not needed or important but because you can't fill them. On paper, that might solve the staffing crisis on paper, but it's not going to solve the problem.

And what I don't understand, when we have staffing crises, you look at the healthcare, they're giving recruitment bonuses, retention bonuses. The starting pay for a CO is 56,000. That's woefully inadequate. We need to significantly invest -- you know, money talks, BS walks.

We need to significantly invest in our corrections officers, their pay and their benefits. And their retirement, after they get to their 25 years, if they continue on. They do not get that bump in retirement like others do. That needs to be corrected.

Why are we not and why are you not talking -- and maybe you are. And I think you get it. I'm wondering about Governor Hochul. Why are we not providing significant recruitment bonuses and retention bonuses for our COs? And why would the Governor veto the death gamble bill again, which would have provided security for our corrections officers so they don't run a risk through retirement for their loved one, and that would help keep them. And why -- and she said that has to be in the budget, but she didn't put it in her budget.

What's being done? We've lost -- last year we had 500 new recruits, but we lost 600 people. What are we doing? This isn't working. We need to pay more, we need better benefits, and that's what's going to help

solve this problem.

DOCCS COMMISSIONER MARTUSCELLO: Yes, so thank you for the question and your support of our workforce.

You said a lot in there, so I'm not going to be able to unpack it all. However, I would say this. The Governor has been very supportive of our workforce in terms of we increased the starting salary of the correction officer position by over $6700 --

ASSEMBLYMAN PALMESANO: But it's still $56,000, which is woefully inadequate.

DOCCS COMMISSIONER MARTUSCELLO: Fifty-six five. And then we --

ASSEMBLYMAN PALMESANO: Woefully inadequate.

DOCCS COMMISSIONER MARTUSCELLO: Then we entered into a collective bargaining agreement, which the membership ratified, with raises across the board as well as soft money, upwards of $11,000.

So really, starting the Academy with a high school diploma at $66,000 in the Academy, and then goes up after one year.

And then, again, decentralizing to targeted recruitment in terms of hiring people and allowing them to go right back to their communities. We've seen an uptick -- as Senator Rolison said, it's helped us at Green Haven doing those regional recruitments. And I think it's going to help us in Chemung and Central New York and these other counties that we're targeting, where we have correction officers not on reassignment lists.

Two years ago we tried to lower the age. Unfortunately, that didn't pass. But this year we're going to allow me to hire out-of-state residents. And I really think that that's going to help us bolster that.

I really need a partnership. I've written to every member of the Legislature, every SUNY president, every CUNY president, and the union, and I've really asked: Let's lean in and let's partner together. We need to get away from the negativity. And I say it all the time. If every staff person just brought one person to the table -- one

person -- I wouldn't have a staffing problem. It's that simple. One person. Right?

And if we can do that, we can make sure people have the quality of life and a work/life balance that they so deserve. Because they're critical in the public safety continuum in New York State.

ASSEMBLYMAN PALMESANO: And I appreciate what you said, but I do think we need to bump that pay higher. We need more recruitment bonuses and retention bonuses to keep them. And we need the death gamble fixed. I hope you're talking to the Governor about that.

How many FTEs are in the Governor's budget proposal for this year, for new correction officers? Is there any --

DOCCS COMMISSIONER MARTUSCELLO: Yeah, so we have a total FTE count of over 25,000. The FTE count for correction officers is just under 15,000 with an incarcerated population at 33,600.

ASSEMBLYMAN PALMESANO: So like in the budget for a new class, because last year

there was 500 new but we lost 600.

DOCCS COMMISSIONER MARTUSCELLO: Oh, yeah, I will tell you this. For new classes, I have the support to fill up to my FTE level. It's about -- if you bring them to me, I'll process them and hire them.

ASSEMBLYMAN PALMESANO: Thank you.

CHAIRWOMAN KRUEGER: Thank you. I have to cut this off. Thank you.

Next is Senator Brisport.

SENATOR BRISPORT: Thank you, Madam Chair.

Commissioner Martuscello, in your written testimony it says that after the death of Mr. Brooks you ordered an investigation. But I want to point out that following an October 2022 facility visit to Marcy correctional facility by CANY, they published a report on rampant abuse by staff, including physical assaults and observations of a retaliatory environment across the general population units, the SHU and the RMHU. It also reported significant numbers of instances of racialized abuse and

discrimination, including derogatory language and unequal treatment.

You had seen that report from CANY, hadn't you?

COMMISSIONER MARTUSCELLO: Yes. Thank you for the question. I did see that report.

And following that report, we not only responded but I directed our OSI to have a call with CANY to discuss the allegations specifically so they can launch investigations. They were able to launch three investigations associated at Marcy. One wound up being associated to Mid-State. But a lot of the information was more anecdotal where it couldn't identify an individual.

But we did do that follow-up.

And now, moving forward, I have a good relationship with CANY, I meet with them on a quarterly basis. I think there's a lot of value in what they bring to the table in order to provide me with information that people may not be saying to us, may not be saying to OSI.

And then on top of that, after every visit, before they even issue the report, we're setting up monthly calls with my Office of Special Investigations. Because I want that information realtime, when it's fresh, when the people know who they're talking about, while they're still in the institutions, so we can immediately investigate and hold people accountable.

SENATOR BRISPORT: And, commissioner, in your testimony you also mentioned a few things and policies and changes you've made since the death of Mr. Brooks. I'm curious, why weren't any of those changes implemented after the previous CANY report on widespread abuse? And if you had implemented any of the reforms you mentioned earlier, do you think any of those might have saved Mr. Brooks' life?

DOCCS COMMISSIONER MARTUSCELLO: So in terms of implementation prior to, Marcy, we deployed body cameras at Marcy just in March of 2024. Right? In advance of the tragic murder of Mr. Brooks, right? So that

directly correlates to capturing and holding people accountable.

Unfortunately, it didn't prevent his death, which is totally, absolutely unfortunate and tragic. Right?

But we have been moving forward with technology and to safeguard the system, advance investigations to try to hold people accountable and make sure we're rooting out violence within the system.

You know, I will not normalize violence in the system, no matter who's the perpetrator of it, right? There's no place for it. People come to prison and my job is to give them the tools to succeed and go back to their family. Unfortunately for Mr. Brooks, that's not going to happen, and for that I'm absolutely sorry.

SENATOR BRISPORT: Those are all my questions.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRMAN PRETLOW: Assemblyman McDonald.

ASSEMBLYMAN McDONALD: Thank you, Mr. Chair. And thanks to all three of you for your testimony today.

I'm going to start off with the superintendent, for the most part. There's $8 million that the Executive has proposed for additional State Police and counterterrorism investigators along the northern border. Is that focused more recently on personnel, or also are there tools or certain type of devices? What do you plan to do with that money?

STATE POLICE SUPT. JAMES: Six million dollars of that is personal service, of which the remainder is between technology. resources, software, training, all to bolster the mission of protecting the northern border.

In some respects I would say we're certainly always welcome for more. Obviously our initiative up there is not going away with counterterrorism. So it is a start, incrementally. The idea would be to expand that request even further.

ASSEMBLYMAN McDONALD: Just as an FYI, I haven't heard anybody in the last two weeks ask for less. They're always asking for more. Which -- you're doing your job, right?

STATE POLICE SUPT. JAMES: Yes.

ASSEMBLYMAN McDONALD: Member Dinowitz got into this a little bit in regards to organized retail theft. One of the concerns last year was in regards to interactions in working with local law enforcement. Has that gone along -- how has that gone along? Has it gone well?

STATE POLICE SUPT. JAMES: It's going along quite well. As a matter of fact, I touched base with Craig Apple a short time ago to ensure that he was getting the resources that he needed. He's working collectively, obviously with Troop G for -- on the ORT.

Also Oneida County, Sheriff Maciol, the PD, we work collectively with Oneida County and also the Onondaga County Sheriff. I made a commitment when I met with the Sheriffs Association that we would spread the

resources, work with them collectively. We've even done MOUs with regard to repurposing the equipment so it's not all held with the State Police, whether it's LPRs, body-worn cameras. And trust me, they weren't shy in putting in the request as well.

But we can do certainly much more collectively with the local law enforcement.

ASSEMBLYMAN McDONALD: Great, thank you. And actually, it's interesting, I was with Sheriff Apple last night, and I've actually been communicating with the Sheriffs Association. So Dan, this question's moving towards your direction.

It deals with medication-assisted treatment. You and I have had conversations in the past about making sure that those individuals who are looking for treatment have access to it. The sheriffs have expressed to me their concern. It's kind of a catch-22. They have more individuals looking for treatment, but they need more money to provide that treatment.

Has our budget been supportive to make sure that individuals looking for MAT in the prisons are actually having access to it?

DOCCS COMMISSIONER MARTUSCELLO: Yeah, thank you for the question, Assemblyman.

Certainly as we implemented the law, we've had an increase in patients on medication-assisted treatment. Last year we treated over 7,000 individuals in MAT. And we did fall short in the budget. So this year the Governor has provided an additional $43 million in my budget to support the growth of MAT. So in the proposed budget by the Governor, we will be fully funded for medication-assisted treatment.

ASSEMBLYMAN McDONALD: That's great to hear. And once again I appreciate you reaching out to me to talk about it from a pharmacist's perspective as well.

DOCCS COMMISSIONER MARTUSCELLO: Thank you.

ASSEMBLYMAN McDONALD: The only other thing I'll say -- this is really for the group as a whole, and then I'll yield back my

time -- is that in the proposal the Governor has proposed to basically eliminate the age cap for hiring new law enforcement officers and various other positions. And I want to commend her for that. That is the subject of a bill that I carry in the Assembly.

Once having the responsibility 14, 15 years ago, I hired dozens and dozens of police officers and it was drilled into me early that once you're making that decision, you need to be very thoughtful that you're giving somebody a gun for 20 years. And it's a serious responsibility.

What's been concerning is that over the past several years, not many people are seeking to take the civil service exams. And we've waived every fee known to mankind.

I talked to Sheriff Apple, I talked to Chief Geraci in Colonie, and where they used to have several hundred, five, 600 people, maybe 150 are showing up for an exam now. So I think the notion to raise that age and to actually allow people who have got a little more lived experience take on that role I

think is something that we all should be considering during this budget cycle.

So thank you for your testimony.

CHAIRMAN PRETLOW: Senator Murray.

SENATOR MURRAY: Thank you.

And thank you all for being here. I appreciate what you do and also for all the folks that serve under you, I very much appreciate what they do.

Let me start with Superintendent James, because I've spoken to our local corrections officers and heard from them in regards to hiring and recruiting and being short-staffed. And Tier 6 certainly isn't helping. We need to do something about that as far as helping you hire and recruit.

But I also want to talk about burnout and I want to know, are you facing the same thing? Because locally our corrections officers are saying they're going to work and they don't know if they're coming home after eight hours, 16, 24 -- they don't even know. And it's leading to burnout, which is exacerbating the manpower shortage.

Are you facing the same struggles there with that?

STATE POLICE SUPT. JAMES: I will tell you, after having gone through, you know, three-plus decades, I can relate. So the short answer is there is an experience that officers do endure. Law enforcement policing is a tough process.

But what we have implemented, and we continue to ensure that gets done, is mental health training for our, you know, membership. We're going to reinvigorate that collectively with the unions as well, with their ideas how we can do it better. Before I retired back in -- then it was 2018, I initiated a statewide mental health program.

We'll do that, but we're also going to include local and other state agencies. We've done that once before. Certainly whether it's for OVS or other entities that deal with people who are experiencing it.

So the short answer is we'll continue, we'll continue that initiative.

SENATOR MURRAY: Okay, great.

And Commissioner Martuscello, so again I agree with you and I think there's no one you'll find that doesn't. What happened at Marcy to Mr. Brooks is just reprehensible and terrible. But as Assemblymember Palmesano brought up, the violence in the prisons is increasing. Inmate on inmate, violence to corrections officers. And I worry about some of the policies being passed here helping to exacerbate that problem, whether it's HALT, whether it's others.

Because we hear -- you take away some of the tools as far as dealing with those that are getting out of line or assaulting those, when you take away any kind of punishment or something, what are you left with? And you see the increases.

So I guess the answer is -- or the question is, are we adding to the problem with some of the policies that we're initiating?

DOCCS COMMISSIONER MARTUSCELLO: You know, that's a difficult thing to answer in and of itself, right? Because, you know,

while I hear the statistics by the Assemblymember, if you look back over time, even going back 10 years prior to any changes to restricted housing and discipline, they were still on the uprise. Right? They were still going up.

SENATOR MURRAY: We'll talk later.

CHAIRMAN PRETLOW: Assemblyman Beephan.

ASSEMBLYMAN BEEPHAN: Thank you very much.

So I guess I'll start with Commissioner Martuscello. Thank you for being here today.

I think you spoke about body cameras earlier. In your SOPs and in the memos that you've put out, did you ever specify when those cameras are to be turned off, like private reasons, like bathroom time, all that stuff?

DOCCS COMMISSIONER MARTUSCELLO: Yeah, thank you for the question. This was actually a subject of much discussion with my unions and my workforce.

In my December 18th memorandum, I gave strict instructions that the body cameras should be on the minute you receive it, powered on and activated whenever you're interacting with an incarcerated individual.

As we know from the investigation around the murder of Mr. Brooks, that there's a recall feature that even when it's not on, it's capturing video. So just two days ago I published a statewide directive, standalone. It replaced the one that was hand-held and body-worn cameras. And in there, through negotiations with the union, now when an employee goes to the restroom, they can power off that camera, right? As part of overlaying of performance metrics, we're able to see how many times that camera's powered off. Right? And so that way we have metrics behind it.

And if Dan Martuscello turns it off 20 times in the day, maybe that's one day you're not feeling well. If that's every day and you turn it off five times -- and that's the average, right -- we're able to take

corrective action and have a discussion on why are you continually turning off your camera.

ASSEMBLYMAN BEEPHAN: Right. Understood.

DOCCS COMMISSIONER MARTUSCELLO: So we did address that, sir.

ASSEMBLYMAN BEEPHAN: Thank you.

On the topic of cameras, not to divulge too much public information, but perimeter cameras, I know there's times when they're not always recording, especially in situations where drugs are being thrown over fences.

Has there been any discussions about changing how those cameras are set up or activated so it's recording 24/7?

DOCCS COMMISSIONER MARTUSCELLO: Yeah, so I'm not going to get into the specifics of the camera, but they're recording. I mean, whether you're actually catching, you know, the football or the handball going over, right, that's a different story.

But the cameras are recording.

ASSEMBLYMAN BEEPHAN: Understood.

Earlier this year there was a situation at Fishkill regarding Social Security numbers being disclosed for correction officers and administrative staff. What's the status of that situation right now? And has there been any situations where someone's identity has been compromised?

DOCCS COMMISSIONER MARTUSCELLO: So we did have a situation where an incarcerated individual had submitted a FOIL request for the names and titles of everyone working at the facility. So every person, from the superintendent on down.

Unfortunately, when that list was produced, it did contain Social Security numbers and the FOIL officer did not redact the Social Security numbers. Immediately upon her recognizing her error, she made notice to the superintendent and we were able to retrieve the copy and nothing got outside of the institution.

We provided notice, under our policies and procedures, to every employee impacted,

and we pointed them to the appropriate credit-monitoring just as if when our healthcare information is breached.

ASSEMBLYMAN BEEPHAN: Do you believe that any copies are still in existence amongst the incarcerated individuals?

DOCCS COMMISSIONER MARTUSCELLO: I do not believe so.

ASSEMBLYMAN BEEPHAN: Okay. I know you addressed legal mail being brought into the facilities and photocopied. So that cannot be done at this time, as you believe, for legal purposes. Do you have a timeline on when that can be done?

DOCCS COMMISSIONER MARTUSCELLO: So we are studying what we can do further on legal mail. We've put in an immediate fix in terms of verifying that you actually sent something to your client.

We are looking at about a couple of different technologies that we could overlay in the system. But the photocopying of the legal mail itself, it has to be opened in the presence of the incarcerated individual. And

then what do you do with the original copies of legal mail, right? Immediately destroy it.

So we're looking at some other alternatives, but I think that we've put an initial stopgap measure in for right now.

ASSEMBLYMAN BEEPHAN: Thank you.

Moving over to the superintendent, just a quick question, very micro level.

Regarding the UAS positions, do you anticipate ever having the lead for that position becoming a tech sergeant or a sergeant in the future?

STATE POLICE SUPT. JAMES: The short answer, we'll contemplate it. Certainly we want to have subordinate-level techs trained other than the staff sergeant. And we're hoping to expand that resource. UAS is statewide. Obviously I don't have to mention to you the concern of New Jersey and New York City with the UASes.

So the short answer is we are looking to expand that. And we'll need to expand it with personnel.

ASSEMBLYMAN BEEPHAN: Perfect. Thank you very much, all of you, for your time.

CHAIRWOMAN KRUEGER: Thank you.

Senator Gustavo Rivera.

SENATOR RIVERA: Thank you, Madam Chair.

A couple of quick things, since I only have three minutes. Certainly I share all the concerns that have been expressed about Mr. Brooks, and we will be keeping a very close eye to make sure that not only are the people held accountable who committed this crime, but also that the changes that are made are actual, meaningful changes that will actually make sure that this does not happen again.

So I'm just going to ask the questions upfront, and then I'll give you the rest of the time for the answer. There's three things. First is on MAT, second is on Medicaid eligibility, and third is on ICE.

On MAT, so Medicaid-assisted treatment, we see that rates of injectable buprenorphine increased by 221 percent within

one year, from July 2023 to July 2024. And there are reports that incarcerated people are pressured to use injectable buprenorphine as a medication for the treatment of substance use disorder. So I wanted you to comment on whether we provide a choice, but it seems like the numbers speak to them being pressured to make that one choice. That's number one.

Number two, on Medicaid eligibility. It can currently take up to 45 days post-release to process a Medicaid application for someone who's leaving a correctional facility. So would you be supportive of formerly incarcerated people having active insurance on day one after their release?

And number three, on ICE, obviously we're talking about Immigration and Customs Enforcement. We are seeing what's happening around the country. I want to make sure that on the record you can provide assurances that New York jails will not be used to hold undocumented immigrants unless they're

primarily being held on a pending local criminal charge, which would be the only time that sort of thing is allowable.

So take the rest of the time to answer those, if you could, please.

DOCCS COMMISSIONER MARTUSCELLO: Sorry. On MAT, as I mentioned, we serve over 7,000 people. We offer all forms of medication-assisted treatment, and now we've included the monthly injection.

So yeah, it's a discussion between the physician and the patient as to what suits them. Obviously if they're returning to a county where there's no methadone clinics, that's not something the doctor's going to push them towards. But that's part of that discussion. If we do see people that are diverting, rather than take them off, we give them other options like the injections.

But it is totally a discussion between the clinician and the patient.

SENATOR RIVERA: On Medicaid?

DOCCS COMMISSIONER MARTUSCELLO: On Medicaid, I'm proud that last year, of the

releasees, 88 percent returned to the community, enrolled in Medicaid. I was at the federal level advocating last year to try to change what's a qualifying event. Because leaving incarceration --

SENATOR RIVERA: On ICE? I only have 15 seconds.

DOCCS COMMISSIONER MARTUSCELLO: Okay. And ICE, yeah, we're not using any of our facilities to hold any immigrant -- immigration status individuals, other than if they've been convicted of a felony in New York. And then if they have -- if ICE have a detainer, they're serving the New York sentence.

SENATOR RIVERA: Thank you.

DOCCS COMMISSIONER MARTUSCELLO: That was speed round.

CHAIRMAN PRETLOW: Assemblyman Ra.

ASSEMBLYMAN RA: Thank you, Chair.

Regarding retail theft, the State Police testimony said we've had 688 people arrested on 1100 charges. Do you have any data as to were those predominantly, you

know, bigger box stores that we've seen a lot, or are a lot of them smaller stores? Do you have any data regarding the breakdown of that?

STATE POLICE SUPT. JAMES: Yes. Thank you for your question.

And the latter is true, it is -- we call it organized retail theft for a reason, because we've found that it is the bigger box stores. We work with the national retailers, we've worked with their inventory specialists. When we have a search warrant of a seizure, we invite them in. They're able to track, through technology -- bar coding -- the origin and the history of this merchandise. So we're able to track that down.

But notice how I didn't mention smash-and-grabs. We have pretty much -- I'm not going to say it's gone away, but the bigger genesis is the organized retail theft.

In Queens County we had a spin-off case, a result of a road trooper being observant. It culminated into a seize of

property in a vehicle, and $2 million in recovered stolen property. And in excess of $200,000 in currency.

So there are other cases that are still in the pipeline in that regard, but we're finding that they're mainly the larger, more organized type of crimes.

ASSEMBLYMAN RA: And any sense in terms of recidivism with regard to those arrests, of those that were arrested?

STATE POLICE SUPT. JAMES: In Oneida County there were several. And that dealt with an individual who formerly worked for the big box store who had friends or alliances. And it did result in multiple arrests with that individual.

But as far as statewide, what we're finding is it hasn't been a recidivism issue with the individuals that we've been arresting.

ASSEMBLYMAN RA: Thank you.

And I think this is maybe more for DCJS, but just in terms of what strategies, if you could detail that, are working with

engaging the local communities as we're dealing with the retail theft and obviously the funding that was put forth last year.

DCJS EX. DEP. CMR. POPCUN: Yeah. I think, you know, one is stepping up kind of the enforcement side of it. The other one, the Governor had proposed the retail security tax credit.

And then to kind of go back to and build off of the superintendent's remarks, I think we've seen remarkable progress, through our Crime Analysis Centers, in engaging big box retailers and also smaller mom-and-pop shops, to be able to kind of report.

So what we're working on this year is really setting up a community of practice among retailers, where they can share information or that law enforcement can distribute information to make sure that there's consistent messaging.

So in my example before around kind of a Thruway-organized kind of criminal element, in that instance, if we had a -- kind of set up a community of practice, we'd be able to

do push notifications to retailers to be on the lookout for this kind of a pattern of behavior.

So I think we're making significant inroads with our partnership with the State Police and with local law enforcement. And I think, you know, the retailers are part of the solution here too.

ASSEMBLYMAN RA: And with regard to the subway crime initiative and the $77 million for New York City, any sense of how we plan to measure the success of this?

And if it is successful, what happens after the six months? Is there a plan to continue that if it's successfully, you know, prevents a lot of the things that we've been seeing?

DCJS EX. DEP. CMR. POPCUN: As I said before, I think, you know, we're always measuring data, and the Governor has been focused on this.

So we do anticipate that there will be kind of a report out on what's happening with subway crime on the platforms in metro areas,

what's happening with arrest activity, what's happening with certain indicators.

Then in terms of an evaluation, you know, afterward we'll be able to look at whether the surge had the intended effect. If it did, then I think the conversations would be between New York City and the New York State Division of Budget on how that could become, you know, more permanent. But that's outside the scope of the DCJS budget.

ASSEMBLYMAN RA: Thank you.

CHAIRWOMAN KRUEGER: Senator Stec.

SENATOR STEC: Thank you, Chair.

Commissioner, I've got seven correctional facilities in my legislative district. I used to have 10 when I first become Senator. That's the most of any legislator.

I only have three minutes, so I'm going to share my questions and concerns and I'll ask you to answer what you can and then please follow up in writing later with what you can't.

It's been a rough three months for

your department. You had the inmate death in December at Marcy, unexpected series of exposures and ER visits at Upstate Correctional in my district and other places, which is a contraband issue. You had a memo dated this past Monday, February 10th -- incorrectly, 2024. I think that's a typo -- directing a 30 percent reduction in staffing at all facilities across the board. And just yesterday you lost control of two dorms at Collins in Western New York, also reportedly contraband driven.

My questions are, first, I asked for data on ambulance or emergency run visits in light of what happened in Malone, and I was told by your department that it doesn't exist. I'd asked why and, going forward, can we start collecting that data.

You said that you purchased 88 body scanners in the 2023 budget for a cost of $11 million. Are all of them installed and operational? And obviously the question I have is why are they optional? It's not optional if you want to get on a plane at the

TSA to say, No, I don't want to be scanned.

Why aren't we using a true secure vendor program, as other states do? The third-party sellers through Amazon and Walmart, a lot of them are just fronts, they're easy to counterfeit. It's a joke. I would not call what we have a secure vendor program.

Was the substance involved in Upstate on January 20th found? Was it identified? And does DOCCS believe, as some have said, that the two dozen people that went to the emergency room that night are all suffering some -- from some -- experiencing a mass delusion?

How the hell does DOCCS lose control of a prison yesterday?

And then my final question is was it coincidental that on Monday, this past Monday, just three days after NYSCOPBA voted "no confidence" on your leadership, that you made this announcement for a 30 percent reduction in staffing? Are we going to reduce visitation by 30 percent? Are we

going to reduce programming by 30 percent or inmate movement by 30 percent? Why don't we just eliminate 30 percent of the penal code or cut 30 percent off of everyone's sentences if that's our approach?

DOCCS COMMISSIONER MARTUSCELLO: Yes, Senator, thank you for your rapid-fire questions. I don't know that we'll get to them all, but let's start with Collins.

I think we have some inaccurate information being reported in the media. On the early morning hours yesterday, a sergeant encountered multiple individuals in one cube. When he engaged them, the individual ran from the sergeant. They followed him to a bathroom. A use of force ensued, and they wound up finding two contraband cellphones.

Other incarcerated people on the dorm became agitated because they didn't understand why the force was being used, why they were chasing the individual. And the staff on scene, including that sergeant, did a great job in deescalating that situation and resolved it, and everyone went back to

their cubes.

Later that morning there was a potential threat that staff identified, and as a result they left the dorms. We actually didn't lose the dorms, they walked off of the dorms because of perceived threat. There was no --

SENATOR STEC: Has that happened before? When was the last time that we had a situation where there was no adult supervision in the dorms?

DOCCS COMMISSIONER MARTUSCELLO: Well, the staff remained outside of the dorm itself --

SENATOR STEC: They barricaded themselves in.

DOCCS COMMISSIONER MARTUSCELLO: They did not barricade themselves in. That is not true. I was on-site at that facility yesterday, the incarcerated remained communicative with the people on the other side of the door that we locked. Right? And we were in constant communication with those individuals.

So a lot of false narratives around that.

SENATOR STEC: Thank you for clarifying that. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRMAN PRETLOW: Assemblyman Burdick.

ASSEMBLYMAN BURDICK: Thank you.

And Commissioner Martuscello, thank you for your testimony and also for your part on the heat mitigation plan bill, which the Governor signed in December. Your willingness to make it work is really appreciated.

I have two questions. I'll give them both at the same time.

Further to Senator Salazar's question regarding Marcy, I appreciate the investigation that you described. But to what extent will it examine systemic issues in the culture in the state's correctional facilities?

My second question is I know that you

support the work of rehabilitation through the arts and other programs that accelerate rehabilitation and lead to reentry sooner than otherwise, and with much lower recidivism rates than the average. And of course there are vital vocational programs.

I'd appreciate you letting us know your vision and plans for expanding these programs to facilities that don't have them or have fewer than others.

DOCCS COMMISSIONER MARTUSCELLO: Yeah, thank you for your questions.

As part of the Marcy incident and the review, we've taken a number of steps at the Governor's direction. We've hired an independent firm to come in and do a pattern and practice assessment as well as a cultural assessment, and that's already underway. The firm has met with me, every member of my exec team, they're looking at our policies, our procedures, our training curriculum, they've been to Marcy Correctional Facility for two days, and they're going to other institutions to exactly examine the culture.

We've also launched a partnership with Chicago Beyond, which is dealing with holistic safety, where we bring all parties together -- administrators, advocates, incarcerated people, unions and staff -- to work on safety and the culture --

ASSEMBLYMAN BURDICK: I'm sorry to interrupt, but it would be at every one of the correctional facilities?

DOCCS COMMISSIONER MARTUSCELLO: Again, so they're doing a sampling and they're going to --

ASSEMBLYMAN BURDICK: Oh, I see. Okay.

DOCCS COMMISSIONER MARTUSCELLO: The law firm's going to do a public report, which then we can adopt the practices and make sure that we're handling any systemic issues.

Chicago Beyond's at two facilities, but the intent would be to spread everywhere.

And then, lastly, we're working with Amend --

ASSEMBLYMAN BURDICK: Actually, the second question, if you could.

DOCCS COMMISSIONER MARTUSCELLO: Okay, the second one. Rehabilitation Through the Arts. I am wholly supportive of Rehabilitation Through the Arts. They actually just recently named a new executive director who was formerly incarcerated, graduated through our college programs doing wonderful work.

But we definitely want to expand that. I've had conversations. We are in contract negotiations, so --

ASSEMBLYMAN BURDICK: And there's other programs like it you're also trying to expand as well to other facilities?

DOCCS COMMISSIONER MARTUSCELLO: Yeah, we've expanded Puppies Behind Bars, and working with Exodus on Project Build and we're actually working on a trauma-informed care, but for incarcerated and staff, through Exodus that we're looking at.

So yeah, those are all things that I'm very supportive of.

ASSEMBLYMAN BURDICK: Well, thank you for your vision on that. Greatly needed.

Thanks so much.

DOCCS COMMISSIONER MARTUSCELLO: Thank you.

CHAIRWOMAN KRUEGER: Senator Hoylman-Sigal.

SENATOR HOYLMAN-SIGAL: Thank you, Madam Chair.

I wanted to ask the DCJS representative -- thank you, sir, for being here -- about the Securing Communities Against Hate Crime grants that are awarded. This year the Governor included $35 million in her Executive Budget. That's the same amount that was requested last year. I just want to point out that, you know, hate crimes have -- this is not news to you, I'm sure. Hate crimes have been increasing. They increased 59.3 percent between 2023 and 2019. And from 2024, through the previous year, there's been 137 percent year-over-year increase in reported antisemitic incidents.

I was wondering why the Governor decided to ask for the same amount. Does the Governor's office believe that the

$35 million is sufficient to meet the needs of securing communities against hate crimes?

And secondly, how many applications has DCJS had to deny for lack of funding? I have one here that I'm looking at that Senator Salazar and I sent out on behalf of a historic synagogue that was trying to protect a Jewish cemetery in Brooklyn that dates back close to 200 years. But they're very fearful of attacks on that property.

DCJS EX. DEP. CMR. POPCUN: Thank you very much -- and it's good to see you again -- for the questions.

So the Governor's $35 million, last year was actually an increase because there was a $10 million carveout for reproductive health centers, which was moved from DCJS to DOH. So the $35 million last year and the $35 million that's proposed this year is in a record level for the administration.

SENATOR HOYLMAN-SIGAL: So it's in effect a $10 million increase, is that what you're saying?

DCJS EX. DEP. CMR. POPCUN: Yeah, I'm

saying last year what it looked like on paper was that it was actually a $10 million increase, to kind of be proportional to what was being seen to --

SENATOR HOYLMAN-SIGAL: Okay, that's good news and I appreciate the clarification.

In my time remaining, could you -- are you able to share with my colleagues DCJS's rejections of applications for the Securing Communities Against Hate Crime grants?

DCJS EX. DEP. CMR. POPCUN: So we don't make a list public because it creates a security vulnerability because all --

SENATOR HOYLMAN-SIGAL: I'm talking about members of the Legislature.

DCJS EX. DEP. CMR. POPCUN: If there's a specific organization, we can certainly drill down on that, the reasons for the application.

I will say in December we awarded $64 million to 336 organizations. It was the largest grant. And that was the largest, you know, single grant that we had done ever. We also --

SENATOR HOYLMAN-SIGAL: Let me just make a final pitch in my few seconds remaining, which is I think you should look at not just non-for-profits but for-profit entities, namely LGBTQ-owned bars and restaurants, which have been targeted for several years.

CHAIRWOMAN KRUEGER: Sorry, I have to cut you off. Thank you.

Assembly.

CHAIRMAN PRETLOW: Assemblywoman Walsh.

ASSEMBLYWOMAN WALSH: Thank you very much. And I'd like to follow up on some questioning that Senator Palumbo started a little bit earlier about crime reporting.

So it seems that just about every week the Governor is issuing a press release citing preliminary DCJS crime statistics to try to justify her claim that crime is lower than last year or even that it's been in decades.

According to the DCJS website, the majority of law enforcement agencies use the

Uniform Crime Reporting program, or UCR, to send crime data to DCJS, who in turn then forwards it to the FBI.

UCR only requires the most serious offense in each crime incident to be counted. So for example, if a robbery, rape and a homicide occurred in the same incident, only the homicide is counted. With the exception of homicide, all other crimes in New York State are undercounted.

So two-part question. Do you agree with the Bureau of Justice National Crime Victimization Survey that most crimes go unreported, with only about 45 percent of violent crimes and 30 percent of property crimes being reported to the police?

And second, how can we then believe the Governor's claims that crime is down when she uses preliminary crime data that only counts the most serious crime per incident in addition to the reality that most crimes go unreported?

DCJS EX. DEP. CMR. POPCUN: So the National Crime Victimization Survey shows

remarkable stability in the sense that roughly half of crimes are reported, to your question, but that has been stable for a number of years. And again, we need to do more in terms of law enforcement in terms of building that trust so that people report the crimes that are committed upon them.

But to answer your second question, the transition to NIBRS, the National Incident-Based Reporting System, is well underway. We have 195 agencies that are using that, and that now covers 80 percent of all reported crime in the State of New York. And that is a much more sophisticated type of analysis that breaks apart the different types of crimes that might be, you know, commingled, to use one expression, when reported.

And so I have great confidence in our crime reporting program. I think it leads the country. And the Governor is always trying to ask what are the indicators, you know, how are we doing, how are we measuring whether it's subway crime of others.

So we use a gun violence reported from our gun involved violence elimination programs to kind of look at shooting data. We look at the same shooting data for our SNUG zones. And that gives us a good kind of sense of where violent crime, particularly involving firearms, is trending. And then we use the UCR and NIBRS programs to be able to look at and accurately compile timely, accurate information on crime, and then report it.

And we're reporting it on our website, too. So as you mentioned, we have developed a bunch of new dashboards. They're lagged, typically, by two quarters, because the 550 law enforcement agencies have three months to send them in. Then we make sure that there's no errors or omission, and then they're posted to our website thereafter.

And so -- love crime reporting. I do think it's essential to us measuring public safety in the State of New York.

CHAIRWOMAN KRUEGER: Thank you.

Our next Senator is Senator Cordell

Cleare.

SENATOR CLEARE: Good afternoon, Commissioner.

I think anyone who saw the murder of Robert Brooks is traumatized, and you have to forgive me, because it is affecting me, it still affects me to see that kind of hate and that kind of violence executed by people who are there to uphold the law and those who are there to maintain the health of individuals.

I want to ask you, there's money being asked for more cameras, body-cams. But in this case, cameras were worn. What is the penalty, if any, for someone turning their camera off?

COMMISSIONER MARTUSCELLO: So as I mentioned, right now we have to go through the collective bargaining agreement in terms of penalties for progressive discipline. So when we have policies and procedures, when we find that employees violate those things, we then evaluate those and issue notices of discipline.

It does go through the arbitration

process, where an independent arbiter recommend -- not recommends, they make the final determination on what --

SENATOR CLEARE: Has anyone been penalized for not wearing their cameras? Has that happened yet?

COMMISSIONER MARTUSCELLO: Yes, it has.

SENATOR CLEARE: Okay, I'd like to see what has happened to those individuals, and what is the penalty for not doing that, because the price has been over the years the lives of so many people. This is not the first time. Samuel Harrell, so many other individuals have reportedly been beaten to death, punched, kicked, batoned to death by corrections officers. And it continues to happen.

This is not a new case, this is the one that everybody's eyes saw. But we know that this has happened over time. So is there going to be a lookback into these cases so that these families can get justice? John McMillan, Terry Cooper, Carl Taylor. Black

man after Black man killed by corrections.

COMMISSIONER MARTUSCELLO: Yeah, I'm familiar with some if not all of those cases.

And each time that there's a death in custody, it's investigated independently by the Attorney General's office, the State Police, as well as the SCOC. And then obviously a medical ruling by the medical examiner.

So through those investigations we take appropriate action. And certainly in this case we've revealed that there was a murder of Mr. Brooks, and those people will be held fully accountable.

SENATOR CLEARE: Is there any thought in making sure that there is some kind of racial bias penalty against people? Some of these cases, racial slurs were being mentioned throughout the entire beating. And people have done it, as you heard, CANY reported that those slurs are used. This is an indication that there is racial bias. And these people should not be in charge of the population.

COMMISSIONER MARTUSCELLO: Yes, so we have a zero-tolerance policy with racial bias, right, or against LGBTQ. So if we find anybody that's partaking in that, we issue discipline. And we actually refer it to the anti-discrimination investigation division --

SENATOR CLEARE: I'd like to see your report on that, if you have that.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRMAN PRETLOW: Assemblyman Otis.

ASSEMBLYMAN OTIS: Thank you.

A question for Superintendent James.

In your testimony you mentioned the expanded cybersecurity work at the State Police. Curious -- very important work, with the threat increasing. For the State Police, what kinds of cases end up coming your way? Are they from institutions, individuals? How is that working?

STATE POLICE SUPT. JAMES: We work in conjunction. It's a task force as well, J -- joint terrorism task force. So it could be local. You know, it could be from a county.

We don't restrict it per se.

Fortunately, with the benefit of working with the task force, it's a force multiplier. If there's cases such as a threat -- there's various panelists here who have endured that -- we do a threat assessment, right, of that information coming in.

So we don't limit in that regard. We work with the FBI on this quite closely. And therein why we ask for more resources, so we can expand our footprint in doing this type of work.

ASSEMBLYMAN OTIS: So are more typically at the State Police going to get that kind of event as opposed to an individual cyber theft with an individual type situation? Or do you get those also?

STATE POLICE SUPT. JAMES: We do get the independent ones as well. If there is an email sent, a threat to a dignitary, obviously we conduct the criminal investigation, we work with the vendors of the IP addresses, right. We get that, we get

the subpoenas, we work cases.

There are cases that are emanating from out of state. The -- En Con, unfortunately, when they dealt with the squirrel matter, we worked with them. It lasted for weeks. And it really ramped up. It got to be pretty serious because then the commissioner at that time was enduring, you know, various threats. So we did take on that case to assist.

ASSEMBLYMAN OTIS: That's great.

Sir, look forward to working with you post-today and talk more about cybersecurity and the State Police involvement and help.

Thank you very much.

STATE POLICE SUPT. JAMES: Likewise. Thank you.

CHAIRWOMAN KRUEGER: Senator Gonzalez.

SENATOR GONZALEZ: Thank you, Chairwoman.

And thank you all for being here today and for your testimony. My questions are directed to the DOCCS commissioner. Again, thank you for being here.

The death of Robert Brooks was horrific. And it shook so, so many of us to our core. As you heard from Senator Cleare, it is something that my constituents and many of us who are here as elected representatives are going to live with the rest of our lives.

As you've heard from the family of Robert Brooks, justice looks like policy change. And it looks like making sure that this does not happen again. And so my question is very simple. In ensuring that this doesn't happen again, are you collecting data points across your correctional facilities on staff complaints and identifying trends, or particular facilities that are seeing a rise in the number of complaints?

DOCCS COMMISSIONER MARTUSCELLO: Yeah, so we collect data from a number of data points. And with the Governor's investment in the Office of Special Investigations, it will allow me to get ahead of that trend to make sure that we're mitigating risk and identify it at the lowest level all the way

to systemically throughout the organization.

I also think the independent review by this law firm on pattern and practice and recommendations in moving forward is going to be critical to our cultural shift and making sure that we're ridding the system of anybody that thinks that this is even remotely, remotely acceptable behavior. As well as making sure that we're supporting the people that want to do the right thing each and every day.

SENATOR GONZALEZ: Absolutely. I think transparency and knowing the types of complaints, knowing when they're happening and then a year-to-year analysis would be helpful in reassuring our constituents that this is being addressed and we are seeing a decrease.

So just very briefly, have we seen an increase in recent years or a decrease?

DOCCS COMMISSIONER MARTUSCELLO: So we have had an increase in overall cases to the Office of Special Investigations. Last year they had over 14,000 cases that they had

taken on through OSI.

As we get more avenues for people to make complaints and they feel more comfortable in doing so, we see continued increases. Which again, with the expansion of OSI, making sure that we're handling every one centrally.

I've also implemented a few other things where I'm embedding OSI at every facility so that they're there in the institutions. And they're also, every two months, meeting with every incarcerated liaison committee with no facility representation in the room. Right? So that way the incarcerated at that institution can speak directly to OSI with no fear of retaliation or fear of what they're saying or who's listening.

SENATOR GONZALEZ: Certainly appreciate your responsiveness and answers. Would you be willing to share some of those reports with the Legislature?

DOCCS COMMISSIONER MARTUSCELLO: Sure.

SENATOR GONZALEZ: Great. Thank you

so much.

DOCCS COMMISSIONER MARTUSCELLO: Thank you.

CHAIRWOMAN KRUEGER: Assembly.

CHAIRMAN PRETLOW: Assemblywoman Giglio.

ASSEMBLYWOMAN GIGLIO: Thank you, Chairman. And thank you all for being here.

So my question has to deal with Medicaid prior to release also, and qualifying people for Medicaid when they've been incarcerated for many years and they may not have a home address or a driver's license or something that they need in order to get Medicaid, especially if they're incarcerated and they have mental health or co-occurring disorders, substance abuse, and getting them the reentry and the medication that they need to become a productive member of society.

So I know in Suffolk County that's a big challenge, and releasing people and not knowing where they're going to go to get their medications. And -- so we'll start with that.

And then also if you could just touch base on the people that are incarcerated that maybe should be in hospitals because they have mental health or co-occurring disorders that you can't necessarily treat in the jail system -- but the Governor's proposal for involuntary committing to hospitals and how that would affect the availability of beds for incarcerated individuals.

COMMISSIONER MARTUSCELLO: Yeah, so thank you for your questions.

In terms of Medicaid, right, the instant a person comes into our custody we work on procuring their documents. Two years ago in the Governor's budget, which became the enacted budget, we changed the section of law. Originally it allowed me as -- when somebody's incarcerated, to receive their birth certificate free of charge. But it allowed cooperation on behalf of the individual.

And sometimes people are like, I have that at home, we don't need to get it. So it allowed now for the sentencing commitment to

be used for us to ascertain their birth certificate.

That was proof enough to the federal government for a Social Security card, where prior to, they would only allow me to get it 90 days prior to release. Once we showed our commitment to documents, they allowed me to back that up in my MOU to 180 days.

I also have a partnership with DMV where I have DMV stations in every one of our facilities. When we have the documents, we have a point system and we transmit it to DMV and we're issuing non-driver IDs. We issued over 1800 last year.

So 88 percent of the population we released returned to the community with Medicaid when they went back.

Also, in terms of medication, we release incarcerated people with a supply of medication. So we bridge that continuity gap to make sure that they're maintained on their medication and that they have services. Where they need other services, like methadone, we have a discharge planning unit

in terms of handing off to the community.

When it comes to mental health, a third of my population is on the mental health caseload, a little over 9800, with 1800 having serious mental health illnesses, SMIs.

Embedded in our institutions, pursuant to state law, the Office of Mental Health provides services. We have specialized beds inside of our facilities that they utilize.

So the proposal that the Governor has advanced with OMH will have no effect on my population. If there is a need, they can transfer to Central New York Psych Center.

ASSEMBLYWOMAN GIGLIO: Thank you.

DOCCS COMMISSIONER MARTUSCELLO: Thank you, ma'am.

CHAIRWOMAN KRUEGER: Thank you.

Senator Bynoe.

SENATOR BYNOE: Thank you, Madam Chair.

My question is for the commissioner of Corrections. Are you -- I know you're engaging with consultants. And so my

question is whether they are looking at an early intervention system that would identify officers that might be susceptible to misconduct or negative outcomes.

And if you have the system, please explain to me what indicators you're using to identify those officers.

COMMISSIONER MARTUSCELLO: Yeah, so two things.

The independent review is doing a holistic review independently. So they're looking at everything. There is nothing that is off-limits to this review. They're really doing a systemic review from a pattern and practice, as well as looking at how we're tracking things, how we're identifying trends. So that will be a very transparent report once they're complete.

Secondarily, as I mentioned in my previous testimony, with our Office of Special Investigations there's funding in this budget, $7.2 million, to expand OSI, which is also expanding the analytic aspects of OSI to identify trends right down to the

employee, where they have numerous misconducts, so we can intervene early.

We do this now, but it's more reactionary. I want to be ahead of that and have indicators early so we can avoid misconduct and intervene in the first instance, whether it's new training or discipline, whatever that may be.

And lastly, I really want to utilize my research staff to really then put together all the dots for us, right? I have a lot of data available, and I do a lot of analysis on the population and meeting their needs. I want to make sure that that unit also has all of the data to put together a very comprehensive picture.

SENATOR BYNOE: Thank you.

So there's a model already out there specific for policing regarding early intervention systems, and it's highly renowned throughout the nation. So please, I'd ask that you research that and consider employing that.

With the little time I have left, I'd

like you to answer some questions regarding educational programs in the jail that would reduce recidivism and optimize outcomes for those that are being reacclimated into the community.

DOCCS COMMISSIONER MARTUSCELLO: Yeah, I'm a very strong supporter of education within the correctional system. It's really the great equalizer.

We have a great partnership with 30 different providers providing college programs in 38 of our prisons, and soon to be all 41 prisons. Separating out Edgecombe, because that's for releasees.

We have a great partnership with Bard College, Hudson Link, SUNY. We offer associate's degrees, bachelor's degrees. We have master's degree programs.

For those that aren't interested in college or don't have that level of education, we have one of the highest rates of GED passing.

We have 27 different vocational programs, including barbering and

cosmetology, which are licensing. Twelve apprenticeship programs. We can talk more.

SENATOR BYNOE: Thank you. We will.

CHAIRMAN PRETLOW: Assemblywoman Walker.

ASSEMBLYWOMAN WALKER: Thank you, Mr. Commissioner.

So I was also wondering with respect to the number of potential and previous beatings that have taken place within the correctional facilities, is there a whistleblower policy for another officer who may know of someone who just has a propensity towards this type of treatment towards people who are incarcerated?

And what is that policy? And can you make it available for review?

COMMISSIONER MARTUSCELLO: Yeah, I recently just issued a whistleblower policy to all staff throughout the agency. And we're going to be converting that to a permanent department directive. And I'd be glad to share it with your office.

But again, it's widespread. We made

sure every single staff person got a copy of the policy. And there's requirements in our employee's manual, a duty to intervene and a duty to report misconduct. So that's already embedded in our policies.

ASSEMBLYWOMAN WALKER: Thank you.

So if there is retaliation of a whistleblower, is there a policy that's in place to deal with any retaliation by fellow colleagues?

COMMISSIONER MARTUSCELLO: Again, that's covered in the whistleblower policy but also in the laws of the State of New York in terms of protecting whistleblowers.

So there's a variety of avenues that someone can go to if they are retaliated against -- including us, which we would then investigate and take appropriate conduct, including referrals to other agencies if necessary.

ASSEMBLYWOMAN WALKER: Awesome.

I want to ask about the interstate compact. You know I love that. For folks who want to be closer to their family

members, how is that policy determined? Are there any exceptions? Is there ever an opportunity for New York State to take a look at its interstate compact with other states and prisons?

COMMISSIONER MARTUSCELLO: So the way the interstate compact works -- and I know my office has had some discussions with yours on this -- is that the current entity or the current state has to initiate the request. Right? So that's a first and primary objective. And then the receiving state has to be willing to accept.

I haven't taken anybody on an interstate compact I think in the history that I'm aware of. I think that we've had one individual from another state that has come through the interstate compact.

I'm focused on the people that are sentenced in New York that are serving a sentence in New York, not people that have committed crimes in other states, the benefit to us as that state, and then the amount of people that that can potentially open us up

to getting a request for. And then how do you pick and choose who you're allowing and who you're not?

ASSEMBLYWOMAN WALKER: Okay, thank you.

So I know you mentioned the DMV stations and IDs. And the thing that I love about DMV is the connection to voting and registering to vote. So one of the things that we're considering is voting -- having polling locations within many of the jails around the State of New York.

Can we talk at a point later about implementation of that policy?

COMMISSIONER MARTUSCELLO: Of course we can. I don't oversee jails. We can still talk.

ASSEMBLYWOMAN WALKER: Yes, thank you.

CHAIRWOMAN KRUEGER: Thank you.

I think I'm the last Senator for the first round. So thank you, gentlemen, for being here so long.

So, let's see, starting with the State Police. So now we're giving birth to

babies on the subways so maybe we won't need you as much anymore, so -- thought I would just share some good news about the MTA.

Second, for Corrections. So at an earlier hearing -- I've been at them all, so they're all in my brain -- there was a discussion about the fact that the City of New York says it needs 500 more forensic beds because they have so many people in the jails that have been determined not to be able to come to trial because of their mental status.

And I'm curious if you have an estimate of how many you think are statewide in the state and I guess local jails. Because that seemed like a very large number that I don't think we're going to solve right away, and I'm just curious whether you're seeing this also.

COMMISSIONER MARTUSCELLO: Yeah, unfortunately I'm not familiar with those numbers.

I only interact with the jails in New York City once somebody is sentenced and they become state-ready and we take them into

custody, or in a very specific provision of Correction Law where it's a substitute jail order where they can't safely house the individual and I can.

But otherwise, I wouldn't have that. State Commission of Corrections may have access to that data.

CHAIRWOMAN KRUEGER: Okay. I would appreciate your following up, because I think it's the State Department of Mental Health who's supposed to be responsible for the forensic centers, but -- and they talked about trying to create 127 -- no, they started -- they -- excuse me. They talked about increasing staffing for the existing facilities, but not growing the beds or the facilities.

And I think a lot of the discussion today about worst-case stories in our jails, state or local, are the fact that they are ending up simply the places where we house mentally ill people. And it's a really bad model for housing mentally ill people.

Going to you, Deputy Commissioner. So

also at a previous hearing there was much discussion about the Raise the Age programs. And in fact in your testimony you're talking about all these goals of your commission -- of your agency to try to invest in community-based programs, particularly among youth, so that they don't end up transferring to these two gentlemen's systems as often.

So during the hearing on I believe maybe Mental Health, the city brought up -- mostly because they were texting to me, saying the State of New York still owes us $800 million for running Raise the Age programs, and we can't possibly be having the outcomes we need when we can't get the money from the state.

And then, because I multitask, I learned that there's this odd statute under -- from Andrew Cuomo that if you have not proved you stay below your 2 percent property tax cap -- a completely different discussion in law -- then you're not eligible to get this money.

Well, it seems to me we're damned if

we do, damned if we don't. If we believe that Raise the Age was an important model and was going to result in fewer young people ending up having to be picked up by our police for crimes and perhaps ultimately ending up in the DOCCS system, we want to make sure we are delivering on our investment.

Has this issue come to you?

DCJS EX. DEP. CMR. POPCUN: Yes.

(Laughter.)

CHAIRWOMAN KRUEGER: And what are we going to do about it?

DCJS EX. DEP. CMR. POPCUN: Raise the Age is near and dear to my heart, having worked on it in the Governor's office and worked on implementation. And, you know, as you articulated, it's set up to avoid people getting automatically sent to the adult criminal justice system.

With regard to funding, the way that the -- that provision of law was set up was to really reassure the counties -- at the time the counties were very reluctant about

supporting Raise the Age, given the potential burden on their systems. And so Raise the Age covers the marginal costs associated with implementing Raise the Age.

And the structure for the $250 million is that every county has the ability to submit a plan. That plan is then reviewed by OCFS, DCJS, and to a lesser extent the State Commission on Corrections, to make sure it's proportional to the youth that are within their juvenile justice system. And then we provide the funding to them. That has continued and has been relatively seamless.

But the difficulty becomes what we talked about before, how do you move beyond the county to support cities, community-based organizations that are really trying to drive change on the ground?

And I think that's where DCJS has seen dramatic success through Project Rise or the SNUG programs, where we've gone into the communities, set the table and said, Here's $2 million, and the only requirement is that

the community has to decide where it goes and you have to pass through a minimum of 25 percent to mom-and-pops who have never gotten state dollars.

We really recognize that community-based organizations are the fourth branch of government. They're the ones who are going to be providing these services to youth and families that keep them away from these systems.

So I think we have kind of perfected our model and are supporting more investments there this year. The Governor included $10 million for a neighborhood action safety plan in the Bronx and kind of beyond. And so this is going to be our first pilot of bringing those principles from RISE and SNUG and other community investments to New York City, where they are sorely needed.

CHAIRWOMAN KRUEGER: So I'm not going to disagree with you about the other investments you're making, although those numbers are still quite small compared to what I believe were the statutory numbers to

go towards Raise the Age.

So are you suggesting that we don't really need Raise the Age and that's not a good use of money?

DCJS EX. DEP. CMR. POPCUN: No, I would not suggest that at all.

I would say that New York City, again, does not seem to meet the statutory definition that you've articulated. I could say that's -- that is true.

And I think that youth, no matter where they are, deserve the services that are offered by the Raise the Age funding.

CHAIRWOMAN KRUEGER: And you would agree that the majority of youth in the Raise the Age programs are in fact in New York City?

DCJS EX. DEP. CMR. POPCUN: I don't know. I'd have to look at the -- I don't -- I would say that we see an increase in intakes, juvenile intakes and adjustments and others, and it's proportionally -- yeah, I'd say it's probably 60 percent New York City.

But I'd have to get those numbers to

your office.

CHAIRWOMAN KRUEGER: Okay. And again, in my research I learned that the city could request a waiver from that 2 percent property tax cap in order to draw down these funds that they believe, and I believe, they've been owed for many years.

Would your agency support the waiver request if it came in? Because they admitted they hadn't put in the waiver request.

DCJS EX. DEP. CMR. POPCUN: I believe that provision of law does not give me that power, nor the commissioner. It gives the director of the Division of Budget that power.

CHAIRWOMAN KRUEGER: So only the director of Budget. Because I asked the same question of the commissioner of OCFS.

DCJS EX. DEP. CMR. POPCUN: That is my understanding.

CHAIRWOMAN KRUEGER: Okay, so we need to deal with that. But we can't blame you.

DCJS EX. DEP. CMR. POPCUN: I would hope not.

(Laughter.)

CHAIRWOMAN KRUEGER: I'm going to give up the rest of my minutes. Thank you all very much.

Assembly.

CHAIRMAN PRETLOW: Assemblyman Bores.

ASSEMBLYMAN BORES: Thank you for being here.

I think I have two quick yes-or-no questions for DCJS, and then questions for the superintendent of State Police.

To the executive deputy commissioner, you know the importance of data-run crime, obviously. New York is actually one of the worst states in terms of reporting hate crime data to the national database, NIBRS. We're the ninth-worst in terms of coverage by population, third worst in coverage by precincts. Only 31 percent of our precincts report hate crime data.

Bit of a tautological question, but would having more precincts report this data give us a better view on where hate crimes are happening in New York State?

DCJS EX. DEP. CMR. POPCUN: So thank you very much for the question.

And I came prepared: 195 agencies moved over, and that's 80 percent of crime for NIBRS. And how NIBRS works is that it actually sits in the records management system. And so it removes the guesswork from these crime reports.

So if an officer starts to, you know, make an arrest or investigate a crime, any of the elements that would touch the hate crimes statute automatically trigger that hate crime report.

So we actually see that in the past 12 months, 63 percent of NIBRS reporting agencies did not have a reported hate crime, but that's compared to 79 percent of the summary crime reporting statistics. So it does seem to be that NIBRS is helping us report more hate crime activity.

ASSEMBLYMAN BORES: Wonderful.

DCJS EX. DEP. CMR. POPCUN: On the summary reporting one -- and I know your time is short -- we do follow up. So if an

organization is delinquent, we follow up and say: Hey, you have to say "nothing to report."

ASSEMBLYMAN BORES: Okay.

Superintendent, your testimony mentions Governor Hochul's increased funding for the New York State Intelligence Center and the threat of terrorism. That's great. I'm glad we're doing that.

But this budget scares my constituents because it also includes 45 million for the Joint Task Force Empire Shield, as per DMNA, which is a 72 percent increase for a force that is just meant to fight terrorism in New York City.

Has there been a 72 percent increase in the threat of terrorism to New York City or things outside the bounds of what the State Police can handle?

STATE POLICE SUPT. JAMES: No, they're not outside the bounds of what we can handle.

But with regard to terrorism, it's not a limited scope. There's transnational terrorism. There's the broader and bigger

picture that it's always prudent to plan for. You don't wait until you get into the depths of it and then ask --

ASSEMBLYMAN BORES: Absolutely. How should my constituents react to that 72 percent increase? What should we be taking from that?

STATE POLICE SUPT. JAMES: Good question.

I would say obviously it's an investment into the prudent state that -- the steps that the state, federal and local are taking collectively so that we can mitigate, as best we can, any threats to the homeland and beyond.

ASSEMBLYMAN BORES: That's a sort of one-time increase on special services, on surging salaries. Do you expect that to continue going forward?

STATE POLICE SUPT. JAMES: If I could predict what crime would be, it would be easier.

But I would say I don't foresee the threats going away with -- as it faced --

whether it's domestic or transnational. So funding will probably -- a request will probably follow.

ASSEMBLYMAN BORES: Thank you.

STATE POLICE SUPT. JAMES: Okay? You're welcome.

CHAIRMAN PRETLOW: Assemblyman Meeks.

ASSEMBLYMAN MEEKS: Thank you. This question is for Commissioner Martuscello.

You mentioned earlier your whistleblower policy that you're willing to share with us. These individuals aren't considered mandatory reporters, mandated reporters?

DOCCS COMMISSIONER MARTUSCELLO: Under our policies, they are -- have to mandatorily report misconduct, and duty to intervene.

ASSEMBLYMAN MEEKS: So therefore you don't necessarily need the whistleblower policy.

DOCCS COMMISSIONER MARTUSCELLO: Yeah, the whistleblower policy is about making sure people understand the avenues to report, that they could do it anonymous, without fear of

retaliation, right?

The more we publicize the ways in which to report and that that's our expectation, and we educate our employees, I think that the better we're going to be, and the more people we'll get to come forward with allegations of misconduct and/or witnessing misconduct.

ASSEMBLYMAN MEEKS: Thank you.

So the state settled a lawsuit with Carl Taylor's family for $5 million after officers reportedly beat, jumped on him, choked him to death.

If the state settled for 5 million, the state must have recognized that officers have been responsible for killing Carl Taylor.

With that being said, where are those officers now?

DOCCS COMMISSIONER MARTUSCELLO: Assemblymember, I can follow up with you offline.

I know -- I am familiar with that case. In terms of where the specific

officers are and what the terms were around the Attorney General and the determination to settle that case, I can definitely get you more information.

ASSEMBLYMAN MEEKS: Thank you.

And this question is for Commissioner Rosado.

According to a crime gun trace report in Rochester, New York, from 2012 to 2022, 43 percent of crime guns traced back to in-state dealers. Of the top 30 crime gun dealers, trace guns by dealer location from 2012 to 2022, 66 percent were in-state, of which 53 percent were in Monroe County.

Is DCJS pushing for any level of accountability for, quote, unquote, legal gun dealers in which their guns are ending up in the streets involved in crimes throughout our communities?

DCJS EX. DEP. CMR. POPCUN: Yes. And while I'm not Commissioner Rosado, I --

ASSEMBLYMAN MEEKS: I'm sorry.

DCJS EX. DEP. CMR. POPCUN: No, it's okay.

I -- that information from ATF actually comes from an investment that we make in the NIBN, the National Integrated Ballistics Network. So we've deployed these machines throughout the state, and it allows for the quick correlation to say, okay, is this a crime gun, was it connected to a crime gun? So that's kind of where the data comes from.

To your point around what we're doing to engage our federally licensed firearm dealers, both the State Police and DCJS have an obligation to provide information to the dealers, ensuring that there is safe storage, ensuring that they use locks, ensuring that they're reporting any missing firearms.

So we take it very seriously that -- the statistics you've mentioned about Monroe County and how those guns are ending up in crimes.

ASSEMBLYMAN MEEKS: So if you're doing that research, could you consider not redacting the information as to who's doing this?

DCJS EX. DEP. CMR. POPCUN: Yes. And I think there actually is some -- we can follow up.

ASSEMBLYMAN MEEKS: Appreciate it.

CHAIRMAN PRETLOW: Assemblymember Mitaynes.

ASSEMBLYWOMAN MITAYNES: Hi.

This is for Commissioner Martuscello. The city published a report in 2020 that stated many deaths in New York State prisons are preventable, and cited examples of grossly substandard medical treatment that led to preventable deaths of incarcerated people.

Moreover, the average age of death by so-called natural causes in New York State prisons is, shamefully, only about 57 -- a life expectancy that if a New York prison was a county, would place them among the 10 worst in the world.

What has DOCCS done to address the substandard medical treatment that contributes to this shocking statistic since you took over, and what do you plan to do in

the near future?

DOCCS COMMISSIONER MARTUSCELLO: Yeah, so thank you for the question.

I don't know that I generally support that report in terms of our care.

But we have, you know, obviously a -- almost $400 million goes to our health budget, and we offer health services within our institutions that match the quality of care in the community. Obviously we can't provide all that level of care, so we have a network of hospitals that we work with, some of which we have secure wards that we're able to leverage in addition to our own institutions.

Within the institutions, we have five regional medical units, and in those units we attract specialists to provide additional services for individuals that are under our care. And certainly if they need care beyond that, then we work with a variety of providers.

You know, the one thing that I think that regardless of -- when we look at

healthcare in a prison system, whether in New York or elsewhere, that we fail to take the step backwards and take a look at the healthcare prior to becoming incarcerated. Which typically, you know, they've had healthcare issues or come from healthcare deserts, and they come with chronic conditions before they even get to us, and that we are treating them along the way.

But healthcare is something that's critically important to me in making sure that we're providing that level of care, doing pain management, medication-assisted treatment, and really serving the needs of our population.

ASSEMBLYWOMAN MITAYNES: Thank you.

Many older people die soon after they are released from prison. Does the department track deaths of people on parole?

DOCCS COMMISSIONER MARTUSCELLO: So we know if you're on parole and if you pass away. But you have no obligation to notify us or for the family to notify us what the cause of death is. Right?

So if you're on supervision, we'll know that you had passed away because I should have been checking in on you, right, so I would at least know that.

But to the extent -- unlike when they are inside and the medical examiner and the coroner does an autopsy and provides a cause of death that's provided to the department by a matter of law. So it's not the same for people in the community.

ASSEMBLYWOMAN MITAYNES: Thank you.

I yield the rest of my time.

DOCCS COMMISSIONER MARTUSCELLO: Thank you, ma'am.

CHAIRMAN PRETLOW: Assemblywoman Reyes.

ASSEMBLYWOMAN REYES: Good afternoon.

DOCCS COMMISSIONER MARTUSCELLO: Good afternoon.

ASSEMBLYWOMAN REYES: We have and will talk a lot about Robert Brooks today. You mentioned earlier that there has been progressive discipline of the staff involved.

And I have a deep respect for workers

and protections and upholding collective bargaining agreements. However, progressive discipline cannot and should not apply when staff murders somebody.

So I'm just wondering whether, within your collective bargaining agreements or within DOCCS' protocols, is there any guidance or standards of practice that speak to the use of excessive force?

DOCCS COMMISSIONER MARTUSCELLO: So, again, the discipline is spelled out in the collective bargaining agreement, and each unit has a varying process.

But for the security staff, which I assume you're talking about, the individuals that were mostly in that video, the process is the same. Right? We issue -- we issue charges, the union can grieve those charges, we meet and confer, and then a demand for arbitration.

ASSEMBLYWOMAN REYES: Are those charges within the labor -- within labor practices? Or these are criminal charges?

DOCCS COMMISSIONER MARTUSCELLO: No,

the criminal charges we would refer to an outside entity which is following the criminal charges.

This is strictly administrative. We do referrals for criminal prosecution, both at the local, state and federal level. But I'm --

ASSEMBLYWOMAN REYES: Understood.

I just think that this is not an administrative overstep. This is the murdering of a human being.

So I think what has been troubling some of us, and I think part of the line of questioning that you've received here, is the fact that folks want to see something more. In no other profession would somebody get away with taking somebody's life without any repercussions.

DOCCS COMMISSIONER MARTUSCELLO: Yeah. Again, I don't have oversight of the criminal, but I totally agree with you, as does the Governor. These people need to be held criminally responsible for their crimes.

And I know the DA is working very

feverishly after taking the case away from -- or taking the case over from the Attorney General.

In terms of administratively, we're also seeking termination. I wish I had the ability to unilaterally terminate, because I saw enough on that video --

ASSEMBLYWOMAN REYES: And again, in any other profession, somebody would have lost their jobs by now.

And in my last couple of seconds, I have a question for you, DCJS.

So in 2021 we passed a Hate Crimes Analysis and Review Act, which requires DCJS to compile hate crimes data for perpetrators and victims. Any update on that data? Have you guys produced a report?

DCJS EX. DEP. CMR. POPCUN: So we're actually finalizing the regs.

We spent a lot of time working with a lot of the advocacy organizations and also OVS and others, to make sure that wouldn't be traumatizing to victims of hate crimes in terms of collecting their information, making

sure we were getting the right demographic information, and making sure that law enforcement was able to start reporting that.

So we look forward to kind of having that out in the field and getting the first slice of data to be able to show you.

ASSEMBLYWOMAN REYES: Appreciate it. Thank you.

CHAIRMAN PRETLOW: Assemblywoman Kelles.

ASSEMBLYWOMAN KELLES: Hi. First question, about the DCJS data.

The dismissal data, it is with -- it's the arrest charge, and following the arrest charge through to a disposition. So it doesn't distinguish dismissals, for example, if they're dismissed within the first 24 hours because the DA doesn't feel that there's enough information; a dismissal because the grand jury doesn't feel that there's enough information and it doesn't align -- it doesn't include any dismissals during the period where the clock has stopped.

It doesn't make any distinction between all of those reasons for dismissal, right?

DCJS EX. DEP. CMR. POPCUN: Correct. We're getting that feed from the Office of Court Administration. And as they noted, you know, we're getting broad categories but not the specific reason for --

ASSEMBLYWOMAN KELLES: Right. I asked that specifically because if there are other reasons -- for example, we are talking about discovery, people are using your data, and the increase over time from 28 to 41 percent of dismissals.

But if you had a significant increase, for example, in the number of dismissals that happen in the first 24 hours, that would suggest that there's a difference in behavior of the arresting officer, potentially.

Or if you see a significant increase in the number of dismissals where that happens, you know, with the grand jury first review, then it would suggest that there is a change in behavior of the DAs in what charges

they're giving them, and you can't distinguish.

So the only type of data that would actually distinguish this would be data that would track dismissals of speedy trial felony indictments and dismissals of those, correct?

DCJS EX. DEP. CMR. POPCUN: I don't know that that's the only source. I mean, I think --

ASSEMBLYWOMAN KELLES: But that would consistently -- any kind of dismissal from that case would most likely be because of discovery.

DCJS EX. DEP. CMR. POPCUN: I think one could infer that. But I don't know that's always fair, yeah.

ASSEMBLYWOMAN KELLES: I'm just concerned because your data's the data that's being used, and yet you can't distinguish. And there's many behaviors that may have changed because of discovery.

So just, I think, maybe we can talk about that further, but --

DCJS EX. DEP. CMR. POPCUN: Yes.

ASSEMBLYWOMAN KELLES: And then a question -- one of the things that I'm seeing, I think people are really, really angry because if anybody else had committed a murder and it was on film and it was shown to the rest of the world, they would be in prison without parole.

We are seeing a situation where not only are they not fired, they're out. And we ask, you know, do we feel safe? I mean, they committed murder. And so I just want to note I hear everything that you're saying, but I think that it's important to note that we're also hearing that two of them had, you know, confirmed records of serious abuse.

Do you have a commitment to not only changing the policy -- and I'm going to step back for a second. My first question is about the cameras.

Cameras are only about accountability, they're not about prevention. So my first question is -- and we'll talk about this afterwards -- what plans do you have for prevention?

The next question -- we'll have to talk about this afterwards -- is what are you going to do for those previous cases that also murdered people, in a lookback?

(Inaudible; off the record.)

ASSEMBLYWOMAN KELLES: We'll follow up.

CHAIRMAN PRETLOW: Assemblywoman Romero.

ASSEMBLYWOMAN ROMERO: Thank you.

And thank you all. This has been such an intense and long afternoon for all of you.

I just wanted to clarify on my colleague's question super-quickly, because it bears clarification. And this is for the DCJS deputy commissioner.

The dismissals and the public data that you have on dismissals, in that public information, does that information clarify if the dismissal is based off of discovery violations?

DCJS EX. DEP. CMR. POPCUN: Not that I've seen from the courts.

ASSEMBLYWOMAN ROMERO: And so just to

be -- the dismissal is not based off of the 30.30 violation or if the dismissal is based off of prosecutorial misconduct. There's no distinction.

DCJS EX. DEP. CMR. POPCUN: No, and I think Judge Zayas said the same thing, which is their data doesn't --

ASSEMBLYWOMAN ROMERO: I'm sorry --

DCJS EX. DEP. CMR. POPCUN: Sorry. Judge Zayas said the same thing; their data doesn't distinguish what they post online, what the dismissal code is, or reason.

ASSEMBLYWOMAN ROMERO: So it's merely just a number.

DCJS EX. DEP. CMR. POPCUN: Correct.

ASSEMBLYWOMAN ROMERO: Okay, thank you.

CHAIRMAN PRETLOW: Okay, I really don't have a question -- but I do have a question. The question will come at the end of this. Quite honestly, I don't expect an honest answer, but I'll accept "I'll get back to you for that answer."

Late in December I was watching

television, like many of us in this room were. We saw a horrific sight on television. It was the brutal treatment of Mr. Robert Brooks. My wife, when she looked at it, she screamed and started to cry. I felt a knot in my stomach.

Yet when we're looking at this, the individuals that were standing around had the same appearance that I would have if I was waiting for the bus and a car drove by. It wouldn't affect me at all. And this didn't affect them.

So in my seeing this non-effect on these individuals, it tells me this is not an uncommon occurrence. This tells me this is an extremely common occurrence. It must have happened more than three, four, five times. Because the people were just standing around, like I said -- that any of us, if we're standing on the corner waiting for the bus and a car drove by, we would be affected like that -- no affect whatsoever.

So Commissioner, my question to you, which I don't expect an honest answer to, is

how often does this happen? And do you believe that cameras being on full-time will have some effect on these negative outcomes?

COMMISSIONER MARTUSCELLO: Yeah, Assemblymember, thank you for the question.

And I 100 percent share your outrage. And when I saw that video, I had the same thought, the exact same thought, that these people -- not even one person in the room winced. Right? They didn't -- nothing. There was no affect change whatsoever.

So, you know, that tells me that they've engaged in some excessive force long before the brutal murder of Mr. Brooks.

What I can say to you is in terms of the ongoing -- we have ongoing investigations, and we've referred outside prosecution for every death. So the death investigations are done independently. So I have some fidelity in the death investigations.

But seeing that video makes me have to question everything. Right? I need to question everything. Right? And I don't

want to paint every employee with the same brush, no more than I want to paint every incarcerated with the same brush, because we have employees doing great things and we have incarcerated people doing great things and become successful.

But after seeing that and seeing how they reacted to that going on and the lack of emotion, the lack of intervening, it makes me have to question everything.

And really that's the Governor's sentiment as well. Right? We know we have good people, but we have to get to the root of how do people like that, A, become employed with us, and B, how do we get rid of them? And how do we make sure that we're creating a culture where we focus on humanity, dignity and respect?

Regardless of whatever color of uniform or clothing, piece of clothing you wear into work or inside of that institution -- officers wear blue, incarcerated wear green -- I don't care what color of clothing you are. We have one basic

thing: We're all human beings. Right?

And that's why we're doing an independent review and making sure we're looking at our pattern and our practice, that we're looking at what's going on in our institution and our cultures. And what's our training to get to the preventative part that Assemblymember Kelles was talking about.

That's why we're looking at our training from the very first day you walk into the institution to the training I give you every year on an annual basis. Right? We do implicit bias training. We do deescalation training. But are we telling people the right things? Are we fostering that culture from day one?

I recently inserted a formerly incarcerated individual into my academy class, where he talks to the academy class. Because this individual talks about how correction officers and other incarcerated people changed his life, got him into school, got him graduated from high school, got him through college, right? And now he's an

executive director of a non-for-profit right now.

So hearing those stories and letting people hear the effects on people that you can have in these positions and in these institutions, that's the change that we need. And I'm committed to that.

CHAIRMAN PRETLOW: This event happened in the beginning of December, and we didn't find out until the end of December, which means there may have been an attempt to cover it up and somehow it slipped out. I don't know how it got out. The volume wasn't on the camera, but the cameras were rolling. And I thank God that at least this all came to light.

COMMISSIONER MARTUSCELLO: I can tell you this. I can rest assured that there was no attempt to cover up. We vigorously investigated this and identified that body-worn-camera footage. We weren't aware of the ability for recall on the cameras. But through our investigative staff we identified that and immediately turned it

over to the State Police and the Attorney General's office.

But because there was a criminal investigation, we couldn't move until which time we had approval to move and go forward. And then once we did, I issued very transparent statements both to the public as well as to my incarcerated population on multiple times, my superintendents, and to my staff.

There is absolutely no coverup. And I will not cover it up. Nobody is bigger than the whole, and we've got to treat people with dignity, respect and humanity. And I will never cover up crimes or misconduct conducted by staff, nor will I cover it up if they're perpetrated by incarcerated people, visitors, or anyone else.

CHAIRMAN PRETLOW: Well, thank you for that -- for that answer.

I know a colleague of mine spent the night at Marcy subsequent to this, and he came back with a lot of stories of abuse that he had gotten personally from some of the

incarcerated individuals.

I'm pretty sure I can tell you that this whole situation is not being taken lightly by the Legislature, and there will be actions done. I mean, the Governor's budget calls for the closing of a few prisons. I don't know if Marcy is on that list. Maybe it should be on that list, if that's the culture of that particular institution. I'm really not sure of that.

Do you have any insight on which facilities are being looked at to close?

DOCCS COMMISSIONER MARTUSCELLO: Sir, there's no closures contemplated in the proposed budget.

There were closures last year. There was an Article VII that passed in the enacted budget which would have given us the approval to close -- the Governor the approval to close up to five prisons. We closed two prisons. We had to give 90 days' notice.

So our ability -- and the law sunsets on March 31st of this year. So the 90-day window is done, so that Article VII can no

longer be enacted on. And there's no closures in this proposed budget.

CHAIRMAN PRETLOW: Okay, thank you.

Assemblywoman Cruz, I hear you're back.

ASSEMBLYWOMAN CRUZ: Apologies for earlier, Mr. Chairman. And thank you for calling on me again.

I want to follow up on the question that you just answered.

So if the Article VII has now in effect expired, and there are only two out of the five prisons that were closed that were authorized under that original Article VII, are there plans to put another Article VII into place? Are there conversations for this budget? I don't recall seeing anything in the budget proposal.

And then the second question is both for DOCCS and DCJS. Love to know if there's been any movement on the implementation of Clean Slate, and what if any resources you need from us to support the process and to ensure that both agencies are ready to go to

meet the timeline.

Thank you.

COMMISSIONER MARTUSCELLO: Yeah, thank you for your question. I'll start and then hand it off to EDC Popcun.

In terms of the budget last year that was enacted, it gave us the approval to close up to five. So it didn't specify it was going to be five; it was going to be somewhere within that number.

There is no Article VII language in the proposed budget. So at this time there are no closures that are being projected or requested in this budget cycle.

In terms of Clean Slate, I will tell you that we have worked very cooperatively with DCJS and the Office of Court Administration. We've already -- we've worked out data agreements with both entities to make sure they're getting access to our data so that they can fulfill their obligation under the law.

And we've also already enacted the aspects that pertain to the incarcerated

lookup, so that's done. That was effective in -- I believe in October of 2024, and that's been fully implemented on our side.

DCJS EX. DEP. CMR. POPCUN: At DCJS we've been, you know, as I talked about in my testimony, really the convener and facilitator.

So while we maintain the criminal histories, you know, our database stands ready to seal and suppress records as they're notified by OCA. There's been a bunch of sealing provisions over the last few years, and so, you know, I can say that we're ready for -- to seal and suppress records as set forth in the law.

I do think, you know, OCA is working diligently to make sure they know how to identify the records, and that's where, to Commissioner Martuscello's point, the data sharing is really, really integral to identify the right records to seal on those criminal histories.

We think that there's going to be 5 million records that are affected upon the

full implementation of Clean Slate.

ASSEMBLYWOMAN CRUZ: And during the negotiation process it became very clear that some of the local prison systems -- local jails that are not necessarily connected to the state in the same way that, say, Marcy is, because they're smaller ones -- don't have the capacity to share the records in the same way.

Have we been able to speak to the localities or even in places where you have to go to serve your time on a weekend? And so those were some of the ones that were -- it was very clear that there were issues.

DCJS EX. DEP. CMR. POPCUN: Yeah, absolutely. So we worked -- the answer is yes, we're working on it.

ASSEMBLYWOMAN CRUZ: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

We have two chairs who each get three minutes. First we'll call Julia Salazar, then I think we have another Assembly chair, and then we'll go back for the final. So you're almost done, gentlemen.

Julia Salazar.

SENATOR SALAZAR: Thank you, Chair.

Hello again. I wanted to follow up on a question that was asked about the alleged fentanyl exposure, the incident at Upstate Correctional Facility in which Upstate was locked down for about a week, if I'm not mistaken, give or take. Close enough?

So regardless, was anything found during the investigation of the incident in Upstate that explained any of the symptoms that corrections staff experienced and reported?

COMMISSIONER MARTUSCELLO: Yeah, thank you for the follow-up question.

So what I can tell you is that there was a toxicology report done on the incarcerated individual that found no substances in his system. There was some admittance and opining by toxicology experts that he could have potentially could have ingested K-2.

We did find substances that we are

testing through an independent lab, but the results have not come back in yet, so yet to be determined. You know, the investigation continues to determine if we found anything.

The one key thing I want to add, though, is I recently convened all of the unions as well as every superintendent and unions in every facility, and I brought together a panel of experts -- toxicology experts, doctors in the field of dealing with alcohol and substance abuse, OASAS -- and we talked about the myths and the realities of exposures, how you get exposures, if it could be skin exposures, if you'd have to ingest it.

And we've agreed that we're going to work on an informational sheet for staff, not necessarily that it's directed. But to the extent that there's misnomers out there, we want to make sure that staff are educated on, A, not to expose themselves, in the event that they do see the drug, but then also knowing what signs and symptoms really are.

Because really, you know, we want to

make sure that we don't only treat a potential exposure when there could be other health-related issues going on, right? That's a common thing just in medicine in general. But so --

SENATOR SALAZAR: I'm sorry to cut you off.

DOCCS COMMISSIONER MARTUSCELLO: -- yet to be determined.

SENATOR SALAZAR: Thank you. I appreciate the response.

A separate question clarifying the potential to close Marcy Correctional Facility or any other correctional facility -- but, you know, with an eye on Marcy.

Just to clarify, the Governor could still direct Marcy to be closed, it just of course would not be on the timeline that was allowed -- given in last year's budget; basically, the timeline in statute of 12 months' notice.

COMMISSIONER MARTUSCELLO: I'll answer your question in the long way for your

32 seconds.

But look, the point of Marcy, Marcy offers a lot of good features, including the largest mental health -- regional mental health unit in the state. I think leaning into this independent assessment and identifying what the root cause is here, while still criminally prosecuting those individuals.

But to get to the heart of your question, yes, 79A of the Correction Law allows for a one-year notification for the closure of any prison in the State of New York.

SENATOR SALAZAR: Great. Thank you.

CHAIRMAN PRETLOW: Assemblyman Dilan for his follow-up.

ASSEMBLYMAN DILAN: Thank you, Mr. Chairman.

And Commissioner Martuscello, just some follow-up questions on the cameras.

On a day-to-day basis, are you able to monitor the footage of the cameras centrally at DOCCS headquarters, or are they monitored

at the facilities themselves?

COMMISSIONER MARTUSCELLO: So two things. We have instituted, through the new performance matrix, that the system itself, for fully deployed, identify camera footage on a randomization so executive staff at the facilities can review videos as well as also review the videos that are incident-specific.

From central office they are uploaded into the cloud, so we do have access in our OSI without going to the institution, can access any video uploaded to the cloud.

ASSEMBLYMAN DILAN: On a daily basis or on a --

DOCCS COMMISSIONER MARTUSCELLO: Yeah.

ASSEMBLYMAN DILAN: Okay. Thank you.

Then the last question was on the breakdown of the 400 million for cameras in this year's proposal, and then 400 million that was done previously.

How much of that is on actual cameras, and how much of that is on the installation?

COMMISSIONER MARTUSCELLO: I can get you the breakdown.

I mean, these are complex projects. On average, a facility, depending on size, runs between $20 million and $30 million. Right? Because you have to wire it and run the conduit and then there's actually the camera apparatus and then the paying of the labor. So I could pull one of the contracts and share it with you.

ASSEMBLYMAN DILAN: Okay. Yeah, if you could get back at a future date, that would be good.

And I just will close by saying, you know, the immediate arrest and prosecution of those involved is paramount for the community at large, and it's something that the caucus, you know, wants to see. We know that's out of your purview, but it's something that needs to happen immediately.

Thank you.

COMMISSIONER MARTUSCELLO: I agree.

CHAIRWOMAN KRUEGER: Okay, we have a revisit of Senator Tom O'Mara, our ranker, who didn't have a chance to ask yet.

SENATOR O'MARA: Thank you.

Thank you all for being here today for your testimony. It's been a very long day for all of us.

But just as quickly as I can, for the State Police superintendent.

Last year legislation was passed to allow for the FOILing of Troopers' personnel files. Where does that stand right now? Have any of those records been FOILed? Have they been released? And what is your policy as far as letting members of your staff, Troopers, whoever, that have been FOILed, do they get notified that they've been FOILed?

STATE POLICE SUPT. JAMES: Thank you for your question, Senator.

One of the first things I did when I came back to the State Police, I focused on transparency. I'm pleased to say as of January 27th of this year, we have gone live with regard to putting online all FOIL requests, with the appropriate redactions. And also information with regard to disciplinary records when there were personnel complaints.

So that information on the standard State Police website, troopers.ny.gov, or any FOIL request, that's how it can be accessed. That doesn't preclude the members themselves from accessing that. There is a policy and protocol, based on prior disciplinary history, that the members would ideally have access to review their personnel jackets. That's always been the case. Of which the personnel complaint history would be in there.

SENATOR O'MARA: What's available online, the FOIL request or also the response to that FOIL request?

STATE POLICE SUPT. JAMES: The FOIL request -- and that goes for any publicly requested document, with redactions of others, are on there. That's a link.

We've started the data as far as, as I said, January 27th. And information that has been requested previously, we're populating that website to access that information. If that answers your question.

SENATOR O'MARA: There's no

affirmative notification to an individual Trooper, say, that their personnel file's been FOILed?

STATE POLICE SUPT. JAMES: Not per se in that regard. That information, we'd notify the respective district attorney's offices, all the invested matters. We contacted the unions, we put that information out there prior to the release in that regard.

SENATOR O'MARA: You contacted the union, is that what you said?

STATE POLICE SUPT. JAMES: The unions. We spoke with the union presidents, the internal -- NYSPIA and the PBA.

SENATOR O'MARA: About the general policy, or about each request?

STATE POLICE SUPT. JAMES: To inform them that this policy was effective and that it would go live, that members could then be aware that that information would be accessible.

And this is on the heels of NYCLU, right, the case that, fortunately or

unfortunately, that the state didn't endure, which required that 20 years of documents be provided. As I understand, it's currently on appeal through the AG's office.

But the step that I took wasn't something that was a requirement. I took it upon myself to put that information out there that was FOILable -- with proper redactions, to be available.

SENATOR O'MARA: I just got notice that -- my information is that there was a requirement that this policy be provided to the union. Is that what you're saying, you have done that?

STATE POLICE SUPT. JAMES: Yes, we have.

Contact with -- our general counsel as well handles all the appropriate contact internally, if that's what you were asking, as far as with notification to our personnel.

SENATOR O'MARA: Thank you.

STATE POLICE SUPT. JAMES: You're welcome.

CHAIRWOMAN KRUEGER: Thank you.

And our last questioner, second round, Chair Myrie.

SENATOR MYRIE: Thank you, Madam Chair.

I just want to revisit the various plans by the Executive for our subway system in the city: The Trainist Recidivist Awareness Initiative. I'm curious about just more details on what this will entail.

I'm someone that takes the subway every day, how most New Yorkers get around. We all have an interest in keeping everyone safe with some combination of law enforcement smartly deployed, medical professionals, et cetera.

But I'm wondering what we envision parole officers to be doing, what level of cooperation with the PD, what support parole officers have now -- who, as you know, are already suffering through some understaffing and some other stresses. So I'm just curious what the vision is for this.

COMMISSIONER MARTUSCELLO: Yeah, thank you for your question. This is an important

initiative that we're actually launching this evening. So we are utilizing our GPS technology where we have recidivists that have engaged in this conduct in the transit system, where we place them on a GPS.

We will be deploying teams of three, two parol officers and a senior parole officer, mostly up on the entrance on the street level. And the thought is to really have positive interactions.

Just like parole officers are doing home visits and employment visits and promoting prosocial behavior of parolee population and really supporting them, that's really what this is all about, is to have the interaction, be visible to the parolee population that you're there. So if they were thinking about engaging in this conduct in the subway system, or engaging in crimes, that we can avoid further victimization and keep them on the path to successfully coming off of community supervision.

Unfortunately, recently we've had two cases that were crimes committed by parolees

in the subway system where they were subsequently charged, and we violated them. But we want to get ahead of that.

You know what, I take the notion that our parole officers play an important public safety function, but part of that is really being a coach, not the referee. Right? We want to make sure we're coaching people, we're pointing them in the right direction, getting them to the services that they need -- even to the extent that last year when Less Is More was enacted, we invested in employment parole officers. We put every one of our parole officers --

SENATOR MYRIE: I'm sorry, Commissioner, just -- my time is low.

So just for clarity, we envision having parole officers prevent parolees from entering the system?

COMMISSIONER MARTUSCELLO: No, not entering. Just interacting with them when they're on the -- when they're coming into the system, have discussions with them, how you doing. You know, just like we do now to

promote prosocial behavior.

If an incident occurs, then we have staff available to authorize a warrant and do custodies just like we normally would. But that's not the type of interaction that we're seeking. That may occur if they're committing a crime. Right? And we also have been talking to the Transit Police as well.

SENATOR MYRIE: Thank you.

COMMISSIONER MARTUSCELLO: Thank you, sir.

CHAIRWOMAN KRUEGER: Thank you.

Gentlemen, thank you very much for your attendance. We might have more questions, but we don't have any more time to ask them of you today. Thank you, and continue with your work.

And we are going to call up the next panel. And if people need to try to grab these gentlemen, do it out in the hall, in the respect that they've been sitting for many hours and might need other things to do.

Our next panel is C: New York State Division of Homeland Security and Emergency

Services, and the New York State Office of Information Technology Services.

(Pause; off the record.)

CHAIRMAN PRETLOW: Could we have everyone's attention, please.

CHAIRWOMAN KRUEGER: I'm sorry, I'm not miked. I was saying this is Panel C. It will be our last government invited panel. So we're going to ask both representatives to introduce themselves for the people in the video room to know who's who, and then we'll start.

OITS CIO RAI: I'm the chief information officer for the State of New York and the director of ITS.

CHAIRMAN PRETLOW: Speak closer to the mic, please.

CHAIRWOMAN KRUEGER: Get closer to the mic. Try again.

OITS CIO RAI: Is it okay?

CHAIRWOMAN KRUEGER: Just say your name again, please.

OITS CIO RAI: Dru Rai, director of ITS and CIO for the state.

CHAIRWOMAN KRUEGER: Thank you.

DHSES DEP. EX. CMMR. O'LEARY: I'm Terry O'Leary. I'm the executive deputy commissioner for the Division of Homeland Security and Emergency Services.

CHAIRWOMAN KRUEGER: Great. okay, so Dru, do you want to start with us? So it's 10 minutes on the clock. Thank you.

OITS CIO RAI: Thank you, Chairs Krueger and Pretlow, Chairs Gonzalez and Otis, and distinguished members of the Legislature. It is my honor to work alongside you in service to our fellow New Yorkers.

As you will see, ITS is an agency on the rise. With the state's digital needs growing by --

CHAIRWOMAN KRUEGER: Sir, we're just going to ask you to pull the mic up a bit closer. People are not having -- they're not hearing you well enough. Thank you.

OITS CIO RAI: Thank you, Chair. I'll start again.

Thank you, Chairs Krueger and Pretlow,

Chairs Gonzalez and Otis, and distinguished members of the Legislature. It is an honor to work alongside with you in service of our fellow New Yorkers.

As you will see, ITS is an agency on the rise. With the state's digital needs growing by the minute, ITS is doing more this year than we have at any time since this agency was created.

Whether it's enhancing cybersecurity, helping to carry out the Governor's customer experience agenda, responsibly guiding the state's next phase of AI, or pushing forward major modernization projects at our key agencies, ITS is leaning into many of the state's most pressing challenges.

I'm pleased to say that this budget provides ITS with the resources to continue to get the job done for our partner agencies and all New Yorkers.

To carry out these important objectives, we have transitioned to a new dedicated agency service model, which brings our skilled technology workers closer to the

agencies they serve. By doing so, we have strengthened existing partnerships with the subject matter experts at these agencies, becoming more proactive and strategic, and leveraged our new deputy commissioners of technology and their teams to fuel the state's ongoing digital transformation.

At the same time, we maintain shared services for cost-effectiveness and compliance.

We have also significantly improved performance, starting with the rapid ITS-directed response to the July worldwide IT outage. This disruption could have been devastating and had lasting consequences for our client agencies and the people of New York. Instead, we worked to bring all critical systems back online within 24 hours and swiftly remediated tens of thousands of blue screens to help our state employees get right back to work.

Further, we now have a comprehensive plan to deal with future emergencies or events, and one that has proven to be

successful.

I'm proud to say we are completing projects on time and under budget. We are making significant progress with the transition from WMS to the new Integrated Eligibility System by breaking this massive project into smaller, more flexible and more manageable pieces, and ultimately moving our state ever closer to the "no wrong door" public benefits system New Yorkers deserve.

In fact, I am pleased to announce that the Child Support Release 1 Go Live, the first of many coming releases, will be launched at the end of this month.

Working in partnership with the state's Chief Customer Experience Officer, ITS is providing its expertise and resources to deliver the customer experience gains as envisioned by Governor Hochul. This includes overhauled agency websites, streamlined workflows, optimized digital services for mobile devices, a renewed focus on the customer journey, and improved access for all.

One year ago, at the Governor's direction, we wrote and issued the first statewide policy on the Acceptable Use of AI. It now serves as a roadmap for agencies to adopt AI safely and responsibly.

In the coming weeks, ITS will issue specific guidance to agencies that will help identify and catalogue AI capabilities in use, and create a public inventory shared with all New Yorkers.

ITS will regularly refine and improve these guidance documents to meet evolving-use cases and continuously modernize the technology solutions we deliver. And thanks to your partnership with Governor Hochul, this concept is now enshrined in law, ensuring transparency in the state's use of AI to support New Yorkers.

Our aim is simple -- to show the nation what is possible when you optimize the benefits of AI while mitigating risk, provide strong human oversight, create efficiencies in government service delivery, and enhance the workplace experience for our most

important asset, our employees.

At the Governor's direction, ITS will provide AI training, education and upskilling for our state workforce, along with other resources, so they have the tools and skills necessary to make an even greater impact for New York.

In 2022, we built the Joint Security Operations Center to forever change the way we manage cybersecurity in New York. And it's making a difference. The Governor's comprehensive statewide strategy is better protecting our state and local entities from cyberthreats, and we continue to grow our capabilities every day, providing actionable intelligence and alerts to our partners and adding new statewide customers. In fact, ITS now protects more than 95,000 computers in local communities across the state.

The Executive Budget provides new resources to grow the JSOC to meet this surging demand. With all the work ahead of us, I am grateful that the Executive Budget recommends an increase of $174 million,

including 295 new full-time equivalents for ITS. If we are going to set the state up for future success, we must grow the ITS workforce to meet this moment.

While the challenges before us are great, so too are the many opportunities -- opportunities to leave our state better, stronger, safer, more modern and more affordable through the strategic use of technology and the many contributions of our hardworking state employees.

Our agency has repeatedly shown that when we use a state employee to deliver a new technology solution, we do it better, faster, and save taxpayers more of their hard-earned dollars. Therefore, I ask you to follow Governor Hochul's lead and help us rightsize ITS for the future.

These 295 new ITS employees will collectively deliver even more for New York, including work on the landmark tax modernization, ensuring state web applications conform to the global benchmark for accessibility, and creation of an even

more robust cybersecurity posture for New York.

Thank you for your time and partnership, and I look forward to answering any questions you may have.

DHSES DEP. EX. CMMR. O'LEARY: Thank you, Chair Pretlow and the Legislature for this time and opportunity to present.

I will not read verbatim the testimony. I'm just going to touch on a couple of highlights.

So at the Division of Homeland Security and Emergency Services, we have an amazingly broad mission. And our main mission is to ensure a resilient New York that is prepared for any disaster that may come our way. We spend a lot of time working with our state partners to marshal and prepare resources, to plan for what may come our way, whether it be a natural disaster, a manmade disaster or, as we're increasingly seeing, cybersecurity events -- which is why it makes sense that I'm sitting here with the state's chief information officer.

This year's Executive Budget proposes approximately 165 million in state operating funds for the division, 28 million in capital funding, and 8.9 billion in Aid to Localities, the overwhelming majority of which would be FEMA funding being passed through to local and state applicants.

Changes in this year's Executive Budget include $25 million in capital funding for a second round of the Volunteer Fire Infrastructure and Response Equipment grant, or V-FIRE grants; $1.4 million to expand our Office of Counterterrorism; and $1 million to develop and distribute a new media literacy guide for teachers, parents and students, building off of a partnership that we had with the State Department of Education and the release of a media literacy toolkit that was released last year.

These resources will build upon the division's prior efforts and ensure that New York is in fact prepared for and can respond to any future disaster or emergency.

Last year alone, the state's Emergency

Operations Center was activated on over 17 occasions, 10 of which were for natural disasters. We had lake effect snow events and severe winter weather. We had an extreme heat event throughout the state in June, the flooding in July and August caused by Hurricane Beryl, Tropical Storm Debby and the intense rainfall in Suffolk County that also impacted Oswego and portions of upstate.

We also set a record last year for 32 tornadoes in the state. And in fact on one day the NWS -- National Weather Service -- issued over 40 tornado warnings throughout the state that the conditions existed, and they warned New Yorkers that a tornado may occur, an invaluable service that the NWS provides New Yorkers in putting out that information and creating awareness.

After what was an extremely volatile summer, what followed was a fall with almost no rain. The drought conditions that lasted throughout the fall and throughout the state in fact led to wildfires. These wildfires occurred largely in the Mohawk Valley and the

Catskills, but we saw them elsewhere. In New York we have a State Wildfire Service. It is run by our Forest Rangers under the Department of Environmental Conservation, and they responded to over 122 wildfires last year. They do fantastic work, not only in response but in prevention as well, enforcing every year the Burn Ban as well during the traditional wildfire season.

But one wildfire in particular, the Jennings Creek Wildfire, that took place in Orange County, was particularly problematic for us, because it's what's referred to as a wildland-urban interface fire. It is where the fire leaves the forest and starts encroaching on development. And as a result, you need more than just wildland firefighters.

Thanks to our state fire office, the Office of Fire Prevention and Control, they were able to marshal resources from over 427 fire departments throughout the state, the overwhelming majority of which were volunteer fire departments. When the fire

really started to pick up, it was on a weekend, and we were working very closely with County Executive Neuhaus in Orange County, Pete Cirigliano, his emergency manager, and Vini Tankasali, their county fire coordinator.

And we had lots of resources from within Orange County and neighboring counties. We were afraid of what was going to happen when it turned to the week and the volunteer firefighters had to go back to their day jobs. Yet they showed up and they protected all of the houses in Greenwood Lake, as well as the Jehovah's Witnesses Headquarters over in Tuxedo, and not a single structure was lost. Truly heroic work, a combination between our wildland firefighting force as well as our volunteer firefighters who protected all of those structures.

The fire risk isn't only limited to wildfires, though. We saw over 21,000 structure fires throughout the state last year that resulted in over 130 deaths. And unfortunately today there was the passing of

a firefighter in Binghamton, responding to a fire as well.

The threat that fire poses to this state is never-ending. It changes throughout the state. Lithium-ion battery fires are obviously a grave concern in New York City, and the FDNY is at the forefront of fighting that battle. We see that also in some other areas of the state with battery energy storage systems. But what we do see is that the threat that fire poses to our state persists.

To that end, and one of the central missions of the division, is training. We trained over 80,000 first responders last year. Over 50,000 of them were firefighters, and over 4500 of them graduated from courses at the State Fire Academy in Montour Falls.

Some of that firefighting training was around lithium-ion batteries. We trained over 340 people on wildland firefighting, and with your support we're going to continue to do that.

The Governor's ask to continue the

V-FIRE grant is also very important, because it will help stabilize the volunteer firefighting force throughout the state. Last year we were able to award 88 grants worth $25 million, which went towards either sustaining or improving the physical structures as well as the response equipment. And we look forward to being able to award $25 million if the Governor's proposal is carried.

One of the other things that I'll offer: We mentioned in the testimony about the State Preparedness Training Center, which is in Oriskany in Oneida County. It is a premier facility. We do all-hazards training there. The State Police use it as well as local first responders. And it is free of charge to every first responder in the state.

I would invite all of you to come and visit. I know Utica in the winter is not the friendliest place -- it's a very friendly place. It's not the warmest place to visit, let me be clear. It is a fantastic facility where we're partnered with our partners in

Oneida County. And we would welcome you to come and visit anytime you would like to. It is a premier facility that New York State should be proud of, and your continued commitment has made it what it is.

Finally I'll talk about cyberthreats and attacks. As CIO Rai stated, it is a continuing and growing threat that we are facing.

Thanks to your support, the state's Cyber Incident Response Team, which sits within the Division of Homeland Security, responded to over 71 events, helping local and county governments respond to cyberattacks. We did over 10,000 trainings of government officials and also conducted anti-phishing trainings as well, to lessen the threat that cyberattacks face us with.

And finally I'd like to talk a little bit about the work that our Office of Disaster Recovery Programs does. This is the state agency that in fact passes through the FEMA dollars that come into this state after a disaster. They are currently managing

18 open disasters and have done fantastic work in passing through billions of dollars to applicants of all different sophistication throughout these disasters, including COVID.

In the past year alone, they put together documents to obtain four separate disaster declarations from the president, and also obtained a fire mitigation assistance grant, the first ever in New York State history, following the Jennings Creek fire.

Finally, I'd like to thank the over 200 first responders and emergency managers throughout the state who left the state under the emergency management assistance compact, and helped our fellow states following Hurricanes Helene and Milton. And even this year, last month, we had DEC wildland firefighters called to California to assist with the Paradise and Eaton wildfires.

Without these heroes -- who don't ask for credit, yet they always show up and always do the job -- we would not be successful and New York would not be as safe a state as it is.

I appreciate very much your opportunity to present, and your patience. I will note that my testimony said good morning, and we're almost to good evening. So thank you very much for staying with us and allowing me to present on the division's budget.

CHAIRWOMAN KRUEGER: Thank you very much.

First up to question is Senator Gonzalez.

SENATOR GONZALEZ: Thank you so much, Chairwoman.

Hi, Director Rai. Thank you for being here today. It's so good to see you again. We have a lot to get through, so I'm just going to jump in and start with the elephant in the room.

In September of last year, Politico published an article on ITS employees titled "How One State Worker Raked in 300K from the Kickball Field." According to Politico, possibly four or more ITS employees increased their base salaries by four to five times

through ITS's COVID overtime policy.

They also reported that 30 employees were collectively paid about 3 million in overtime in 2021. And between 2020 and 2022, ITS overtime policy grew to more than six times its pre-pandemic levels.

So my question is very simple. I know, of course, this happened in part before your appointment. But curious if you have updated your policy since.

OITS CIO RAI: Senator, we are aware of that report. And not that I want to give you an excuse, this definitely happened before me. I would say that the chaos of the pandemic and the lack of IT head counts.

So since, I would say, my 16 months here, we have hired 800 ITS people. That really helps reduce the overtime, number one.

We have definitely enacted policies and procedures, whether -- like who goes on overtime. It is a red flag if the overtime goes beyond 20 percent, for example, for employees. And I'm happy to report that now our overtime is less than 1 percent --

actually, a fraction of a percent if you count the last 12 months.

So we definitely have taken a lot of steps. And we don't anticipate this problem going forward.

SENATOR GONZALEZ: That's certainly great to hear. Of course, when it's a public story, it's important for the Legislature to have an update.

However, I am not sure it was due to lack of head count. I mean, some of the employees reported 6,453 hours in a year, which would mean they worked 365 days in a year for 18 hours a day. So I think there certainly was a need for the update, and it's great to hear that you did that.

Are these employees still with ITS?

OITS CIO RAI: To the best of my knowledge, we are still looking into these people, and some of them are under investigation. That's all I can say at this point.

SENATOR GONZALEZ: Well, certainly appreciate the update, and want to know that

we are moving forward as we increase head count with trainings and policies in place.

I'm going to pivot to this year's budget request. The proposed 2025 All Funds appropriation for ITS is 1.23 billion, representing a $174 million increase, which is $10 million more than the aggregate increase ITS has received for the last four years.

The Executive's budget proposal indicates the funding is mostly to maintain existing ITS operations. Can you tell us a little bit more about how you plan to use this money?

OITS CIO RAI: Yeah, I think there are major, five major components where we expect this money to go. Which is thanks to you and the Governor for your support.

The first is the cyber, and the cyber includes both remediating our past infrastructure -- as you probably know, we still have systems older than myself and we have to get rid of those at end of life. We have applications. We have hardware. So

that's one set of work on the cyber remediation.

The second set of work, which we'll continue to work with our partner agencies, including DHSES and New York State Police on the JSOC. As you know, we are now collaborating with more than 100 localities, and we continue to expand the services over there.

The second major work is modernization of systems. And two big ones are Tax and WMS.

The third major component for this is we have to update a lot of web applications, including what may look like a website but there's a tremendous amount of database involved, whether it's accessibility compliance or MENA {ph} compliance.

The fourth one is our move to cloud. And we continue to march -- most of the greenfield we are trying to do in cloud unless we don't have options. And the last one, but not least, is enhancing our customer experience and AI training and sandbox for

employees.

SENATOR GONZALEZ: Great. Thank you so much. I think again, considering we're looking at increasing the budget more than all of the last four years combined, it's really great to hear the initiatives you have planned.

I do want to speak to the investment in cybersecurity. We repeatedly hear concerns from agencies and localities and municipalities regarding outdated equipment and software. It's part of that list. But can you give us a sense of how much of this budget will be used to progress our state's modernization efforts?

OITS CIO RAI: Yeah, I don't have an exact amount because it's a trailing figure versus planned figure. But a substantial amount of this budget is going to JSOC, which really we work with our partner agencies to serve. And then the other part is just protecting the State of New York, our own old systems and remediating.

There are approximately 50 programs we

are running in six different streams to fix our -- from network segmentation to access management, which includes MFA, to training and awareness, to vulnerability management.

And on the JSOC, our three major end-point protections, attack surface management and just providing incidence response to all of these localities.

SENATOR GONZALEZ: Great. I've gotten aligned on all of these things. We've had bills on multifactor authentication and certainly, you know, upgrading our infrastructure.

But in terms of modernization, how much progress do you think we'll make in the next year?

OITS CIO RAI: Well, I wish I could -- I mean, I could forecast almost everything. As I said, this is a massive and complicated infrastructure. We operate more than 6500 systems supporting 57 executive and a few non-executive agencies.

The budget which is provided, and the guidance from you and the Governor's office,

is to modernize. Our starting point will be to, you know, take a look at all the systems. All systems are not created equal when you view the risk profiling.

Based on the risk profile, you first mitigate the highest risk and so on.

SENATOR GONZALEZ: Thank you. I'm going to, just for the sake of time -- you know, I would just say on that note we want to make sure we're accelerating the process and we don't just want to hire FTEs for cybersecurity, but outdated infrastructure is one of our biggest vulnerabilities. Which is why we certainly feel the urgency that we're hearing from the agencies as well.

I'm going to pivot to AI. You issued the acceptable use of artificial intelligence technologies policy over a year ago, on January 8, 2024. This policy and the original version of the LOADinG Act, my bill from last session, would have required human oversight on high-risk systems. Are there any ITS systems that require human oversight per this policy?

OITS CIO RAI: Well, as I said, AI is actually not a tool, it's more of a capability. Almost every software vendor is embedding AI into it. So we should see this as a capability. Our policy is very clear --

SENATOR GONZALEZ: I'm sorry, I'm not asking how we view it, I'm asking if we're in accordance with our current ITS policy. And actually there are systems that exist that have human oversight, per the policy.

OITS CIO RAI: Yes. We have provided the policy to all acting -- you know, whichever executive agency uses AI capability. We at this point have no evidence of nobody following the policy, if that's the question.

But there are more -- as you know, the AI continues to evolve. I expect the policy also will continue to evolve.

SENATOR GONZALEZ: Absolutely. And it's not just, you know, if we are complying, it's actually knowing how far we've made it through this policy.

So in addition to the human oversight

requirement, there is a requirement for risk assessments through this policy. Has ITS performed any risk assessments on AI systems since the policy has been in place?

OITS CIO RAI: Correct. I mean, if we buy a software or a tool and it has an AI capability, we make sure that the application and implementation of that tool is within the bounds of the policy.

SENATOR GONZALEZ: Great. It's good to hear that we're making sure we're aligned and there's clear oversight.

And then finally, according to the policy, an inventory needed to be completed by July 6, 2024. I think according to your testimony, in the next few weeks you'll be issuing a guidance to do that inventory. I'm just wondering if there's been any challenges that would account for the pushback of that deadline, and if there's any way the Legislature can support to make sure we're getting that inventory so we're, you know, informing our transformation plans.

OITS CIO RAI: Senator, this is going

to be a moving target. The AI tools continue to evolve, and we will provide the direction, we'll get the inventory, and then the tools will move one more step. And this process probably is going to continue for a very long time, in my judgment.

SENATOR GONZALEZ: Certainly heard on the moving target. But we want to make sure that we're using a data-driven approach, based on our inventory, based on how the money that is being allocated to ITS is being used, that we're of course using public dollars to the best of our abilities, but certainly ensuring that we are aggressively pursuing these goals because New Yorkers deserve modernization and of course cybersecurity. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRMAN PRETLOW: Assemblyman Otis.

ASSEMBLYMAN OTIS: Thank you.

Thank you, Deputy Commissioner. Thank you, Director. Good to see you both.

I'm going to go to cybersecurity for

both of you, but first I'm going to start with fire, Deputy Commissioner O'Leary. So what is the experience in New York and looking around the country and just sensing what's happening with climate, do we have the equipment we need for future fires, whether they be in upstate New York or we even had some fire incidents in parks in New York City a few months ago.

Do we need to be thinking about expanding our portfolio of vehicles, planes, other kinds of equipment to deal with those kinds of threats?

DHSES DEP. EX. CMMR. O'LEARY: Thank you for the question, sir.

We absolutely have to be thinking about that. And we have been. And there are a couple of things that we at the division and our partners at DEC and the Forest Rangers in particular have been thinking about.

We've expanded the training. At a certain point, more equipment doesn't help with a wildland firefight, right? It's

trying to just contain the fire.

What we saw in New York City isn't what we would refer to traditionally as wildland firefighting. It's more brush fire. And FDNY has that capability. FDNY does not -- they're the greatest fire department in the world. They don't really have a wildland firefighting capability. They did not assist us in Jennings Creek because they didn't have that capability.

We relied upon the DEC's partners when we needed more wildland firefighters. And in fact we had a tribal nation from within the border of Montana come and assist us. Those are the types of things that we're thinking about.

One other thing that we've talked about and I had a chance to talk with Senator Scarcella-Spanton and Senator Ashby about is through the departmental process, the agency's going to be putting forth a bill which would allow us to enter into a compact with Canada, with provinces in Canada.

DEC currently is a part of a wildland

firefighting compact with Canada. They have great capabilities. They helped out in Los Angeles. But this would also bring in some nontraditional assets that we may need along the northern border or out west where they're not as quickly accessible.

ASSEMBLYMAN OTIS: That's great. And so you're on it in terms of looking for what we need in the future, and that's what I think I was looking for there. So that's great.

We're going to move to cyber because I have limited time. So I appreciate that.

So in the New York State cybersecurity blueprint from August of 2023, the aspirational goal was to expand the offerings that state agencies provide to counties, cities, school districts. And since that time the state has done a good job of expanding the footprint of help. And this budget certainly is giving both of your agencies more resources to do that.

What do you see in terms of expanded outreach in the next year with the additional

resources? And why don't we start with Director Rai first and then back to Commissioner O'Leary.

OITS CIO RAI: Thank you, sir. Yes, on the JSOC side, three major programs which we're expanding EDR, or continue to, which is to protect the end point. Right now our numbers are close to 100,000 equipment for all counties, cities, villages and localities.

Our second major is an incident response, and we are providing -- they can report incidents, they can coordinate and they can respond to those cyber events.

And the last one is attack surface management, which really means that everything they have internet-facing application, whether it's a "pay your bill" or any other place where we can look for malware, ransomware or any other vulnerability so we can alert them and fix it before it's too late.

As you know, we ingest approximately 250,000 transactions a minute, so the volume

of such a thing is very large. But thanks to our partner agencies like DHSES and New York State Police, we work with them helping those localities.

DHSES EX. DEP. CMMR. O'LEARY: So from the division point of view, first, the partnership between ITS, the CISO at ITS as well as the State Police has been fantastic.

To build off of what the CIO said, the second round of this end-point protection is going to touch over 110 new municipalities. We reached out and we've partnered and gotten over I believe it's 54 or 55 counties into the JSOC. That was over 85,000 end-points. We're going to add another 100,000. That's the goal. And it's going to go down an additional layer of government, which is really going to help protect those that have less resources.

One of the benefits that we get out of that, though, and that the CERT sees in their responses, is we will see what the indicators of compromise were, we will see what happened that led to that cyberattack, that ransomware

attack. And we take that back and, working with the NYSIC which the State Police and their Cyber Analysis Unit runs, we will see, one, if there's criminal activity, but also we'll protect any investigation that the State Police and their partners are doing, but we'll share those best practices, those IOCs, and put out bulletins to everybody saying, Hey, you should look at your logs, see if this is showing up.

And so that ends up being preventative for everybody else. It's something that, you know, a very acute response will then become a best practice for everybody else across the state.

We've been able to do this because of the great partnership with the CISO, with the CIO's team as a whole. And also because of who we have at the CERT. The head of the CERT, she's fantastic. She has these relationships, people trust her, and it has made people willing to come in and partner with us at the JSOC.

ASSEMBLYMAN OTIS: Very good. So two

of the things the Governor has in the budget are expanded training by the state to state agency folks and to local government folks dealing in technology in terms of cybersecurity training.

Are both of your agencies working on that together? Who's really going to be providing that training module for the other agencies? I assume more of this is ITS, but tell me how it's going to work.

DHSES DEP. EX. CMMR. O'LEARY: So what the division does now is we offer -- we will do individual training and we will do phishing assessments. And we actually did one at the division, where we sent out a very realistic but things that an average person could pull off of a website, and created a phishing email. And then after the phishing email, we do a follow-up and we do education afterwards as well.

I'll defer to ITS as to what they're doing with the state workforce writ large. What we offer is, upon request, we will work with these agencies to do individual training

and testing.

ASSEMBLYMAN OTIS: That's great.

OITS CIO RAI: Our training is much more comprehensive, to protect the state and all executive agencies. And that's one of the six streams we work on, cybersecurity training and awareness. That includes network and other systems.

ASSEMBLYMAN OTIS: Very good. Now let me jump to AI, which was mentioned by my counterpart in the Senate briefly.

So we have -- the Governor has signed legislation that we worked on and did some chapter amendments having to do with AI at state agencies related to employment. There's going to be the inventory, there's going to be guidance from ITS.

Have you mapped out a plan of how you're going to implement that? But even without our legislation, my assumption is that a lot of this is going on already just from your own internal practices.

OITS CIO RAI: Correct. After publishing a policy now, we are working on

details with each client agency to inventory all the AI capabilities we have today and make sure that those capabilities are within the bounds of our policy.

Number two, on the Governor's behest, we are working on AI training for all state workers which we serve, all the executive agencies. And I expect that training to be out very quickly in the next few weeks.

We'll also be creating a sandbox so that that training is hands-on, not just words. People should be able to kind of train the AI model, look at how good or bad the model is, understand the risks and the benefits and so on and so forth.

So that sandbox will also be coming up soon, in the next weeks.

ASSEMBLYMAN OTIS: I only have 45 seconds left for another question.

Another thing the Governor has in the budget is the required reporting of incidents by the locals. So I guess my question for either of you is, in a sense, how many incidents do you think have gone on

previously that you never hear about? Do you have a sense of that, or do you think you're hearing about everything anyway?

DHSES EX. DEP. CMMR. O'LEARY: We are not hearing about everything anyway, and that's why that proposal is there. That would require any time a public entity using taxpayer -- that is publicly funded is either subject to ransomware or a significant cyberincident. We also think this will improve overall cybersecurity and allow us to create those bulletins I had talked about.

ASSEMBLYMAN OTIS: Thank you very much. I may be back for more later. So thank you.

CHAIRWOMAN KRUEGER: Thank you.

We have Senator Stec, ranker, five.

SENATOR STEC: Thank you. Thank you very much.

I've got just a few questions here today. First, for our CIO, regarding the database for -- the State Police license and record database that was used for ammunition background checks. I was wondering if your

agencies was involved in the creation of that database.

OITS CIO RAI: I really don't know how to answer the question. But I can get back to you. It was probably created way before I came. But we can get you that information.

SENATOR STEC: Okay. All right.

Along those lines, assuming that you were -- the background check, since it's been put in place, it's been plagued with a lot of issues that leads to a lot of delays in our retail establishments that sell ammunition to the public. And I would be curious to know what efforts the agency might be undergoing to ensure the functionality of the system.

And as a follow-up, I'm curious to know what will be the cost of that system, and what is the maintenance cost for -- the ongoing maintenance cost for, again, the ammunition background check.

With that said, I'll shift gears real quickly, since we can't really talk about that.

What is your department's assessment

of the current cyber threat landscape? And how has it evolved in the last year?

OITS CIO RAI: It just continues to get worse and worse, because cybersecurity or cyberthreats is evolving. And from nation state to -- it has become a business, just like retail theft. It has also gotten more complex because of the advent of AI. So it's very difficult to figure out what threats are real and what not.

So when you look at the cyberthreats evolution, it just continues to get more and more complicated. And I think that's why our approach going forward, when it comes to cybersecurity, is a no-trust architecture.

Traditionally when we think about security, we think about protecting perimeters, and we think that if a perimeter is protected, then there is no problem. But most of the threat comes from inside now. So now we have to think about building all-new systems going forward which are no-trust. Especially, we have a multicloud environment, which makes it even more difficult.

So we expect the cyber, unfortunately, to get worse when it comes to threats, and we just need to be a step ahead, just protecting ourselves.

SENATOR STEC: Okay. And then to the extent that you can here publicly, can you provide any background or details on the department's incident response and recovery capabilities in the event of a cyberattack?

OITS CIO RAI: For all executive agencies, all incident response for cyberthreats, we work with the agency. And all of those things are reported, documented, responded, root cause analyzed, and we try to fix them so that we can avoid it.

At this point in time we don't have any major cybersecurity incidents which we would categorize as Level 1, within the 57 executive level agencies we serve.

SENATOR STEC: Okay. That's all I had. Thank you very much.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRMAN PRETLOW: Assemblyman

Palmesano.

ASSEMBLYMAN PALMESANO: Hi. My question is for Mr. O'Leary.

First I wanted to say thank you to you and your team. We had a devastating fire in the Town of Ovid in Seneca County, and I know your team was in constant communication with the locals on what they can do. I know you did stuff on accessibility to food and housing, and I just want to say thank you to you for that first.

I did want to talk about -- you mentioned EV fires and lithium-ion batteries. That's something I talk a lot about on the floor relative to certain issues, and the fire issue is very concerning to me. You mentioned something about 80,000 firemen have been trained and 50,000 -- or 80,000 first responders, 50,000 firefighters. You said some of them have been trained to deal with lithium-ion battery fires.

I'm concerned about this because, you know, there's this mandate for -- the electric school bus mandate, which quite

frankly should be delayed and stalled till we figure out some of this technology.

But what are you seeing -- I mean, is there funding -- other than training, is there funding that the state is going to be providing to our local fire departments to help prepare for these types of fires? Because obviously, from conversations I've had, that they're not familiar with how to deal with this, or in some of the things they say "Just let 'em burn." You know, just -- don't do anything, don't go -- just let 'em burn.

So what is the state doing to deal with these lithium-ion battery fires, especially with the battery storage fires we've seen? There were three of them in 2023. So this is something I think we're going to continue to see, so we want to make sure our first responders are properly prepared and there's proper funding for these local fire departments. Especially volunteer fire departments.

What is the plan for that?

DHSES DEP. EX. CMMR. O'LEARY: Sure. So a few things. Training is a big part of it. And I don't have the exact number, but I believe it's about 2,000 firefighters have been trained just on the new lithium-ion battery course that we've put out.

We obviously work with the FDNY, who has a lot of lessons learned. And to your point, a lithium-ion battery fire is a different type of fire. Right? It will restart. You think it's out, and then it starts again. What do you do? In terms of letting it burn, you'll think it's out and it reignites.

With the larger battery energy storage systems as well, there are concerns about whether there's off-gassing and what may be in the air.

What we've done in terms of actual response is we've tried to supplement the local fire departments, whether they are career or volunteer fire department. With air monitoring, we've partnered with DEC. NYSERDA has also been actively involved in

helping to understand the issues that lithium-ion battery fires present.

We -- so we do the training. We also help supplement the response with our hazmat function, and creating awareness. That's been our main focus. And we think that's probably the best tool, right? We're never going to be the first responders, but if we can arm the local first responders, whether they're volunteer or career service, with this knowledge, we're really pushing that aspect of it.

ASSEMBLYMAN PALMESANO: Okay. And then just real quick, I mean, I know you said the training's very important. I appreciate that. Do you see any other funding coming from your agency directly to the fire departments to help prepare them outside the training, like whether it's equipment and other things? Or is it just more of a training focus?

DHSES DEP. EX. CMMR. O'LEARY: Well, there's the 25 million in the budget for V-FIRE, so obviously we're excited to

continue that.

ASSEMBLYMAN PALMESANO: Thank you for your time.

CHAIRWOMAN KRUEGER: Thank you.

We next have Senator Murray.

SENATOR MURRAY: Thank you, Madam Chair.

And I'm going to continue on that line, Commissioner O'Leary, with the lithium-ion batteries.

First, let me clear up. Is the task force, the lithium-ion battery task force, the same as the Interagency Fire Safety Working Group? Is that the same thing?

DHSES EX. DEP. CMMR. O'LEARY: I don't know.

SENATOR MURRAY: Okay. We heard -- well, let me expand.

DHSES EX. DEP. CMMR. O'LEARY: I wouldn't say -- I think it depends who the members are. I know there are multiple task forces with multiple names.

SENATOR MURRAY: Right. The Governor mentioned she was going to put this together

because she recognized the dangers and the fires and the problems. You mentioned almost 400 of these fires.

So first off, we are not really aware of any meeting or when they met, how they met, where are the meetings. I checked your website; there's nothing on there about this. And we have a lot of people -- in my district back in Suffolk County, there are quite a few proposed -- big battery storage facilities that are being proposed, and every firefighter, volunteer firefighter I've talked to has said "We're not ready for this." They are petrified.

I know you said there's some training. Of the stipends that are there, is any of it specifically designated for how to handle these fires?

DHSES EX. DEP. CMMR. O'LEARY: So the task force that the Governor called and put together is what I was talking to Assemblymember Palmesano about, where we have worked with DEC, we have worked with NYSERDA, we're talked to the fire service, largely

through the Office of Fire Prevention and Control, as well as with industry. Right? NYSERDA, they're the scientists in the room -- they know the scientists in the room, to understand what threats are posed.

We have worked with the local fire departments, whether they're career or volunteer, when they have raised concerns. We have talked about this at the career chief meetings. We have worked with FASNY to raise awareness among the volunteer leadership. I've personally spoken to Rudy Sunderman about this issue, amongst others. So it is raising awareness.

Unfortunately, we had a pretty large battery energy storage fire up in Chaumont last year. There were lessons learned from that in terms of monitoring -- where you stay, you know, how close can you get, is it a fire you want to approach or let burn. Those are the things that we were putting together.

And we've actively been pushing that out. That's incorporated into the training

that we're making available, which is free of charge to any firefighter.

SENATOR MURRAY: Commissioner, we're short, so my concern is this. The firefighters -- we have a lot of these facilities moving forward. The firefighters are saying: We're not ready, we're just not. They've done training where they ended up having to let it burn. They did one with an electric vehicle. It burned for three days. It reignited twice.

Thinking of a huge battery storage facility near homes, near schools, near neighborhoods, we're not ready. I mean, how much more training will there be? Can we put the brakes on this? Can the Governor put the brakes on this?

DHSES EX. DEP. CMMR. O'LEARY: On the training? I hope not.

SENATOR MURRAY: No, not the training. The facilities.

DHSES DEP. EX. CMMR. O'LEARY: So that's why we work with NYSERDA as well. We're there to make sure that the fire

service is appropriately trained.

CHAIRWOMAN KRUEGER: Sorry, I have to cut you off and go on.

CHAIRMAN PRETLOW: Thank you.

Assemblyman Ra.

ASSEMBLYMAN RA: Thank you, Chair.

Good afternoon. I just wanted to talk a little bit more about the increases in the ITS budget. And my understanding is about 80 million has been provided for state data centers and the growth of Empire AI.

Can you go over some of the goals of the new data centers and what the office hopes to accomplish with these additional resources?

OITS CIO RAI: Yeah. Our data center equipment needs to be refreshed, from circuits to cables to servers. That houses multiple applications today, and those end-of-life equipment needs to be updated.

And that's what that capital or capital investment is going to go to.

ASSEMBLYMAN RA: Okay. And as this program now -- obviously, we made, you know,

a significant investment last year and again this year. Do you know at this point what -- some of the applications that we're going to be seeing from the Empire AI program?

OITS CIO RAI: Sir, Empire AI has nothing to do with this program. I just want to clarify. This is a ITS infrastructure investment, which we support 6,000-plus systems for executive agencies. This investment is for ITS only. This has nothing to do with Empire State.

ASSEMBLYMAN RA: The proposal in the Governor's budget to mandate cybersecurity training for all state and local municipal employees talks about employees who work with technology as part of their official duties. Can you detail, you know, what we're considering an official duty in terms of who is going to be required to have this training?

OITS CIO RAI: So right now we are in a very initial phase of understanding the requirements for our agencies and their employees. But almost all the work is going

to be serving to -- I mean, the services to New Yorkers.

At this point we are working on building a system so that basic education -- so people understand what are the possibilities. And then when we make those plans, we plan to roll out all employees.

And then that will be followed by creating a sandbox. The sandbox will create a private instance where each agency will house its own data, have its own model. And then after those testing and training is done, then we will come to a stage where we will probably take the use cases in each agency and then see those use cases, what is the output of those models to see how good those models are, and then those implementations.

This is going to be a journey for a while for us to educate, train, sandbox, create model, perfect model. And then hopefully this whole exercise brings efficiency in our agencies to serve New Yorkers better and faster.

ASSEMBLYMAN RA: Okay. And these training programs, is there a plan, kind of curriculum of what they're going to be trained on? Is that something that's being done internally or that's going to be contracted with some other entity? How does that part work?

OITS CIO RAI: We're working with a couple of partners at this point in time to put the training, what I will call education as soon as possible. We just got started on this plan as we speak. So I'm hoping that in the next few weeks we will have the initial catalog of training, curriculum, out there for our employees to learn.

ASSEMBLYMAN RA: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

I might be the last Senator. So Mr. Rai, a lot of discussion about cybersecurity, a lot of money added to the budget. So from previous hearings there was quite a bit of discussion among my colleagues that we continue to have an enormous problem of people stealing SNAP money from thousands

of people. I think it's millions of dollars we've lost now, and we aren't going to be replacing it anymore. So we have to move to chip cards, which is a very common technology on all kinds of things. All my credit cards are chip cards.

And yet I kept getting answers and my colleagues kept getting answers from the Office of Temporary and Disability Assistance that wasn't really clear whether they weren't handling the contracts, maybe it was you, whether there were problems with this, whether there was a money problem.

But I understand the federal government will pick up half the cost, but who knows in next year's federal government. So it feels like we really need to move quickly, and we need to protect these people's benefits from not being stolen because there's no mechanism for replacement.

And so could you help me understand how your office can help us speed this along?

OITS CIO RAI: Senator, great question. I am not aware of the detail of

that. I have heard of that program. I will actually go back and take a look.

We can -- as you can imagine payments and chips is just the tip of the iceberg. There is a whole eligibility, rules, regulations written in the software. So we need to make sure that the chip -- you know, the credit card is attached to those rules and regulations. But I really need to kind of get into the detail.

We definitely can help, I know that. I just personally don't have enough information on this program at this point.

CHAIRWOMAN KRUEGER: So I urge us to try to speed this up. Other states have already done it, so the federal regs are not only allowing it but actually they give us half the money, so -- and who knows, again, with this administration, when that storyline changes. So I just feel like if other states, even smaller states, have pulled this off already -- and apparently the criminals involved with stealing the money have been targeting us in New York State.

So it's just my urge that we try to get something done as quickly as possible. And I do think of it as cybersecurity, maybe not the same kind of visual as some other people's concerns.

Thank you. I'm not going to use the rest of my time.

Assembly.

CHAIRMAN PRETLOW: Assemblyman Bores.

ASSEMBLYMAN BORES: Thank you both for being here.

First, to the CIO, last year we passed a bill, the Governor signed my bill and Senator Gonzalez's bill to require agencies to make plans around cloud computing and to consult with your office as they do that.

How is that -- have agencies reached out to you yet? Is that outreach starting?

OITS CIO RAI: Yes. Yes, sir. I think every new greenfield program which comes to us, we -- our first step is to -- how can we do that faster. I mean, that's what the cloud actually does, is to move things faster.

And I can report that in the last 12 months the acceleration towards cloud has gotten faster and probably will continue that way, because we see things moving faster. The application development is faster, the go live is faster, and so on and so forth.

ASSEMBLYMAN BORES: If I may, I want to ask another question, which is DEC in the budget request this year is asking for 30 million to continue their integration with SFS. That comes after 18 million initially and 10 million last year. It's almost more than the entire SFS budget.

Is this going to be their last request? Are there things we need to learn from this going forward?

OITS CIO RAI: I have to get back to you on that specific program. I was not aware of the past.

As I can tell you, that if I had things my way done, we'd be moving to cloud much faster. As you can imagine, there are dependencies, there are application dependencies, then organizational process

dependency, which -- but wherever we could, working with that agency.

And most of our agencies have been very supportive of that, especially if it requires a business transformation.

ASSEMBLYMAN BORES: Thank you. If you don't mind, I'd like to ask DHSES one question. Thank you.

I think you were here for the last session, you heard my last question about the 72 percent increase in DMNA for New York City for terrorism. Again, you've mentioned more funding for terrorism. I just -- you know, what should we be taking away from that increase?

DHSES EX. DEP. CMMR. O'LEARY: So the increase within the division is actually for a foreign malign influence --

ASSEMBLYMAN BORES: No, no, I know that. I'm asking about the DMNA increase, that 72 percent for the joint task force.

DHSES EX. DEP. CMMR. O'LEARY: Sure. So I can speak to what the division pays for. The division is the pass-through. We fund

approximately 13 million of what DMNA has.

ASSEMBLYMAN BORES: Understood. I guess the question is, is DMNA testifying before us?

DHSES DEP. EX. CMMR. O'LEARY: I think that would be a question for the chair.

ASSEMBLYMAN BORES: Do you know the last time they've testified?

DHSES DEP. EX. CMMR. O'LEARY: I don't.

ASSEMBLYMAN BORES: If someone came to you and asked for a 72 percent increase in their budget, or $45 million, would you want three minutes to ask them questions?

(No response.)

ASSEMBLYMAN BORES: Thank you.

DHSES DEP. EX. CMMR. O'LEARY: You're welcome.

CHAIRMAN PRETLOW: Okay, I have just a couple of quick questions before we go to our three-minute follow-ups.

Mr. Rai, you handle information technology for the entire state, correct? Now, several months ago there were a number

of cities in the southern part of New York that were held hostage to ransomware. And just three weeks ago the City of Mount Vernon was robbed of $400,000 through some computer scam that no one's ever shared with me. But it did happen, and the city is out that money.

Is there any thought of having a secure entity for all communities in New York to gravitate under? Something like the Department of Defense, it's supposed to be impregnable except by a few nerds.

But -- because what's happening now is that each community is left on its own. Some don't have the money to afford a good security system. And if the state's spending tens of millions of dollars right now, if we could have one massive security system for all the communities in the state, I think it would be helpful.

I don't believe that's in this year's budget, but is that a possibility?

OITS CIO RAI: It would be a speculation on my part, but I would say that

our JSOC, which includes the attack surface management, which actually looks for malware and ransomware, is a good sort of a first step where we ingest all the data. We see a problem in one part of the state or nation, we alert everybody.

We can definitely extend those, which is the plan. But the thing is a little more complicated because if somebody does a phishing email and you click on that email, it doesn't matter how much security you do, you're going to get a malware. So this requires a ton of education awareness.

So I think the JSOC program, which will solve a ton of problems -- I'm not sure if it's going to take care of everything, but if this program continues to expand, which is what we're working on, it will definitely reduce the instances of such proportion.

CHAIRMAN PRETLOW: So you just have to be leery of that and make sure that you're not doing -- okay, speaking of leery, Mr. O'Leary.

(Laughter.)

CHAIRMAN PRETLOW: These batteries that we're always talking about, how do they actually cause the fires? They don't just sit there and just catch fire -- or do they?

DHSES EX. DEP. CMMR. O'LEARY: They can ignite without an external source, yes.

CHAIRMAN PRETLOW: So it's not during charging, if they're just sitting on your kitchen table, like it could just ignite and start a fire in the kitchen?

DHSES EX. DEP. CMMR. O'LEARY: That is my understanding. I'm not an expert in the area of what causes this. But yes, they will ignite without an external source.

CHAIRMAN PRETLOW: And is this done -- I'm really confused now. If the battery is totally discharged, it will still catch fire?

DHSES EX. DEP. CMMR. O'LEARY: While it's not charging, yes. That's my understanding, it can catch fire.

CHAIRMAN PRETLOW: Even discharged. So how should a consumer --

DHSES DEP. EX. CMMR. O'LEARY: If it's -- I'm sorry, do you mean if it's charging

or --

CHAIRMAN PRETLOW: No, it was discharged. You have a dead battery. The battery's dead, what do I do with it?

DHSES EX. DEP. CMMR. O'LEARY: I don't know. I call OFPC and I ask them, What do I do with it?

No. So you do need to dispose of it appropriately. And we have guidance on how to do that. But the problem is these batteries will catch fire if they're not in use. Also if they're being charged. That's what you've seen in New York City, with these charging stations for secondhand batteries, right? The non-UL-approved batteries.

CHAIRMAN PRETLOW: Yeah, I have heard about them, you know, catching fire when charging. And a friend of mine's house burned down, literally burned down, because he was charging his phone with one of the dollar-store chargers. So that can cause it.

But my question is if you're discarding a battery, no one really knows how to properly -- you know, to get rid of it.

And just last week, a garbage truck in my district in Yonkers caught fire and burned to the hubs because someone threw a battery away.

So no one knows what to do with these batteries. Most people don't know how to recognize the batteries. And they're causing a lot of fires. And fires generally tend to cause deaths. And I think that's what we don't want to happen in this state.

So do you have any guidance that I could give people, or do we need more money in the budget for education on how to recognize these batteries and, once you do recognize that you possess one of the batteries, how to get rid of it?

DHSES EX. DEP. CMMR. O'LEARY: So what I'll say is what we're doing at the division -- I can speak to what the division is doing -- based upon an addition to last year's budget, we created the Community Risk Reduction Unit, which they are targeting separate communities with their specific community risk as to fire.

As I was talking about in New York City and other urban areas, it's the micromobility devices and the second -- off-market batteries that cause these fires.

So we're creating outreach materials as the unit is being stood up that will reach out to not only the fire departments but the communities as well, to say here's your risk, here's what you need to do. So that work has started within OFPC.

In terms of the science of it, I would defer to NYSERDA. That's why the Governor brought them in and has them tasked with working with OFPC and the division on the fire side, as well as DEC on the environmental side as well.

CHAIRMAN PRETLOW: Okay. I think we're a long way from solving this issue.

Assemblyman Otis for his three-minute follow-up. Thank you.

ASSEMBLYMAN OTIS: Thank you, gentlemen.

So one issue related to cybertheft is the difficulty of enforcement. If you're big

enough, the FBI gets involved. In some parts of the state, some district attorney's offices have built up some expertise in this.

But from your different vantage points -- which are not really enforcement, I understand that. But from your vantage point, where do you think we as a state or in this country can do a better job of providing a deterrent for people to do cybertheft? Because much of it basically goes uninvestigated and unprosecuted.

DHSES EX. DEP. CMMR. O'LEARY: So in terms of the criminal side of cyber theft, that's where the New York State Police and the Cyber Analysis Unit would be the lead for the state.

As you mentioned, they obviously partner with the FBI and other federal partners, as well as local law enforcement.

What we are focused on in the division is creating deterrence by having a stronger state network -- partnering with ITS, but also doing training for individuals as well as local governments and county governments,

making sure that they take those basic steps.

The overwhelming majority of cyberincidents is because someone didn't change their password. Someone's lazy, they clicked on a phishing link. They didn't engage in basic cyber hygiene. So we think, through prevention, that's the best way to combat this.

I would defer to the State Police, though, on any questions about criminal activity.

ASSEMBLYMAN OTIS: Sure, thank you.

And so the deterrence, in terms of prevention, is a piece. But as the -- again, the August '23 report came out, we're suffering billions of dollars in loss in this state. So Director?

OITS CIO RAI: It's -- 90-plus percent of cyberattacks are caused by somebody left the door open. Training, training, training, training is the key. Cyber should become part of the culture. Just like we don't trust strangers on the road, you can't trust anything you see online.

We have to create a culture of no-trust on cyber, train and aware people. That will dramatically reduce the cyber crimes from happening.

And then you come to, whether it's an individual or the business, they just need to start deploying some protection, basic stuff from end-point protection to network protection and so on and so on and so forth. Those are the things which will really help proactively.

ASSEMBLYMAN OTIS: Thank you very much. And thank you both for the fact that we have your expertise in state government.

CHAIRWOMAN KRUEGER: And then Senator Gonzalez for her last three minutes, as our closer.

SENATOR GONZALEZ: Thank you.

Well, hello, Executive Deputy Commissioner O'Leary. Thank you so much for your testimony. And I've certainly appreciated the conversation around cybersecurity today.

As you know very well, the state and

its subdivisions are regular cybersecurity threats. There are also many common low-cost high-impact efforts we can take to harden our state's cybersecurity posture. Are there other cost-effective techniques that entities that you are responsible for could be using to harden their cyber defense?

And then again, I brought up our multifactor authentication bill earlier. We certainly also have the Secure Data Act, which would require the use of segmented backups with data verification that are stored in immutable copies.

Are there other things like that that we can pursue as a state?

DHSES EX. DEP. CMMR. O'LEARY: So what we do at the division beyond the partnership we have with ITS -- and I really can't underscore what the CIO stated. The JSOC is truly -- it's cutting-edge in what we're doing in terms of who it's providing services to.

With the end-point protection and attack surface awareness, it's covering over

13 million -- a government that's serving over 13 million New Yorkers. And we're looking to expand that. That is truly fantastic in terms of protecting government.

What we do in other parts of the agency as well -- obviously we are not responsible for the state system. We work closely with the CIO on that. But we create intelligence awareness bulletins that go out to local law enforcement, county law enforcement, as well as owners of critical infrastructure. We belong to the MS-ISAC. We work closely with the Center for Internet Security to make sure that owners of critical infrastructure are also prepared. Right?

SENATOR GONZALEZ: Yeah, it's certainly helpful, as you all are experts, to get guidance from you on what the state can be doing.

My second question is on domestic terrorism. I know that we've seen an increase in threats, and I would love to hear an assessment of the current landscape in New York State, if you've seen an increase in

the number of threats.

DHSES EX. DEP. CMMR. O'LEARY: So what I'll say is there's no known current active threat facing New York.

However -- and this has been over the last two presidential administrations -- federal law enforcement has been very clear that the most lethal threat, or terrorist threat facing the country is domestic terrorism, often fueled by either white supremacy or antisemitism.

We see that, we address that in many different ways with outreach and partnership, facilitating the federal Nonprofit Security Grant Program, as well as other counterterrorism dollars that we pass out.

I will also say, in my last 15 seconds, that the threat assessment management team that Governor Hochul called for and we stood up following the Buffalo massacre, we went from one county having a threat assessment management team to now 47 counties.

And following the events at Cornell

and the New School, we've expanded that to partnering with universities and colleges as well.

SENATOR GONZALEZ: Okay, thank you.

CHAIRWOMAN KRUEGER: Thank you.

Thank you, gentlemen. Appreciate your time with us today.

Now, before the next panel comes down, I'm calling an audible. And so we are trading Panel D and Panel E. I'm calling Panel E first, which is Robert Ricks, the father of Robert Brooks that we have spent so much time discussing, the Legal Aid Society of New York, and the Innocence Project.

And again, we are no longer in the government invited panels, so everyone will only have three minutes to speak and all the legislators only get three minutes to ask questions.

We're still in afternoon, so good afternoon, everyone.

MR. RICKS: Good afternoon.

CHAIRWOMAN KRUEGER: And just starting from my right, just say your name first.

We'll just go down the row so that the tech people, who hopefully heard me say Panel E, not Panel D, are the people we have in front of us.

Please.

MS. WALLWIN: Amanda Wallwin, Innocence Project.

CHAIRWOMAN KRUEGER: Thank you.

MS. FONTIER: Alice Fontier, Legal Aid Society.

MR. RICKS: Robert Lee Ricks, the father of Robert Lee Brooks.

CHAIRWOMAN KRUEGER: Thank you.

Why don't we start with you, Mr. Ricks, if that's okay.

MR. RICKS: Pardon me?

CHAIRWOMAN KRUEGER: Are you ready?

MR. RICKS: As ready as I'm gonna be, I guess.

CHAIRWOMAN KRUEGER: Okay.

MR. RICKS: So good afternoon, Senator Krueger, Assemblymember Pretlow, and all the distinguished Senators and Assemblymembers present.

I too am America. I'm the darker brother. I need to say that because I think you all forget that sometimes. I think you all forget the investments that Black and brown people have made, the sacrifices, the blood, the sweat, the tears, the over 400 years of free labor.

The preamble of the Constitution begins "We the People of the United States." We the people too. Pauper, president, priest, prisoner or poser, we the people too.

I am Robert Lee Ricks, and I'm the father of the late Robert Lee Brooks -- and it sounds crazy to me to even say that. He was murdered in December of 2024 at the Marcy Correctional Facility by New York Department of Corrections staff. Not an inmate, staff.

I'm appalled by the lack of accountability for the correction officers involved and the absolute failure of our state government to address the decades-old problems of violence against prisoners and the New York correctional facilities.

I'm not going to waste time providing

you with data and facts and figures about the number of reported assaults and the millions paid to settle cases brought by prisoners. Former Attorney General Eric Schneiderman advised me that you all have all that information available to you.

But the emotional toll that this situation has taken on me, my family, my community, has been devastating. And no financial compensation can replace the loss of my son.

But you have the power -- you have the power to demand accountability and enact the major reform needed to end the epidemic of systemic taxpayer-funded violence. I truly believe that my son died so others may live. I truly believe that my son sacrificed his life so other sons and daughters and mothers and uncles and aunts may live.

CHAIRWOMAN KRUEGER: (Mic off; inaudible.)

MS. FONTIER: Thank you. And thank you for the opportunity to address you today.

Thank you for being here, sir.

I have submitted testimony, written testimony which addresses a number of specific requests. I'm going to use my limited time here today to talk only about discovery.

For the first time, in 2020 New Yorkers accused of crimes were able to access the evidence against them and make informed decisions in their cases. This landmark discovery law finally provided the accused with the basic building blocks for fairness in our system.

The laws themselves are a success. People are no longer forced to take pleas without understanding the case against them.

The Governor and DAs have argued that court efficiency, dismissals and public safety have been impacted by this access to evidence. But these claims do not hold up under scrutiny.

Chief Administrative Judge Zayas just this morning explained the cause of court delay in his testimony. We thank him for stating unequivocally that he and OCA

supported the 2020 discovery laws, and I can assure you that no one -- no one -- wants an efficient and fair court process more than the people that we represent. Those people, people like Mr. Brooks who face accusations and then the consequences of being inside of the system, do not want court delay. The defense is not gaming the system. We are not causing delay, and Judge Zayas addressed that this morning.

The next panel will address the dismissal rates on cases, but I want to repeat indicted felonies are not getting dismissed because of discovery or speedy trial. In New York City, if the prosecutors had access to the NYPD database and records, the dismissal rates on misdemeanors would also go down.

Senator Myrie's bill -- thank you for introducing it, sir -- S613, addresses this problem of access to police records in New York City and will correct that issue. It should be passed.

As to public safety, let me put it

very simply. There is no connection between access to evidence and recidivism. It does not exist. If somebody says that to you, make them prove it.

There is no question that the 2020 discovery laws have changed the way that we practice. And let me be perfectly clear: That is a very good thing. We are required to review evidence and explain it to our clients. We have to do it efficiently and timely. This Legislature put money into the budget in the last two years. The Legal Aid Society was the very first of the defense organizations to be able to access that money, and through it we invested in technology, the NICE justice system, as well as in litigation assistance and staffing.

CHAIRWOMAN KRUEGER: Thank you.

Next.

MS. WALLWIN: Hi. My name is Amanda Wallwin. I'm a state policy advocate with the Innocence Project.

The Innocence Project is a national organization founded in New York that

represents wrongfully convicted clients across the country. We also work to enact state-level policy reforms that prevent and reveal wrongful convictions.

The Innocence Project was a leading voice in the fight for discovery reform in 2019, and I'm here today to tell you about how well this reform has worked to prevent the withholding of exculpatory evidence leading to wrongful convictions.

I'll start with a few very notable statistics. From 2015 to 2019, 62 percent of all New York exonerations included withheld exculpatory evidence. If you look only at convictions in that time period that were overturned within five years, that percentage rises to 67 percent.

From 2020, when discovery reform was enacted, until now, five years later, there have been zero exonerations that have included withheld exculpatory evidence. I'm going to say that again. From 2020, when discovery reform was enacted, until now, five years later, there have been zero convictions

that were later overturned due to withheld exculpatory evidence. Discovery reform worked.

We've all heard the devastating story of Kalief Browder, so I won't repeat that one, but I want to share the story of someone else who was harmed by poor discovery practices: Renay Lynch.

Renay Lynch was sentenced to 25 years to life in prison after she was found guilty of being an accomplice to the robbery and murder of Louise Cicelsky in Amherst, just outside of Buffalo. In 2020, Renay's post-conviction counsel, including innocence project attorneys, discovered that police had hidden fingerprint evidence from the crime scene. When the 13 hidden prints were examined, nine of them matched a tenant of Ms. Cicelsky's who had a prior manslaughter conviction. None of the prints matched Renay Lynch.

Renay served 24 years in prison for this crime. She was released on parole in 2022 and finally exonerated just last year.

Renay has two children and six grandchildren. During Renay's incarceration, her daughter moved from Atlanta to Buffalo, where Renay was in prison, so that Renay could see all of her grandkids as often as possible. Renay and her family will never reclaim those 24 years.

The Legislature knows the damage of wrongful convictions. That's why you passed discovery reform in 2019 and why you've allocated hundreds of millions of dollars to make it work. You knew that it was long past time for New York to join the national mainstream and modernize our evidence-sharing statute. Nationwide, prosecutors -- in large jurisdictions with high caseloads, and in small remote jurisdictions with few resources -- are able to handle this basic constitutional requirement, and you knew that New York shouldn't be the exception.

And you now know that the law you passed has had its intended effect. It has reduced wrongful convictions. The Innocence Project urges you not to act to intentionally

omit Part B, the Governor's misguided discovery repeal, from your one-house budgets.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Our first questioner will be -- excuse me -- well, it doesn't matter that she's the chair for this purpose, but she is very importantly the chair, Julia Salazar.

SENATOR SALAZAR: Thank you, Chair.

Thank you all for your testimony. I will focus my questions to Mr. Ricks, and particularly in a moment want to give you more time to finish your testimony.

But I wanted to first ask -- and of course express again how deeply sorry I am for the loss of your son. His death is a dark stain on our collective conscience, and I deeply appreciate you being here, sharing him with us.

Could you actually briefly just talk about changes that you believe need to be made in our correctional facilities? And where do we begin?

MR. RICKS: I don't think there -- it's a lot that needs to change. For the last couple of months I have received a lot of phone calls, a lot of text messages, a lot of Facebook messages just saying the amount of things that -- there are a lot of atrocities that take place in the prisons. I mean, mothers who can't see their sons because their son's been beat up so bad that they don't want to let them see him. Broken bones, prisoners just disappearing, not able to even contact -- the parents can't even contact them.

So I think that just -- there's just so much. And prior to my son being murdered and me seeing it on TV, nobody could have told me that these things were transpiring in our jails and in our prisons. So I think that a lot of things, a lot of things need to change.

I support your bills in the Prison Safety is Public Safety package. I support the Senate Bill 844, which would toll the statute of limitations for prisoners, giving

them three years after release to file lawsuits against an abusive prison staff. I support the creation of an independent special prosecutor to prosecute crimes committed by correctional staff against prisoners.

It is crystal clear that the current system of accountability is broken. The Attorney General defends DOCCS and DOCCS employees, so she has a conflict of interest. And I do not trust the district attorneys who represent the counties where prisoners are located and correction staffs are their constituents. I don't trust them to do justice in these challenging cases.

I believe that there is a lot that needs to be done as far as the prison system is concerned. Prior to now, prior to seeing my son in a body bag, I wouldn't have believed it. I wouldn't have believed it.

SENATOR SALAZAR: Thank you.

CHAIRMAN PRETLOW: Assemblyman Dilan.

ASSEMBLYMAN DILAN: Mr. Ricks, you said something yesterday to the caucus that

will stay with me and that's to do the next right thing. And I believe this is for us the beginning of that process.

So I guess in your words, could you continue to talk about further reforms that you wish to see from our state and from our department of corrections?

MR. RICKS: Well, I had the opportunity to sit and talk with a bunch of Senators and a bunch of Assemblymen that have a desire to push those forward. And I think that there are good -- I think that they all should be considered, they all should be heard. Because we're not just talking about one or two situations here.

We're talking about just so many different things that are just -- that are just -- all the way to the fact that the way the system is set up currently -- like I used to send my son a hundred dollars a month because I just didn't want him to be there needing anything or wanting anything. For me to send him that money, it cost me money to send him that money. And then I have to put

money on my phone in order to talk to my son.

I mean, just things like that is just like for a community where finances is always a problem, and our community is where most of the young men and young women end up in these situations. So basically you're taking money from a community that struggles with trying to generate or have money to do the bare necessities. So just things like that.

But, you know, the bigger picture is that I want the men and women in our community to come back to our community better than they was when they -- before they became incarcerated. Better than they were when they went into the penal system.

I thought that that was what the prison system was supposed to be about, making men and women better men and women. Not -- for lack of a better term, trying to help them get back on track. Yes, they did a crime. They're being punished for their crime. But don't come out in worse positions than you was when you went in.

And then, you know, you got felony

stamped across your forehead, so it's hard to get a job. So it's just -- the whole system just seems like it's a setup to fail. It's just a setup for the recidivism rate.

ASSEMBLYMAN DILAN: Thank you. And for our sake, I hope that the immediate arrest and prosecution of those responsible happens as soon as possible. It's been over 60 days, and no one has yet been held to account.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

The next Senator is Senator Persaud.

SENATOR PERSAUD: Thank you.

Thank you all for being here.

Mr. Ricks, I appreciate your testimony. You know, when you said that you think that your son lost his life so that no other son or daughter should, what specific -- you know, you hear the talk about that facility should close.

But closing the facility, in my opinion, is not going to change what happened. It's about changing the culture.

Because the people who were committing the crimes on your son were comfortable in doing so. They were comfortable. And I don't think it's only the corrections officers that we should be looking at, we should be looking at the medical team that was there also and asking them the questions.

So what's your opinion on that, about the requests for closure only?

MR. RICKS: I agree. I don't -- I don't see how people that are that -- what I see as evil -- when I see that video, I see 14 evil people beating somebody to death.

And so for me, it's like how do they even find their way into a position where they're responsible for other people's lives? That is like -- I can't wrap my head around that. Um ... (pause).

SENATOR PERSAUD: Take your time.

MR. RICKS: It's hard. It's really, really, really difficult. (Pause.)

I think that the way that our society is currently set up -- I know in the Bible it says money is the root of all evil, and I'm

really, really starting to believe that. But the way our society is made up, if it doesn't affect the finances, then it's probably not going to affect the person or the community.

For me, closing Marcy says that, okay, if these types of things are happening in your prison, one of your main sources of income in your community, then it's highly likely that your prison will be closed. So that's what closing Marcy does for the system: It sends a warning.

I also thought like, okay, if you close Marcy, then the guards are just going to go and do the same thing in other prisons. But I think that it's -- you know, it's twofold. One, I mean, when you hit a person in their pockets, it makes them consider how they're conducting themselves.

I think that there should be a much better way of screening people that are responsible for the lives of other people.

When my son was incarcerated, I honestly believed that he was going in and he was going to come out better. And he was in

that process. He was less than a year of coming home on good time. He had gotten his GED. He had gotten his sign language certificate. He was taking horticulture classes. He was talking about all these things that he wanted to do.

I've been working with young people for the last 32 years of my life, and he wanted to come home and do some of the things that I did. So he was getting ready to come home. He was getting ready to be a member of the Second Chance Club, you know. And he was denied that chance. He was denied that chance.

And the thing is that those are some of the most productive and influential people in reference to our young people in our community, because they've been there, they've done that. You know, they've got their felony conviction and the child support and all these different things that's prevent -- that they can say: I've been here, I did this. You haven't gone through anything that I haven't gone through. You

haven't seen anything that I haven't seen. You haven't did anything that I haven't did. But if you go down that road, you're going to get your butt towed out of the frame. Jails institutions are death. Listen to me, young man: Jails institutions are death. That's where you're going if you're going down that road.

SENATOR PERSAUD: Thank you.

CHAIRWOMAN KRUEGER: Thank you, Mr. Ricks.

MR. RICKS: And it's hard to teach what you don't know, and you can't lead where you don't go.

SENATOR PERSAUD: Thank you.

MR. RICKS: They've been there, they did it.

CHAIRWOMAN KRUEGER: Thank you, Mr. Ricks. I have to move it to the Assembly.

CHAIRMAN PRETLOW: Assemblyman Ra.

ASSEMBLYMAN RA: Thank you.

Mr. Ricks, I don't have any questions for you, but I do want to express my

condolences and thank you for being here and showing the strength to come and speak with the legislators.

I do have a question for the Innocence Project. Admittedly, I may have some homework to do here, but, you know, whenever we're dealing with any policy issue, right, there's 50 states and they all have different laws and some are similar, some are not. And, you know, the comparisons between them are interesting when we're trying to look at what our policies are.

So I guess my simple question would be, how does our current law compare with Texas and -- I assume the answer is yes -- if you had to choose between Texas's discovery and speedy trial laws versus New York's as it would look with this reform passed, which would you choose?

MS. WALLWIN: I don't want to speak for the sponsors of the original discovery reform bill, but I do know that the Michael Morton Act, which had passed in I believe 2013, was certainly a driver of the

thinking at the time and had a lot to do with the shaping of New York's discovery law.

So I would say off the top of my head that they're quite similar. But I can certainly get you more information about how they exactly pair up. Texas is a good model.

ASSEMBLYMAN RA: Okay. Thank you.

CHAIRWOMAN KRUEGER: Zellnor Myrie.

SENATOR MYRIE: Thank you.

And Mr. Ricks, again, thank you for your courage and bravery. You should not have to be here, but we are grateful that you are, so thank you.

I want to talk about discovery for the brief time that I have. You know, part of the difficulty in being a legislator is we are not in the courts with you every day. Most of us do not practice, whether in a DA's office or in the defense bar in the criminal context. And so we have to make policy decisions based on what we hear from all of the stakeholders, and based on the data that's available.

And many of us sitting up here

supported discovery reform, believe in what it was meant to do and still do. And we also -- I'll speak for myself -- think that there are things we can do to improve it. As you mentioned, we have a bill to that effect.

So I'm hoping that we can try, as best as we can, to operate from the same set of facts, and I have two questions on that. I don't know if we're going to have enough time to get to both.

But the differences in dismissals, we have, I think as you mentioned, from Judge Zayas earlier this morning, the felony indictments have been largely undisturbed in the percentage difference. But under the misdemeanors and our -- the, you know, misdemeanor cases, that number has grown.

And I think some of that is attributable to not having access, quick enough access to police databases. But there are other forms of evidence, other things that need to be turned over.

And I'm wondering what you think that higher percentage of dismissals can be

attributed to. Because I don't think it's just the access to police databases, but maybe you feel differently.

MS. FONTIER: So in New York City, the data is clear that misdemeanor dismissals are significantly higher post the discovery laws going into effect. That is primarily due to police not turning over the evidence.

I can't speak for individual prosecutors, but across the board what we experience as defense is a complete lack of discovery. In basic misdemeanor cases, which are almost entirely police cases, the information is simply not produced at all. I believe the prosecutors are asking for it, and I believe they are not getting it timely.

So I do think that your bill will resolve the vast majority of those issues.

I also note that when prosecutors in any case, misdemeanor or felony, are seeking information that is outside of the general NYPD custody, and there is a longer wait time, all they do is go to the court and say that we've asked for it, it has not been

produced yet, we need a good-cause extension, and that is granted.

So that is not the cause of dismissals.

SENATOR MYRIE: Thank you.

CHAIRMAN PRETLOW: Assemblywoman Walker.

ASSEMBLYWOMAN WALKER: Thank you.

As much as I'd love to continue in our dialogue around discovery, I am compelled, based on my own loss of my cousin behind bars in Rikers Island -- my aunt never received the opportunity to hear from the commissioner of DOCCS when my cousin Ivory died.

What were you feeling, what was going through your mind when you heard the commissioner's testimony?

MR. RICKS: What I feel just across the board, that you can't be that close in proximity of all the atrocities that happen in prison and not know that they're happening. So I just felt like it was bait-and-switch. It was "I'm saying what I'm supposed to say to maintain my position."

You can't -- you can't be that embedded into a system, a system with this level of atrocities, and not know that they're taking place. Impossible. Virtually impossible.

ASSEMBLYWOMAN WALKER: So I'll go then to Legal Aid. There are, as we know, certain breeding grounds for coercing, if you will, guilty pleas. And of course bail, beloved bail, and discovery are two vehicles that get utilized by a number of prosecutors in order to force people into a guilty plea.

Can you talk to me a little bit about how and why these particular practices are abused by certain prosecutors?

MS. FONTIER: Yes, and it also -- thank you for the question.

Also I think, Senator Myrie, I didn't discuss the dismissals on unindicted felonies, which have come up regularly.

What we experience is that the police and then the prosecutors at the initial arraignment are over-charging cases. So cases come in as bail-eligible felonies so

that they can seek bail. But ultimately those cases do not get indicted. They often ultimately either get reduced to misdemeanors, have some other alternate disposition, or get dismissed altogether.

But there is a pattern, at least in our experience, of over-charging people to provide bail-eligible offenses at that first instance so that folks can be held.

And the other piece of that on the discovery component is the current law does not allow for abuse because there is a remedy. If things are not turned over, the case will be dismissed. The Governor's proposed repeal of that ultimately will allow for discretion. It gives the power entirely back to the prosecutor to decide what is relevant and when to turn it over.

CHAIRWOMAN KRUEGER: I'm sorry --

(Overtalk.)

MS. FONTIER: Because as long as it's not sitting in their actual possession, they don't have to turn it over.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRMAN PRETLOW: Assemblywoman Kelles.

ASSEMBLYWOMAN KELLES: If you wanted to finish what you were saying.

MS. FONTIER: So the -- there is a few big issues in the Governor's proposal. And the one is that it significantly narrows the amount of information that has to be turned over to whatever the individual prosecutor decides is relevant to the charge.

That has two major problems. One is that the prosecutor doesn't necessarily know what the theory of defense is or what would be relevant to a defense; they only know what is relevant in their own mind to their charging of the case.

The second is that that almost entirely cuts out the requirement to turn over police misconduct records. And I do just want to say that like the officers who murdered your son, they had significant histories of discipline and misconduct. Police officers are in the street, working and being promoted, with significant

histories of abuse and misconduct. And unless we are able to receive that information and cross-examine them, they will continue to do that.

ASSEMBLYWOMAN KELLES: Thank you.

Mr. Brooks, I -- I just wanted to say thank you also for coming. To do this work right after your son was murdered takes tremendous, tremendous self-soul awareness and commitment and love for humanity, and I wanted to thank you for that.

It shows that you still have faith and hope in us, and I hope we don't disappoint that.

MR. RICKS: As do I.

ASSEMBLYWOMAN KELLES: Yeah. One of the things I was thinking as you were talking that hurt me when I was watching is the participation of the medical practitioners as well.

A bill I had last year that would require electrification -- that we put all of our medical records in prisons onto digital, but it's shared, was vetoed. I am committed

to keep moving that. But I wanted to hear from you from that side, from the health side, what you would like to see.

MR. RICKS: I don't -- I really don't think that you can separate it. It's all just like one -- one system. It's all one system.

There's like -- for me, there's like three parts of this. There's the prevention work, and that's the work that I do. And then there's the -- what happens with prisoners after they're released. And then there's the what happens with prisoners when they're in prison.

I know that I do everything within my power to try to prevent young people from going down the path that my son went down, everything within my power with what I'm allotted. I know that the people that are invested in trying to lay a foundation and assist prisoners in reentry do everything within their power to try to assure the fact that they don't return.

CHAIRMAN PRETLOW: Thank you,

Mr. Ricks.

ASSEMBLYWOMAN KELLES: Thank you.

MR. RICKS: You all have that third power. That third power belongs to you all.

ASSEMBLYWOMAN KELLES: Thank you.

CHAIRMAN PRETLOW: Mr. Bores.

ASSEMBLYMAN BORES: Ms. Wallwin, good to see you. I hope I'm doing the 73rd District proud.

Mr. Ricks, I'm so sorry for your tragedy. And thank you for being here and for advocating for others. It's deeply appreciated.

My questions are for Legal Aid.

First of all, you mentioned in your testimony we desperately need to shorten delays, and there's many, many, many things we have to do for that. But I want to thank you and Legal Aid for your support on lifting the cap on Supreme Court justices. It's one of the many ways to reduce delays.

My question to you, your testimony is I think the only one I've seen that argues against the criminalization of AI-generated

CSAM, and I just wanted to kind of understand the bounds of that position. It sounds, from reading your testimony, like you would still think that distributing an image of a real person that has been manipulated is something that should be penalized. Is that correct?

MS. FONTIER: I will say that this is not my exact expertise and issue. It is a Legal Aid position. But I believe that is correct.

ASSEMBLYMAN BORES: Okay. That seemed to be what I was picking up.

MS. FONTIER: Yes.

ASSEMBLYMAN BORES: And if you want to follow up with this, I'd be interested as well. But should companies be allowed to sell software that is trained to do this or that is -- or they're promoting or --

MS. FONTIER: The position is ultimately that if something is not real, it shouldn't be criminalized. I mean, that's the simplest way to put it.

So when you say "this," I'm not entirely sure what you are --

ASSEMBLYMAN BORES: I guess my concern is I don't want there to be a market where AI companies are incentivized to be good at producing AI-generated CSAM because of what it takes to train a model to be good at that.

And so I understand the position of it that it's totally fake and if it's not distributed it's one thing. I'm just trying to figure out sort of from your perspective the bounds of that position. And if that's something you want to follow up with, that's great.

MS. FONTIER: We can follow up on it.

But in general, you know, we are concerned about the criminalization of individuals and the overcriminalization of individuals. And so if somebody is, you know, viewing, sharing things that are not actually real and therefore there is no true victim, we do not believe that that should be criminalized.

ASSEMBLYMAN BORES: I'm not sure I agree, but I would love to hear more about that. Yeah, yeah. Thank you.

MS. FONTIER: I'm not here taking a position at the moment on any incentivization.

ASSEMBLYMAN BORES: Thank you.

CHAIRMAN PRETLOW: Assemblywoman Romero.

(No response.)

CHAIRMAN PRETLOW: Assemblyman Lavine.

ASSEMBLYWOMAN ROMERO: I'm here. Just getting a microphone, sorry.

(Off the record.)

ASSEMBLYWOMAN ROMERO: Thank you.

I first just want to start with giving your time back, Mr. Ricks, if you -- you kind of looked like you were in the middle of your thought last time you were speaking, and I wanted to just give you the time back to continue that thought. You were speaking about -- you were speaking about children and the distinction between the work of people in prison versus before they get to prison and after prison, and I wanted to give you the time back to finish that thought.

MR. RICKS: Thank you.

What I was saying is that there's three parts. It's like my son -- my son didn't -- he didn't begin at Marcy, you know. So there was things that transpired, there's things that happened prior to him ending up in prison.

And so those are the things that I work against in my work.

And then the reentry programs are the other part of it. And basically those are the only things that we have any really control over. You know, the work that we put in after our young men and women get out of prison, and the work that we put in to prevent them from going to prison.

The other part is your part, you know. We do everything within our power with what's allotted to us to make sure that our work is done, done thoroughly, and we are making a difference. It's not like -- it's not like you sitting here don't know that the system is broke. Y'all know it's broke. Y'all know that people are getting beat to death in jail. Y'all know that.

So it's like what you going to do? I do my job every day, from 2 o'clock in the evening to midnight. Every day I work with kids from the age of 5 to 17, trying to make a difference, trying to keep them out of prison. I do my job. And so my expectation is that you all do your job.

You know. You know. You know it's not right. You know it's not right. I know it's not right now. I didn't know it before, before my son came home in a body bag and I had to bury him and I couldn't have an open coffin because of how they had beat him. I knew then. But prior to that, nobody could have told me.

But y'all know. Y'all know this is happening. So do the next right thing. I would say "do your job," but that's a little harsh. Do the next right thing. Fix it.

Thank you.

ASSEMBLYWOMAN ROMERO: I can't and I won't speak for my colleagues, but I can speak for myself. And I will say that I have every intention to do everything in my power

to try and fix it, whether it's signing on to a bill or speaking out against the insane and horrendous murder that was done to your son.

And thank you for being here and for speaking out.

MR. RICKS: Thank you. Thank you.

ASSEMBLYMAN LAVINE: To Mr. Ricks, doing our job is not too harsh, not too harsh a set of words.

I know I speak for everyone here in saying you have -- you and your family have our deepest condolences.

And let us work together to make a more beloved communities where everyone is safe. And thanks, thank you for that.

Ms. Fontier, am I pronouncing your name correctly?

MS. FONTIER: It's fahn-tee-yay, but it's close enough, sir.

ASSEMBLYMAN LAVINE: No, no, but actually what is it?

MS. FONTIER: It's Fontier.

ASSEMBLYMAN LAVINE: Okay. I apologize. All right. As someone whose name

is constantly mispronounced.

But I did want to share this with you. I am a former Legal Aid attorney in the City of New York. And I know that when we change laws, it causes confusion. It caused confusion when we modernized bail, which is part of a national movement, and there was confusion as well with respect to the discovery statute.

So I'm going to share something with you, as an old Legal Aid attorney. The law now is discovery is supposed to be whatever is related to the case. So a proposal is being made to change the word "related" to "relevant to." So as someone who has studied the law, I just want to say I'm not sure I understand the difference. And I have a fear that the judges will be confused as well, along with everybody else in the courthouse.

So what do you think, are my fears founded or unfounded.

MS. FONTIER: I think your fears are founded. And -- but they are very different, sir.

And it -- I didn't have time to get to what I actually intended to testify to, which is that we have had an enormous shift in our practice. We've had to invest -- thank you, and we're asking for the reappropriation of the funds to discovery and aid to defense, because we've had to invest in technology and we've also had to invest in staffing and training.

The training unit has revamped their entire training for not just law grads but for every attorney at Legal Aid, and trains extensively on the meaning of every word in the discovery statute. We hired litigation assistants and trained them extensively on discovery, what it is, how to recognize it, what you're supposed to have, how to organize it, how to work with the technology.

But that change in the statute is actually enormous, because it's not one word, it's an entire phrase. It's not just related to the case or relevant to the charges. And that takes away what is related to every person that's in the case. One of the

biggest issues is going to be police misconduct work records. They are not necessarily relevant to the specific charge that is before the court, but they're very related to the case.

ASSEMBLYMAN LAVINE: Thank you.

MS. FONTIER: Yes.

CHAIRMAN PRETLOW: Assemblyman Morinello.

ASSEMBLYMAN MORINELLO: Mr. Ricks, it was something you said that caused me to dig down to an experience I had in Cleveland, Ohio. I have a very -- my law school roommate is part of the Innocence Project in Cleveland, but he has a good friend that has what is called Edwin's Leadership and Restaurant Institute.

And I ask -- I want to put this on the record, because what you said is when they are formerly incarcerated. We have been coming up and attempting to come up with things so that when they are let out, what will they do? We talked about teaching them while they're incarcerated. Edwin's was

started by a former incarcerated individual. And he started this institute. He has dormitories, you have to be a former incarcerated to be there, and he teaches you food service.

There are two restaurants in Cleveland. One of them's a five-star French restaurant that's part of this project. And part of the dormitory concept is giving them a place to come to if they want to be able to get into this type of profession, whether you're the server, whether you're the bartender. He started a meat processing facility for former incarcerated.

And the point I'm trying to make here is this. When you said that, it triggered it again. Because I've been there and I've eaten there and I've met Edwin. And I think it's something that -- it's a little different than what we've been doing. We're trying to figure out ways when they come out and throw money at different agencies. But I believe that if we had something of this concept where they had a place to go in, if

they wanted to go into this. And the concept is while they're living in the dormitory, they're learning, they start working, then they can move into actual housing. But they have a purpose.

And I spoke to all of the workers there when I went to my friend's birthday party. They were just overjoyed with the opportunity. And they don't ever have the thought of being left out and nowhere to go because Edwin's gives them that family atmosphere.

And so I would just ask that maybe you look into that concept. And it's just -- you Google Edwin's, and it's amazing what you will find. That's it.

And there's no words I can say to help ease your pain, except I'm very sorry.

MR. RICKS: Just that. Just that.

CHAIRWOMAN KRUEGER: So I don't actually have any questions. I want to thank you all -- one, both ladies for your work on behalf of so many people in this state, day in, day out, and your organizations' work.

And Mr. Ricks, I just can't say I think how much all of us appreciate your willingness to come forward. You visited both of our legislative houses yesterday. You sat here most of the day listening to other people talk. And then you came forward to tell your story and your perspective on it, and I just want to emphasize how really important it is that you were willing to do this.

It's not just on behalf of yourself and your family, you're doing this on behalf of people who you will never meet, I will never meet, but hopefully we will in tandem be able to make the fixes in our system that will matter to so many other families in the future.

So with that, I want to excuse you all. I want to thank Panel D for letting us trade. I hope people won't surround you too much as you get up to leave, because we do want to continue with the hearing and invite Panel D -- the Vera Institute of Justice, the New York Immigration Coalition, and Make the

Road New York -- to all come down and take their seats.

(Pause.)

CHAIRWOMAN KRUEGER: So now I can officially say good evening to everyone. And this is Panel D, but next will be Panel F, just for keeping track.

And if you'd each just introduce yourself first so that the people with the cameras know who's who, please.

MS. WANG: Rosie Wang, program manager with the Vera Institute of Justice.

CHAIRWOMAN KRUEGER: Thank you.

MS. WAGNAC: Bonswa tout moun. Tania Wagnac, senior manager of state and local policy at New York Immigration Coalition.

MS. CORTES: Good afternoon. Luba Cortes, civil rights and immigration lead organizer at Make the Road New York.

CHAIRWOMAN KRUEGER: I'm sorry, when they see you upstairs, they can turn the mics up a little bit. And we're going to ask everyone to pull them closer to you.

Thank you. Okay. So let's start

here, please.

MS. WANG: Good evening. Thank you for the opportunity to testify today. My name is Rosie Wang, and I'm the program manager at the Vera Institute of Justice. Today I'll be testifying on the critical need to invest in immigration legal services and also evidence-based public safety solutions.

For immigration legal services, we urge the Senate and Assembly to invest $165 million in protecting the rights of immigrant New Yorkers. In her Executive Budget Governor Hochul invested $44.2 million for the Office of New Americans, but this is not enough. At a time when federal attacks are threatening immigrant New Yorkers, New York must step up and lead by investing more robustly in immigration legal services.

Of the 165 million, we propose 100 million for the Office of New Americans to expand deportation defense programs, to fund capacity building for legal services providers, and to increase current contracts by 20 percent for staff recruitment and

retention.

We propose a $65 million investment for the Department of Education, to build a pipeline of new immigration legal experts, ensuring that New York has a long-term, sustainable legal defense workforce at a time of heightened need.

We also need lasting protections. We strongly urge the passage of the Access to Representation Act, or ARA, and the BUILD Act. The ARA, sponsored by Assemblymember Cruz and Senator Hoylman-Sigal, would establish a right to representation for people in New York immigration courts. The BUILD Act, sponsored by Assemblymember Cruz and Senator Liu, would fund essential infrastructure to create, maintain and expand legal services programs.

Paired with the $165 million investment in immigrant legal services, these policies ensure that families remain together, communities stay whole, and New York's economy remains strong.

Separately, regarding the Governor's

public safety proposals, we recognize and commend the small but meaningful investments in community-based mental health and public safety initiatives. However, we are deeply concerned that New York continues to overfund punitive reactionary approaches that fail to enhance public safety.

Instead, New York should prioritize evidence-based solutions that improve public safety by addressing the root causes of crime and mental health crises. I urge you to review the written testimony submitted by my Vera colleagues detailing concerns with discovery and with involuntary hospitalization, and urge the passage of three bills: Assemblymember Kelles' and Senator Salazar's pretrial services bill, the Earned Time Act, and the Second Look Act.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Next?

MS. WAGNAC: Bonswa tout moun. My name is Tania Wagnac. I am the senior manager of state and local policy at the

New York Immigration Coalition. NYIC is an umbrella policy and advocacy organization for more than 200 groups serving immigrants and refugees across New York State.

We are also one of the organizational leads for the Campaign for Access, Representation and Equity for Immigrant Families, known as CARE-IF, a coalition of community-based organizations that have been consistently advocating for the vital need for funding for legal services for immigrant individuals.

First, thank you, Chair Pretlow and Chair Krueger, for convening this important hearing.

For years advocates like myself, like my colleagues here, have tirelessly called for robust, sustained funding to ensure New York has the necessary mechanisms and infrastructure to protect all residents, regardless of immigration status.

The need for legal service funding is not new. We have long warned that without sufficient investment, immigrant New Yorkers,

both undocumented and legal residents, will be left vulnerable to arrests, detention and deportation. And today, this reality is upon us, exacerbated by the recent rescission of the "sensitive locations" policies that previously provided some protection from immigration enforcement actions.

And the rollback of these policies have fueled increased enforcement action, led to misinformation from the city through the circulation of guidance memos, and has been sowing fear within our communities. And so the Legislature must act decisively to counteract these harmful developments by ensuring universal access to competent legal representation.

The fact being, investing in compassionate immigration policies is not just a moral imperative, but also a strategic move for collective safety and economic prosperity.

And as my colleague uplifted here, we are here calling for an investment of $165 million not only to fund legal services

through the Office of New Americans, but to provide much-needed funding for competency building for our legal service providers so that they may have the resources they need to continue this work -- and also providing much-needed support to attorneys who are working in pro bono immigration cases.

We also urge the Legislature to pass the Access to Representation Act -- again, to pass the Access to Representation Act, Assembly Bill 270 and Senate Bill 141, as well as the Bolstering Unrepresented Immigrant Legal Defense -- or known as BUILD -- Act.

The ARA would create a statutory right to counsel for immigrants who are facing deportation in New York, and would create a stable and sustainable funding stream for providers to meet the urgent need. It would guarantee that no one is left behind to defend themselves against a trained government lawyer alone because they cannot afford representation.

Thank you.

MS. CORTES: Hello again. My name is Luba Cortes. I oversee Make the Road's immigration portfolio. I'm here today to speak in support of the New York for All Act.

Immigrant New Yorkers need real protections. And currently, under this administration, the hyper-enforcement is causing serious fear in our communities. We're seeing that immigrants are afraid to go to work, families are afraid to take their little ones to school, farmworkers don't want to go to work because they're afraid that ICE will be waiting there for them.

It is time for the Legislature to step up and protect New Yorkers, to ensure that the mass deportation agenda of this administration is not successful. We all deserve to live in safety, but safety means being able to go to work, school, church and the hospital without being ripped away from your family.

It's also important to note that New York is a cultural hub, and our economy is shaped by immigrants, with $68 billion in

tax revenue and $153 billion in spending power. And it's harrowing and unnerving to think that state resources are going to be used to aid and abet ICE to then fulfill and uplift a deportation agenda. And so New Yorkers need real protections.

We understand that due process is necessary, but we're seeing that the arrests that are happening by ICE also include people that have no criminal records. And so this is called collateral arrests by ICE. And therefore it is extremely concerning, because people have the right to receive due process, but individuals that perhaps are just taking their kids to school are now being picked up by ICE.

We also continue to hear reports across the state of ICE activity outside of schools, ICE activity outside of health clinics, with no real clarification. We're seeing the DEA and FBI also aiding and abetting ICE. And that creates a lot of confusion with New Yorkers.

We can't let this administration

scapegoat immigrants. As we know, immigrants make up 30 percent of the workforce. And 60 percent of immigrants also do caretaking jobs, which includes home health aides, taking care of elders. And so when they're afraid to go to work, what happens to our most vulnerable communities?

We need the Legislature to stand with immigrants. We keep hearing communities say: Could I be next?

As Make the Road, just in the last weeks we have trained over 600 partners and allies and hundreds of community members have come to our offices. We have gone to schools to try to teach them how to affirm their rights, but they're still -- they are still afraid. They're afraid to leave the status quo, and they need to trust government agencies when they're seeking emergency medical services, when they want to, again, go to school, go to work. If they're not able to do that, they're not able to thrive, and that is deeply concerning.

And we also want to name, right, that

people without a status don't have a status because they want to, they want to adjust their status. Right? They just don't have the opportunity due to the backlogs on work permits.

CHAIRWOMAN KRUEGER: Thank you.

Questions? Senator Myrie.

SENATOR MYRIE: Thank you, and thank you for your patience, for waiting all day.

As you were waiting, the New York City mayor announced that he is going to welcome ICE back onto Rikers Island. So I'm just wondering if you can speak to any implications for public safety or due process in that change of policy.

For anybody.

MS. WAGNAC: So yes, we were actually tracking that news while we were sitting there. This is extremely concerning, because not only would this -- because at the moment there's like developments still happening, so there's still more clarification needed, of course.

But like the concern for us is now you

have an ICE office located in a DOC, right, facility, who have been known, has been proven to have been violating the existing detainer law. Because there was a hearing that revealed all the violations where DOC agents were in communication, like texting with ICE agents, like sharing the location and specific release date for inmates.

And so there's this concern that this will not just pertain to individuals who have committed serious crimes, but also could bring in any inmate, right, who does not have an immigration status or is undocumented, could be lumped into it.

But this is clearly a move by the administration, by the Adams administration to align with Trump in essentially a sellout of immigrant New Yorkers, essentially.

MS. CORTES: Yes, I mean this executive order is a response of his meetings with the Border Czar. And so we know that the city, despite its own detainer laws -- which we were hoping to complement with

New York for All -- you know, they could be potentially rescinded. We don't know what is going to happen, so we need the state to step in and protect New Yorkers if our mayor is going to use immigrants as bargaining chips for political pardons.

MS. WANG: And part of that protection, of course, is, you know, not just cutting off the pipeline from the criminal system to the immigration system, which compounds the harm of racial bias in the criminal legal system, but also making sure that there is due process as well in the immigration system, that there's not double punishment, that people have representation in immigration court like they would if they were accused of a crime.

SENATOR MYRIE: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRMAN PRETLOW: Assemblyman Ra.

ASSEMBLYMAN RA: I don't really have a question, I did want to just, A, thank you for your patience and your accommodation with the earlier panel.

And I wanted to say to Ms. Wagnac, it's a proud day for me to have you before us testifying in front of a budget hearing. So --

MS. WAGNAC: It's good to see you again, so good to see you again, and so good to see many of you.

ASSEMBLYMAN RA: It's a first for me. She was my intern 10 -- well, 12 years ago, and she's -- 12 years ago, so --

(Laughter.)

ASSEMBLYMAN RA: Good to have you in front of us. And again, that's a first for me. So proud to see you here.

MS. WAGNAC: Thank you, Assemblyman.

CHAIRWOMAN KRUEGER: You did a pretty good job with him.

MS. WAGNAC: Yeah, I made sure he showed up to his committee meetings, right behind him -- no, but thank you.

CHAIRWOMAN KRUEGER: I don't think we have any other Senators.

Assembly?

CHAIRMAN PRETLOW: Assemblywoman Cruz.

ASSEMBLYWOMAN CRUZ: All right, this thing's been giving me trouble all day.

Thank you. Thank you, ladies, great to see you.

I have a feeling that what -- Senator Myrie asked you about the litigation, and it is my hope that the conversation will be very different, but we'll leave that up to the courts, where I think it will be upheld, because it's the law and it's constitutional.

I wanted to ask about what you're seeing in the community and in the district. We know that there is a high need for services. I'd love to hear a little bit about the services that are actually being provided at the local level now, and where you're seeing an increase and if you have an estimate or percentage of the increase that you're seeing, especially over the last month.

And what services are you not able to provide because of lack of funding?

Thank you.

MS. WAGNAC: I can -- I'll start off,

and then my colleagues.

So thank you so much, Assemblywoman.

ASSEMBLYWOMAN CRUZ: Can you pull the mic --

MS. WAGNAC: Of course, of course.

And so with the recent changes, right, we've seen an increased need for more Know Your Rights workshops, right? Immediately the moment these rescissions were taking place, legal service providers were getting phone calls from not just immigrant adults, but children, wondering what is the meaning of guardianship, right: How do I gain guardianship of my sibling? Or how do I get power of attorney? Or what's going to happen if my family, you know, they get detained, like what happens to them?

So there's been an increased need for doing more training on how to engage with ICE, but also what to do. You know, like what information to have, what documents to have prepared, and what the resources, right, is needed.

So we also have been meeting with the

city administration to make sure that there's guidance, clearer guidelines that is put out, and that there's a point of contact for families, you know, in the event that an individual is detained.

And we've also been calling for the need for a rapid response fund, right, to make sure that families, right, where there is -- the breadwinner is no longer there, is able to have financial assistance support. Right? To be able to continue to pay for rent, to buy food.

But there's a lot more that we've been calling for, so I'll make space for my colleagues at that point.

MS. WANG: I'll let my colleagues who are member-based organizations speak in more detail about this, but I just also wanted to make the point that ICE has made it difficult to track what the need is and how many people are being detained and how many people are being arrested.

Because there has always been an issue with data transparency in ICE, but that is

worse than ever. There used to be a system run by Syracuse Law School that tracked Executive Office of Immigration Review, immigration court data, through which you could see how many new removal cases were being opened -- oh, sorry.

(Time clock sounds.)

CHAIRMAN PRETLOW: Assemblywoman Kelles.

ASSEMBLYWOMAN KELLES: Thank you.

Can you please finish that answer? I want to give you time.

MS. WANG: Oh, thank you, Assemblymember Kelles.

ASSEMBLYWOMAN KELLES: Absolutely.

MS. WANG: And that system has gone dark.

There's very -- I think it's difficult to really have the full picture of what is going on. Vera has a dashboard created by our researchers to track representation rates, but I think this really does also emphasize the need for lawyers who are able to help people and be eyes within the system

to give us an idea of what is going on in place of this, you know, opaqueness where people are just disappearing.

ASSEMBLYWOMAN KELLES: And there's a lot of documentation and information out there now that there's a lot of discrepancies in the funding between upstate and downstate, and upstate having a particular lack of funding.

Can you talk about how that's impacting upstate? For any of you, please.

MS. WANG: I would love to talk about our solutions for that.

ASSEMBLYWOMAN KELLES: I would love to hear them.

MS. WANG: But some of our (indicating other panelists) --

MS. WAGNAC: I'm not sure of the -- sorry, can you hear me?

ASSEMBLYWOMAN KELLES: Yeah.

MS. WAGNAC: So are you saying like the implication of not being funding allocated to upstate?

ASSEMBLYWOMAN KELLES: Just the lack

of funding and infrastructure and support on ICE activity upstate, how it's impacting communities.

MS. WAGNAC: Yes, so to answer that, we've also had -- some of our providers who are located upstate, they've had like desks that have not been replaced, they've been seeing an increased call for more clinics, like legal clinics, folks asking questions.

And so we're seeing like the need for like a capacity building to make sure that they have spaces, offices. And so this is why we've been pushing for the funding for the 165 million to include a lot of those providers. Because it's not only for New York City, it would also be for the upstate areas as well.

MS. WANG: And that's also why we're pushing for the BUILD Act, which funds immigration legal infrastructure and capacity-building specifically to expand immigration legal representation, to scale up both to the increased need and to reach places that are currently legal deserts.

ASSEMBLYWOMAN KELLES: And one last question. Are you hearing and can you tell us a little bit about what you're hearing about how this activity is affecting farmers and the farming community?

MS. CORTES: Yes, so we're hearing, right, that folks are really troubled by the raids, particularly because it's unclear whether it's ICE, whether it's the FBI, whether the DEA that is participating in those raids.

And so we know when farmworkers are not going to the farms, right, that means they're not working. That also affects their produce, and it affects the labor and it affects the economy. And so that is what we have been hearing.

And then also we note that their loved ones also feel unsafe on top of just their family members going to work, so families want to relocate, and that will have an impact, right, if they're leaving the towns where they're providing a lot of that workforce.

And so we're part of the New York for All Coalition, and they do a lot of work upstate, and they're trying to provide a lot of Know Your Rights education to ensure they know their rights and are able to go to work.

ASSEMBLYWOMAN KELLES: Thank you.

CHAIRMAN PRETLOW: Assemblywoman Mitaynes.

ASSEMBLYWOMAN MITAYNES: Hi.

Can you talk a little bit about -- just based on the experience, what happens or what are the rippling effects into the community when someone is detained and someone's taken, to the immediate family and then just like the extension of what that actually causes?

MS. CORTES: So we do a lot of rapid response work. So what usually happens with community members is that they try to locate their loved ones, and so there's a lot of education on how to actually find their loved ones.

Oftentimes the information is not updated, and so they come and they're afraid

because they think their loved one has been kidnapped, because oftentimes they don't even know that it was ICE.

And so if that impacts the breadwinner, if that was the person that was detained, then they don't have access to economic support. That could mean they could become unhoused. And so it's really connecting them with emergency services so they can continue to live their lives if the breadwinner is detained.

Oftentimes if there's medical issues, figuring out how to get them access to services because the loved one is detained. And we see people that have been detained and also they have severe medical issues, and so the loved ones are trying to figure out how to get them access to the medicine that they need.

We've seen the people in detention, often their medical conditions are exacerbated because they don't get quality access to medical care or the medicine that is needed.

And so that has deep impacts on the community, because once a person is taken, community members see that, they don't want to go to school, they don't want to go to work.

Jackson Heights, which is a very vibrant community in Queens, there was ICE activity by the 7 Train on Junction Boulevard, and then Junction Boulevard was empty. Right?

And so it shows that people don't want to be on the streets, they feel unprotected. And so we need clear protections to ensure that people can seek the support that they need.

MS. WAGNAC: And in addition to that, too, there's a lack of information that's given to the family, right? Because often people will be like in a detention center for weeks, and then the family does not know that they've been there.

And also if the person is not an English -- if English is not their first language, they're less likely to receive any

updates about their case, why they're even there, or even information about their own rights. So it's more like purposely placing them in a hole and keeping them in the dark.

MS. CORTES: And it's also the prolonged detention. People can be in detention for years while they're trying to figure out court. Which is why it's so important to have access to quality representation.

We're also seeing a lot of fraud in communities because people want to seek an immigration attorney to support their loved ones to get them out, but they end up being embezzled thousands of dollars and their loved ones are not released and they don't get any clear information. So it's just an aspect that harms the entire family.

ASSEMBLYWOMAN MITAYNES: And I don't know if you have data of this, but just like, again, based on, you know, being frontline, what would you say or how would you codify folks that out of fear have just kind of like left on their own?

(Time clock sounds.)

CHAIRWOMAN KRUEGER: Assembly, no more?

CHAIRMAN PRETLOW: That's it.

CHAIRWOMAN KRUEGER: Then we all want to thank you very much for coming and participating tonight. And we know that the day got longer and it's going to keep still getting longer, so safe travels. Thank you very much.

PANELISTS: Thank you. Thank you so much. And congrats, Chair Pretlow.

CHAIRWOMAN KRUEGER: I'm now going to call up Panel F: The New York State Defenders Association, the Chief Defender Association of New York, the District Attorneys Association of the State of New York, and the New York Association of Criminal Defense Lawyers.

(Pause; off the record.)

CHAIRWOMAN KRUEGER: And as they sit down, this is not actually an audible, this was that Michael McMahon, Richmond County district attorney, who was going to be

testifying for the DAs Association, could not be here with us, and so we have replaced him, so to speak, with Bronx DA Darcel Clark and also Rensselaer County DA Donnelly, who is the incoming president of the District Attorneys Association.

So they will each get three minutes, okay, six minutes for them.

And would you then, everyone introduce yourself first so that the people in the video booth know which name to put with what picture. Please, would you start just by introducing yourself.

BRONX COUNTY DA CLARK: My name is Darcel Clark. I'm the elected district attorney of Bronx County.

CHAIRWOMAN KRUEGER: Thank you.

RENSSELAER COUNTY DA DONNELLY: Mary Pat Donnelly, Rensselaer County district attorney.

MR. STADELMAIER: I'm Kevin Stadelmaier. I'm the president-elect of the New York State Association of Criminal Defense Lawyers and the first deputy defender

of the Erie County Assigned Counsel Program.

MR. McGHAN: I'm James McGhan. I'm the president of the Chief Defender Association of New York.

MS. BRYANT: Susan Bryant, executive director of the New York State Defenders Association.

CHAIRWOMAN KRUEGER: Great. Well, welcome, everyone. And why don't we start with the two district attorneys. Whichever order you want to do it.

RENSSELAER COUNTY DA DONNELLY: Okay. Mary Pat Donnelly, Rensselaer County District Attorney. Thank you for taking the time to listen to our perspective as it pertains to the Governor's budget, and specifically the very important issue of discovery.

Five years ago when the changes came down, you let us sit here and explain about our concerns about how we're going to be able to do our job. And to a certain extent, some of our fears have come true. However, we are extremely grateful for the funding that has

come down, as we've tried to build infrastructure within our varying offices around the state to try to help us get to the endgame.

And I want to start out by saying not a single elected DA that I have had the opportunity to speak with is opposed to the goal, which is a fair sharing of information so that defense attorneys and defendants can make intelligent and fair decisions about how to proceed.

The problem becomes the difference in each and every county and the relations that we have with varied law enforcement -- and I'm speaking for upstate -- and trying to get that message across. It becomes a very difficult process when we have such different resources in each and every spot.

To keep it simple, I can't -- I can't know what I don't know, and I can't ask for something that I don't know exists. So no matter how many times I speak to varied police officers who are dealing with a case, varied agencies who may be involved in a

1 particular case, there's always somebody
2 along the chain who, in the privacy of their
3 own mind, says, well, I don't think she means
4 everything. Not this.
5 And sometimes -- and this is what I'm
6 talking about -- sometimes that thing that
7 they failed to turn over is not important.
8 I'm talking about the time when somebody does
9 something wrong. Because if somebody does
10 something wrong, these sanctions are
11 appropriate.
12 I'm talking about a time when -- we
13 had an example from an upstate DA, a burglary
14 was called in to a home where the burglary
15 suspect went to the wrong house. Police
16 responded to the first house, the people
17 said, "We don't know what happened, he ran
18 outside," and while they were there, they
19 found him breaking into the house next door,
20 where he meant to go in the first place.
21 So that proceeded as a violent felony
22 trial, and when they got to the end and it
23 was the eve of trial, they found out that
24 there had been a police report filled out for

the first house, which was completely encompassed in the second police report for the second house, and that case was dismissed.

So these are the types of situations that are concerning. When you deal with upstate, you have a lot of town and village courts where our judges are not attorneys, and there becomes an opportunity that we can't really litigate a lot of these issues.

Because that's what we do in county court. When there's a question as to whether something is relevant -- or I should say related to the case, we're able to litigate that in county court upstate. But when we're out in our local courts, where the misdemeanors matter, where there are cases that have real victims, we're not given the opportunity to do that.

Our judges are not understanding what they need to do, and the remedy is -- you didn't turn something over? We're going to go ahead and dismiss the case.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

DA Clark.

BRONX COUNTY DA CLARK: Okay. I wasn't sure if I was going to get the opportunity to speak, but -- you know, give a lawyer a microphone and I'm going to do what I have to do.

(Laughter.)

BRONX COUNTY DA CLARK: But thank you so much for giving me this opportunity, to all of you.

I guess I want to say I as well as my colleagues were in favor of the discovery reform. As a former justice of the Supreme Court and a judge on the Appellate Division First Department, I know how important it was, discovery. I was a prosecutor myself, an ADA, and I know what blindfold was. And as a judge, I saw it happen as I presided over cases.

You fixed that. You fixed that five years ago, and I championed the transformation that you intended. But -- and the things that you intended for this law to

do is working. Defenders and my colleagues here understand they have more information than they have ever had before in the last five years now. I think they would have to admit that.

I heard somebody else talk about there's less wrongful convictions now because of this. That's how -- that's what you intended to do.

I'm here talking about minor revisions to help for the things that were the unintended consequences -- the dismissals that we're seeing on technicalities, our misdemeanors as well as our felonies. And both are equally important because it means that people are not being held accountable. And we need to make sure that they do.

Discovery should not be about competitive advantage, it should be about compliance. I want to give you every single thing that I have so you can be ready for trial. That's important. And I'm going through it, and it's making my lawyers better as well. It's making the system better.

That's what we wanted.

But to hold up, to see lying in wait, knowing there's something that's missing -- tell me. If you tell me, I'm going to get it, because my obligation never stops. That's what we're talking about. These revisions are going to help that.

It's all about whether or not what was ever missing or failed to be turned over, whether or not it prejudices the case against the defendant. Was it that impactful that it should lead to a dismissal? There's so many sanctions that can happen if there's a failure.

And I'll be the first to admit we don't always get it right. So I understand that. But when it's something that's technical, victims are suffering, communities are suffering. And defendants are waiting in jail longer than ever before. And they're not getting treatment or anything that we could do for them had the case continued to go forward.

So we're asking you to adopt the

Governor's revisions. It's not a rollback. If it were a rollback, we would be asking for it to disassociated with speedy trial altogether. Prosecutors are not asking for that. We're asking just for a level playing field to make sure that we keep the cases that we have.

CHAIRWOMAN KRUEGER: Thank you.

Next?

MR. STADELMAIER: Thank you, Senator Krueger, Assemblymember Pretlow.

You're hearing that these are tweaks and you're hearing that these are simply commonsense, you know, additions to the discovery law. And I don't want you to be distracted, because those are absolutely myths. And we're asking you to omit Part B. These rollbacks are a full repeal of the discovery law from 2020.

If you're talking about common sense, common sense is a place in a state where we have 90 percent of our dispositions or upwards of 90 percent of our dispositions being pleas, that you get all of the evidence

before you have to decide to take a plea. Common sense is an objective versus subjective standard of evidence where you don't allow law enforcement and the district attorneys to act as gatekeepers of that evidence.

Common sense is a system of accountability that requires transparency and sanctions failures to be diligent. And common sense is a system where we don't reward law enforcement and district attorneys for their intransigence. And fortunately, current 245 does all of those things.

And again, this is not a tweak. Okay? We are changing the standards of how evidence is distributed. We're going to a related to -- or a "relevant" rather than a "related to," again, allowing district attorneys and law enforcement to be the gatekeepers of evidence. We're allowing them to change the standard from constructive to actual possession, which will eviscerate 30.30. They'll be able to simply declare "ready" and turn over their COCs with just the things in

their possession, which again are very limited.

It's going to eliminate the incentive for district attorneys to cooperate with law enforcement. It's going to result in increased incarceration times, it's going to result in increased wrongful convictions. And in no way are these commonsense reforms. And in no way will they create efficiency. And in fact they're going to create increased litigation and increased delays.

And as you heard Judge Zayas say this morning, when you change the standard and require that you must show prejudice to get any sanction whatsoever, whether that's a 30.30 dismissal or a 245.80 sanction, you're just never going to be able to show it, because the -- the remedy for prejudice is simply delay. It's simply an adjournment: Okay, take some time, you know, go look for your stuff, and then come back.

I want to be clear. As Judge Zayas also said earlier today, dismissals are not up. The OCA data is clear. You take a look

at 2019 versus 2024, in Monroe County, in Rochester, 6 percent less dismissals in 2024 than 2019. In Suffolk, 1.4 percent. In Nassau, 5 percent. Where I'm from, in Erie County, 1 percent difference, 1 percent less dismissals. And we have 38 law enforcement agencies that our district attorney's office deals with.

So if you want data, that's data.

You want a solution to this problem, it is the Myrie bill. You give district attorneys access to the police, you give them access to get those records, it makes their job incredibly easier.

They've gotten $80 million over the last three years to implement discovery reform. They're getting another $40 million this year. They have the resources, they have the means, they can comply, and it matters everywhere else but New York City. Upstate is compliant.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Next?

MR. McGHAN: So first, we submitted written testimony that addresses things at more length. I'm going to shift gears a little bit away from discovery to the more important issues that we have.

Family Court funding first. CDANY is requesting that you adopt the indigent legal services request of $50 million a year, resulting in 150 million in the next three years. This investment in the Family Court system by the state would address mounting inadequacies that threaten the welfare of children and families --

CHAIRWOMAN KRUEGER: Would you pull the mic a little closer? Thank you.

MR. McGHAN: The harsh reality is this will disproportionately affect low-income families. Despite decades of research, hearings and reports about inadequacies of the parental representation system in New York State, New York has not made a meaningful investment.

In June 2021, ILS released caseload standards for parent attorneys in New York

Family Court. Without additional funding, these caseload standards will remain unattainable.

Even with additional funding for Family Court and continued funding for criminal defense, without COLA increases this funding becomes less effective. Grants and distributions that once covered an entire position now may only cover a portion of a staff salary.

Hurrell-Harring, ILS grants and distributions allow offices to add staff, including social workers and other interdisciplinary partners access resources like experts and technology and additional attorney staff to assure counsel at first appearance, so things that were addressed in Ms. Warth's testimony do not happen like they did.

Increased supervision and training. Over the last 15 years this funding has continued, but what is lacking is additional funding for the realities of COLA and salary increases that have caused erosion to the

ideals and operations of these improvements.

Also, we have to address the issue of recruitment and retention. CDANY supports the DALF expansion to increase that and to fill this goals.

Finally, I will go back to discovery. I think Judge Zayas said it in his testimony: People v. Bay lays out the standards to declare a certificate illusory. Yet again we're here to erode an essential enforcement mechanism, and the data does not support it.

I think Alice and Kevin addressed a lot of the discovery concerns. Alice in particular addressed public safety. I wouldn't know -- I believe the Governor recently addressed public safety in New York. There was a claim and she touted the U.S. News & World Report from August of 2024 that New York State has nine out of the 25 safest counties in the country.

Ultimately, but most importantly, this discovery law allows the people our offices represent to make informed decisions about their lives. They get to see all the

evidence, analyze the strengths and weaknesses of the case before choosing the accepted plea, or go to trial. We need to be able to decide what's related to the case, not a district attorney, not law enforcement.

CHAIRWOMAN KRUEGER: Thank you.

And our last presenter.

MS. BRYANT: Good evening. Thank you, Chairs Krueger and Pretlow and other members of the Legislature that are here on the panel tonight.

I'm going to be addressing things that belong in the budget and things that don't belong in the budget.

Starting with the New York State Defenders Association, my organization, we provide vital support to public defenders around New York State to satisfy the state's constitutional obligation to provide counsel. We couldn't do that without your support. It's on top of the limited support that the Governor provides on a yearly basis. So we're asking to restore our funding, which is adding $2.1 million to the Governor's

appropriation.

There's details as to all of the things that we're doing with this funding, and we try to do more each year for criminal and Family Court defense.

We're asking this year as well for $420,000 for two key leadership positions for our office, a director of training and a director of our public defense case management system, which Executive Deputy Commissioner Popcun actually referenced earlier today. It's key to discovery implementation.

Our Veterans Defense Program, which submitted written testimony to the Human Services Budget Committee, we're asking for a restoration of $720,000. That's split between the Assembly and the Senate. It's a very successful program 10 years running. It directs veterans into treatment and support needed to reintegrate while addressing the challenges that veterans face due to military service.

There's two key items to highlight in

the ILS budget. The $50 million for Family Court needs to happen this year. And please, reject the sweep. Don't give the Executive the authority to take millions away from public defense improvements for unspecified purposes.

Finally, discovery. Part B must be intentionally omitted from the one-house budgets and rejected outright during negotiations. The characterization of this proposal is intended to downplay what it actually means. The law is reasonable. Exercising diligence within speedy trial time isn't too much to ask. The Court of Appeals has said you have to make reasonable efforts to comply. That's not about handing over one piece of paper or not.

We expect prosecutors to review police evidence, but the new law would mean that they don't even have to ask for that evidence because it's not in their possession actually.

Prosecutors in parts of New York that accepted that the law was changed, that acted

to comply and used the funds that you've appropriated to do so, have had success. The law is working. Don't reward employee and prosecutors who choose to ignore the law's mandate.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

First up is Senator Myrie.

SENATOR MYRIE: Thank you. And thank you for your patience in waiting today.

I'm going to ask two questions, one directed to Bronx DA Clark and the other question directed to the three defense witnesses. We have a little bit of time, so I'm hoping we can get to both of these.

DA Clark, we've heard that the bulk of the dismissals are due to police failing to turn over information, and I'm wondering if you can speak to whether that is the experience that you have in your office or whether there are other dismissals, particularly in the misdemeanor universe, that are attributable to something else.

And then to the defenders, I'm

wondering if you can speak to whether there's any sanction beyond a dismissal that you think would provide a strong enough incentive for prosecutors to, as I think has been alleged, to not try to skirt the law.

BRONX COUNTY DA CLARK: Thank you for the question.

I think a large part of the dismissals we've seen have been because of some type of police paperwork perhaps not being turned over. Something that's duplicitous {sic} they may have the information already, a number of police officers respond, we get 10 out of 12 of them, but none of them really acted on it is one thing.

But the misconception about this is that discovery is only police paperwork. Discovery is a whole lot more. It's DNA, it's hospital records, it's surveillance cameras from private stores. It's all kinds of things that are part of the case and the charges and the evidence that we have to use.

So to say that it's just police is not everything. And we lose cases because some

other things are not turned over, in addition to some of the police paperwork.

MR. STADELMAIER: Senator, in terms of sanctions, what we're dealing with is something incredibly important. We're dealing with people's lives. Okay? We're dealing with people who might end up in prison. We might be dealing with people who have long-term issues that they're going to be facing if they're convicted.

So there must be, you know, a very strong standard, a strong incentive for prosecutors to turn things over. People v. Bay makes clear, where the prosecution exercises diligence, where they exercise the due diligence, there will be no dismissal. They don't require a perfect prosecutor. The dismissals that we're seeing upstate, the dismissals we're seeing of indicted felonies in New York result from prosecutors basically turning over nothing or holding on to things for years without turning them over.

And whether that's their fault because they haven't embraced culture, because the

police aren't turning it over, that's really of no effect. Okay? The dismissals we're seeing are because they basically have done nothing in terms of turning things over.

So is there a strong enough sanction or a sanction other than 30.30 which is appropriate? In those circumstances, no. In other circumstances where they're diligent and just haven't turned something over minor, then there are 245.80 sanctions available to the judge.

SENATOR MYRIE: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRMAN PRETLOW: Assemblyman Dinowitz.

ASSEMBLYMAN DINOWITZ: Thank you.

Well, before I start, DA Clark, would you agree with that statement he just said, yes or no, that it's like -- the dismissals are because DAs are turning over nothing?

BRONX COUNTY DA CLARK: No, I don't agree with that.

We work hard each and every day to

make sure that we do the right thing. It's important to us to know what the evidence is.

You transformed this practice so that now I have to tell my lawyers, you know what, you think this is going to be hard? Yes, it is. But it's going to make you a better lawyer because you're going to know about your case ahead of time. And what you turn over to defense, you're going to know about it -- we don't have to wait in the middle of the case to discover things.

That's how it used to be. You changed that. And we are doing everything that we can to turn it over. Am I saying every single prosecutor does that? There are outliers, just like there are outliers with defense attorneys where we turn over everything and they never open the evidence. Okay? Or they wait until the speedy trial clock runs and then they make a motion to say, Oh, there's something wrong with this certificate of compliance. And then the judge says, Well, the clock has run out, it's over.

If it was something that doesn't go directly to their innocence, if it doesn't prejudice them in any way, if it was something incidental and we didn't turn it over because the clock ran, it's out of our hands.

So I would disagree with what he says. We work so hard. Like we are public servants. You think I'm doing -- we want to see our cases dismissed? Why would we do this work if we wanted to see our cases dismissed?

We want to make sure that people are held accountable and that communities are safe, and discovery is part of that. And we're doing our job to make sure that this happens. We just want to level the plaintiff playing field to make sure that what is turned over is absolutely what's supposed to be turned over. And we're doing that.

If we get it wrong, the ultimate sanction is dismissal. But there should be other sanctions besides dismissal, and you shouldn't be able to sit and wait out the

clock and then let us know. If I got it or if I'm missing it, tell me and let me get it to you.

ASSEMBLYMAN DINOWITZ: Okay. Well, thank you for that yes-or-no answer.

(Laughter.)

ASSEMBLYMAN DINOWITZ: But I appreciate it.

I only have very little time, so I just wanted to say that I was and still am a very strong proponent of what we did in 2019, and we took a lot of crap for it in our districts, particularly discovery reform.

But I'm not an ideologue, I'm not some, you know, like way over law and order person. Nor am I a defund-the-police person. I want to do what's best for our district, and I think we all want to do what's best for our district. If we have to tweak the law, maybe we do, and it would certainly be -- we certainly welcome suggestions on that. I don't know that the Governor's proposals as such make -- I don't know that all of her proposals make a lot of sense. Maybe some

do.

But I think that we have to be prepared to do whatever it takes to make our communities safe.

CHAIRWOMAN KRUEGER: Thank you.

Senator Palumbo.

SENATOR PALUMBO: Thank you, Madam Chair.

I'll go quickly. I'll kind of bounce from team to team.

So I practice some on both sides of the aisle. I was a Suffolk ADA for several years, and then was on the other side until -- and there were some comments about common sense and justice and those sorts of things.

And I think we can all agree, though, a couple of years ago DA Braggs' office was in here and the New York County DA was really -- had a very big problem because they dismissed almost half of their DWIs. In a county that has probably the most complex public transportation system in the world, people are driving drunk and they're getting

their cases dismissed.

So I understand that, you know, that the 30.30 clock that you seem very resistant to that on that side of the table, that you want that to continue to be the sanction. But obviously the sanction, when your 30.30's dead, is dismissal. What about something incremental like maybe it will tick for -- in custody cases? Out of custody defendants, no. And you can have different incremental levels of sanction where the punishment would fit the crime, like we have in most of our jurisprudence, that yes, if it's a field report that is completely encompassed in the actual paperwork that was turned over, maybe an adverse inference, maybe something. Not dismissal.

But if there's something intentionally withheld, like in those comments that you made, that clearly, clearly is something that should be heavily sanctioned if not dismissed. We get it. And if it's Brady, then the bomb goes off -- too bad, you screwed up.

So I guess for maybe the defenders side, because I didn't shut up and that was a minute and a half so far, do you think that any alternative sanction would be appropriate, something like I just suggested? And if not, please tell me why.

MR. STADELMAIER: So, Senator, I did want to point out that 30.30 has been the law of the land for decades, and it was largely written by district attorneys. So they've known for a very long time that there was always the chance that their cases were going to be dismissed if they weren't diligent.

The new 245 statute simply codifies that and makes it a little stronger and really requires them to be diligent in turning materials over.

I can't speak to the statistics you gave about --

SENATOR PALUMBO: But 30.30 was legal sufficiency, not paperwork. Not a memo book right?

MR. STADELMAIER: Well, not necessarily. Not necessarily.

And your statistics on the DWIs, I can't speak to that.

But what we're talking about here is prosecutors' offices, because either they can't get the material from the police or because they're holding on to it for whatever other reasons there might be, aren't being diligent in turning things over. And if cases are being dismissed, that's why they're being dismissed.

So again, if they're being diligent pursuant to People v. Bay, if they are looking at the materials in their possession, if they are turning over things on schedule, if they are liaisoning with law enforcement and getting the materials from them, there's absolutely no reason why they can't comply. And again, look at upstate. The dismissal rates upstate do not match New York City. So this is an NYPD, NYCBA problem. This is not an upstate issue. And if they get their act together, everything will be fine.

MS. BRYANT: I just want to jump in and say ask the prosecutors for proof of

their claims that cases are being dismissed for one piece of paper not being turned over.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRMAN PRETLOW: Assemblyman Morinello.

ASSEMBLYMAN MORINELLO: Thank you.

I have a general question for anyone to answer. We're sitting here in a budget hearing on public protection. Why are we discussing discovery? Shouldn't that be a separate discussion and not get mixed in so that the dollars oversee the purpose of what we're trying to get at?

Anybody could answer that.

MS. BRYANT: Yes.

MR. McGHAN: Yes.

MS. BRYANT: It should not be part of the discussion, and that's why we're asking you to intentionally omit Part B from the Public Protection and General Government Article VII bill.

ASSEMBLYMAN MORINELLO: And so if I understand what you're saying is, we should

be debating this in and of itself and analyzing it in and of itself, and not confusing it.

And many times what happens here is the things that they're not sure will happen, they throw into the budget because the budget's going to get passed in some form or fashion.

I've got one -- just a couple other questions if you'll just give me one second, please. And we're still going to talk a little bit about discovery. But non-prejudicial discovery violations, okay, are those sufficient for dismissal?

RENSSELAER COUNTY DA DONNELLY: We don't think so.

And I would just like to say if any of my ADAs are intentionally withholding and not doing their job to turn over relevant paperwork, they're not only going to get fired if their case gets dismissed, they're going to be subject to sanctions, the Prosecutorial Commission on Misconduct, and they also have their law license to worry

about.

So there's nobody that I'm supervising that's willfully holding back this paperwork.

ASSEMBLYMAN MORINELLO: I would find that very distasteful if I knew that there was a prosecutor or someone in the office purposely withholding evidence.

Now, are there other -- any states that have discovery laws that either side would prefer or that we might want to look at before we jump into this discussion right now?

BRONX COUNTY DA CLARK: I would like to say this, that the laws that you change -- discovery now -- they're the best in this country. I know that other -- they've looked at other states, but they are not as well-written as the ones we have. Even with the reforms or the tweaks or the revisions that we're asking for -- even with those revisions, the New York law will still be stronger than in other states.

You know why? Because now you have codified, as my colleague said, codified

speedy trial to discovery where it wasn't before. So now -- now it's clear that speedy trials -- and if we wanted to really roll it back, one of the first things we would have put down in our revisions is decouple it from speedy trial.

We're not asking for that. It should be related to speedy trial. We're just saying that the sanctions should be measurable.

ASSEMBLYMAN MORINELLO: Real quick. Take it out of here.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRMAN PRETLOW: Thank you.

Assemblyman Ra.

ASSEMBLYMAN RA: Thank you.

For DAs Clark and Donnelly, I wanted to actually talk about the proposed changes to the drugged driving laws. As I'm sure you know, I know our two DAs on Long Island have been strong proponents of this. I know that both in Suffolk and our DA Donnelly in Nassau, have talked about the difficulties in prosecuting these types of cases.

So if you can just talk a little bit about the tools that this change would give to DAs when prosecuting drugged driving.

RENSSELAER COUNTY DA DONNELLY: Sure. We've already used the word "common sense" a bit, but this really is a commonsense change. I can't prosecute someone for driving under the influence of drugs if I can't name the particular drug that they're under the influence of and if that particular drug is not on a list in the Public Health Law.

Now, you all probably know this, but many of the illegal drugs that people are using currently are coming in from other countries. And all it takes is a tweak to a synthetic drug and it's no longer what we think it is.

So finally fentanyl has made it on the list. All you have to do is change a molecule and it's no longer on the list. And I have personally had to sit with families and they cannot understand. And I can still hear the son saying "But she had 12 times the limit of fentanyl." People like to say the

legal limit. There's no authorized amount of fentanyl.

But in any event, she had a gigantic amount of fentanyl in her system, and I was unable to prosecute her at that time. And it was so frustrating to the family.

And we don't have to name what kind of alcohol is in someone's system. It really doesn't make sense.

And I think people need to understand this is not changing search and seizure. This is not changing what an officer needs to approach a vehicle or to ask someone for blood or to invade their privacy in any way. This is not changing the way we do business, it's simply giving us the ability to prosecute someone, especially under a circumstance related to probably taking someone's life.

ASSEMBLYMAN RA: Anything to add to that, DA Clark?

BRONX COUNTY DA CLARK: What she said.

(Laughter.)

BRONX COUNTY DA CLARK: No, I agree.

Look, I held a press conference in my county at the very spot where someone was hit by a drugged driver. And, you know, it's very difficult to do that and to have those conversations with these families.

Look, it is bad enough that the laws that we have for people who are driving while drunk or under the influence of drugs don't meet the standard as if somebody kills somebody, murder with a gun. That's hard enough to explain. But to be able to explain to them that we can't prosecute it at all because we don't know the exact, you know, composition of the drug, is very difficult.

I would ask that those -- there are states where you don't -- they don't have the kind of list that we have and that I don't hear that they are saying that there's any abuses by law enforcement to use that as an excuse to stop people and pull them over and arrest them. We're talking about very tragic situations here.

ASSEMBLYMAN RA: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

I don't think there's Senators -- no? Let's go back to the Assembly.

CHAIRMAN PRETLOW: Assemblywoman Walker.

ASSEMBLYWOMAN WALKER: Thank you, Mr. Chairman.

Thank you, Madam DA Clark. We heard this morning that there were no indicated felonies based on technicalities in discovery. Can you tell me one from your county where that actually happened?

BRONX COUNTY DA CLARK: I can't remember the particular charge, but the -- it was a case where -- this is how bad this one was. It went to trial and part of the discovery was that a particular document or something wasn't turned over at the time and we were continuing to look for it. The defense attorney wanted to proceed with trial and to -- and said that they would table it until they wanted to bring it up again.

They continued to go forward with the case. The case went to trial, the person got

convicted, and then the defense attorney filed the motion saying that a particular part of discovery wasn't turned over, and the judge overturned the verdict.

Now, that's something that could have been dealt with before we went to trial.

ASSEMBLYWOMAN WALKER: Okay, so that's -- I would love to look further into that. It's not necessarily the 30.30 conversations that we've been hearing about.

But we also heard that there are conferences that set forth timelines, that, you know, folk can ask for more time, that the standard is due diligence and good faith.

So if a case was turned over, can you talk to me perhaps what happened with the due diligence and good faith maybe argument that apparently this judge didn't feel that that particular prosecutor adhered to?

BRONX COUNTY DA CLARK: You know, I can't -- you know, I can't. I mean, being a former judge, I know how I would have handled it. I would have never let it go forward until we resolved the issue. But that is

what happened in that particular case.

Look, due diligence and good faith is all that we have, because we are trying so hard to make sure that we turn over everything. And like I said, when we have it, we turn it over. Our obligation always continues. So when we even feel an initial COC, there's supplemental ones. Because as we continue to look to make sure that no stone is unturned, as we find more things, we turn them over.

If it gets to a situation where something has finally never been turned over or been turned over too late, it is up to the judge then to hear the arguments of the parties, the people saying we did all we can, good faith, we did what we had to do. But it doesn't prejudice the defendant's case.

If it's something that wasn't so monumental to their innocence or, you know, it just wasn't one of those flagrant situations where we held it just because we could, I don't think that dismissals should be the --

ASSEMBLYWOMAN WALKER: In my last sentence, the judge also said that there were no inconsequential dismissals either. And so I'd love to have a conversation about that further.

CHAIRMAN PRETLOW: You can continue that conversation --

BRONX COUNTY DA CLARK: I would love to follow up. I will make myself available as well.

CHAIRMAN PRETLOW: -- in five minutes.

ASSEMBLYWOMAN WALKER: Thank you.

CHAIRMAN PRETLOW: Assemblyman Palmesano.

ASSEMBLYMAN PALMESANO: Yes, my question is for DAs Donnelly and Clark.

I know we're talking a lot about discovery and the language change from "relating" to "relevant." I was curious, are there really any other aspects to the discovery changes that are not included in the proposed changes, that you would like to see that you think would help reduce the court case buildup and the potential future

case dismissals?

RENSSELAER COUNTY DA DONNELLY: Are you asking if there's something more than what's in the Governor's proposal that we would prefer?

ASSEMBLYMAN PALMESANO: Yes.

RENSSELAER COUNTY DA DONNELLY: Quite frankly, I'm going to say what's in the Governor's proposal is -- is good for us, and we want to live underneath -- we want to live underneath this law.

So I'm not looking for anything more to be changed. One of the best parts of this proposal is it precludes a defense attorney at the last minute, at the eve of trial, from making a motion to deem my certificate of compliance illusory. At that point, that is something that they've known for a long time, and that absolutely is a tactic.

And again, there are certainly ethical defense attorneys, but there are some that will use that. And I've had examples of a defense attorney who wants a particular plea on a somewhat minor case in a local court,

and when they don't get what they want, and then we show up at trial, well, suddenly they think there might be a problem with the COC. And guess what the non-attorney judge, who was nervous to do a trial in the first place, does?

And next thing you know, someone who was charged with DWI no longer is facing a conviction.

So those are the real-life things that are happening upstate. And it is absolutely an upstate problem. And please keep in mind those town and village numbers are not within the dismissals that you heard about earlier.

ASSEMBLYMAN PALMESANO: DA Clark, anything you want to add?

BRONX COUNTY DA CLARK: No, I agree. I support the Governor's proposal because I think it's -- they keep talking about common sense. It is common sense. We're not asking for a lot, we're just asking for the playing field to be level so that cases are not being dismissed on technicalities. If they're saying it's not a technicality, then so be

it, let the judge decide what the sanction should be.

But if it's a technicality, then dismissal should not be the ultimate goal. There should be -- you know, there should be a spectrum. And that's what the discovery laws already do.

What we're asking is that defense attorneys -- we do all we can, good faith, and they can argue that we're not and that's what the process is for, for them to challenge our COCs. But let's do that within the time frame that we have. Again, it should not be about competitive advantage, it should be about compliance. Because we want to comply.

MS. BRYANT: And the law was changed not that long ago to already require the defense raise the issue of failure to comply within the speedy trial time.

MR. STADELMAIER: Thank you. That is no longer a tactic. This is a tired argument. The law was changed in 2022. We have to object as soon as practicable. As

soon as we know we don't have something, we need to object. If we don't object, we lose the ability to make a 30.30, we lose the ability to make a 245.80. That is absolutely not happening any longer.

BRONX COUNTY DA CLARK: That is not true. That's not what's happening. That's not what's happening.

MR. STADELMAIER: That is what's happening.

BRONX COUNTY DA CLARK: That's not what's happening.

CHAIRWOMAN KRUEGER: (Mic off; inaudible.)

(Laughter.)

CHAIRWOMAN KRUEGER: So thank you for coming and testifying.

And I will say, although I didn't ask the question, I think data would be incredibly valuable for doing this evaluation as a legislator. So whoever has additional data to back up their sides, I think we all want it as soon as possible.

MR. STADELMAIER: Yes, ma'am.

BRONX COUNTY DA CLARK: We'll make sure to get that.

CHAIRWOMAN KRUEGER: Thank you very much. I'm going to excuse you.

And I'm going to call up Panel G. And we have -- the Firefighters Association canceled, so we should have the Police Benevolent Association of New York City, the New York State Police Investigators Association, and the New York State Correctional Officers & Police Benevolent Association.

Okay, let's everybody get back in their seats.

Good evening, gentlemen. And I'm going to ask you first just to introduce yourselves so that they know which face and name to put on the screen together.

MR. HENDRY: I'm Patrick Hendry, president of the Police Benevolent Association of the City of New York.

CHAIRWOMAN KRUEGER: Thank you.

MR. DYMOND: (Mic off) -- executive director of the -- (mic out) Police

Investigators Benevolent Association.

CHAIRWOMAN KRUEGER: Yes, and the green light needs to be on.

MR. DYMOND: Tim Dymond, executive director of the New York State Police Investigators Association.

CHAIRWOMAN KRUEGER: Okay.

MR. SUMMERS: Chris Summers, president of NYSCOPBA.

CHAIRWOMAN KRUEGER: Thank you.

And if we just go right down the line, three minutes each. Thank you. Please.

MR. HENDRY: Good evening, Senators and Assemblymembers. I am Patrick Hendry, president of the Police Benevolent Association of the City of New York, representing 21,000 rank and file members of the NYPD.

Our members protect every resident, every neighborhood of the city. And there is one public safety concern we hear again and again. New Yorkers want more police presence. They're not seeing enough police officers on patrol, on the streets, in the

subway system. When they call for help, the response takes too long. And no matter what the crime statistics might say, they do not see the kind of police presence that makes them feel safe on their own block or in their own subway station.

This is not just perception, it is reality. New York City is in the middle of a historic policing staffing crisis. The NYPD is nearly 7,000 police officers short of its peak staffing. An average of 246 members quit or retired from the NYPD each month over the last year. And that record-level attrition has outpaced hiring.

Ultimately, the NYPD's public safety mission has suffered. NYPD response times to noncritical crimes in progress have increased by almost 10 minutes over the past four years, while the NYPD has struggled to fill its recent academy classes.

It is important to note that the department cannot simply recruit its way out of the staffing crisis. It must also keep the talented police officers it already has.

A major factor hindering both recruitment and retention is the inequitable benefits available to NYPD members hired since 2009 under Pension Tier 3, which lacks many key benefits available to virtually every other police officer in New York State.

Police departments across the state are taking advantage of this disparity by specifically referencing their superior retirement benefits in recruiting ads targeting NYPD members. That has made it incredibly difficult for the NYPD to retain police officers who are in the prime of their careers.

This is an area where the Legislature can make an immediate positive difference. Senate Bill 2710 and Assembly Bill 3968, sponsored by Senator Scarcella-Spanton and Assemblymember Pheffer Amato would restore the 20-year service retirement for NYPD members hired since 2009, putting them on a more equal footing with their peers across the state.

Correcting this inequity is not only a

matter of fairness, but an important step toward allowing the NYPD to deliver the service and safety that New Yorkers demand and deserve. We look forward to working with these committees and the entire Legislature on solutions to this crisis.

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

CHAIRMAN PRETLOW: Thank you.

MR. DYMOND: Good afternoon, everyone. Tim Dymond, retired senior investigator with the New York State Police, current executive director for the New York State Police Investigators Association.

My union represents 1200 active investigators and senior investigators across New York. Our members are assigned to the bureau of criminal investigations and handle the most serious crimes across the state, crimes including murders, rape, robbery, child abuse, kidnapping, human trafficking. And recent cases that you would be familiar with would be the Gilgo Beach serial killer as well as the Robert Brooks murder

investigation. That is our people. Those are the ones that are tasked with this work.

Each of our members begin their career as a New York State Police uniformed Trooper. The hiring process to become a New York Trooper is grueling and competitive, which is one of the reasons the New York State Police are one of the premier law enforcement agencies in this great country.

The NYSPIA membership is comprised of hand-selected, experienced Troopers that represent the very best of our agency. Their performance must stand out amongst their peers, and they must demonstrate the intelligence, maturity and integrity to investigate the most complex crimes that were mentioned above.

To echo what Superintendent James stated earlier today, our highest priority continues to be recruitment of new Troopers and replacement of our retiring members within our ranks. Like many law enforcement agencies across the country, we are struggling with recruitment and retention.

We continue to lose our most experienced members to retirement at an alarming rate.

The BCI membership sits right now at about 1200 members. We should be a little over 1300. However, we are running out of people to choose from. Troopers no longer want these jobs.

In the past, the New York State Trooper exam would be given every four to five years. The tests would routinely get 25,000 or more applicants, and admission to the New York State Police was extremely competitive. Those days are over, folks.

We have a rolling test and we cannot fill our classes. You may not hear this from everyone else, but I will shoot you straight. We do not have people that want to be police officers in the State of New York. When the New York State Police can't hire, you have a problem. Other agencies are struggling.

And what happens when we can't hire? If good people don't take these jobs, bad people will. I'm going to say it again. If good people don't take them, bad people will.

These jobs will be filled. We are in a dangerous time, and I've said it every year I've been here, and it's just not sinking in.

NYSPIA is also a strong supporter of the discovery changes that are proposed in the Governor's budget. Discovery reform has caused more damage to the criminal justice system, in my opinion, than bail reform. There is a reason people don't want these investigator jobs. They are buried under piles of paperwork. They're buried under cases so they can't work the next case. Cases go unsolved. Victims don't get justice.

Thank you all for allowing me the opportunity to bring these issues to your attention on behalf of my members. And your assistance with the budget concerns I mentioned today will help us maintain a high level of professionalism.

Thank you.

CHAIRMAN PRETLOW: Thank you.

MR. SUMMERS: Good evening.

I'm going to open up with the

Marcy incident that I sent out a press release right after that, before the video was started. And you can tell that we don't condone those actions. But I'm here today, I have 17,000 men and women that go to work, act professional, do their job every day. And I'm here to fight for them.

Every year I come here and I tell you that there's staffing shortages, you have violence rising through the roof, we have contraband going through. Nobody wants to listen. Every year we bring these up to you. I'm looking to actually have a real conversation, sit down and have some changes. We need to get this done.

But I'm getting sick and tired of hearing that we don't ever give any solutions. We always give solutions. Nobody likes our answers. And if they do, they water down the problems. Like the Secure Vendor Program, they watered that down. The body scanners, they watered it down. What's the point of having them? They're not being used the proper way.

The way -- the solution from the department and the state is mandatory overtime, work four or five days, 16-hour shifts straight in a row -- and then you know what? We're going to sprinkle in 24-hour shifts. How is that fair to anybody? They cannot work 24-hour shifts and expect to keep doing the job.

The department is running the facilities like they are fully staffed. We're not fully staffed. Recruitment. Recruitment -- we were our biggest recruiters. Nobody is telling anybody to take this job anymore. Why would you? There's no work/life balance anymore. You're working all the time, violence is through the roof. Nobody wants this job.

The last thing I want to say is you need to stop painting all the employees with the same brush. These men and women come to work every single day. No matter what it is -- snowstorm, if it's raining, if they're sick -- they're going to work, and they act professional and they do their job on a daily

basis.

Thank you.

CHAIRMAN PRETLOW: Thank you.

Senator Myrie.

SENATOR MYRIE: Thank you, Chairman.

And thank you for your patience and for being here. And I'm going to direct most of the questions to Patrick but open it up to folks to speak to.

Thank you, Patrick. As we've had this conversation before, we have a different relationship than your predecessor, and I appreciate a willingness to engage in a different and I think more civil manner.

MR. HENDRY: Thank you, Senator.

SENATOR MYRIE: My question is very broad. But I'm hoping in addition to the bill that you mentioned you can give us some more insight into the mental health, quality of life, and overtime for PD, how those things work together, how they are related, and what more we could be doing to help particularly with the first two pieces for PD officers.

MR. HENDRY: So as far as overtime and -- say these, sorry --

SENATOR MYRIE: Mental health, quality of life, and overtime.

MR. HENDRY: For our members.

SENATOR MYRIE: Yup.

MR. HENDRY: So over the last few years it's been incredibly different because of the staffing crisis. And anybody that has commands in New York City, precincts that they go into, they see how many police officers are there compared to the past years. In most of the big commands where you had, you know, 200 police officers, they're down to 120 police officers.

So what that has led to is police officers doing crazy amounts of overtime, not being home with their families. Their quality of life has suffered. And what's happened for the people of the city is where they used to see eight, 10 sector cars out on patrol, they're seeing two or three patrol cars out on the scene. They used to see foot posts everywhere. There isn't that foot post

there.

And what's happened is police officers just have been burnt out. They didn't want to do it anymore, they just quit the job. Or they're going to other places throughout the state -- MTA, Port Authority, State Troopers, Nassau, Suffolk, Yonkers -- you name it, throughout the state. Or throughout the country. Or they're just leaving the profession altogether.

But police officers' mental health is incredibly important. Being able to have time off, having time with their family is incredibly important. And unfortunately over the last couple of years, because of the staffing crisis, they haven't been able to do that.

And we need to fix this. We have inferior benefits to every other police agency throughout the state. That is a fact. We have inferior benefits, and it's not fair. It's not fair to our members and we need to fix this. And we're hoping that in this session it gets fixed.

SENATOR MYRIE: Thank you.

CHAIRMAN PRETLOW: Assemblyman Dinowitz.

ASSEMBLYMAN DINOWITZ: Thank you.

My question or remarks are directed to Patrick Henry -- Hendry.

It was only a few years ago that some of the elected officials in the city were, you know, "defund the police, abolish the police" and stuff like that. And my response always was, well, if you don't want cops in your district, I got the 50, the 47 and the 52 precincts -- we'll take them.

And that is how most people feel. But right now I think people in my community, and I'm sure that's true throughout the city, don't believe we have enough police officers. And I can tell you that I don't see a lot of police cars. And the police station, one of the -- the 50 is just right up the block from my office, there's just not enough -- certainly there's nobody on foot at all. And whether crime is going up or down, and it's hard to know because some day the chart, you

know, says murder's going down but, you know, something else is going up. So it's really hard to know.

But I can tell you what people believe. People believe crime is up. And not seeing enough cops, you know, in their cars or on the beat makes people feel unsafe. And I think that is a very high priority that we do something about that.

So I'm glad, you know, that you made the remarks that you did. I mean, just -- I guess it was just a few weeks ago where did I read that they said that the number of cops we have citywide is like the lowest level it's been in -- probably in a couple of decades.

MR. HENDRY: Since 1990, we're at our lowest level, 7,000 police officers less than we were at that same level. And obviously we know how many more people are in this city and how much more responsibilities police officers have to do than -- you know, with cameras and 24-hour police officer, all the reports that we have to do.

It's made it incredibly tough. And then, you know, now with the subways, they took all the police officers from commands to transit commands to fill those night patrols. So all the police officers that were in the commands for that staffing, no longer there.

So this cannot be sustained for the long run. There has to be solutions. There are a lot of reasons why police officers are leaving. But this is unfair. It's unfair to our members. And if someone's going to take the job, which job are you going to take? Are you going to take the job with inferior benefits, or are you going to take the job with better benefits, you know, to start with?

ASSEMBLYMAN DINOWITZ: Right.

MR. HENDRY: And that's what we have to look at.

ASSEMBLYMAN DINOWITZ: Well, I think we got to figure out a way. And I can tell you, on a typical day, a summer day in the Bronx, half the police force is at Yankee Stadium or they're being pulled away

from all different directions, so we don't -- we don't see enough locally. So I think it is a top priority that we figure out a way to keep the police that we have.

And I know a lot of cops leave after a few years -- you know, there are better job opportunities elsewhere, so I think that's really a high priority.

Thank you.

MR. HENDRY: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Senator Palumbo.

SENATOR PALUMBO: Thank you, Madam Chair.

Good to see you all. Thanks for coming and waiting. And I'm a cop's kid. I think people have such a rigid view -- and I was a prosecutor myself, you may have heard me saying it before, worked with many police, obviously, for many years. But there is such a rigid view of law enforcement, they forget that they're moms and dads and brothers and sisters and that it's a very difficult job without all these additional obstacles.

You folks were here for the exchange, I believe, on the discovery reform, and I think we all know the positions that we take. And Investigator Dymond, you and I spoke the other day and I'm wondering if you could provide -- you indicated in your remarks that you're supportive of those changes -- maybe some real-life examples that your members are dealing with to support reasons why we should have those changes.

Because I think that seems to have a little bit more weight when you see these real examples -- and the problems it's causing, which clearly is not, quote, justice for anyone, particularly the victims.

MR. DYMOND: Thank you for the question, Senator.

Certainly I'm going to echo the Bronx DA who spoke earlier that it is not just the paperwork from the police officer that is discovery. That is a big misconception.

Everything is on film now. All of our Troopers are wearing body cameras. We are

talking hours and hours of camera footage, sometimes from 30 different cameras. We're talking about phone calls on recorded lines from the station to the scene. We're talking about text messages from work phones amongst 50 different police officers.

This stuff is so -- it's so big and there's so much of it that -- I truly believe that most police officers don't want to hold that back, they want to give it to you. But when that pile is so high and you didn't get the camera footage from the Taco Bell that caught the corner of the shooting, and that's what gets a case tossed, that's unacceptable.

And you, you as a legislative body, you decide where the sweet spot is. You decide what is right and wrong. And what I'm telling you is that we have created a situation where we can't find investigators. Multiple troops in New York State in the State Police have no one that wants to be an investigator. Zero on the list, multiple troops.

That should scare everyone in this

room. Because those are the people that are going to go out and they're going to find that kidnapping victim. Those are the people that you're going to call when you've been victimized or there's a burglar that took stuff from your home. They're not going to be there anymore.

SENATOR PALUMBO: And I don't know if Tim or everybody wants to just comment: Any additional changes that you think would be helpful that I think -- not lessening the sanction from dismissal, of course, just I think makes the most sense. But any other comments that you have in that regard on what might help?

MR. HENDRY: Me?

SENATOR PALUMBO: Anyone here. Yeah, sure.

MR. HENDRY: I don't have all the information on the bills, you know, because I wasn't provided that. You know, I only read what I've seen in the newspapers.

Police officers are overwhelmed as it is. You know, to be able to get information

or reports is incredibly difficult.

SENATOR PALUMBO: Great. Okay, thank you.

CHAIRMAN PRETLOW: Assemblyman Morinello.

ASSEMBLYMAN MORINELLO: Thank you. I have a question that might apply to all three of your divisions. Are there civil service exams necessary to fill the positions?

MR. HENDRY: That's the way it is in New York City. You have to take a civil service test.

ASSEMBLYMAN MORINELLO: You have to take it. Now, are those limited to when they are offered?

MR. HENDRY: They're offered more often in the city than they were in the past. So, you know, it's on a computer, so it's out there a lot. Unfortunately, you know, to get police officers right now, they're going back seven years of tests. You know, that's unheard of, to go back seven years. It's unheard of.

So people aren't taking the test.

ASSEMBLYMAN MORINELLO: What about corrections?

MR. SUMMERS: No, we have open recruitment now. And we still can't get people to take the job.

ASSEMBLYMAN MORINELLO: Because I'm hearing from my own sheriffs and police chiefs that the limitation on the availability of the civil service exams, at least outside of New York City, is hindering some individuals from recruiting.

For the correction officers, there is money in the budget for hiring and recruiting correction officers. But will it be sufficient? And how many do you anticipate that would cover, should you be able to get the manpower?

MR. SUMMERS: We need 2200 bodies to come in to help -- to stop the mandates that they're doing right now. Like I said, they're working 16-hour days, four days in a row, five days in a row, and then doing 24-hour shifts. They can't do it anymore. They're past that breaking point. Something

needs to give on that.

And we can't even get retention. We have had our death-gamble bill to this body for 20 years, and it keeps either getting shut down or vetoed.

We need help. And every time we come here, we get the same result: Nothing.

ASSEMBLYMAN MORINELLO: And as far as the investigators, what is the biggest hindrance for the investigators?

MR. DYMOND: Hindrance in recruitment?

ASSEMBLYMAN MORINELLO: Yes.

MR. DYMOND: So we have a very young job right now in the State Police. As everyone here knows, we've hired a ton of Troopers over the last couple of years to try to catch the ranks up. So they have to get a certain experience level before they can go to the bureau, before they're ready to handle these heavier cases.

The problem we're seeing is that they're getting to that five-year mark, right -- so you're a Trooper, you come up to five years, you can decide the bureau route,

right, and become an investigator, or you can decide the sergeant route. The bureau route is buried now with discovery work and court testimony, so we're seeing more and more people that are taking that sergeant's route.

So we're trying to figure out ways internally to get some more at that five-year mark that are qualified, good candidates, to take the bureau route so we can continue our strength in ranks.

ASSEMBLYMAN MORINELLO: So I think from listening to all of you, recruitment and new officers would assist in the whole process.

MR. HENDRY: And retention of our older ones.

MR. SUMMERS: And retention also.

CHAIRWOMAN KRUEGER: Thank you.

Next we have Senator Rolison.

SENATOR ROLISON: Thank you, Madam Chair. It's good to see all three of you this evening, and thanks for waiting.

For PBA President Hendry, the Governor has in her budget $77 million to be

coupled -- I believe $77 million, as I heard from DCJS earlier, of New York money for the subway surge. And as we have said here even, you know, talking about like, well, all those officers are coming from someplace. And if they're down below, they're not up top. And you could be essentially pushing the problem around.

MR. HENDRY: Correct.

SENATOR ROLISON: People who are prone to do things based on a lot of behavioral issues -- of course we know that's also very concerning and difficult -- that maybe they're not going to be in the subway, they're going to be up on street level.

And eventually that money runs out. And if you're 7,000 officers short, how long does the State of New York or the City of New York have to put those types of monies into overtime when potentially they could be put into salary and benefits to have more officers stay, have more officers hired?

I'll tell you in my last year of the City of Poughkeepsie, I think we hired five

NYPD officers. They're some of the best-trained, equipped officers that we've been able to lateral in, because that wasn't necessarily the case until they were able to do that. And of course that's not the ideal situation for the city, so I hear you.

And to NYSCOPBA President Summers, today we had conversations with the commissioner and talked about the staffing analysis that is not at a hundred percent, talking about 70 percent. Clearly you are not in a position probably -- and I don't know this, you know, factually -- have you even reached 70 percent when you're over 2,000 officers down and over a thousand members of your civilian staff down.

So just -- I said this to the commissioner, and I'll say the same thing to you -- and it's sort of a question -- is that do you believe that if you had a smaller, more agile group of corrections officers who were paid better, got additional training as necessary and you're able to staff posts that were, you know, analyzed as being the

critical posts within the facilities, could that potentially work?

MR. SUMMERS: It could work. But you have to protect what we have now and to go from 70 percent, that's unsafe. We're asking for them to run the facilities safe and secure now to make it run the way it should. We're not fully staffed, it's not running it that way. To cut jobs and beds is not the answer to do that. Absolutely not.

SENATOR ROLISON: Okay. Understood.

MR. SUMMERS: But we do need new training, yes.

SENATOR ROLISON: Good. And then to Tim Dymond, I'm with ya.

CHAIRMAN PRETLOW: Assemblyman Lavine.

ASSEMBLYMAN LAVINE: I'm taking the fifth. But I hear what you're all saying. And thanks for what you do.

PANELISTS: Thank you.

CHAIRWOMAN KRUEGER: Well, that was nice and brief. Thank you.

(Laughter.)

CHAIRWOMAN KRUEGER: Sorry, I

apologize.

Senator Stec. Oh, no? Oh, excuse me.

Senator Murray.

SENATOR O'MARA: (Inaudible.)

CHAIRWOMAN KRUEGER: It's his fault. But it's Senator Murray.

SENATOR MURRAY: Thank you, Chairwoman.

And thank you all for being here.

So let's see, let's run down the list.

Salary and benefits, whether it's Tier 6 or Tier 3 or retirement benefits.

Forced mandatory overtime, which then leads to burnout, which then leads to some retiring early and leaving early, which now makes the problem grow even more.

Then we come to some of the policies, whether it's bail reform, discovery, 50A, the HALT Act, et cetera, et cetera, et cetera.

And then some of the other things. As a result of the policies -- and I mentioned earlier today the incident in Times Square where the officers were attacked and beaten and they catch -- you do your job, you catch

the people that did it, the perpetrators. And then, what, 24 hours later, if that, they're walking out the court, flipping us the bird, laughing, giggling and running off.

And for my friend Assemblyman Lavine, I will even throw in January 6th, the people that were attacking the police officers, and they get pardoned.

That's got to -- add all of this up, I would see the biggest problem's morale at this point. And like has been mentioned before, who would want to be a law enforcement officer in this day? It used to be prestigious, it used to be so respected. And it should be. It feels like we're losing that.

And I think a lot of it falls on us when we make policies like that that are hurting it.

But if you had to pick anything here out of that list, what would be the thing you would -- if you had a magic wand and you could wave it and correct it, what would it be that would help you to either recruit or

retain?

MR. HENDRY: Well, I said before as far as, you know, equalizing our members to everyone else in the state would be a step forward.

But also, you know, we had over 4700 members assaulted with injuries last year, and we've been going from courtroom to courthouse across the city demanding change, you know, holding the judges accountable. We feel that the judges in certain cases are not doing their jobs and we've been going, again, demanding change.

So we have had issues because, you know, every day a police officer's getting assaulted. But our main issue is to be equal to everyone else in the state.

MR. SUMMERS: I would have to say the HALT law. It has to change.

I've had members from the Legislature walk correctional facilities, and the incarcerated are telling them that it's not working, it needs to change, there needs to be revisions done. It's not safe for

anybody. Everybody -- they need to look at that and have a serious talk and at least revise it.

SENATOR MURRAY: Mr. Dymond?

MR. DYMOND: Salary and benefits are great, but I think a lot of it's societal change, right? We need to start getting in our communities and start speaking positively of police officers and corrections officers. We've got to start talking about how it's a good career and a good profession and you can make a difference.

That, to me, is a big change.

SENATOR MURRAY: Thank you, everybody. Thank you for what you do.

CHAIRMAN PRETLOW: Assemblyman Dilan.

ASSEMBLYMAN DILAN: Thank you, Mr. Chair.

My questions are for Mr. Summers.

I just want to start by saying I'm glad you led that in the days after the murder of Mr. Brooks that your organization condemned that action.

You had a chance to hear the

commissioner today, to hear his father today. Do you have any immediate reaction to what you heard and how you intend to speak to your workforce about what you heard today?

MR. SUMMERS: Do I have the reaction of what I've heard today?

ASSEMBLYMAN DILAN: From the commissioner and from Mr. Robert Ricks, who's Robert Brooks' father.

MR. SUMMERS: As I stated before about the Marcy incident and Brooks, I'm very sorry for what happened.

But I'm here to fight for the 17,000 other men and women, and everything that I put in my press release is there.

ASSEMBLYMAN DILAN: And that's understandable, that's your job. But I think if -- and we've had many discussions on staffing since I've become chair, including in this room in December before that tragic event. We talked about programming and how the lack of staff at DOCCS potentially affects programming, which could lead to folks getting out sooner based on the reforms

they've made and merit time.

So to put that into a question, the budget has, in Article VII language, language that would allow people from other states to potentially join the ranks of corrections officers. Do you have a position on that?

MR. SUMMERS: I think that would be a great start to get people to come in and start to take this job. It's not -- it's not the fix.

ASSEMBLYMAN DILAN: Okay. So that means you believe we've done everything as a state to exhaust all recruitment possibilities, that within the State of New York we cannot find anyone to take these jobs?

MR. SUMMERS: We cannot get anybody to take this job. Last year when I sat in front of this body to tell you about closing facilities, we closed two: Great Meadow, Sullivan. Since then, staffing has got even worse. It didn't help at all.

So we need to make better benefits. Why can't we do that to get people to take

this job? We have put in a salary grade application for an upgrade. The last time we've been -- we got an upgrade was 1972. And I'm not sure if you're aware of that. But we asked for three grades, from the 14th to the 17th.

ASSEMBLYMAN DILAN: I wasn't around in 1972.

MR. SUMMERS: The death-gamble bill, geo pay, we've asked for all that to try to get people that live in this state to take this job and to retain people, and we get nowhere. It's just empty promises.

ASSEMBLYMAN DILAN: I think folks have tried, but we're not exactly recruiters here. But I guess we'll continue the discussion at another time. Thank you.

CHAIRWOMAN KRUEGER: Any other Senators? Other Assemblymembers?

CHAIRMAN PRETLOW: There's always other Assemblymembers.

Assemblymember Palmesano.

ASSEMBLYMAN PALMESANO: Yes, good evening, gentlemen.

First I just want to say to all three of you, thank you for what you and your members do for all of us across the state, working dangerous jobs to keep us safe. So thank you.

My question -- my time is with Mr. Summers, if I may. As you said, you come up here every year, I'm sitting at this dais every year, your predecessors who came up here -- same concerns, same problems, same ask, and it seems like things are just getting worse and worse.

You can go down the list: The rise in violence, which I will say specifically has to do with HALT, which restricts the ability to segregate our most violent inmates from the rest of the general population. And the numbers speak for themselves.

Since HALT, inmate-on-inmate assaults are up 169 percent, inmate-on-staff assaults are up 76 percent, and contraband seizures are up 32 percent. So we know the violence is up.

The staffing crisis that you have, the

mandatory overtime, sometimes three times, for a triple shift. The quality of life -- vacation days, personal days getting taken away so they have to work.

The woefully inadequate pay, which I said to the commissioner, $56,000 to bring someone into a dangerous job. Where are the recruitment bonuses? Where are the retention bonuses? Where's the death gamble to protect the pension, an earned pension for your members to protect their spouses and their families so they can have that benefit?

And then I read a memo this week to go on top of it, I think it came out -- a staffing memo that the way I read it is designed to reduce 30 percent of the slots by eliminating open jobs and posts. Not because they're not needed or important, but because they can't be filled.

That doesn't fix the problem. That doesn't make us more safe. That's not going to deal with the staffing crisis. It's just going to hide it.

So I just want to ask you, what can

you say -- with the time, what would you -- what can we do for you to help you in this process that we're not giving you?

MR. SUMMERS: To go -- to answer your one question about the staffing memo, all that is is compiling and it's going to make it unsafe for everyone. It's not doable. already the violence is through the roof and it's going to -- you can't cut staff and cut the jobs, it's not feasible to do so.

We need staff. We need this body to actually look at raising the starting point. We need revisions to HALT. We want -- all we're asking for is we want to go to work and be safe. That's it. We don't go to work, we're not safe. It's -- the working conditions are -- they suck. Excuse my language, but they do. And nobody wants to go to work anymore.

We had a member that I had to get a note from because he's working four, five doubles in a row, with a suicide note, because he couldn't take this job and said it sucked. That's where we are right now. And

it can't be -- they can't do it anymore. We -- something has to change.

ASSEMBLYMAN PALMESANO: Thank you.

CHAIRWOMAN KRUEGER: More?

CHAIRMAN PRETLOW: Of course there's more.

CHAIRWOMAN KRUEGER: Of course there's more.

CHAIRMAN PRETLOW: Assemblyman Ra.

ASSEMBLYMAN RA: Thank you.

Could all three of you maybe give me a sense of what does a training academy class look like now in terms of numbers, as well as the number of applications versus what it did -- or what it looked like in the past in terms of numbers?

MR. HENDRY: I guess I'll start. So when I came on in 1993, there were about 50,000 applicants for the test. I'd say right now is a couple of thousand for the test. That's a huge difference.

Now, they were able to put in an academy class this cycle, close to a thousand. But my class was close to 3,000.

So those are the big, big differences -- as I already said, the numbers were down 7,000. So when you're only putting in classes before that of like 600 but we're losing 800 before that class even goes on, we're outpacing hiring.

MR. DYMOND: So ours used to be 20,000 to 25,000 would take the test; for five years, that test would exist. To get into that test, it was like you had to be there. You didn't want to miss it.

We have now gone almost to a completely rolling testing procedure like NYPD and like Corrections, and we're about to put in a class of 270. But we are scraping for that 270. And no one wants to talk about lowering standards. Folks, we're there. We're kicking the ages up on everything, we've gotten rid of our tattoo policies, we got rid of as much as we can -- and we're still just scraping by.

MR. SUMMERS: When I started 20 years ago, my class had 150 people in it and we graduated 123. Going through the academy

now, we're lucky to get 75 to start and they're graduating 40. Nobody wants to stay.

ASSEMBLYMAN RA: So would it be similar to the --

MR. SUMMERS: I'm having the same problems that everybody else is.

ASSEMBLYMAN RA: -- in terms of attrition basically outpacing what's coming in?

MR. SUMMERS: It's outpacing, I'm having guys resign with 10, 15 years on the job. Twenty-three years on the job they're resigning because they don't want to do this job anymore. As soon as they hit 25, they're leaving. They're not even staying anymore.

We used to be able to retain officers. We can't do that anymore. And when they stopped hiring in 2020 and they didn't hire for two years, that hurt us. And the numbers don't lie. So 2027, 2028, 2029 and 2030 are going to be high years that everybody can retire. The state needs to do something to get more bodies in because they're going to be even worse off then than they are now.

MR. HENDRY: I'll just say we lost 443 cops in the month of January. That's staggering.

ASSEMBLYMAN RA: Thank you.

CHAIRMAN PRETLOW: Assemblywoman Giglio.

ASSEMBLYWOMAN GIGLIO: Yay. Okay.

So for Tim, senior investigator. So you are -- we have problems with TERPO/ERPO with the AG's office representing State Police when they had to go on these TERPO/ERPO cases. Has that been resolved?

MR. DYMOND: That has been resolved. And I thank all of you for that. And we got the petitioner line bill through, thank you.

ASSEMBLYWOMAN GIGLIO: Okay. And then the next question that I have for you, would money for civilians to be able to compile all the information that you need for discovery help you in the senior investigators? And how frustrating is it to know that there are people that are human trafficking, sex trafficking people, drug trafficking, and it takes years to build a case against them

because you have to compile all this information for discovery?

MR. DYMOND: I certainly think additional staffing would help, right? There's an additional workload that was created by the additional discovery. Whether it's civilian or sworn, that's well above my pay grade. But additional staffing would help. And I think that would keep some of these cases from slipping through the cracks.

It is not a well-kept secret that if you hire a defense attorney in the State of New York, you are beating almost any case.

ASSEMBLYWOMAN GIGLIO: Okay. And then for New York City Police. So we have -- I have heard from many people in Nassau and Suffolk County, and even, you know, areas upstate that are saying that they're going to the New York City Police Department because then, once they're there, they can transfer to another department.

How many transfers are you seeing?

MR. HENDRY: So right now anybody that comes on to the NYPD is taking it as a

stepping stone. They're not taking it as their dream job no more. And it's very sad.

When I came on, when police officers came in they would take it as their dream job. And they're not -- no longer doing that.

Last year, quits alone I believe were at 843, and that's with -- it's close to a thousand just leaving to go to other departments throughout the state, throughout the country, or just leaving the profession.

ASSEMBLYWOMAN GIGLIO: Yeah, thank you.

And for Corrections. So, you know, the solitary confinement laws -- and also sexual harassment of women correction officers, has anything gotten better with that?

MR. SUMMERS: I'm sorry, what was the question?

ASSEMBLYWOMAN GIGLIO: The solitary confinement and the limited time you can put somebody in solitary confinement, even though they may be a threat to the general

population or to corrections officers -- that, number one.

And number two, the sexual harassment from incarcerated individuals to women correction officers.

MR. SUMMERS: Yeah, you need to revise the laws. There's no more repercussions, there's nothing to stop them from doing any of that.

And the harassment. You go to Walmart and you want your daughter to be sexually harassed at Walmart? No, you wouldn't. Now you have a mother, daughter, your sister going into work and have to deal with that on a daily basis? It's unacceptable.

ASSEMBLYWOMAN GIGLIO: Thank you.

CHAIRWOMAN KRUEGER: Okay. I think we are completed with the people who wanted to ask you questions tonight. Thank you very much for staying with us this late, and thank you all for your work.

PANELISTS: Thank you so much. Thank you all.

Thank you for hanging in.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

And now I'm going to call up Panel H. We need a number of chairs, although maybe a few people have left. We'll see.

We have the New York State Dispute Resolution Association, the Center for Justice Innovation, the New York State Coalition Against Domestic Violence, the Empire Justice Center, and New York Legal Services.

Oh, and we have everybody with us, and we have the right number of chairs. And we decided to go from all men to all women.

All right, if you would start -- let's start with Kristin. Introduce yourself just so that they know in the video room whose face goes with whose name when you testify.

MS. BROWN: Kristin Brown, Empire Justice Center.

MS. CURRAN: Sal Curran, with the New York Legal Services Coalition.

MS. GERHARDT: Joan Gerhardt, New York State Coalition Against Domestic Violence.

MS. HOBBS: Theresa Hobbs, New York State Dispute Resolution Association.

MS. NOLASCO: Hailey Nolasco, Center for Justice Innovation.

CHAIRWOMAN KRUEGER: Great. Why don't we start with Kristin, and we'll just go down the line. Thank you.

MS. BROWN: Good evening. My name's Kristin Brown. I'm president and CEO of Empire Justice Center. We're a statewide nonprofit law firm with seven offices across the state focused on systems change. Our clients include disabled students, immigrants facing eviction, elderly people facing tax foreclosure and the loss of generational wealth.

I'm also the president of the New York Legal Services Coalition and serve on the New York State Unified Court System's Permanent Commission on Access to Justice.

To summarize the details of my written testimony -- all of which focus on closing New York's justice gap, which is the difference between New Yorkers' need and

services available -- I'll touch on three key issues.

One, my colleague Sal Curran will testify in more detail regarding the recruitment and retention crisis in civil legal services. I'll just note that for our systems change work, Empire Justice Center relies on experienced attorneys to provide training to others in the field, litigate civil rights, and provide you all with information to policy change.

Sadly, we've come to serve as a training ground for government agencies to recruit from because government's able to pay more and provide a pension. In a three-month period, we lost three experienced attorneys from our Rochester office to New York State. For a small org like ours, this hit us hard and it cut one of our key practice areas down to a single paralegal.

That brings me to the second issue. Working with colleagues in the New York Legal Services Coalition to educate on this issue, over the past two years I'm pleased to note

critical investments from our two main funders this year that will also be essential to allowing providers to pivot and retain services that may be impacted by federal funding cuts.

I ask you to support both of these in your one-house budgets. One, the Office of Court Administration's proposed budget includes a significant increase for judiciary civil legal services. As you heard earlier today, please support $150 million for JCLS.

Two, the Interest on Lawyer's Account has recently awarded five-year grants totaling $600 million which provide stability and support for salary and infrastructure investments. We're also pleased that they recently signed an agreement with the Governor recognizing IOLA as a fiduciary fund where funds are directed by the Board of Trustees alone.

We ask that you support the full $80 million approved by the trustees for this year, which is 2.5 million less than they requested -- than the Executive Budget

allocates.

We also ask that you restore the traditional Legal Services Assistance Fund dollars.

Finally, I ask that you consider much-needed reforms to not-for-profit contracting for New York State. As providers face cuts in federal funding, it's really critical that New York promptly pays us for the services we provide. It's common to wait well over a year for payment on a contract for services rendered, staff paid, rent, other overhead costs. Our organization is regularly owed millions of dollars with no interest paid and no clear idea when we can be paid.

Thank you so much.

CHAIRWOMAN KRUEGER: Thank you.

Next.

MS. CURRAN: Thank you for the opportunity to testify. My name is Sal Curran, and I'm the executive director of the Volunteer Lawyers Project of Central New York in Syracuse, and I'm the cochair of the

Policy and Advocacy Committee of the New York Legal Services Coalition.

Collectively, the New York Legal Services Coalition members represent low-income New Yorkers in every single county of the state in family law, domestic violence, immigration, housing, foreclosure, public benefits, debt, elder law, LGBT law, and more.

We have a recruitment and retention crisis. I know you've been hearing that from many people tonight. This crisis is driven not only by an attorney shortage but by a substantial wage gap between attorneys in civil legal service and their government counterparts doing substantially similar work.

On average, civil legal services attorneys receive 25 percent less than their counterparts at the Attorney General's office at the beginning of their career, and those inequities only grow throughout their careers. By the time that they've been practicing 21 years, if we're so lucky that

they stay with us, experienced civil legal aid attorneys are paid as much as 38 percent less than their counterparts at the AG's office, based on a survey that we conducted.

The combination of higher salaries and a government pension is very difficult to compete with, particularly for mid-career attorneys that we need to act as supervisors. As a result, lawyers are leaving legal services agencies for government jobs at an alarming rate. When attorneys leave, it may take six months or more to fill a position due to the low pay we're able to offer.

Across the state, it's estimated that attorney vacancies like this in 2024 resulted in 50,000 fewer clients served. These include people who are evicted, immigrants who are deported, grandparents who struggle to get custody of their grandchildren after their own children died -- all because they didn't have access to an attorney.

To address this recruitment and retention, we urge the following. As my colleague mentioned, support the 150 million

for judiciary civil legal services in the proposed OCA budget.

Add the 2.5 million back to the 80 million total asked for by IOLA and support the budget language designating IOLA as a fiduciary fund.

Restore traditional legislative adds for civil legal services, including designated funding for domestic violence legal services, immigration, eviction, and the Legal Services Assistance Fund.

And support efforts to expand right to counsel in immigration, housing, and for veterans.

Thank you for your time, and I look forward to answering your questions.

CHAIRWOMAN KRUEGER: Thank you.

Next.

MS. GERHARDT: Hello, thank you. I'm Joan Gerhardt, director of public policy and advocacy at the New York State Coalition Against Domestic Violence. We represent approximately a hundred domestic violence service providers around the state.

New York State is failing to address the needs of domestic violence survivors and their families. There are three main reasons for this.

First, the way New York State contracts with DV providers is broken. Five state agencies administer our funding. That's tremendous bureaucracy and administrative costs both for DV programs and the state.

Second, the state takes months to finalize our contracts and then fails to reimburse us on time, creating significant cash-flow issues even for the most financially robust programs.

Third, New York State has failed to provide DV advocates with living wages -- no COLAs, no bonuses, and this year the Governor excluded us from her target inflationary increase. As a result, there are hundreds of vacancies across the sector.

For years domestic violence programs have been relying on lines of credit and loans just to keep their doors open. They've

been reducing programming, focusing only on the provision of core emergency services. And that impacts our ability to provide lifesaving services for domestic violence survivors. We see it in the data. On any given day in New York, more than a thousand adults and children who ask for services can't get them.

This situation has been brewing for years, but now domestic violence programs are in an existential crisis. That's because New York relies almost exclusively on federal funding to support domestic violence services. The funding might be administered by state agencies, but it's not state dollars -- it's primarily federal funding.

Two weeks ago the federal OMB suspended grant, loan and financial assistance activities. Domestic violence programs were some of the first agencies to be impacted. We were immediately shut out of our federal reimbursement systems. Thankfully the order was rescinded 48 hours later. But we are by no means out of the

woods. The situation remains extremely tenuous as the federal government continues its assessment of the availability and use of federal funding.

There's no way DV programs will be able to continue services if their federal funding is cut or if the use of their federal funding is restricted. Unless New York State acts now, DV programs will close their doors.

We urge the Legislature to ensure the long-term sustainability of New York's nonprofit DV service providers. We propose a $200 million program to fix New York's broken system, to move away from our overreliance on federal funding, to streamline our contracting and reduce redundancy, and to ensure DV programs can continue their lifesaving supports for all DV victims, in compliance with state law, even if federal funding is no longer available or if it can't be used to support certain survivors.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Next.

MS. HOBBS: Hi, good evening, Chair Krueger, Chair Pretlow, and esteemed members of the joint committee. Thank you for the opportunity to testify today.

My name is Theresa Hobbs, executive director of the New York State Dispute Resolution Association, known as NYSDRA. We manage statewide contract programs, and we are the professional association of the statewide network of Community Dispute Resolution Centers, called CDRCs.

For over 40 years the centers have served all 62 counties of New York State, helping thousands of residents resolve disputes efficiently and equitably through alternative dispute resolution practices such as mediation, arbitration, and restorative practices -- all without the cost, time and burden of court proceedings.

Last year the centers managed over 20,000 cases and served over 53,000 individuals. These services help individuals, families, students, businesses, landlords and tenants, and entire communities

find solutions that prevent escalation into harm and legal conflicts.

As you heard from Judge Zayas earlier today, ADR is a highly effective way of resolving issues, and the courts are making a historic pivot to leverage ADR across the entire system, with CDRCs as a key partner.

The CDRCs provide your constituents with access to justice that is timely, free or low cost, culturally responsive, confidential, and the resulting agreements are legally enforceable. Nearly 80 percent of mediations conclude with a written agreement, usually within a few weeks of initial contact with individuals, and the CDRCs have a satisfaction rate of approximately 90 percent.

Mediation also saves the state and court system money and resources. From start to finish, the average mediation costs just $336, which is far less than court costs.

As Judge Zayas also pointed out in his testimony, his court-based programs will only be as good as the funding that organizations

like NYSDRA receive, since we and our member centers are an integral part of the ADR landscape that will support the courts by alleviating backlogs, preventing filings, and keeping communities safe and conflict-resilient.

The Judiciary's budget request includes a $3 million increase for the CDRC network to retain skilled staff and sustain these services. While this $3 million increase in OCA funding will help to support core operations, the OCA grant is two-pronged: 20 percent of the grant is match-free, 80 percent requires that the centers secure a dollar-for-dollar match. And that is why NYSDRA is requesting 3 million in funding to support the centers under our Community Justice and Resolution Initiative, which I have outlined in the written testimony I submitted to this committee.

This funding is critical. When I sat here last year we had 20 centers in the network, and today we have 19. I ask that

you fully support the Judiciary's budget, including the $3 million increase.

Thank you so much.

MS. NOLASCO: Thank you, Chair Krueger, Chair Pretlow, and members of the committees for the opportunity to testify today. My name is Hailey Nolasco, and I serve as the senior director of the Center for Justice Innovation -- the senior director of government relations at the Center for Justice Innovation.

At the center we are dedicated to reducing community violence while moving away from an overreliance on incarceration. For far too long we've been told that we must choose between justice and safety, that these two goals are somehow mutually exclusive. The truth is, to achieve true justice we must build safety. And for communities to feel safe, they must feel the presence of justice.

The way that we achieve this is through the diverse array of programming that our Community Justice Centers provide. These centers provide both court-based services

like those in Midtown, Harlem and Red Hook, and community-based resources like those in Brownsville and Staten Island.

They tackle the root causes of justice involvement, offering legal support, employment, housing, education and treatment services. By working directly with local communities, they improve quality of life by building public trust in the justice system and reducing crime and incarceration.

Our work is critical to neighborhood safety. And for this reason, we're asking for your support to sustain and amplify our Community Justice Center footprint. For our Midtown Community Justice center in particular, we ask for support to expand our Community First initiative that takes a client-centered, trauma-informed approach to addressing the needs of unhoused New Yorkers and to support the creation of an Amsterdam Houses and Amsterdam Addition Neighborhood Safety Initiative in response to ongoing community needs and concerns around violence.

In the South Bronx, we request support to develop a fully operational, streamlined Bronx Community Justice Center to offer alternatives to incarceration, youth development programs, and community-led justice safety initiatives. This area is highly impacted by the criminal justice system and community violence, with disproportionately higher rates of incarceration, violent crime, and disinvestment.

In 2023, the violent crime rate was 17 per 1,000 residents, more than triple the citywide rate. In 2024, 38 percent of the city's shooting incidents and 31 percent of total homicides occurred in the Bronx. We plan to address these community needs through our fully operational Justice Center, with your support.

In Staten Island, we ask for operational and capital support to expand services and renovate a historic courthouse to establish a permanent home for our existing Staten Island Justice Center.

Lastly, we ask, for New Rochelle, to continue the investments to sustain our vital work. Since its inception, we are proud to say that 122 young people have completed the Opportunity Youth Part program, the vast majority of them graduating without a criminal record.

Community Justice Centers are the heart of our mission. They are proven, powerful examples of how government investments and resident input can positively impact vulnerable communities across New York State. Further investment will allow us to sustain and scale these transformative initiatives and extend their impact.

Thank you for your time and consideration. Our amounts are outlined in our written testimony. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Senate?

(No response.)

CHAIRWOMAN KRUEGER: Assembly?

CHAIRMAN PRETLOW: Assemblyman Morinello.

ASSEMBLYMAN MORINELLO: Thank you.

I have some direct -- a couple of questions on the domestic violence.

We've talked about the programs. But is one of the focuses protection and safety of the victims?

MS. GERHARDT: Absolutely.

ASSEMBLYMAN MORINELLO: And could you agree that one of the most dangerous times in a victim's life is when either the victim, a neighbor or a family member calls in the authorities because of an incident that is occurring?

MS. GERHARDT: Definitely.

ASSEMBLYMAN MORINELLO: Do you feel that the bail changes have adequately addressed -- and I'm not talking about the entire change of bail, I'm talking about just specifically for domestic violence victims, okay.

Do you feel that there's adequate protection for those victims during that short window when the abuser is finally grabbed, the police come, and there's a

cooling-off period? Do you feel there's sufficient latitude to hold that person to protect the victim?

MS. GERHARDT: I think initially, with the 2019 bail changes, no. With some of the tweaks that have been implemented since then, it's better.

But I can't sit here right now and tell you that I have the data from the entire state to say in all cases domestic violence abusers are handled in such a way to enhance safety for the survivor and for their family. I just don't have that kind of data.

ASSEMBLYMAN MORINELLO: Well, you know, everyone talks about statistics. But you've been doing domestic violence for a number of years. I sat on the bench for 10 years as the domestic violence judge. And I don't think we need statistics, I think we just need reality.

I believe it was last year some poor woman was taking her children to school, the husband drove up, violated an order of protection, put the shotgun through the

window and blew her head off in front of the kids. Okay?

Because of the fact they could not hold this individual because of the bail laws. And this was after the initial tweaking.

So I will again ask, and maybe anybody can answer this question. Do you feel that just that narrow portion of the bail laws need to be revisited and maybe discussed?

MS. GERHARDT: There's still discretion for law enforcement on that scene. What they choose to do with the individual, the perpetrator who they believe allegedly committed a crime.

So I can't make a decision for an entire statewide policy --

ASSEMBLYMAN MORINELLO: I'm talking about the judiciary, not the police. Because the judge's hands are tied.

All I'm saying is do you think we should look at it.

MS. GERHARDT: I think we should always be looking at all of our laws. So

absolutely.

ASSEMBLYMAN MORINELLO: Okay. Well, I'm talking -- listen.

(Time clock sounds.)

CHAIRWOMAN KRUEGER: Assemblyman Bores.

ASSEMBLYMAN MORINELLO: -- the same answer you gave me when I called you.

ASSEMBLYMAN BORES: Thank you all for being here and for waiting through all the panels. Appreciate it.

I just have a question for Ms. Nolasco. Good to see you again.

MS. NOLASCO: Good to see you.

ASSEMBLYMAN BORES: Your testimony talks a lot about the Community First program and partnership with navigators and the wraparound services. Could you just say a little bit more about how it differs from perhaps the city's outreach and the benefits you've gotten from that?

MS. NOLASCO: So what we would say distinguishes our program is that we understand that it takes over a hundred times

that you engage with an unhoused individual that they may want to come inside.

But we also understand that there's more that has to happen within those hundred or more times that you're engaging with someone.

So what we do is that we're not going -- we're not speaking to them saying, Okay, you need to come inside right now. We're talking to them to really try to build that trust. So we're building the trust with them. We're saying, Do you need food? Do you need -- do you have your entitlements? If you do, do you need support in navigating that? Because we do know that that's available. But do you need additional services in having a more hand-held approach in navigating that.

Do you have socks? Do you need a place to go? You know, who's your family? So we pretty much really just check on them daily just to see who are you, how are you doing, we're here for you. And through building that trust, then we can support the

existing programs through DSS/DHS with the existing shelter network that exists, and really helping them to navigate it, because we understand that it could be a very scary process.

So that's how we really distinguish it, that we're more of the -- we're going to really take our time to really support you through this and know that we're really here for you, and we know your name, and we know everything that you need.

ASSEMBLYMAN BORES: It's a great program. And as we think about especially other changes in the budget aimed at, you know, street safety and how to get people off the streets, I think there's a lot that we could learn from that.

Thank you.

MS. NOLASCO: Thank you. Appreciate it.

CHAIRWOMAN KRUEGER: Are you done?

ASSEMBLYMAN BORES: Yes.

CHAIRWOMAN KRUEGER: Okay, thank you.

Assembly?

CHAIRMAN PRETLOW: Yes, we're done.

CHAIRWOMAN KRUEGER: And the Assembly is done, and the Senate is done.

Thank you all for your work, and thank you for staying with us so late. Appreciate it very much. Thank you.

All right. And our last panel is the Correctional Association of New York, the Center for Community Alternatives, and the Center for Employment Opportunities.

I understand the Correctional Association is not here, so they don't get to testify.

Yes, we have written testimony from everyone. Thank you, Assemblymember Dilan. Even people who did not sign up to testify at all, when they submit testimony, it goes on both of our websites, Assembly and Senate, and everyone, including all 19.5 million New Yorkers, can read them.

And with that, welcome to our last panel for this everything. And just introduce yourselves for the video first.

MS. BRADLEY: Alyssa Bradley, Center

for Employment Opportunities.

MR. GANT: And I'm Thomas Gant, G-A-N-T, for the Center for Community Alternatives.

CHAIRWOMAN KRUEGER: Thank you. Why don't we start with you.

MS. BRADLEY: Good afternoon, Chair -- good evening, Chair Krueger, Chair Pretlow, and members of the Senate and Assembly.

My name is Alyssa Bradley, and I'm a policy manager with the Center for Employment Opportunities. I appreciate the opportunity to speak to you today about CEO and our work across New York and the need for increased resources for New Yorkers returning home from prison.

CEO has nearly 40 years of experience in workforce development programming. Our mission is to provide immediate, effective and comprehensive employment services to individuals recently returning home from incarceration. As the largest provider of reentry employment services in New York, we serve individuals on parole and probation

supervision in Albany, Buffalo, Rochester and New York City, with an intentional focus on individuals facing the most significant barriers, while also returning $3.30 for every dollar of public investment into CEO's program.

After our participants complete our orientation class, CEO hires and provides them with immediate employment, for which they're paid daily, through our transitional work crews, and offers advanced training opportunities in key industry sectors.

CEO operates more than 35 work crews across New York state that provide public-sector agencies with a variety of general labor services. Access to immediate work through a transitional job helps our participants gain stability and motivation to attain long-term, quality full-time jobs outside of CEO.

We appreciate Governor Hochul's attention to reentry services in the Executive Budget and for continuing to allocate funding to assist people returning

home as they navigate reentry. However, we must do more. CEO urges the Legislature to consider our recommendations to ensure the investment brings additional capacity to serve formerly incarcerated people, implement new strategies to target this population to increase public safety, and ensure the process is equitable.

CEO maintains a commitment to meeting participants' complex needs through wraparound and supportive services. We want to see targeted investments in entry-based reentry services for community organizations that provide the on the ground resources that are crucial for New Yorkers returning home.

Additionally, an essential part of CEO's broader strategy is ensuring individuals have access to immediate financial resources upon release. For many of the individuals we serve, the transition from incarceration is marked by food insecurity, unstable housing, and justice-related debts -- obstacles that hinder reentry success.

The Reentry Assistance Program, led by Assemblymember Gibbs, is a critical piece of legislation that would address this gap by increasing the financial assistance provided to returning citizens at their most vulnerable time, and aligns with Governor Hochul's commitment to facilitating employment for individuals on parole and reducing recidivism across the state.

I want to close with direct testimony from one of our former clients and Advocacy Leadership Committee members, Maria Nieves: "People often think reentry is simple -- go home, get a job, move forward. But it's not that easy. Returning home after incarceration is filled with barriers, from securing basic necessities to overcoming the stigma that follows us. Immediate financial assistance --

CHAIRWOMAN KRUEGER: {Mic off; inaudible.}

MR. GANT: Good evening. It's an honor to be here.

I'm a community organizer for the

Center for Community Alternatives, and I'm also formerly incarcerated. I'm here to share that now is the time for New York to move toward the remedy for sentence reform. Now is the time to move forward to giving incarcerated citizens hope. Now is the moment, more importantly, to give families across New York State hope. And I'm here to express strong support for and including the Second Look Act, S158, the Earned Time Act, S352, and the End Predatory Court Fees, S318, into the budget.

We also stand in opposition to the Governor's proposal to undo critical and damaging changes {sic} to the discovery reform. The Second Look Act allows judges to reconsider excessive sentences, offering incarcerated individuals the chance to demonstrate rehabilitation and reintegration readiness.

New York incarcerates over 30,000 people, 75 percent of which are Black and brown, with many aging and now suffering chronic health issues. This act aligns with

growing national momentum for second-look legislation supported by judges, labor unions, law enforcement, and 68 percent of New Yorkers. It gives our justice system flexibility and humanity, moving us away from perpetual punishment and toward more of a rehabilitative process.

The Earned Time Act strengthens opportunities for individuals to reduce their sentences by incentivizing good behavior and rehabilitative efforts. Research shows earned time reduces recidivism, makes prisons safer and lowers correctional costs. Yet New York lags behind states like Alabama and Oklahoma in earned-time opportunities.

This legislation garners 74 percent support from New Yorkers and promotes reintegration by investing in rehabilitation over warehousing.

The End Predatory Court Fees bill, S318, would eliminate mandatory court surcharges, probation fees, and incarceration for unpaid fines and fees that also function as a regressive tax on our most vulnerable

citizens.

Black and brown New Yorkers are disproportionately burdened by these surcharges, which can lead to missed rent, healthcare and basic necessities. New York's reliance on fines for revenue mirrors discriminatory practices, eroding trust and worsening racial inequities.

By ending these unjust practices, we can stop criminalizing poverty and redirect resources to real community needs.

Finally, I urge the rejection of the Governor's proposal to undo discovery reform. This proposal would reintroduce discretion for prosecutors and police to withhold evidence from the defense, undermining transparency and increasing the likelihood of wrongful convictions and prolonged pretrial detention.

Our current discovery laws were designed to ensure fairness and efficiency, critical for preventing unjust outcomes like those experienced by Kalief Browder. Instead of dismantling these reforms, we should

expand direct access to police databases, as proposed in legislation by Assemblymember Lasher and Senator Myrie.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

First to question, Roxanne Persaud.

SENATOR PERSAUD: The mic doesn't want to come on now.

I just wanted to thank CEO for the work that they're doing in my district. You know, it's one of my housing developments, and the commitment of the team there it's, you know, second to none.

So I just want to make sure you know that I'm appreciative of the work they're doing, and that's why I'm supporting your request that we've put in, and we will continue to work with you. Because as I said to your CEO, I'd love to have you bring additional folks into other developments within my district.

So I look forward to continuing working with you, and thank you again.

CHAIRMAN PRETLOW: (Inaudible.)

I will say that, Mr. Gant, I do support those pieces of legislation that you're referring to. We in the -- at least in the Assembly are trying our best to correct a lot of the ills that are in our criminal justice system so it doesn't just pertain to just us.

And it's something that -- it's a work in progress. I know it should be going a lot quicker than it is. But, you know, we started with bail reform and then that got beaten up and changed and we're just moving down the line trying to make things right.

MR. GANT: Appreciate that, sir.

CHAIRWOMAN KRUEGER: For the record, I think the Assembly has a partner in the Senate on these goals.

CHAIRMAN PRETLOW: Yes.

CHAIRWOMAN KRUEGER: But also Senator Myrie is I think our closing Senator.

SENATOR MYRIE: Thank you.

Tom, it's good to see you.

MR. GANT: Good to see you, Senator.

SENATOR MYRIE: Thank you for the work

that you continue to do, and it's been a pleasure being in the fight with you.

And Alyssa, thank you for your patience -- both of you for waiting until the end of the day to testify.

I just want to ask a brief question of CEO. Do you find that your applicants have lower recidivism rates? And if so, do you think that has any policy implications?

MS. BRADLEY: Yeah. So we've had a couple of, you know, evidence-based reports come out that show that, you know, our program reduces recidivism by up to 22 percent.

We also, you know, track our participants for up to a year post-placement, help them out. You know, if they lose their job, they're able to immediately pop back on our worksites and get that daily pay again.

If they've, you know, gotten certifications, gotten their driver's license reinstated, gotten a car, we're also able to provide them with, you know, upskilling and more, you know, career-oriented pathways if

they come in in that year after that we place them.

And, you know, that's shown that up to, you know, 52 percent of folks are able to maintain that job for up to a year too.

SENATOR MYRIE: Thank you.

CHAIRWOMAN KRUEGER: With that, we want to thank you so much for staying with us all day to participate tonight.

And this is the official close of the Public Protection hearing.

For people who are just depending on watching us every day, next week we won't be here. But the week after, we will, so tune in again.

Thank you very much.

(Whereupon, at 8:29 p.m., the budget hearing concluded.)