BEFORE THE NEW YORK STATE SENATE
STANDING COMMITTEE ON THE JUDICIARY

JUDICIAL HEARING FOR

CHIEF JUSTICE OF THE COURT OF APPEALS NOMINEE:

DISTRICT ATTORNEY JANET DiFIORE

New York State Capitol Building
172 State Street - Room 124 CAP
Albany, New York 12247

January 20, 2016
1:00 p.m. to 2:00 p.m.

PRESIDING:

Senator John J. Bonacic
Chairman

COMMITTEE MEMBERS PRESENT:

Senator George A. Amedore, Jr.

Senator Philip M. Boyle

Senator Neil D. Breslin

Senator Leroy Comrie

Senator Thomas D. Croci

Senator John A. DeFrancisco

Senator Ruben Diaz, Sr.

Senator Ruth Hassell-Thompson (RM)

Senator Brad M. Hoylman

COMMITTEE MEMBERS PRESENT (Continued):

Senator Andrew J. Lanza

Senator Michael F. Nozzolio

Senator Thomas F. O'Mara

Senator Bill Perkins

Senator Michael H. Ranzenhofer

Senator Diane J. Savino

Senator Susan J. Serino

Senator Toby Anne Stavisky

ALSO PRESENT, AND PARTICIPATING:

Senator George S. Latimer

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SENATOR BONACIC: The Judiciary Committee meeting, I'm going to call it to order.

Now, the purpose of the meeting, we're going to hear from Miss Janet DiFiore, who has been nominated for the position of Chief Judge of the Court of Appeals.

But before we continue, we've been joined by two other members, Senator Ranzenhofer, Senator Stavisky.

Welcome.

I would like to have you talk to the Committee; give us a little bit about your background, your qualifications, and any information you would like to share with us concerning your abilities, and why you would be a good fit for the chief judge of the Court of Appeals.

JANET DiFIORE: Thank you, Senator.

Mr. Chair, Senator Hassell-Thompson, members of the Committee, please allow me to begin today by introducing my family, who has traveled here with me today in support of today's events:

My husband, Dennis Glazer, who is a retired partner and former chair of the litigation department at Davis, Polk & Wardwell;

My son Joseph Glazer, who is a

Columbia Business School graduate, and is running his own tech start-up in New York City;

My son Michael Glazer, who is a wealth-management adviser at Morgan Stanley.

And thank you being here.

My daughter, Alexandra Murphy, who is a prosecutor in the Manhattan District Attorney's Office, and her husband, Matthew Murphy, who, another lawyer in our family, is an associate at O'Melveny & Myers, had work and family obligations that prevented them from traveling here today.

And, of course, the absolute love of my life, my two-year-old granddaughter, Charlotte Murphy, was unable to travel without her parents today, so she's not here as well.

[Laughter.]

JANET DiFIORE: Thank you for that point of personal privilege, Senator.

So I am absolutely honored to appear before you today, having been nominated by Governor Cuomo to serve as the Chief Judge of the Court of Appeals and of the State of New York, and to seek your recommendation for Senate confirmation of that nomination.

I want to take the opportunity at the outset

of my remarks to assure each and every member of this body, as well as the Governor and the people of the State of New York, that, if confirmed, I will work hard every day, to the best of my ability, to serve with independence and integrity.

Over the past 35 years, I have dedicated my professional career to public service and the fair administration of justice; starting with my very first job out of college in the City Court of Mount Vernon, New York, where I was born, raised, and educated in my city's public schools.

I went to law school to become a prosecutor in the Westchester County District Attorney's Office, and to serve the safety-public needs of the people in my home county.

And over the years I spent in that office, I came to a deep understanding and appreciation of the incredible, positive impact public service can have on the communities that we, collectively, as public servants are privileged to serve.

And over the course of my career, I have been fortunate to serve in positions of increasing importance; first, as an assistant district attorney, then as a trial judge, as a supervising judge of the criminal courts for the 9th Judicial

District, and most recently, as the elected district attorney in my county.

I have also been privileged to serve as the co-chair of the statewide justice task force, and the joint commission on public ethics, as well as numerous other commissions and bodies dealing with issues of fair, even, and ethical administration of justice.

With each new position and challenge I have accepted, I have been keenly aware of the growing impact of my responsibilities and the consequential nature of the work that I led.

With each new opportunity and challenge I accepted, I have employed the same formula to help me master my new responsibilities; and it is the very same formula I intend to use if I am fortunate enough to be confirmed by the Senate:

It always begins and ends with hard work and a relentless pursuit of excellence.

It involves a consistently-applied, non-partisan respect for my colleagues and for my partners in government, while always being mindful of the importance of maintaining independence in my decision-making.

In addition, I strive to bring a fair and

balanced approach to every case or issue that comes before me.

And, finally, I bring a total, unwaivering loyalty and devotion to the government institutions that I have been privileged to serve.

I understand that members of this Committee are fully informed and familiar with my background, experiences, and accomplishments, as well as my professional and personal reputation.

And I say to you all, very humbly, that I am extremely proud of the work I have done and the contributions I have made to the fair and effective administration of justice in our state, as a trial judge presiding over hundreds of civil and criminal matters; as a supervising judge of the criminal courts for the 9th Judicial District, leading important court initiatives to improve the provision of justice services to litigants and lawyers in our courts; and as the district attorney leading a large prosecutor's office, where, together with an outstanding staff of committed attorneys, investigators, and administrative personnel, I have built a prosecutor's office that is a model with a well-earned reputation for being fair, effective, and balanced in our work.

Finally, I respectfully submit that my training and my professional experiences have made me a careful lawyer, respectful of stare decisis and the rule of law; an effective administrator and manager; and a careful steward of taxpayer dollars; all important predictors and indicators of my ability to serve effectively as the chief judge of the Court of Appeals and of the State of New York.

And I am proud to place my record of achievement before you for your consideration.

Thank you for your attention, for the opportunity to appear before all of you today, and I am happy to answer any questions that you have of me.

SENATOR BONACIC: Thank you very much, Mrs. DiFiore.

JANET DiFIORE: You're welcome.

SENATOR BONACIC: Very impressive, your background, and doing it all as a mother of three; raising three children in your private life.

JANET DiFIORE: And a granddaughter.

[Laughter.]

SENATOR BONACIC: And Charlotte.

We're joined by Senator Lanza.

Good afternoon, Senator.

SENATOR LANZA: Good afternoon.

SENATOR BONACIC: I have a series of questions that I would like to ask you.

JANET DiFIORE: Yes, sir.

SENATOR BONACIC: When I heard your name being -- as the Governor putting your name forward as the nominee, the first thing I thought of, is she going to be independent?

And as I spoke to many of my colleagues, that, too, was on their mind, because of the close relationship you've had with the Governor, you've served on two commissions.

And it's important to all of us that the judiciary branch always be independent.

So, let me ask you specific questions.

The role of chief judge, to me, it seems to evolve over the years into a policy-director role for the judiciary.

Given your policymaking relationship with the Governor, how would you go about separating the interests of the judiciary from the interests of the executor, to maintain judicial independence?

Could you talk to that?

JANET DiFIORE: Yes, of course.

And first let me say that I share your

interest in judicial independence, and I care deeply about the credibility and the integrity of the judiciary and the judicial system.

And I know and understand the primacy and the necessity of judicial independence; and not only judicial independence in fact, but the appearance of judicial independence at every level of the system, in order to inspire the people's confidence in our ability to be fair and just without regard to outside agendas or outside forces.

And to your point, Senator, the chief judge does, indeed, have many different roles and responsibilities.

And on the adjudicative side of the chief judge's obligations, the cases are the cases, and they are absolutely inviolate.

On the administrative and management side, as the executive of the judicial branch of government, it is my full intention, that if I am fortunate enough to be confirmed by this body, to make certain that I am working hard every day to advance my relationships with my partners in government, here in the legislative branch of government, as well as the executive branch of government.

And specifically to your point on policy, my

view is this:

If I am fortunate enough to be confirmed and I lead the judiciary, it is my responsibility to make certain we are doing everything we can to honor our core mission at the courts; and that is, the speedy, fair, and just resolution of cases.

And whether it's a policy issue or an operational issue, you have my word that I will be working closely with my partners here in the Legislature, as well as in the executive branch, always, always mindful, and I believe that I have a record to support this, of my role representing the judicial branch of government, and always promoting independence in fact and appearance.

SENATOR BONACIC: Thank you.

JANET DiFIORE: You're welcome.

SENATOR BONACIC: You know, I did a little checking, historically, on Supreme Court chief judges, the chief judges of the Court of Appeals, and I saw that Judge Rosenblatt and Governor Pataki often -- they disagreed on the death penalty. Judge Wachtler and Governor Mario Cuomo disagreed on most things in general.

[Laughter.]

SENATOR BONACIC: At the Supreme Court level,

President Eisenhower was in constant disagreement with Chief Judge Earl Warren, particularly on civil rights.

So, the governors and presidents, perhaps, were frustrated with their choice, but no matter what the outcome, whether you agree or disagree, these judges were committed to the rule of law, not the rule of their appointor.

And I think you've made it clear that you would embrace that philosophy and not be committed to the rule of the appointor.

Let me just continue on a couple other things, if I may.

I noticed you've done some publications, and "My View" pieces, on trying to raise the age of criminal responsibility, from 16, to 18.

You favor that, and you've said so in your capacity as a district attorney.

Let's assume for the sake of discussion, a hypothetical.

Governor Cuomo uses his executive authority and says, "This is the law," and bypasses the Legislature, and this Constitution-authority question between the Governor and the State Legislature falls before you.

What do you do, having given publications of your personal preference of what you would like to see happen?

JANET DiFIORE: Well, when you ascend the bench, your personal views are your personal views, and your work will speak for itself.

I understand executive authority, I understand the limitations of executive authority, but I also understand my role, if I am fortunate enough to be confirmed, to make certain that each and every case that comes before me is decided on the merits, without regard to any outside forces or influences.

You have my word on that.

SENATOR BONACIC: Okay. Just another question.

In criminal responsibility, ages 16 to 18, if someone is a drug user, in your opinion, would you deem them non-violent, as opposed to capability of violence, and maybe -- how do you separate whether they would go to a juvenile-delinquent court system and being segregated from adult prison population?

Just a drug user, how --

JANET DiFIORE: Well, if you're suggest --

SENATOR BONACIC: -- as opposed to acts of

violence?

I guess my question is: Do you think all drug users are not prone to violence?

JANET DiFIORE: Well, I wouldn't form that opinion or advance that opinion; I don't know.

Each case is taken on its individual merits.

Every individual is assessed for the acts that he or she is accused of, and their history and background.

And I've had a great deal of experience over the course of my career doing just that.

SENATOR BONACIC: Okay. You know, the budget that's been presented to us by the Judiciary is in excess of 2 percent of a state-imposed limit that we do voluntarily.

Is this judiciary budget going to be your budget, or is it going to be your predecessor's?

JANET DiFIORE: Well, I didn't, obviously, prepare the judiciary budget.

But if I am confirmed, I -- you can bet that that will be one of the first things that's on my agenda to speak with the staff with, and we'll go forward from there.

SENATOR BONACIC: Do you have a favorite Court of Appeals judge?

[Laughter.]

JANET DiFIORE: Actually, I do.

SENATOR BONACIC: Who would that be?

JANET DiFIORE: It would be Stanley Fuld.

SENATOR BONACIC: Okay. In the past, chief judges of the Court of Appeals could be split into two categories: consensus builders, acting as a whip to get the bench to think as one mind or opinions; or allow sports in the court's reasoning and many different opinions, in the majority of cases.

What will be your style as a chief judge?

JANET DiFIORE: Well, I believe that it's important for the Court of Appeals of our state, the highest court, to speak with one authoritative voice when that is possible, and to produce a strong authoritative decisional body of law.

And I think that unanimity, or near unanimity, is worth the effort to attempt to achieve.

But on occasion, there will be foundational disagreements in cases in which you can't use -- reach unanimity.

SENATOR BONACIC: I don't know how familiar you are with some of the concerns expressed by the public with the courts: staffing issues, technology

issues, access to the courts.

Is this something you see yourself getting involved in and trying to address some of these concerns by the public?

JANET DiFIORE: Absolutely. I am very interested in making certain that people have access to the courts and the justice services that the judges and the non-judicial personnel across the state provide.

And, of course, I do have an interest in technology, and finding ways that technology can help us improve and do and service our core mission in the way that the people across the state would expect us to.

So, yes; the answer is yes.

SENATOR BONACIC: My last question is: Would you consider yourself a judicial activist, or would you consider yourself a traditional judge that would interpret the law and not make law through judicial decisions?

JANET DiFIORE: I don't consider myself a judicial activist. I have a record to support that my approach has always been, each individual case on its own merits, sir.

SENATOR BONACIC: Thank you very much,

Mrs. DiFiore.

JANET DiFIORE: You're very welcome.

SENATOR BONACIC: Senator DeFrancisco.

SENATOR DeFRANCISCO: Thank you.

Thanks for calling me in advance of the meeting to discuss some of these issues.

But, I noticed in the outline that you submitted to everyone, that you're -- and you mention it, New York State Justice Task Force Co-Chair; and one of the things that is being discussed is wrongful convictions.

In fact, there was a letter that Senator Bonacic just referred to, from an individual who was wrongfully, not only accused, convicted and incarcerated.

Now, there's no question that the chief judge of the Court of Appeals has, for many, many years, no matter who it was, gotten involved in policy issues, advocating for legislation, advocating for fairness in the judicial system.

And you're well aware that there is a commission on judicial conduct.

I've got a bill in, dealing with a commission on prosecutorial conduct.

Now, have you weighed in on that concept at

all, as a DA?

I know I was inundated by DAs, showing how unwise that was to ever even consider that there would be wrongful conduct on behalf of a district attorney.

Have you ever weighed in on that issue to this point in time?

JANET DiFIORE: No, not to this point in time. That was a separate group.

SENATOR DeFRANCISCO: Okay. That's number one.

Number two is, you indicated in your resume here, that after this wrongful conviction, you got actively involved. You saw -- you did an investigation as to what the problems were.

And I'm not looking to find out who the DA was involved in the conviction, but did you determine that there was more than simply errors in the process; that maybe there was something that should have been done either the non-disclosure of exculpatory evidence, or something which implicated whoever handled the case, or any other cases you reviewed as a member of that group, that caused you concern?

JANET DiFIORE: In the particular case,

Senator?

SENATOR DeFRANCISCO: Yes.

JANET DiFIORE: No. In fact, in that case, the exculpatory evidence was weighed before the jury, and the jury found the man guilty of the crimes that we later learned he did not actually commit.

SENATOR DeFRANCISCO: All right, but as a member, as co-chair of the New York State Justice Task Force, you've discussed wrongful convictions, from time to time, with your members, I assume?

JANET DiFIORE: Oh, absolutely.

SENATOR DeFRANCISCO: All right. In that study or in your work, have you found any examples of questionable conduct on behalf of prosecutors?

JANET DiFIORE: The New York State Justice Task Force has examined cases in New York State.

We have not uncovered a case, to the best of my knowledge, similar to the cases we've read about in Texas and other places.

What we have focused on are issues, such as the video recording of custodial interrogations, improving the practice around eyewitness identifications, to make certain that we are creating the best atmosphere in which a witness is

called upon to identify a perpetrator.

We are -- we've spoken about and examined the issues around increased and accelerated discovery, forensic sciences, the DNA data bank, the expansion of the DNA data bank, and post-conviction access to DNA; the legislation that was passed.

SENATOR DeFRANCISCO: Okay. And as a judge, have you ever run into situations where you've had to admonish prosecutors for conduct that was inappropriate with respect to a criminal prosecution?

JANET DiFIORE: I personally have not.

SENATOR DeFRANCISCO: Okay. And have you -- do you know of any, such that you --

JANET DiFIORE: Well, I read about them.

SENATOR DeFRANCISCO: Okay, but my -- what is the remedy, in your understanding right now, if there is withholding evidence, or if there is some misconduct on behalf of a prosecutor?

What's your understanding of the remedy?

JANET DiFIORE: Right now, the remedy lies with the leader in that office, the elected district attorney, with the grievance committee.

SENATOR DeFRANCISCO: Okay. And what are the possible rem -- what are the possible results of

someone who has been found to have done something that is inappropriate in the court?

JANET DiFIORE: Well, it could be -- if it's an internal proceeding in the district attorney's office, the discipline could be anything from private admonishment, additional training, docking of pay, to, the ultimate censure, would be a firing and public disclosure and a referral to the grievance committee.

SENATOR DeFRANCISCO: And the grievance committee is the local grievance committee, whatever district --

JANET DiFIORE: It would be the Appellate Division Grievance Committee.

SENATOR DeFRANCISCO: Okay. And since you were a judge, since you were under this umbrella, you had to be -- your conduct had to comply with what conduct is prescribed with judges.

Do you think that system has worked, from your experience as a judge, a prosecutor, or whatever?

JANET DiFIORE: In my personal experience, I certainly do. There has never been an occasion where I had been (inaudible).

SENATOR BONACIC: Senator, I think we're

going to have to move on. I have so many other members that want to ask questions.

SENATOR DeFRANCISCO: Okay. Last --

SENATOR BONACIC: Do you want to wrap up?

SENATOR DeFRANCISCO: -- I just want to wrap up with this point:

I'm not going to ask you whether you would support the bill. I don't think that's fair.

[Laughter.]

SENATOR DeFRANCISCO: But, I just -- all I'm suggesting is, to bring this bill out, because you -- I guess the question is: Would you keep an open mind, as the chief administrative officer of the courts of the State of New York, as you review cases, as you hear of situations before you, presentations, that a similar remedy or similar process that's for judges would be advisable or not advisable, would you consider that with respect to the prosecutor in a criminal case?

JANET DiFIORE: Of course I would.

SENATOR DeFRANCISCO: Okay. Would you consider it well?

[Laughter.]

SENATOR DeFRANCISCO: Thank you.

SENATOR BONACIC: Judge Hassell-Thompson.

She wanted me to call her "judge."

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

Honorable DiFiore, Chief Judge Kaye made reform of our indigent defense system a major part of her legacy.

Likewise, Chief Judge Lippman made reform of our civil legal service system a major part of his legacy.

Last year, New York State settled the Harring case, which calls for case caps, lawyers at arraignment, investigators, and expert witnesses, to provide effective legal criminal representation to poor people.

The next couple of series of questions will be somewhat under that heading, starting with: Do you support the extension of Harring to the other upstate counties and Long Island, who, as of this moment, do not fall under the jurisdiction of that legislation?

JANET DiFIORE: I do, Senator.

SENATOR HASSELL-THOMPSON: Do you think that there should be a civil right to counsel?

JANET DiFIORE: A civil right? A civil --

SENATOR HASSELL-THOMPSON: Gideon.

JANET DiFIORE: I can't answer that question because I think the litigation is likely to come, if there is litigation, before me.

SENATOR HASSELL-THOMPSON: Will you be giving any thought to creating a mandatory pro bono program for the needs of the indigent that -- to ensure that they are adequately addressed, particularly in civil matters?

JANET DiFIORE: Well, certainly, I'm committed to that, and I would give some thought.

And, particularly, if you have something on your mind, I would hope, given our long history and our interest in good government and the mission of the courts, that you would share that with me --

SENATOR HASSELL-THOMPSON: Oh, I got lot on my mind, truly.

[Laughter.]

SENATOR HASSELL-THOMPSON: There had been some discussion, you know, prior to this hearing, I convened a briefing of the staff of our conference, and so that there was some discussion about, everyone is in agreement that there should be a pro bono program.

I was speaking more to the mandatory.

And there was some discussion about whether

that would be in keeping, or whether we would get push-back.

So that was the nature, really, of that particular question.

Would you be in favor of switching the responsibility for public defense in criminal cases from the counties to the state?

JANET DiFIORE: I don't know enough about the financial aspects of that to answer that question intelligently, but, certainly, that is something that I would review and come to a conclusion on.

SENATOR HASSELL-THOMPSON: And you will share with me at that time, your conclusion?

JANET DiFIORE: Most certainly.

SENATOR HASSELL-THOMPSON: Thank you.

Would you be in favor of establishing statewide standards, as the number of felony and misdemeanors that the public defender can handle in a year outside of New York City?

JANET DiFIORE: Yes.

SENATOR HASSELL-THOMPSON: Bail reform:

Would you be in favor of revising the current system for setting bail in New York so that it's used more sparingly, such as for violent felonies only?

JANET DiFIORE: Well, that's a very difficult question to ask, because bail -- I do believe that there are fixes that we need to consider, to make certain that people's freedom isn't tied to their ability to pay bail.

I don't know that I would whole-scale eliminate bail in any category of cases.

Every case requires an independent and responsible review of the individual standing before that judge.

SENATOR HASSELL-THOMPSON: How would this proposal affect -- sorry.

Would you continue with the bail reform for the city of New York which was ordered by Judge Lippman last year?

JANET DiFIORE: If you're referring to the court part that had -- yes, I -- absolutely.

And I think it will be interesting to see if the -- if that formulation is effective, and is serving the needs that it was set out to serve.

So, yes, of course, I will look at that.

SENATOR HASSELL-THOMPSON: Under children's rights, I heard your discussion with Senator Bonacic on Raise the Age, but I just have a couple of just quick questions.

Do you support the Governor's current proposal to raise the age of criminal responsibility?

And how would this affect the family court, particularly with those cases involving 16- and 17-year olds?

JANET DiFIORE: Well, one of the reasons that I agreed to sit on the commission on youth public safety and justice is because I am interested in juvenile justice, and I have an expertise on both the criminal side and the family court side, given my long assignment to the family court.

And I think that we have to be very careful as we go forward.

If it is determined that we should raise the age in New York State, we're going to have to support our family courts, which are courts that are, under ordinary circumstances, very challenged.

And in order to receive that new grouping of cases, we have to make certain that our judges on the front lines in the family court and the court staff are prepared to do that and meet their challenges responsibly and effectively.

SENATOR HASSELL-THOMPSON: We have put 25 new judges on the family court in the last two years.

You also heard it alluded to that the budget that has preliminarily been submitted is 1. -- I think it's 1.4 percent over.

Would you be pushing for more judges for the family court, even understanding those considerations and concerns?

JANET DiFIORE: As I sit here today, I can't answer that question.

What I will do, if I am lucky enough to be confirmed by this body, is take a long, hard look at that, and make sure that we do have enough in terms of resources, whether they are judicial resources or non-judicial resources.

And I will be -- if I think and conclude at the end of that review and analysis that we do need additional staffing in terms of new judgeships, you can bet I will be advocating for that.

SENATOR HASSELL-THOMPSON: I thought of three other questions, but I won't -- I won't belabor that.

Thank you.

The court system itself -- sorry -- the commission has just recommended an increase in pay for Supreme Court justices, almost to the level paid to federal court judge-- district court judges.

How will the court system pay for this increase?

And will there be any impact on the operations of the courts?

JANET DiFIORE: First let me say, I applaud the work of the commission on judicial compensation, and I think that it -- they did a responsible job, that judges, our hard-working judges across the state, should be reasonably and fairly compensated for the important work that they do.

As to your question about the budget, if I am fortunate enough to be confirmed, that is going to be my top priority; to help our staff, and work with our partners in government, to figure out how we are going to, indeed, fund that.

SENATOR HASSELL-THOMPSON: My final question: Would you favor a constitutional amendment, requiring that all village and town justices in this state be attorneys?

JANET DiFIORE: I'm being careful, because I don't want to answer any questions in which it would be in violation of my ethical guidelines.

I don't have a position.

I don't know enough about the political ramifications, the local ramifications, to answer

that question.

But if you would like, I will study that issue and I promise to be back to you.

SENATOR HASSELL-THOMPSON: Thank you.

SENATOR BONACIC: We have been joined by Senator Perkins.

And I see Senator Latimer is here, who happens to represent Janet DiFiore as a constituent. I think he went to school with her.

And we welcome him here today.

Welcome, George.

The next speaker -- we have many, many speakers, by the way, and we are going to stay here for as long as it takes, so every committee member's concerns are addressed, because this is a very important position.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. Chairman.

Welcome to the Committee.

You've answered many of our questions with grace and aplomb, and I congratulate you for that.

JANET DiFIORE: Thank you.

SENATOR NOZZOLIO: We do have a major disagreement, though.

JANET DiFIORE: Yes.

SENATOR NOZZOLIO: Your favorite judge is Judge Fuld?

JANET DiFIORE: Yes.

SENATOR NOZZOLIO: Mine is Judge Pigott, who happens to be here.

Welcome, Judge.

[Laughter.]

JANET DiFIORE: Oh, I didn't see Judge Pigott here.

SENATOR NOZZOLIO: Welcome, Judge.

JANET DiFIORE: My favorite judge in the room is Judge Pigott.

[Laughter.]

SENATOR NOZZOLIO: The temptation; the question of independence raised by Senator Bonacic, is one that's essential.

But the question of independence is not necessarily independence from an individual as it is independence from the State Constitution, and, of course, the United States Constitution.

I, for one, believe the worst opinion, ever, in the Court of Appeals' recent history, was a decision that totally ignored Article 4 of the New York State Constitution, regarding the succession of governor, lieutenant governor; and

particularly when a unanimous decision by the Appellate Division went to indicate that the court said clearly at that time, that the Constitution should prevail; the succession plan is enumerated in the Constitution.

What the Court of Appeals did is totally wipe out that constitutional provision.

You've seen by -- you've heard, by questions of Senator DeFrancisco, Senator's from my good -- and questions from my good friend Senator Hassell-Thompson, that you're asked all questions about legislative activity.

That shouldn't be a prerogative of the courts.

It's the job of the Legislature to decide these issues -- to decide Raise the Age, to decide bail procedures, to decide questions relative to the criminal justice system, the number of judges -- the types of criminal justice measures are all prerogatives of the Legislature, as based by the Constitution.

So my question is, and, really, more of a comment: Don't believe you have to take an opinion on any of these questions. It's not your job. You're going to be very busy running the court

system of this state as chief judge.

And that I fear that you're going to be tempted too much, to voice an opinion, to get involved in this issue, to be, in a way, dictating from the bench, when it should be the elective responsibility, as stated in our Constitution, by elected representatives of this body and the Assembly.

So, don't feel you have to have an opinion just because a legislator may ask you of one, including myself; that we have the job to do.

We certainly want to do it in respect to the Constitution.

And I guess I'd ask you, as you take on these responsibilities, never be independent of the Constitution of the State of New York.

That's what you -- you cannot separate.

And never believe that these responsibilities are the judges or the executives.

You know, we have concerns of the fact that the minimum-wage laws of our state were changed by executive order; that the types of prerogatives that should be part of the Legislature, voting in open forum, debating it on the floor of the Legislature, as opposed to through the stroke of a pen or a

judicial-regulation change.

And, you, the beauty of your candidacy, is that you have been involved in the executive, as a prosecutor; you've been involved as a judge; that those experiences will be extremely valuable for you to advise us.

But, we hope that you'll restrain the temptation to dictate from the bench.

JANET DiFIORE: You have my word, Senator.

SENATOR NOZZOLIO: Thank you very much, Mr. Chairman.

SENATOR BONACIC: Thank you, Senator Nozzolio.

Senator Comre.

SENATOR COMRIE: Thank you, Senator Bonacic.

Your Honor, I wanted to ask you a couple of questions; but, first, I wanted to thank you for wanting to continue your public service.

And in looking at your record of service, it has been highly impressive and vast, and as Senator Nozzolio has said, you have had a great array of both executive and judicial experience.

I just wanted to ask you two questions before I congratulate you.

And, first, I want to say that, in working in

public service, there's always a temptation to involve and interject yourself, as Senator Nozzolio just so passionately stated, in issues.

I would hope that you would inject yourself on issues of to Raise the Age; but, also, in creating the opportunities for people to get relief from civil disabilities on those small issues that they get caught up with, that they're not aware of, so that we could have a statewide opportunity for people that are involved with issues, the small issues, that they could get relief from those civil disabilities, so that we don't have so many young people that are not eligible for civil-service jobs, are not eligible for opportunities, or not even aware that they've received a summons, and they wind up going to court for something that they weren't even aware of.

So I would hope that you champion those issues as well on the Court of Appeals.

And I -- again, I want to emphasize that, you know, as your -- in your opportunity, I would hope that you also try to mentor and bring as many people into the judicial system as possible, so that they can be unafraid of interaction with the judicial system; that you can have more young people that are

interested in becoming lawyers or prosecutors, and so that we can make sure that there's a continuum of care of people that are interested in doing justice and service to our system as well.

So I would hope that, in your opportunity, because I believe you will be nominated, I believe that your record has been exemplary, and I think that you will be a great chief Court of Appeals judge.

And I finally want to say, you look much better than your pictures.

[Laughter.]

SENATOR BONACIC: Thank you, Senator Comrie.

I just want to go through the lineup, if I may.

We're going to have Senator Boyle, Senator Diaz, Senator Savino, Senator Breslin, Senator Hoylman, Senator O'Mara, Senator Croci.

Next is Senator Boyle.

SENATOR BOYLE: Thank you, Mr. Chairman.

Welcome.

Prosecutor, this is my first hearing as a member of the Judiciary Committee.

JANET DiFIORE: Mine, too.

SENATOR BOYLE: Such a historic day.

Just a quick question, to piggyback on Senator DeFrancisco's earlier comments about law enforcement and prosecutorial misconduct.

Obviously, we see across the country, there are some communities of color who have grave concerns about our judicial system.

I don't know if you've seen "Making a Murderer" on Netflix, the story of Stephen Avery.

Thankfully, it didn't happen in New York, but it happened in Wisconsin.

In Suffolk County, where I live, we have our former police chief just arrested by the FBI.

Serious concerns.

And I've been a law-and-order guy, "throw the book at them" type, for a long time, but I myself am experiencing some concerns about our judicial system.

I just ask you, that you make this a priority in your new position. I'm sure you're going to achieve it.

And one question: Do you feel that experts should be allowed into court to testify about false confessions?

JANET DiFIORE: Well, Senator, that matter is currently before the court, an issue around that

matter; and so, of course, it would not be appropriate for me.

SENATOR BOYLE: I understand.

Well, please take into consideration how people are feeling. Prosecutorial misconduct is a huge, potential problem and concern among New Yorkers, and Americans.

JANET DiFIORE: Thank you, Senator.

SENATOR BONACIC: Thank you, Senator Boyle.

Senator Diaz.

SENATOR DIAZ: Thank you, Mr. Chairman.

Thank you for taking the time to be with us today.

Mr. Chairman, ladies and gentlemen, you know, we are just -- we are just celebrated Martin Luther King holiday, and there is some -- some people that always talk about a war -- the war against the woman -- against women.

But I'm honored to say, today, I'm -- I'm -- I have the great honor in supporting a woman, not only because she's a woman, but because she's qualified.

But, I'm honored to say that I'm supporting a woman; and I congratulate you.

And I'm also honored to say that, this past

weekend, in Bronx County, when we were celebrating Martin Luther King, the Bronx County swore in the first district attorney -- the first woman district attorney in Bronx County, and the first female district attorney, Black/Afro-American (sic), in the whole state.

So, you know, for those of you that talk about the war on woman, the women are beating us.

[Laughter.]

So, Mr. Chairman, I'm going to vote yes, and to -- to -- to express my support for Judge DiFlorio (sic).

And, I wish you the best, Judge, and I will pray for you --

JANET DiFIORE: Thank you.

SENATOR DIAZ: -- so God will lead to you do the best thing, and to keep leading you the way you have been leading your life.

So thank you very much, and, congratulations.

JANET DiFIORE: Thank you, sir.

SENATOR BONACIC: Thank you, Senator Diaz.

Senator Savino.

SENATOR SAVINO: Thank you.

Thank you, Senator Bonacic.

Welcome, Janet -- Miss DiFiore, to the

Judiciary Committee hearing.

I'm fully confident that you will be confirmed and you will be our next chief judge.

And, I'm not an attorney, so I'm not going to ask you questions about particular cases and your opinions on it.

I'm more concerned about the other role that you're about to take on, which is the head of a massive agency, with thousands of employees, some of whom you have bargaining units that haven't had a contract in years. So there's -- I'm not sure how you're going to figure out how to meet that obligation.

But, you're going to take on a massive agency that has, in many respects, been starved for resources for a few years now.

Your -- the former administrative judge, Gail Prudenti, when she would come to testify, she was very good at trying to give us some sense that the court system was able to absorb all of the reductions and the administration of justice was continuing without any interruption.

We all know that that is not the case.

You are about to take on a massive agency, as I said, that is suffering, not just from budget

cuts, but you've said in your testimony that your main concern is the speedy and fair administration of justice.

You can't do that when you have courts that have to close at 4:00 every day because you don't have resources.

You can't do that when you don't have enough courtrooms.

You know, Senator Hassell-Thompson talked about the number of family court judges that have been appointed in the past few years.

That's nowhere near the number of family court judges that we need.

But for every family court judge we do appoint, you need a courtroom, you need court officers, you need court clerks, you need court stenographers; you need all of these things.

So these are the problems that you're going to have to face, and I'll just leave you with a final problem.

Everybody complains in their own county, we all think we're being short-changed.

But for Staten Island, we really are.

A few years ago, former-Governor Spitzer signed legislation to finally create a separate

judicial district for Richmond County.

Forever, we were connected to Brooklyn, and as a result of that, we did not have sufficient resources.

So Governor Spitzer signed the law, we have the 13th Judicial District. We were only given three Supreme Court judges. We were told, at some point in the future, we would get the rest of them.

So Staten Island is entitled to seven more Supreme Court justices.

Brooklyn wants their three back.

And as you can imagine, the administration of justice on Staten Island is not speedy. While it may be fair, because I have full faith and support in all of the judges on Staten Island, as well as the court system, it certainly isn't speedy.

We also just completed and opened a brand-new courthouse. It's nice, but we outgrew it months before it was opened.

So, we have real needs there, and I'm sure every county does.

And so I raise this, to make you aware of that, and you really need to take a good, long look at the budget. Don't be afraid to ask for more money.

Really, don't be afraid to.

We want to help you, because the administration of speedy and fair justice to our constituents is the most important thing to all of us.

So, congratulations; I'm sure you will be confirmed.

And I hope that you will delve in, as you said you will, into the minutia of running this massive agency.

JANET DiFIORE: Thank you, Senator.

SENATOR BONACIC: Thank you, Senator Savino.

Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. Chairman.

First, let me congratulate the candidate on the expectation you'll be shortly affirmed.

And to affirm what Senator Savino just said, and others in the Senate have said here, and elsewhere, that as I read your decisions, and look at your academic background, I have no question that you will be an exemplary Court of Appeals chief judge.

But there's so much more.

And your two predecessors, Judge Kaye and Judge Lippman, who have gone into areas, to make

sure that young defendants, poor defendants, defendants in different counties, who have unequal representation, and no representation, in many cases, at arraignments.

And there's so much more to your job, and making sure that you balance that constitutionally, so that Senator Nozzolio is satisfied.

But I also think it's -- as the chief judge of the Court of Appeals, you have a tremendous responsibility to make sure that New York continues to administer justice in a fair and appropriate way, from our children who appear in the criminal justice system, through the poor, through the various 62 counties.

And I know many of us are depending upon you to continue that trail to full justice.

JANET DiFIORE: Thank you, Senator.

SENATOR BONACIC: Thank you, Senator Breslin.

Senator Hoylman.

SENATOR HOYLMAN: Thank you, Mr. Chair.

Thank you, Ms. DiFiore. It's a pleasure to see you, and, congratulations.

And congratulations to the Governor for nominating such an outstanding individual.

I represent the west side of Manhattan and

part of the east side.

And I think I harken back to my colleague's comments about the resource issue; and in particular concern for me, is housing.

And while we don't have a constitutional 6th Amendment right to counsel in civil cases, I would argue that, in many instances, for my constituents, losing your home is nearly as horrific as losing your freedom.

These are individuals who have lived in their homes for decades. Many of them are in apartments that are rent-regulated.

And I think you probably know that there's quite an imbalance in housing court, between landlords and tenants, and between landlords and small businesses.

So what's happening in Manhattan are -- is a case study of the vulnerable being picked off, by the tens of thousands, by those in a better position to afford high-priced attorneys; and, essentially, paper defendants to eviction.

And something, like, 11,000 rent-controlled tenants were evicted and lost their apartments in the last several years.

200,000 rent-stabilized apartments were moved

off the books illegally by landlords.

So, this goes to that legal maxima of "justice delayed is justice denied."

When you can't get into housing court because of the backlog, and you can't afford to get a lawyer, so you have to go and represent yourself, and you don't know what you're doing there or know the law, how do we solve that problem?

And what are we going to do about it?

JANET DiFIORE: Well, Senator, the issue of foreclosure issues, and people and the access to civil legal services that people need to assist themselves on those very necessities and basics of life, are certainly something that is very high on my agenda, should I be fortunate enough to be confirmed by this body.

And you can be certain that that will be a priority on my list to look at and examine, and figure out how we're doing on these cases.

And where there are issues and problematic operational barriers to justice for people, you can bet I will be looking at those as part of my mission.

SENATOR HOYLMAN: Thank you.

You're going to be the CEO our court system.

JANET DiFIORE: Correct.

SENATOR HOYLMAN: And I really would urge you to look to us as an important ally in your efforts to dispense justice fairly, and look at alternative models, including community courts that have worked so well in different parts of the state, including my district, to make certain that both plaintiffs and defendants have speedy justice.

Thank you.

JANET DiFIORE: I will.

Thank you.

SENATOR BONACIC: Thank you Senator Hoylman.

Senator O'Mara.

SENATOR O'MARA: Yes, Madam District Attorney, over in the corner.

Thank you for being here, and candidly asking -- or, answering our questions today.

As a former district attorney, I want to commend you on your service to your communities where you have lived and worked for so long.

I represent a district in the Southern Tier of the Finger Lakes region of New York State, where many of my constituents have grave concerns over the losing of their personal liberties, their individual rights and freedoms; and, in particular, with

regards to the Second Amendment, which has been at the forefront with the significant gun violence we've had in our country, and in our state.

And I commend you for your work in law enforcement, and the prosecution for gun violence.

And I, certainly, strongly support increased penalties for those that misuse guns and use them in violent ways.

However, there are so many law-abiding gun owners that are very concerned about this.

And I know that when you were president of the DA's Association in September 2011, you wrote a letter to Congress, lobbying against the national Right to Carry Act at that time.

And not to get into the specifics of that issue, or any specific issue, but, would lead me to believe that you may lean more towards gun control, as opposed to supporting Second Amendment rights.

And I would like to hear your views and perspectives on how you would approach a case, under the Second Amendment, both under the New York State Constitution and the U.S. Constitution.

JANET DiFIORE: Well, I think the Second Amendment is clear. The law on the Second Amendment is clear.

And I appreciate that, as a responsible, law-abiding gun-owner myself.

That said, as to any particular case, I'm not in a position, obviously, to comment specifically, except to say to you that I will handle any of those matters the way I handle every other case: on its merits, based on the procedural history of the case, based on the laws that apply, and I will interpret the law fairly, honestly, justly, without regard to any outside influence or agenda, Senator.

SENATOR O'MARA: Do you have a concealed-carry permit?

JANET DiFIORE: I'm sorry?

SENATOR O'MARA: Do you have a concealed-carry permit?

JANET DiFIORE: Yes, I do, sir.

SENATOR O'MARA: Thank you.

Again, along the lines of Bonacic's indepen -- Senator Bonacic's questions about independence at the beginning, presuming you're going to be confirmed here by the Senate, the -- at the end of this year, my current favorite Court of Appeals Judge, Pigott, will be leaving the bench, and he will be -- he will be the last justice to leave the Court of Appeals that has not been

appointed by Governor Cuomo.

In effect, Governor Cuomo took the step a year ago to not reappoint a sitting justice of the Court of Appeals who was a prior governor's appointment, to appoint one of his own appointees.

So, assuming you're the chief justice of the Court of Appeals, with a full bench of Cuomo appointees, how are you going to manage that in a way that is truly independent from what the Governor -- Governor's agenda may be?

JANET DiFIORE: Well, I believe that every one of my future, hopefully, colleagues on the bench come to every case the same way that I have been talking about here during this process; and that we come at every case in an honest way, looking at every case on -- based on the individual merits, without regard to who the appointing authority was or was not, without regard to any outside influence.

And I have full confidence that my colleagues on the bench share that view, and have acted honorably on that as well.

SENATOR HOYLMAN: Thank you very much.

JANET DiFIORE: You're welcome, sir.

SENATOR BONACIC: Okay. I'm going to now go to Senator Croci.

SENATOR CROCI: Thank you, Mr. Chairman.

And, Madam District Attorney, thank you for joining us today.

And thank you, too, to you and your team of career prosecutors at the Westchester County DA's Office who do the very real work of keeping us safe in our communities, and I appreciate your fine work there.

I was anchored to two of your comments during your opening. Two of the words used were "independence" and "integrity."

And as a former chair of JCOPE, and Mr. Goldberg alluded to that chairwomanship during his testimony, so much of what we're being asked to consider this year in this legislative session, with regard to ethics reform, we're being asked to look at the federal model, and some of the things that they do at the federal level as best practices.

And to that end, at the federal level, there are safeguards within the departments and agencies throughout the federal government that ensure, through inspectors general and other mechanisms, that the bidding process, request for proposals, requests for qualifications, and the independent expenditures by those agencies are done with

watchful oversight to ensure the integrity of the departments and agencies of the executive branch.

Do you believe that, at the state level, as we seek to mirror some of these best practices, that that would be a welcome addition on -- and those types of safeguards should be mirrored in the executive branch at the state level?

JANET DiFIORE: Well, I leave that to your deliberations and your body to determine what would be best.

I will say this, though:

I feel very strongly about training and education, and teaching people about the rules that guide their conduct.

I think that most people want to comply with the rules.

I think that many people don't know, or haven't had an opportunity to learn, exactly what the rules mean and require.

And to my mind, that's where the focus and emphasis should be: teaching people what the rules are, and how to stay in compliance with the rules.

SENATOR CROCI: And those should apply both to the Legislature and the executive branch?

JANET DiFIORE: Oh, absolutely, without

question. Judges as well.

SENATOR CROCI: Very good.

Second question: With regard to Raise the Age, I understand this is a very emotional topic for so many of us.

If a 16-year-old or 17-year-old were to kill a cop or first responder; if they were to commit the act of rape; if they're 16 or 17, and they're radicalized and commit a terrorist act; does that fall in the same category as some of the other groupings that we seek to take out of the population, of those who are -- have reached the age of majority?

JANET DiFIORE: No.

If you read the commission's recommendations, those classifications and categories are dealt with in the adult criminal court.

SENATOR CROCI: Very good.

And just to follow up on what Senator O'Mara was asking: Does the Second Amendment, in your opinion, confer an individual right?

JANET DiFIORE: Yes.

SENATOR CROCI: Very good.

Thank you, ma'am.

And, again, thank you for your appearance

here today.

JANET DiFIORE: You're welcome.

SENATOR BONACIC: Thank you, Senator Croci.

Senator Amedore.

SENATOR AMEDORE: Nice to see you, Madam District Attorney; and thank you, also, for the call ahead of time to introduce yourself, and having me get a chance to know you.

I do applaud your efforts and your hard work, being a wife, a mom, now a grandmother.

It is quite admirable for all of your efforts, as well as to serve and to do the work that -- for this great state.

One question that I have is, with the rise of heroin use throughout the state, do you have a plan to address this epidemic through the local court systems?

JANET DiFIORE: Well, the answer is no.

But what I am committed to is drug-treatment courts.

I helped to establish -- I first -- back when Chief Judge Kaye was the chief judge, I sat on the commission on drugs; and, of course, where we made recommendations for institutionalizing drug-treatment courts, so that offenders whose

drug-related crimes, that were truly motivated by their addiction to substances, are dealt with in a way that addresses the underlying issue rather than rotating people through.

So if you are -- if your question goes to my support of treatment alternatives to incarceration? Yes, certainly, I am most supportive and committed to that.

SENATOR AMEDORE: Thank you.

JANET DiFIORE: You're welcome.

SENATOR BONACIC: Thank you.

Senator Ranzenhofer.

SENATOR RANZENHOFER: Thank you, Mr. Chairman.

Over here.

Welcome.

First of all, thank you for being here today.

I've had an opportunity to read the resume, and, obviously, with your experience as DA and as judge, you certainly have the training and the background to be considered for this position.

And I've sat here and listened to a number of the questions dealing with advocacy, and, you know, what your take is on the Constitution.

So I would just like to ask you, maybe this

has been addressed, but I'm going to ask in a slightly different way: How do you, as a sitting justice, knowing the positions you've taken, advocating for or against certain things, and then you're dealing with issues that are addressing either those identical issues or very similar issues, how do you separate the two hats, and make a decision, keeping in mind what the Constitution says, what the facts of the case are, and your prior advocacy one way or the other?

JANET DiFIORE: Well, I have a fair amount of experience across the criminal justice system and the justice system. I've served as a prosecutor. I've served as defense counsel. I've served as a judge. I've been the district attorney.

I know and understand the roles and the responsibilities and the ethical rules that guide each one of those categories of professional responsibilities, and I have always abided by them, and I will continue to.

SENATOR RANZENHOFER: But in terms of each of those roles, their -- the advocacy -- you know, if you're a DA and you're advocating for something --

JANET DiFIORE: Correct.

SENATOR RANZENHOFER: -- that's one thing.

If you're a defense attorney and you're advocating for something, that's another.

As chief judge, if you've advocated for something, is that a little bit different than the--

JANET DiFIORE: Is that...? I'm sorry?

SENATOR RANZENHOFER: -- is that a little bit different, because you have now a different role?

You're not a DA anymore. You're not a defense attorney.

You're now the chief judge of a court system.

So how does that advocacy come into play; whereas, it might have been a little bit different when you had a prosecutorial role or defense-counsel role?

JANET DiFIORE: Well, you correctly point out the different roles of the chief judge.

And on the adjudicative side, as I said, the cases are the cases and they are inviolate.

On the advocacy side, to my mind, is that the chief judge advocates on issues that affect court process, and the ways in which we service and honor our court mission, and our promise to deliver on that mission, which is about operational issues and access issues that move the business of the courts to honor our responsibility to fairly, justly, and

speedily resolve all of the cases and controversies that come to our courthouses throughout the state.

SENATOR RANZENHOFER: And another question I wanted to ask you is, as a fourth-generation lawyer, and my family has been in the legal business for a number of years, through the generations:

You had mentioned a comment before, when you were asked about a -- it was some questions about tenants rights, and civil rights, in a non-criminal manner.

Do you believe, under the Constitution, that there is a constitutional right to an attorney in a civil manner?

JANET DiFIORE: Well, Senator, that is an issue that will likely come before the court, and I am not in a position to opine on that. It wouldn't be appropriate.

SENATOR RANZENHOFER: One more question I wanted to ask you.

If the court does move in the direction of transferring cases for 16-, 17-year olds from justice courts, town courts, village courts, would that then necessitate changing the role of those courts, because they would be having to hear cases, to move to a district-court model?

JANET DiFIORE: Well, we don't know what the model is going to be. There are many variations of the model.

We will wait and see what the Legislature -- if the Legislature determines that that's appropriate.

And whatever it is, we will make certain that, within the bounds of the law and the constitutional parameters, we will staff -- meet the staffing needs to accommodate those cases.

SENATOR RANZENHOFER: Thank you very much.

JANET DiFIORE: Thank you.

SENATOR RANZENHOFER: Thank you, Mr. Chairman.

SENATOR BONACIC: You're welcome, Senator Ranzenhofer.

Senator Serino.

SENATOR SERINO: Thank you, Mr. Chairman.

And it's very nice to meet you and -- Your Honor.

And I have to say, I enjoyed my -- questions that my colleagues have asked you, and your answers.

And I'm very happy to hear about your independence, regardless of being a Governor-appointee. It's very important to me.

And I -- also, Judge Brands said to say "Hello." He spoke very highly of you.

JANET DiFIORE: Thank you.

SENATOR BONACIC: Thank you, Senator Serino.

I just would like to conclude quickly.

Oh, excuse me.

Senator Latimer, who is not a member of the Judiciary, but we will give him the privilege of the floor.

SENATOR LATIMER: Thank you, Mr. Chairman.

Judge, it's good to see you again.

And, Mr. Chairman, thank you for the privilege.

I just wanted to chat briefly with my colleagues.

I've had the good fortune of knowing this candidate, dare I date it, for 40 years.

And more importantly than the length of time, many of the questions that came up to this table are terrific and very timely questions.

Senator Ranzenhofer's questions, in the last couple of minutes: Can you make the transition from a district attorney's role of advocacy and prosecutorial role, to a judicial position?

And this candidate has had that exact

experience already, when she served as an ADA in Westchester County, the head of narcotics bureau, and then was elected to both the county court with criminal cases, and then later to the State Supreme Court on civil matters.

So, I've had the good fortune, living in Westchester, to see this candidate make that transition once already in her career, which I think is important.

Senator Nozzolio and Senator Bonacic have both raised the question of independence, and a very important question to ask, a very timely question.

I've served, in my past experience as chairman of our county legislature, and for two brief years as chairman of my political party; and in both cases, I had reason to interact with the judge.

And in both cases, I can tell you that no influence, either from the county governmental side or political side, mattered to her in the decisions that she made.

And so I am perfectly comfortable being able to feel that my experience with her over the years made the answers to your questions legitimate and honest responses.

And, Mr. Chairman, just from my standpoint, we even both served, as very young people, inside city government of Mount Vernon. She was a summer intern with a very well-respected city judge. And I was a rookie in the planning department. We were both in our 20s.

And hard to believe we're sitting here today, Your Honor.

JANET DiFIORE: Yes, it is.

SENATOR LATIMER: Thank you, Mr. Chairman.

SENATOR BONACIC: Senator Latimer.

But I would say that you're still both very young.

In conclusion, I would just -- before I call the question, obviously, you have the intelligence, you have the varied experience, you have terrific communication skills, you have personality, and I think you're a human being of deep substance.

I think you're going to make an excellent Court of Appeals judge.

JANET DiFIORE: Oh, thank you.

SENATOR BONACIC: And at this time, I would like to move the nomination to the floor for consideration, and call a vote.

SENATOR HASSELL-THOMPSON: So moved.

SENATOR BONACIC: Second by Senator Hassell-Thompson.

All those in favor, raise their hand.

(All members in favor raise their hands.)

SENATOR BONACIC: George, you can raise your hand twice.

[Laughter.]

SENATOR BONACIC: Anybody opposed?

It's unanimous.

Congratulations.

Meeting adjourned.

JANET DiFIORE: Thank you, sir.

(Whereupon, at approximately 2:09 p.m., the hearing held before the New York State Senate Standing Committee on the Judiciary concluded, and adjourned.)

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