BEFORE THE NEW YORK STATE SENATE
STANDING COMMITTEE ON HIGHER EDUCATION

PUBLIC HEARING

POLICY AND PROCEDURES PERTAINING TO THE SECURITY OF THE SAT AND STANDARDIZED TESTS

Van Buren Hearing Room A - 2nd Floor
Legislative Office Building
Albany, New York

January 24, 2012
12:00 p.m. to 3:00 p.m.

PRESIDING:

Senator Kenneth P. LaValle
Chair

SENATE MEMBERS PRESENT:

Senator Toby Ann Stavisky (RM)

Senator Lee M. Zeldin (RM)

Senator David Carlucci

Senator Joseph A. Griffo

Senator George D. Maziarz

Senator Gustavo Rivera

Senator Joseph E. Robach

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Steven Maiselson Former Employee Prometric, subsidiary of ETS	57	58
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SENATOR LAVALLE: Before we begin, to my left is the ranking member of the Committee, Senator Toby Stavisky; to my right is Senator Lee Zeldin.

And, I want to thank everyone for being here.

This hearing of the Senate Higher Education Committee is convening, to continue its investigation of policies and procedures pertaining to the security of standardized tests.

We have a number of witnesses here today, and among them, representatives from the College Board, Educational Testing Service, experts in security, who will provide testimony to the Committee about ways to secure standardized tests, as well as testimony from a former testing employee.

Let me just say for the record, that the Committee invited the principals of both College Board and ETS.

And, it's kind of a continuing record of, "We're too busy." "We're out of the country." "We're"...wherever.

So, we will have to, at some juncture, bring the principals back, because the Committee has policy questions, that people here today, while they have a certain expertise, and so forth, I think it

would be unfair to ask them, although we might ask them, anyway.

Last October, at the Committee's first hearing, examining test security and cheating, I opined that these hearings are somewhat like the locust. Every number of years, we have a hearing, and, College Board appears, ETS appears. We air the issue. ETS and College Board give testimony. They answer questions. And, then, something either happens, or doesn't happen, after that.

In my experience, it's been the work of this Committee that has tackled the issues ETS and College Board will not, and cannot, or refuses to, tackle.

As many of you in this room know, within the last couple of weeks, our Committee held, kind of, a "first of its kind" meeting; an open Committee meeting, where just about the full Committee was in attendance, and we discussed potential legislation. And that legislation is in draft form; has not been filed yet. And, we hope that we will get input on that legislation.

The most critical thing for the Committee, first up, was secured test administration.

"A secured test administration."

Because, if we have a secured test administration, we will not have to deal with things that follow, in terms of penalties, misdemeanors, or felonies.

And, we have a mixture of both of those.

This Committee has, uhm -- well, enacted the Truth in Testing Law in 1979.

And, then, in -- and then there was some subsequent bills dealing with: What kinds of results do we have, in terms of race, gender, ethnicity?

And, so, the Committee is very concerned about the whole testing issue, not only whether the test itself was the best possible product a student could take.

But, in 1992, we had, and we implemented, protections for test takers, following a case in East Los Angeles.

Earlier high school students taught by an acclaimed teacher, Amy Escalante -- Jaime Escalante, were asked to retake an AP calculus test because they were suspected of cheating.

All twelve, who did so pass, and their experience later, was dramatized in the movie "Stand and Deliver."

In 2006, this Committee examined problems related to misreported scores and the accuracy of SAT scores, because students and colleges did not learn about the misreported scores until five months after the test.

This Committee, the New York State Higher Education -- Higher Education Committee, has been the only source of protections that exist for test takers in the country.

The laws that emanated from the work of this Committee, through both the Senate and the Assembly, set the standards for practices that standardized tests for university admissions, follow around the country.

It seems, as New York goes, so goes the rest of the country.

So, here we go again.

Since we last convened, thirteen more current and former high school students faced arrests for their roles in the cheating scandal that has placed the national spotlight on lax security and the procedures at the testing sites.

The Nassau County District Attorney uncovered nine more students who paid for test takers, from the years 2008 to 2011, to take the SAT and ACT for

them so they would achieve a higher score.

The test takers took payments, ranging from 500 to 3,600 dollars.

According to a Nassau DA, ETS told prosecutors that it conducted its own investigation of the matter, but it was unable to provide some investigative -- investigation documentation to prosecutors because of document-retention problems.

As many people here know, CBS "60 Minutes" aired an interview with a test-taking imposter who detailed how easy it was for him to slip in and out of test centers, posing as someone else, even -- "even" -- as a member of the opposite sex.

As Great Neck North principal, Bernard Kaplan, so eloquently described at the last hearing:

"The only identification you need to produce to take an SAT is a school ID, which any fifth grader with a computer can make. Make up a school, put any name on it you like, and your picture on a card. Sign that name, and pick a mascot for good luck.

"You know, you now have everything you need to be anyone that you want to be, for purposes of taking an SAT. You can now take an SAT anywhere in

the country under that name.

"In fact, if you further want to cover yourself, and cover your tracks, you don't even have to go to the site that you requested, or, the site to which ETS has assigned you to. You can go as a walk-in to any site that you desire, using that same made-up ID."

I'm concerned that many of the Committee voice similar concerns about who will pay for improving test security.

And I think I can speak for all of my colleagues in answering: It should not be the students, or their families.

You know, ETS income, according to its own filing, was more than $900 million in past years. And more than thirty of its executives earn, from a high of more than 700,000, to a low of about 200,000.

All told, more than 10 million in compensation for a not-for-profit executive.

"Not-for-profit."

More startling is the compensation for trustees, who, according to its 2009 tax return, worked an average of 1.5 hours a week, and were paid in the range, from 15,000 to 54,000, each.

You know, that's not bad for what amounts to about two weeks' work.

And, you know, you can't make this stuff up.

Staff, I know was moving kind of quickly. We wanted other years, and we could not find other years.

So, you know, one of the things I'm going to request today, is that we have the most recent years so that we can look at some of the numbers that I just talked about.

Similarly, the College Board pays its executives well, for a not-for-profit.

Twenty-four of its executives earn, from a high --

I hope no one has heart troubles here.

-- from a high of more than 1 million, to a low of about 230,000.

And I'm reciting numbers, again, from the 2009 report.

So, surely, there's room for both organizations.

And I emphasize, non-profits to pay for security that goes into the very heart of their business.

The credibility of the tests has been

undermined; and, thereby, the credibility of the process that determines who gets into a given college has been called into question.

I, and this Committee, urge you to consider some of the commonsense approaches to addressing security; some of the security measures that you're going to hear today.

Just in closing: Some people have now gotten, because of the media attention, why this is such a big deal.

You know, initially, people were saying, Why's this such a big deal?

Well, it is a big deal because, certain students are getting into competitive schools, or to a college; and, those who have played by the rules -- taken prep courses, taken out books, taken courses on-line -- they played by the rules, may have fallen short.

So, people, and the pressure is great -- "it's great" -- put upon these students. They now have been pushed to cheating; doing things that are wrong under the law. And, in Nassau County, some are being punished to the fullest extent of the law.

And, uhm -- but, it's morally wrong, and it's reprehensible, that students and their families who

play by the rules end up getting the short end of the stick.

Senator Stavisky.

SENATOR STAVISKY: Yes, let -- it's you and me, I suspect, because I think we both probably took the SAT scores.

First, let me thank Senator LaValle for, again, reconvening the Committee.

And, the people who are here today, we appreciate your coming; and, at the same time, we are disappointed that the decision-makers at the top are not here.

I was at the hearing out on the Island in October, and I was disappointed in some of the responses. I thought they were vague. I thought that, uhm -- inconsistent.

And, I hope -- was hoping today we might have more clarity.

For example: I had asked about who's going to bear the cost of the security report. That, I hope it's not passed along to the students.

And I really did not get an answer to that question.

And Senator LaValle mentions -- mentioned the compensation, both of the executive staff and the

board members.

And, recently, the Governor indicated that he was going to try to limit compensation to the heads of not-for-profit agencies that receive State funding.

And this might be another place to start, because I think it's excessive. And, at the same time, again, if there's so much profit, then the profit ought to be passed along to the consumers, which are the students.

I hope we have more clarity today on the testing and cheating information.

The data that we heard in --

Where was it held?

SENATOR LAVALLE: Farmingdale.

SENATOR STAVISKY: -- in Farmingdale, it was inconsistent, particularly when we asked: How many are involved? What kinds of cheating have you come across?

The answers were not satisfactory.

I have read Senator LaValle's draft bill. And while we may have some differences, I think it addresses some of the concerns involving penalties, which I think are inadequate. It involves -- includes security, which I think is important.

And I think we also have to -- we have a third player in this.

The legislation talks about the test taker, and the person who does the impersonating, and the person who provides the funding. And, it leaves out the other ingredient; and that's, those that are responsible for the security.

So, I look forward to listening to what the people here today are going to say about security measures.

At the hearing in Farmingdale, I had the feeling, that if they had listened to the Superintendent of Schools, they could have saved a lot of money on their consultants, because he gave some very simple solutions to how to beef-up the security.

So, again, we do appreciate your coming, and I look forward to hearing how we can remediate this problem.

Thank you.

SENATOR LAVALLE: Senator Robach has joined us.

Senator Zeldin, any comments?

SENATOR ZELDIN: Senator LaValle, thank you for your leadership, and your invitation on this

issue.

Thank you to all the other participants that are here on behalf of the residents of their Senate District.

This has been an issue very close to home for us, as we read in our local papers and "News Day" and watch on "News 12," as this story has developed and unfolded.

I was also participating in the event on Long Island. Was not very impressed with the inconsistency, as Senator Stavisky had mentioned, with regards to the answers to some of my questions.

Hopefully, we can have some more clarity on all of our concerns.

The integrity of the tests and the process and the participants have been compromised.

While I think the ideal preference would be for the folks responsible for administering the test to take care of this issue on their own, the fact is, you know, I guess we're not getting there.

And, I'm happy that Senator LaValle and this Committee has been so active in helping to guide and lead this, hopefully, to a, uhm -- to an end result that has that integrity restored to this very important test for our students.

SENATOR LAVALLE: Senator Robach?

SENATOR ROBACH: Yeah, let me just thank you, Mr. Chairman, for taking this head on.

I think we all agree, that, not only do you want integrity, but in today's world, if there isn't that integrity in the testing, it's not just that some people that might not make it are getting in, they're often bumping people who are trying to get a certain spot or a certain place, get the college they want.

So, it's important that we do that.

I'm hopeful, from all of this discussion, we will be able to come up with something that will be fairly reasonable.

And, I'm kind of leaning towards the group, that, we just have to stop -- or, make sure, that may be a better way to put it, that the right people are taking the test, and not the wrong one.

And I have every assurance we'll get to that.

Thanks.

SENATOR LAVALLE: Okay.

Before we have our first people testifying, we do have copies here of the draft bill, and a memorandum.

So, it's here for you to take away, look at,

and make comments to the Committee.

The first people who will testify are, Kathy Juric, who is vice president of the SAT program for College Board;

And, Tom Rudin, senior vice president for governmental relations, College Board;

And, we have a third person, Ray Nicosia, executive director of Office of Testing Integrity.

SENATOR STAVISKY: Seems like an oxymoron.

THOMAS RUDIN: Thank you, Mr. Chairman.

And, I assume this is on?

SENATOR LAVALLE: Yes, sir.

THOMAS RUDIN: I'm Tom Rudin. I'm senior vice president for government relations at the College Board.

To my right is, Kathryn Juric, who's vice president for our SAT program at the College Board;

And, to my left is, Ray Nicosia, who is executive director of the Office of Testing Integrity at ETS.

And, we want to thank you for the opportunity to be here today. We're eager to work with you on these issues, and we're hoping that the information we can provide to you today will bring the clarity

you're seeking, and can contribute to a constructive ongoing dialogue with you all as you craft your legislation.

I'll summarize my remarks rather than read every word, as, obviously, you have those before you.

But, I do want to take a few minutes to state, that the College Board, as you know, is a New York-based not-for-profit organization comprised of member schools, colleges, and universities.

6,000 schools, colleges, and universities comprise the membership of the College Board, including, 438 member schools in New York State; and 124 of those, colleges and universities in New York.

So, we're a member organization, and we get our guidance from our members and our trustees.

We were founded in 1900 to democratize education. And, all our work is committed to the principles of equity and education, and we serve more than 7 million students around the world every year.

Our best-known programs, obviously, the SAT, the PSAT, and the Advanced Placement Program.

And just one example of our service to students: New York State actually ranked second in

the country last year, in the percentage of students who scored a qualifying grade on the AP exam.

So, last year, 126,000 students in the state got the qualifying score, and had the potential college-tuition savings, of anywhere from 46 to 71 million dollars for their families, because of the credit they earned in AP while in high school.

Our commitment to excellence and equity extends to every one of our programs.

Exam fees cover the cost -- the SAT exam fees and all of our exam fees cover the cost of developing the exams; administering and scoring the exams; and, also, allows to provide more than $100 million in programs and services without charge to students, including, last year, $53 million in test-fee waivers and test-fee subsidies that enabled every low-income student -- for example, here in New York -- to take the SAT program at no cost.

In fact, 43,000 students in New York State took the SAT at no cost -- that's more than a quarter of all SAT takers in the state -- because they qualify as, free- and reduced-lunch students.

So, we're proud of the fact that all low-income students can take our tests at very little or no cost.

And to your point, Mr. Chairman, we also take this matter very seriously. We find cheating of any kind to be reprehensible.

We want to support the students who play by the rules, the large majority of which, and who have college dreams and aspirations.

And that's why we're eager to work collaboratively with you on the legislation.

And if invited during this hearing, we do have comments on the legislation we'd love to share with you in a preliminary way.

As a mission-driven organization, we're committed to ensuring that every student has access to our programs. So, we are mindful that every well-intentioned solution to a particular problem may carry with it unintended consequences that could discourage a student from pursuing his or her college dreams, especially low-income students; or students whose parents didn't go to college, and who may find the college application and admission process particularly vexing for them.

The College Board was created, and exists to this day, to create opportunities, not barriers, for college. And because of our commitment to equity, we're determined not to let a student's concerns

about privacy, complexity, and convenience stand in the way of college opportunity.

Now, as we are considering our changes to security protocol, we want to take note of the fact that the College Board and ETS are not law-enforcement agencies.

We will continue to share information and cooperate with law-enforcement officers, as we're doing now in Nassau County. But, with no power ourselves to subpoena witnesses, or prosecute alleged offenders, we can't act as a court of law.

In the end, it's the responsibility of local law enforcement to take legal action.

Again, we're deeply committed to working with the law-enforcement agencies, and are already doing so.

As you know, for the last three months, we've been working through potential test-security enhancements with the Freeh Group International Solutions, LLC.

The Freeh Group is an independent global risk management firm founded by Louis J. Freeh, former director of the FBI, and a former federal judge.

And any actions we take -- we think this is the perfect group to work with. Any actions we take

must meet the highest standards for global security, because this test is administered in 170 countries.

So, we think we took the right step in working with this powerful and prestigious group. And our work is in collaboration with them. We're not waiting for them to study us and prepare a report.

They will prepare a report, which we will share with this Committee; but, we're working hand in hand with them to develop solutions, some of which are already underway, and I'm going to talk about in just a moment.

I do want to say, many of the issues that have been raised in -- over the course of the past three months do appear easy to overcome.

It's been suggested:

That we require a government-issued photo ID card because of the issue of high school IDs;

That we require government-issued ID for every student.

We acknowledge that a school ID, by itself, is not sufficient in most cases. But we also know that large populations of students don't have government-issued IDs, and it's a burden on them to get one.

This is unacceptable to us.

And I know -- I -- we took note of your Committee meeting on January 10th. We watched the video, and we saw you all debating many of the same issues we're debating.

Again, that's why we're eager to have conversations with you over time.

SENATOR LAVALLE: And we came to a resolution very quickly, as you know.

THOMAS RUDIN: Yes.

And, again, we're eager to talk with you about your bill.

Someone suggested we should simply require students to take the exam in their own test center. But, with only 7,000 registered test centers worldwide, and more than 30,000 high schools, that's not possible.

Others have argued that we should photograph every student on test day by simply distributing small cameras to every test center. But, we would need to resolve logistical difficulties as we think that through.

Other test-day security measures have been suggested, such as, fingerprinting, and biometric scanning, that would add to the check-in process.

And, that might cause significant intrusions on privacy, with respect to collecting and securing and managing the data around student biometrics.

So, I raise these concerns, not to take anything off the table. We understand that all options need to be available, as you considered in your January 10th meeting. But, we raise these to suggest that we're taking this very seriously, and needing to weigh increased security against increased access to the test.

Now, at the last hearing, there was a discussion of the immediate near-term and long-term solutions.

And I'm happy to say, we have some that we will discuss now with you, and happy to elaborate on in the Q and A.

First, we have already begun providing additional enhanced training, messaging, and information to all test-center supervisors, that focuses exclusively on test security that gets to this issue of having a secured test-administration site, including, for example -- and, again, we can elaborate on this -- new training modules on test security delivered to all of our test-center supervisors; and, also, new protocols for checking

student IDs at the sites.

Second: We're providing additional information to high schools, colleges, and all other score recipients, on the role that they play in ensuring test integrity.

For example: We have notified colleges, universities, the NCAA, and others, about their role in identifying testing irregularities.

Our theme here is, basically: If you see something, say something. Let us know if there are irregularities you're coming across. Be our partners in working this through.

Third: ETS has been conducting post-test analysis that further enhances our ability to identify potential impersonation cases.

And, we'll talk more about that.

Fourth: I'm happy to let the Committee know that, today, beginning in the fall, each test taker who is currently enrolled in more than one of 30,000 high schools -- who is enrolled in one of 30,000 high schools that are registered with the College Board, must designate that high school as part of the SAT registration process, so that we can communicate back to the high school, the scores of that student, and any correspondence with the

student, regarding the SAT, and, even any irregularities regarding that.

So, we are beginning to take steps.

Other steps are on the way. All options are on the table.

And let me conclude by saying: That, we started to take initial steps. Much more work needs to be done.

We believe we are close to designing a solution that will address the issues that we have seen with test-taker impersonation, that can be absorbed into the existing cost of the SAT.

But, until we finalize our plans, and they've been validated by the Freeh Group, we can't discuss all of the options we're weighing now.

We would love, again, to have a conversation with the Committee, as we think this through. And, we will share the Freeh report with the Committee.

Let me finally say: Mr. Chairman, and members of the Committee, we share your deep commitment to this issue, we respect the fact that you're taking this on, and we're eager to work with you, going forward.

SENATOR LAVALLE: Yeah.

Thank you.

Before we get to Ms. Juric, and I apologize for mispronouncing your name before, and, Mr. Nicosia: How much was spent on the Freeh institute, his work?

THOMAS RUDIN: I don't know how much, exactly, was spent on the Freeh Group, but none of that funding is being passed on to students.

SENATOR LAVALLE: I understand, but, just a guess.

THOMAS RUDIN: We'll get you that detailed information.

SENATOR STAVISKY: They promised that at the last hearing.

SENATOR LAVALLE: Okay.

The reason I ask that, and, uhm -- is that, for no money, we had three citizens come forward, and they're going to testify today, with methodologies that -- I don't know, I'm not an expert, but, on its face, looks pretty good, as a methodology.

So -- and this Committee didn't spend a dime to do it. We just said: Citizens, come forward, and say, "Hey, we got some things. Can we testify?"

And I thought it would be a great opportunity.

Certainly, we're not promoting any one method, and -- nor is the Committee going to adopt in legislation, any one method. But, we thought it would be good for you folks to see what three citizens have developed. And, maybe it works, doesn't work.

Who do you want to have testify?

THOMAS RUDIN: Yeah, I'd simply say: We're eager to hear the testimony of the others.

We've gotten a number of ideas.

We don't apologize for securing the services of the Freeh Group because we think they're a great organization. None of the costs will be passed on to students through these [unintelligible].

We can assure you of that.

But we want to make absolutely sure that we have this world-class firm working with us, to test through all of the options available to us.

So, we are eager to hear about the ideas that will come up later, yes, sir.

SENATOR LAVALLE: Who do you want to testify next?

RAYMOND NICOSIA: ETS is in support of the

College Board testimony. We're not going to be issuing a separate statement.

KATHRYN JURIC: I didn't have a prepared statement. Just to answer questions, and answers -- and to reaffirm that we were extremely committed to this effort, and our evaluatable [sic] options are on the table.

SENATOR LAVALLE: Basically, you guys are security blankets for Mr. Rudin?

[Laughter.]

THOMAS RUDIN: These are the experts in the day-to-day grind of how to secure these tests.

SENATOR LAVALLE: I had hoped that principals would have been here.

One thing the Committee would like is, uhm, we have the 2009 results from your filings.

Do we have more recent?

You know, up until 2011, would be appreciated, so that the Committee --

THOMAS RUDIN: Yes, sir.

SENATOR LAVALLE: -- so the Committee can see that.

I'm going to let Senator Zeldin here -- I have other questions, but I'm going to let Senator Zeldin; and then, you, Senator Stavisky; and

I'll finish it up.

SENATOR ZELDIN: When we had the meeting on Long Island, we were discussing a little bit about -- well, if I could refer you to the last paragraph on page 2 of your testimony, Mr. Rudin, you know, you say:

"As we consider changes to security protocols, it's important to take into account the fact the College Board and ETS are not law-enforcement agencies."

So, this came up when we were in Long Island, and we were discussing just how many tests are canceled out because of irregularities.

And, uhm, if you could just refresh my recollection: What's the number of tests that are canceled out due to the irregularities?

Can you explain that?

RAYMOND NICOSIA: Certainly, Senator.

There's two tracks, if I may put it that way.

We have, what we call, "The Supervisor Irregularity Report."

That's the eyewitness account from one of our testing staff; one of our proctors. They've observed something.

So that could be, stopping someone at the

door with a questionable ID. It could be seeing someone with a cell phone during the test. It could be seeing someone working on the wrong section.

So, it's something observed at the test center.

And if you like, I can give you the exact numbers.

For last testing year, that would be the year, 2010-2011, we had 6,339 such cases reported to my office. Out of that, we canceled the scores for 2,533.

So, those are the cases that were canceled based on those eyewitness reports.

That's one track.

There's another post analysis that we do -- post-test analysis.

You heard me mention things, such as a large score difference, as a trigger, to bring cases to my office to review afterwards.

And, there's a few other triggers that will bring that cases to my office; but, in the post-test analysis, for last year, we had 3,222 such cases come into my office. And out of that, we canceled 935 scores.

Those numbers are fairly consistent year to

year: 3,000 or so being questioned. About 1,000 being canceled.

SENATOR ZELDIN: Okay, so, if someone's cheating on a test, it's possible that they may fall into one or both of these two categories?

RAYMOND NICOSIA: Correct, sir.

SENATOR ZELDIN: Okay, is there overlap?

I mean, are -- is there someone that might be targeted in track one and track two? Or --

RAYMOND NICOSIA: No, these are separate cases.

SENATOR ZELDIN: Okay, so, it would be, roughly, 10,000 -- approximately -- just under 10,000, total --

RAYMOND NICOSIA: Correct.

SENATOR ZELDIN: -- [unintelligible.]

RAYMOND NICOSIA: Correct.

SENATOR ZELDIN: So, your statement, Mr. Rudin, about how you're not law-enforcement agencies, which, I mean, I think everyone would certainly agree with, there's just under 10,000 cases of irregularities from both tracks, which lead you to cancel test scores for, approximately, just under 30 -- around 3,500 --

RAYMOND NICOSIA: About 3,500.

SENATOR ZELDIN: -- across the country.

RAYMOND NICOSIA: World.

SENATOR ZELDIN: Across the world -- around the word.

Do happen to know the numbers for New York, by the way?

RAYMOND NICOSIA: No, sir.

SENATOR ZELDIN: Okay.

So, 3,500 test takers around the world, the scores are canceled.

When we were in -- when we were on Long Island and we were discussing this topic, the question was asked, and now that it's been a few months, maybe you've had a chance to reflect on the question: What's the standard that your organizations have to turn over those canceled scores to the law-enforcement agencies?

RAYMOND NICOSIA: Basically, we just process the cases, so we aren't -- we don't see a standard for us as to when we're compelled to turn over this information.

We're looking to ensure the validity of the scores. We don't, in essence, have to prove cheating on our cases.

For instance: In the post-test analysis, we

are -- we're basically looking for two bits of compelling evidence; such as, a large score difference, and, combined with a handwriting difference.

That allows us to question the score. And then we give the students a series of options to resolve the matter.

Those options are supported by state law, as well as the industry standards, on how to question test scores.

SENATOR ZELDIN: So -- but what's your -- how do you determine whether or not to turn over a canceled score to a law-enforcement agency?

RAYMOND NICOSIA: It is extremely rare that we do go to law enforcement.

When we do see something we feel has crossed the line, in the SAT world, very few, a handful of cases, would have actually gone to law enforcement.

The case in question, here in New York area, there were signed confessions, we were informed about. There were -- there was money changing hands.

In this particular case, we did approach law enforcement. We did not get a warm reception.

Unfortunately, that is somewhat indicative of

cases when we've gone to law enforcement for similar cases. There's not a great deal of interest.

SENATOR ZELDIN: So, in my opinion, the integrity --

Mr. Rudin, were you going to say something?

THOMAS RUDIN: I simply wanted to say, I understand your concern about the issue of us being a law-enforcement agency.

We're not that.

I mean, I didn't make that statement to be flip about it.

One of the questions we have about the legislation, and we'd love to talk to you about this in greater detail, is the idea that what you may be proposing is asking us to step into the role of a law-enforcement agency and determining whether a crime has been committed.

SENATOR ZELDIN: No, but before -- okay.

Before we change the topic, I mean, my question is: With regards to what your current standard is for turning over canceled scores to law-enforcement agencies.

I'm not asking about the legislation, or, what kind of changes should be implemented.

I'm just trying to understand what the

current standard is because, what we read about -- you know, on Long Island, we read in "News Day," and we see on "News 12," and then we have the New York City TV stations pick it up. And, all of a sudden, everyone's talking about this huge SAT cheating scandal in Nassau County.

The integrity of the process is obviously questioned once you end up having this huge media story that breaks out from one isolated incident, albeit, it wasn't one particular student that cheated, but, it was a grand scheme.

Now, I'm interested in what else is going on that we haven't read about in the newspaper.

And I believe that your two organizations are in the best, and possibly the only position, to be able to bring to light all of the other cases of cheating that's taking place.

Now, if the organizations only cancel the scores out, and, on a very rare case, turns that over to law enforcement, what that unfortunately results in is, now, for that student, the parent, the schools, the law-enforcement agencies, we never even become privy to the fact that cheating's even taking place.

The only way that we're ever going to find

out, is if you tell us.

And the only reason why we know about what happened in Nassau County, was because we read about it in the paper, and then it became a huge issue, and now you're cooperating with law-enforcement agencies.

So, we're discuss what kind of changes should be made, legislatively.

Whereas, I said in my opening, what I ideally would like to see, is for the organizations, the industry, for those that are administering it themselves, to be able to bring more accountability to the test, and not for anyone else to have to do it for the organizations.

Both, the concern that I had when we met on Long Island, and I asked the same exact question, and I got the feeling that there really wasn't much of a standard; and, that, on a rare case, are those tests turned over to law-enforcement agencies.

And I'm asking you the question again, now.

I understand that you're not law-enforcement agencies. I wouldn't ever want you to become one.

But, you stated that your policy to others that are administering a test, is, "If you see something, say something."

But, then, you see stuff, and then you don't say anything.

So, if those that are supposed to administer the test are supposed to follow the policy of "If you see something, say something," I think that it should be the policy of those administering the tests, such as yourself, to be telling us, be telling the law enforcement, because, if you see something, you should be saying something.

And then we'll have a little bit more confidence that we know what's really taking place.

SENATOR LAVALLE: Mr. Rudin, are you familiar with what happened at Penn State?

THOMAS RUDIN: Yes, sir.

SENATOR LAVALLE: The rules changed. A good and decent man didn't go far enough. He didn't report it to the authorities.

New -- new standard.

We have a new standard: You can't -- you can't close your eyes.

Senator Zeldin's right.

When you read that, three derrieres went off their seats. "Three."

It -- Senator Zeldin covered it, what was said in Farmingdale; but I would say to you, that,

we're in a new -- we're in a new era.

And it happened at Penn State. Happened at Syracuse.

New rules.

And if we need to, in our legislation, spell that out more clearly, well, we will do that if people are looking for legal standards.

But we're in a new arena, sir.

We're in a new arena.

SENATOR ROBACH: And could I just say, I have a concern.

I don't think reporting the information to the right authority makes you law enforcement. I think that just makes them aware of it.

Because, I mean, I hate to say this, and nobody knows how big it is: I think we're all shocked by the dollar amount offered to take this particular test.

But, clearly, there is no stigma, or no fear, in today's world of people doing that. Nor, my guess would be, that they're really even violating anything -- any major.

In order for us to put that word out, to put the integrity back in, we all have to be in it together.

So, I don't think -- we know what you do and what your area of expertise is; however, you are the gatekeeper of who takes the test.

When you see that, just to let it go, that kid's going to say, or whoever did that: Well, we didn't get through this time. Let's go back and try it again. What's the big deal?

If it's turned over, or at least looked at or reviewed by, if you want to call it, law enforcement, a DA, or the right governing authority, then I think it would be a great deterrent, and might almost be the most critical piece of the bill, if our goal is: We want people to take the test, but put the word out there that we aren't going to allow that to happen anymore.

You know, and not to digress or talk too much, you know, when I was in school, there was classes where you take in a room, like this size, with 100 people.

And people would do that. You know, the general class, someone would take the -- literally, take the test for them.

That night, at school, they said: If you get caught doing that, you'll kicked out of school.

Everybody stopped doing it.

Now it's: We're going to study for that class.

I think this is a little of the same, but, if you aren't the ones to turn them over, who is going to do it?

THOMAS RUDIN: May I respond? Because I understand what you're saying. And, Senator, I understand your point.

The question is not, Do we see things happen, and then we don't report them?

What we do is, when we see testing irregularities that we believe exist, we cancel the student's score. But, we don't -- we're not a law-enforcement agency that can prove beyond a reasonable doubt that the student committed a crime; and, therefore, need to inform law-enforcement agencies of that.

SENATOR ZELDIN: Yeah, this exact thing came up --

And I know, Senator Stavisky, I'm sorry, you had a question; but, if I could just interject on that, Chairman.

This exact point came up when we met on Long Island, about proof beyond a reasonable doubt.

There are different standards of proof in our

system. And when someone goes to law enforcement, they don't have to, in filing a -- you know, a criminal complaint, or, bringing something up to the attention of law-enforcement agencies, they don't have to establish it beyond a reasonable doubt.

Sometimes issues come up before law-enforcement agencies where there might be probable cause or reasonable suspicion;

Sometimes stuff brought to a law-enforcement agency where there's a hunch.

So -- but you don't have to establish beyond a reasonable doubt in order to turn it over to law enforcement.

THOMAS RUDIN: No, I understand.

I didn't mean to -- I misspoke, if that's what I conveyed.

It's not a question of, we have to prove a crime was committed before we do anything. I get that.

When we believe there was a criminal act committed, such as impersonation, we do notify law enforcement.

The large majority of the -- the large majority of the cases outlined in Mr. Nicosia's numbers, are not impersonation cases. They are --

they range from, a student copying over the shoulder from their neighbor, to other cheating cases that don't go to the standard of breaking the law.

So, when we believe a law has been broken, we do notify law enforcement.

The significant number of these cases are not in that category.

So, I understand.

SENATOR LAVALLE: Yep, the standard is significant evidence, in Section 344-B.

THOMAS RUDIN: Correct.

SENATOR LAVALLE: And in our legislation, we've carried the same.

And in the legislation, we've clarified, so that you -- you should have a clear road map, as to what you should be doing, and when you should be doing that.

I just want to introduce new members that have come, before Senator Stavisky: Senator Rivera, Senator Maziarz, Senator Carlucci, and Senator Griffo.

I just want to make a comment, that, having this many members at a hearing is -- shows the importance.

If you saw the Higher Ed meeting, we had

almost 100 percent attendance at that Committee meeting.

So, it shows you that the commitment of the Committee, and the severity of this issue.

So, Senator Stavisky.

SENATOR STAVISKY: Yes, I -- when you testified that you're not a law-enforcement agency, we just looked at each other.

THOMAS RUDIN: I saw your body language.

SENATOR STAVISKY: Yeah, exactly.

We were sort of surprised to hear that, because I assume you have security people, or people with a law-enforcement background, in your office?

RAYMOND NICOSIA: We work with our legal department.

And my office is called "The Office of Testing Integrity." And, so, we do confer with our legal office. I report to the general counsel.

SENATOR STAVISKY: But, you don't have a law-enforcement background?

RAYMOND NICOSIA: I personally do not have a law-enforcement background.

SENATOR STAVISKY: But --

SENATOR LAVALLE: "Do"?

SENATOR STAVISKY: "Do not."

RAYMOND NICOSIA: Do not, sir.

SENATOR STAVISKY: You indicated, Mr. Rudin, that -- in your testimony, that you didn't get a warm reception -- that was the phrase that I wrote down -- from the law enforcement officials when you reported evidence of cheating, presumably.

Could you explain what you meant by that?

THOMAS RUDIN: I don't believe I said that.

SENATOR STAVISKY: I think -- you didn't say --

RAYMOND NICOSIA: I said that.

SENATOR STAVISKY: Oh, you --

I'm sorry.

RAYMOND NICOSIA: No problem.

In the particular case here in New York, we did place phone calls to the two counties in question.

We did list the evidence, as we knew it.

We asked that, if there was interest.

And we were told, they would get back to us if they were interested.

SENATOR STAVISKY: District attorney, or the police?

RAYMOND NICOSIA: No, this was the local

police.

SENATOR STAVISKY: The local police?

RAYMOND NICOSIA: Yes.

SENATOR STAVISKY: Not the DA's office?

RAYMOND NICOSIA: No, ma'am.

SENATOR STAVISKY: A couple of other questions.

In your testimony -- whoops.

In your testimony, you stated that you're now going to have -- this college will -- the College Board will be required to designate that school as part of the SAT registration process.

Does that mean, that if there are any of these "track one" and "track two" exams that are questioned, that they are going be reported to the schools?

KATHRYN JURIC: Hi.

Yes, the process change that we'd be making, this enhancement, would be, that during the registration process, students will be required to enter their high school.

And that means that, following their scores, and additional correspondence and information, would be sent to their schools.

SENATOR STAVISKY: In other words: The fact

that the score was canceled, will -- the school will be notified?

KATHRYN JURIC: Yes.

SENATOR STAVISKY: What about the colleges to which they applied?

KATHRYN JURIC: That is the current process; that the colleges to which they applied are notified.

RAYMOND NICOSIA: If -- let me just jump in here.

Based on -- overwhelmingly, most of the scores are not reported per se. We put them on hold.

If it's a test-day infraction, the score is put on hold. It's never released to the attending high school or the college.

Nor -- so, you know -- so -- and if it's a post-test analysis, we put the score on hold right away, if it's "a large" or "difference" trigger.

So, those scores are never, technically, sent out anywhere. We investigate.

If we canceled the score, it is taken off the record. It is acted like it did not take place.

SENATOR STAVISKY: And then the student can, for the next time the test is given, take it again?

RAYMOND NICOSIA: Yes, they can.

SENATOR STAVISKY: So there's really no -- no oversight here.

One other -- one last question.

You talked about track one and track two of the questionable scores.

The -- I don't know if I got the numbers right; but, basically, it was about 6,300 cases, and 2,500 cancellations.

And, 3,000 questioned on the second track, and 935 canceled.

How -- and I gather, none of them were impersonation cases?

RAYMOND NICOSIA: No.

We, uhm -- out of the first track, about -- out of those 2,533 scores that were canceled, about 700 of those were people turned away at the door, at the test center, for questionable ID.

SENATOR STAVISKY: But there's no further follow up; they just aren't able to continue to do that someplace else?

RAYMOND NICOSIA: That is our process today.

We turn them away, and their scores are -- there's no score for them that day.

SENATOR STAVISKY: Now, at the Farmingdale

hearing, I asked the extent of the impersonation problem, and, I really didn't get a concrete answer.

Can you tell me how many cases there are of students paying somebody to go take the test for them?

RAYMOND NICOSIA: I cannot answer that. I don't know.

I -- the -- what happened in Long Island, they -- large sum of money, the confessions, that is an aberration, uhm, to get that much information.

That's not our normal flow for information that we receive.

Our normal flow of information is, that we trigger an investigation, from such things as a large score difference. We do an investigation in my office. We look at the handwriting differences.

And if we have inconsistent handwriting, we then question the score. The student has rights about taking retests, and such.

But, to give you at least a number: Out of those 935 cases that we canceled, 138 of those were for impersonation.

Now, I don't know if money changed hands. All we have, our evidence to question the test score: large score difference, handwriting

difference, we questioned, and those scores were eventually canceled.

SENATOR STAVISKY: But there was no follow up in any way, as far as the student was concerned?

RAYMOND NICOSIA: The school --

SENATOR STAVISKY: Not referred to any law enforcement?

RAYMOND NICOSIA: No. The school would just cancel the score.

SENATOR STAVISKY: In other words: Have you ever reported impersonation cases, such as what occurred in Nassau County, to the law-enforcement agencies?

RAYMOND NICOSIA: From the SAT, no.

This was -- it was an aberration.

SENATOR STAVISKY: This is the first time?

It's never occurred? It never happened before?

RAYMOND NICOSIA: For the SAT, yes.

SENATOR STAVISKY: For the SAT, nobody has ever paid somebody, in the past, to go take a test?

RAYMOND NICOSIA: I -- I'm not saying that's -- that no one's ever been paid.

I'm saying, we don't have the information, like what took place in Long Island, with the

signed -- with the confessions.

That is not information we normally obtain.

SENATOR LAVALLE: Mr. Nicosia, one of the things that has come out of all of this, I meet more people on the streets here in Albany, say -- they chuckle first, as I just did.

SENATOR STAVISKY: Yeah.

SENATOR LAVALLE: And then they say: You know, this has been going on forever!

And it's not a Nassau County problem. It's not a New York State problem.

It's a national problem.

And we can't put our heads in the sand, and say: You know, this is not going on.

I think Senator Zeldin zealously pursued questioning from Farmingdale, because, in the interim, people have been saying to us: You know this kind of -- these things have been going on.

And you're -- as an agency, just very nonchalant-like, Well, you know, we got a couple of people here, we got a couple of people there.

It's not so.

KATHRYN JURIC: If I -- can I make a couple of comments?

SENATOR LAVALLE: Uhm -- okay.

Are you finished?

SENATOR STAVISKY: Yes.

SENATOR LAVALLE: Senator Griffo?

SENATOR GRIFFO: Yes.

We all know that times change, society evolves, problems are unique to each period.

Would you say, historically -- just from what I'm hearing right now, that, historically, you've had problems?

THOMAS RUDIN: Is this over -- cheating problems?

RAYMOND NICOSIA: Yes.

Consistently, over our years, yes, there are people who will copy on the test, people who will have impersonators.

SENATOR GRIFFO: Now, do you believe they're more severe --

SENATOR LAVALLE: Today.

SENATOR GRIFFO: -- the problems, and the issues that we're talking about, raising today, that the problems of cheating is more severe today, and there are newer ways that they're attempting to cheat?

Do you acknowledge that that's the case?

RAYMOND NICOSIA: Yes, Senator. Obviously,

things, such as cell phones, make our life more challenging.

SENATOR GRIFFO: So, do you believe now, that you possess the responsibilities, and are taking the necessary actions to reflect those new challenges?

RAYMOND NICOSIA: Yes, we've consistently enhanced our security procedures year to year. We're always upgrading some steps.

Obviously, now, working with the Freeh Group, we've had some excellent discussions.

And, we're looking forward to some more enhancements in the future.

KATHRYN JURIC: If I could add: Yes, we are working on a comprehensive solution with the Freeh Group.

And our plan is, to implement the solution by the 2012-2013 testing year; and, a comprehensive solution that would specifically deal with addressing the impersonation challenge that we have.

SENATOR GRIFFO: So that's one element.

I mean, are you prepared to elaborate on some of the things that you actually are going to do?

Because, it appears that you're inadequate to reflect the new demands and challenges that you face, as society has changed, when you look at the

use of the new technology that's available.

Can you elaborate with what you're looking to do?

KATHRYN JURIC: In terms of the work that we're doing with the Freeh Group, we are evaluating the variety of options. We believe we're close to designing a solution.

But we're -- we're -- it would be premature for us to share that information, until we have fully worked through the legal and the operational implications. These are complicated matters.

And, so, we want to share, that we are very committed to this, and we are close to designing a solution.

SENATOR GRIFFO: Are you prepared to live and accept new regulations that may exist in New York State, as a result of what has taken place, and what we believe has been a failure to address some of the concerns and issues that have arisen?

THOMAS RUDIN: Senator, I'm going to -- regarding your question about new technology presenting new challenges, yes, we do need to keep up with that. You're exactly right.

We do believe that we will never totally eliminate cheating from the SAT 100 percent of time.

We do believe we're approaching a solution in which we can eradicate impersonation cases.

And when that information comes up, we'll share it with the Committee in a confidential report, immediately. But, we actually believe we're on the track to eradicating that particular kind of cheating, as we saw most recently.

SENATOR GRIFFO: Thank you, Mr. Chairman.

SENATOR LAVALLE: Mr. Nicosia, have you ever had staff that has brought the seriousness of what is going on, in terms of cheating, impersonation, the scope of this problem, to the attention -- to your attentions, or predecessor, or supervisor in your unit?

RAYMOND NICOSIA: We get impersonation cases regularly after each administration, but, we've had nothing like this case here in Long Island.

As I said, this is a total aberration to have something like this.

The normal impersonation cases, we don't -- there was no interview of students.

This information came to us, as you know, from the principal, which is one of our triggers. The principal filed, what we call "an external inquiry."

We did the analysis we could do in our office, and we canceled scores, and gave students options afterwards, after the principal gave us the external inquiry.

But, Senator, we've never had a case like this, with the sums of money changing hands.

SENATOR LAVALLE: No, but, staff -- your staff in your unit, have they brought to your attention that this may have been going on at a grander level than you were aware of?

No staffers --

RAYMOND NICOSIA: I mean, we always discuss what we see.

If we see large number of impersonations, for instance, at the one test center, what we try and do is, we might visit that center, and say: Are you checking IDs properly?

This is a study that we will then do.

So, we try to monitor all of our test centers for, uhm -- when they have a certain number of violations, we address it. We go out to the test center and see what the problem is.

But we have -- no one's ever brought anything to me like this --

SENATOR LAVALLE: I ask that you that

question because, the next person to testify, is Mr. Maiselson.

And -- so, he worked for Prometric. An employee of Prometric.

RAYMOND NICOSIA: Yes.

SENATOR LAVALLE: And, uhm, I don't know what he's going to testify, but I --

RAYMOND NICOSIA: As I said, we were focusing here on the SAT.

We have had group investigations, impersonation rings, with our graduate-level tests, which I've taken to law enforcement, and there have been convictions on that track.

SENATOR LAVALLE: You have, after that, made significant changes to the GRE, LSAT --

RAYMOND NICOSIA: Well, we --

SENATOR LAVALLE: -- in terms of dealing with cheating issues?

RAYMOND NICOSIA: Yes. It's a different tool.

We administer the TOFL and the GRE in a computer-based setting, which is entirely different model than paper-based setting.

So, there's different things we could do.

Those are brick-and-mortar test centers, open

seven days a week, so we have different security procedures we follow there.

SENATOR LAVALLE: Are you involved in the LSAT?

RAYMOND NICOSIA: No, sir.

SENATOR LAVALLE: Okay.

Mr. Rudin, if you could give to the Committee, by the end of the week, your written input on the legislation, we would appreciate it.

THOMAS RUDIN: Yes, sir. Happy to do so.

SENATOR LAVALLE: Okay, thank you.

Thank you very much.

Next person to testify, is Steven Maiselson, former Prometric employee, which is a subsidiary of ETS.

STEVEN MAISELSON: Good afternoon, Senator.

SENATOR LAVALLE: Mr. Maiselson, welcome.

STEVEN MAISELSON: Thank you.

SENATOR LAVALLE: The floor is yours.

STEVEN MAISELSON: Well you've all read my testimony and my statement, and others that --

SENATOR LAVALLE: Can you speak up nice and loudly so people can hear you.

STEVEN MAISELSON: You've all read my testimony and my statement, and I'm sure everyone

had a chance to review it. If not, maybe at another point.

Just to kind of summarize what's happened up to this point, and what the people who were just up here with ETS and the College Board has said: I think that they're on the right track right now, as far as what they're looking to accomplish with what's going on out there in the test-security marketplace, and the situation that's happening out there.

I also think that what you're doing, legislatively, is a lot of the right moves.

And like I said my in statement, what many of the DAs are doing across the state, and also across the country, what the examples that you're going to send, are going to make an impact on what happens, and what these companies decide.

SENATOR LAVALLE: When you left Prometric, did you sign some sort of non-disclosure agreement?

STEVEN MAISELSON: I did, yes. Absolutely.

SENATOR LAVALLE: You did?

STEVEN MAISELSON: Oh, of course.

SENATOR LAVALLE: Yeah, okay.

STEVEN MAISELSON: Everybody signs one there, sure.

SENATOR LAVALLE: So, based on that, uhm -- I mean, I didn't see anything here in your testimony, either in letter dated January the 19th --

STEVEN MAISELSON: Right.

SENATOR LAVALLE: -- or the information attached, beginning in July 6, 2011.

STEVEN MAISELSON: Right.

Those are -- all of those attachments that I sent you, really, just information for yourselves.

That article on the 6th really addresses some of the security interests that McGraw Hill is looking to focus on. And they were talking about how they were going to put out white paper and policy information.

I think that might be good information for this group, and maybe also for the other people that are involved with this at this time.

SENATOR LAVALLE: I had the feeling, but not directly, that you felt that people were not paying attention to some of the loopholes that were going on out in the highways and byways of test taking.

Is that a good observation?

STEVEN MAISELSON: I think that, when you look at the test-taking environment, and you look at, not just the SAT or the ACT or any of these

graduate-level exams, no matter where it is, that many of these testing companies are up against a really huge multi-headed monster, that's, um --

SENATOR LAVALLE: Describe the "multi-headed monster."

STEVEN MAISELSON: It's the testing network out there, that's looking to take that information out, and give it out.

You know what I mean?

In the sense of --

SENATOR LAVALLE: No, I don't.

STEVEN MAISELSON: In the sense of, you know, people who come in and do brain-dumping, or brain-loading.

In other words: I'll go in, I'll learn everything about the test, and then I'll just go and put it out there.

And, that, of course, is a known thing. It happens all the time. It's very difficult to catch. It's very difficult to know who's doing that.

You know what I'm saying?

And an impersonation thing, you know, is something that is very rare, that I've seen. It's not something that happens a lot.

SENATOR LAVALLE: And how do you base that?

What kind of observation?

STEVEN MAISELSON: Well, just through the years of doing administration, 90 percent of -- 99 percent of people that come in are legitimately coming in to take a test for that reason, and they are that person.

SENATOR LAVALLE: Okay.

STEVEN MAISELSON: And, there are occasions, where, you know, someone who is trying to skirt the system, or is part of this huge network, that these companies aren't aware of.

I mean, they're aware of it, but they don't know who those people are.

And it's -- it's like a terrorist organization that's out there; and you don't know where they're coming from, and you don't know who they are.

And, you don't know when they come in to take your test.

You can change the test over time, multiple times, but, the first day of the test, someone's going to walk in the door, and get the answers to the question of, 2 plus 2, and by the way, the answer is 4.

And, they're going to go take that back, and

they're going to put it on-line, and they're going to get paid for that.

And many administrators would never be able to know who those people are.

And a lot of the things that happen in --

SENATOR LAVALLE: Are you talking about the coaching schools having people there so that they know what the test questions are?

STEVEN MAISELSON: I'm saying, that there's a huge organization out there that just goes out, and does nothing.

SENATOR LAVALLE: Well, can you -- I mean, we're novices, so we don't know, when you say "organization" --

STEVEN MAISELSON: "Organization" meaning, like organized crime, like companies, like individuals, that none of us know about --

SENATOR LAVALLE: Okay.

STEVEN MAISELSON: -- that I'm not privy to, and I'm sure that many of these companies aren't privy to as well, because, who knows who they are.

SENATOR LAVALLE: So, we have amorphous organizations out there --

STEVEN MAISELSON: Sure.

SENATOR LAVALLE: -- that are planting people

in there, to take the test --

STEVEN MAISELSON: Absolutely.

SENATOR LAVALLE: -- bring back, 2 plus 2 is 4.

STEVEN MAISELSON: Whatever the question is --

SENATOR LAVALLE: Whatever -- right, right.

STEVEN MAISELSON: Right.

SENATOR LAVALLE: Okay.

STEVEN MAISELSON: So to say, I --

SENATOR LAVALLE: This has been going on for a while; right?

STEVEN MAISELSON: Ever since tests began, I imagine.

SENATOR LAVALLE: Okay, right.

So, if someone knows that there is something out there, wouldn't you begin to put up a defense to -- to that?

STEVEN MAISELSON: Well, I mean, these companies have to do a lot of defense.

There's cyber technology that's coming in, to try and take those exams. There's people who come into their testing centers.

You know, when you talk about the SAT or the ACT, who are we looking at?

We're looking at administrators that are teachers, and those teachers are there for a couple of reasons.

One: They know those people every day.

If you hand me your ID, and I know that you're in, you know, somebody's class, and I know you, I see you in the hallway, I know who you are.

So, that's an advantage for the company to have you there; so, you know who the people are that are taking the test so that impersonation could be reduced.

But, there's lots of other, you know, things that they could do to make sure that they know exactly who those people are before they sit down and take the test.

SENATOR LAVALLE: I think we know that that's been going on for a while, but they're doing that so that they can do test prepping, is my guess.

STEVEN MAISELSON: I imagine so.

SENATOR LAVALLE: And -- but, here, we're talking about you taking the test for me --

STEVEN MAISELSON: Correct.

SENATOR LAVALLE: -- so that I can have a higher score.

Do you believe that that kind of thing has

been going on for a while?

STEVEN MAISELSON: Well, I don't see why someone wouldn't want to try to impersonate somebody else in order to take a test for financial gain, and then give that information to a company who would then put those questions out there.

It would probably be a better idea to be somebody else when I took that test, except myself.

SENATOR LAVALLE: Okay.

Senator, Stavisky --

SENATOR STAVISKY: No, I have no questions.

SENATOR LAVALLE: -- Rivera?

No?

Okay, thank you. Appreciate it.

STEVEN MAISELSON: Sure.

SENATOR LAVALLE: Dr. Hayward.

James Hayward?

Jim Hayward is -- Dr. Hayward is chairman, president, and CEO of Applied DNA Sciences.

Are we having a PowerPoint --

DR. JAMES HAYWARD: Yes.

SENATOR LAVALLE: -- presentation?

Okay.

Now, the -- starting off with Dr. Hayward;

And the next two individuals, they are going

to testify on how we can get into the twenty-first century, in terms of, secured administration, or having people on a card who is that person.

Dr. Hayward.

DR. JAMES HAYWARD: Great.

Well, thank you very much, Chairman LaValle, and members of the Higher Education Committee, for providing me with the opportunity to testify today.

First, and foremost, I'd like to commend the Chairman for taking the leadership role in regard to this critical issue.

I'm honored to be here today, to share what I believe is a viable solution that will secure the SAT and standardized testing processes.

I'm president and CEO of Applied DNA Sciences, "APDN," a public biotech company located in the Long Island high-technology incubator on the campus of Stony Brook.

I should point out, our company uses, from the very beginning, botanical, plant-derived DNA; that, none of our DNA is of human origin.

As a consequence, no privacy is sacrificed for any test taker.

We use botanical DNA as a marker, to aid

law enforcement, to prevent counterfeiting, and as a way to authenticate originality, identity, and provenance.

I've supplied detailed information to you about Applied DNA Sciences that can be found in my submitted testimony that you'll be given, if you don't have it already.

In respect to my allotted time, I will carefully contain my oral comments. Additional detail can be found in those documents.

[Slide being shown.]

As a biotechnology company, we are quite unusual, in that, the outlet for our sciences is entirely within the security industry.

We're an 8-year-old Long Island company, originally attracted to Stony Brook University from California by the strength of the Center for Excellence in Wireless and Information Technology; "CEWIT."

Developing a DNA-based security company on Long Island makes perfect, and imminent sense, in view of the longstanding heritage of Cold Spring Harbor in the west, the University of Stony Brook in the middle, and Brookhaven National Laboratory.

We have a card, are well-known the globe over, for DNA excellence. And it's a great, great hiring pool.

[New slide being shown.]

We are, and consider ourselves, a serious player for what you on the Committee clearly regard as a serious problem.

We established ourselves as a formidable high-tech foe of crime; first in Europe, and then in the U.K.

In that marketplace, we have a 35 percent market share protecting the movement of cash between institutions every day.

The electronic containers used to transport the cash contain individualized, again, botanically derived DNA.

So, we take the DNA from a plant, the whole genome, and make a mark, and they're in those containers that are used to carry cash. And, they're discharged, our DNA mark, in the event of theft, and they decorate the cash, 100 percent of the cash, in the box.

As you know, in the U.K., they don't believe in guards carrying weapons, so these crimes take place at a very high rate. About 20 fold the rate

in the United States.

The DNA decorates the cash with a unique marker. It's a unique DNA marker to every ATM and to every cash box that we mark, so that the police can rapidly screen the mark, and then identify any cash to a specific crime.

So, it allows you to trace the cash to the crime.

To date, we have 85 cases with Scotland Yard, 28 of which have gone to trial. And we've achieved, for the first time in the industry, a remarkable, 100 percent conviction rate in every single case, and it's yielded some of the longest sentences ever handed down.

Just last week, we announced the successful conviction of a drug gang operating throughout Europe, convicted, using our DNA evidence.

In the United States, we've been contracted by the Department of Defense to pilot a program that will eliminate the entry of counterfeit microchips and electronics into the military supply chain, a problem that puts our war fighters at serious risk.

This is our second contract from DOD, from DLA specifically, which is the largest purchasing consortium in the world, and it's about to go full

scale in an off-shore facility with one of America's best known microchip manufacturers.

Our DNA-marking system allows the authentication of general -- genuine parts at any point in the supply chain.

On Long Island, our smart DNA crime prevention units, in our first banks, were just installed.

And, we're preparing to protect our first pharmacies against the scourge of pain-killer robberies.

We've won multiple awards from law enforcement, including the highest award from the Houses of Parliament only last December, and been told by some police officers that the initials "DNA" are now interpreted by criminals as "Do Not Attempt."

We utilize botanical DNA as a safe, high-resolution, high-content identifier. Over forty of our patents ensure our DNA marks cannot be copied.

That's a critical aspect.

Our marks cannot be copied, and that's been proven by multiple government agencies.

They're highly table, they resist removal,

and fulfill the requirements for forensic certainty.

Our experience, is that the popular awareness of the robustness and reliability of DNA serve as a powerful deterrent.

In fact, crime rates have diminished within 12 months in each of our deployments.

In London, for example, after one year of use, cash crimes were down 55 percent; and cash losses, 77 percent. That's over a 40 million loss -- $40 million loss, originally, by our same customers.

Our customers enjoyed over a 100-fold return within only 12 months.

[New slide being shown.]

So, when it comes to improving exam security, we've targeted the credentials, and the challenge is, that the actual eligible registered participants complete the registration.

Our goal is to maintain a level playing field for all participants using our botanical DNA as a solution, and the solution is simple: it's enhanced pre-registration, identity verification before and after exams, and the ease of mobile computing through our product, digital DNA.

[New slide being shown.]

Our digital marks represent the interface between biotechnology, mobile communications, and the security of a private "cloud."

This technology is designed to provide identity authentication and location throughout any supply chain, including the supply chain of the SATs.

Our marks have already been deployed by the federal government -- the three-letter agencies -- to provide the highest security identity systems available.

We are fully prepared to help the Higher Education Committee in New York State eliminate any uncertainty or impersonation in current SAT testing practices.

[New slide being shown.]

So, this begins with an enhanced SAT pre-registration.

Each student must register at their home school, and there is no reason why that can't be done, and present legally binding identity-proving documents.

No student ID, no letters from guidance counselors or parents; only, birth certificates, driver license, passports, or military documents.

A student's photograph is taken, as shown in this slide, and it's uploaded to a private secure "cloud," and associated with a unique digital DNA code, which is eventually printed on the student documents.

That code can be read by a mobile phone; by any mobile phone.

[New slide being shown.]

An SAT digital ID card is produced in a secured central location, and then mailed to the student's school.

A unique DNA sequence -- again, not a human sequence, but a botanical sequence -- is included in the ink used to print a student-unique digital DNA code.

So, the code that's shown on each of the ID cards is unique to that particular student, and cannot be copied even with the photo copier, because that code is impregnated with the DNA marker which itself cannot be copied.

So, that mark is elevated to a forensic level.

The digital DNA code, the sequence of the DNA, the student photo, the student address, the school, and serialized Health in America are all

associated with each card.

Additional rapid reading, covert, which I'd rather not describe, field identification marks are associated with the card.

So, for example: A proctor roaming the hall would have the ability to authenticate the card in the way that the student won't know about.

[New slide being shown.]

On test day, the student presents the digital SAT entry ID card, as shown above.

The digital code is scanned by any smartphone. And, we also have smartphones that are capable of scanning hundreds of cards in a few seconds. They scan at the rate of one per millisecond using an infrared reader.

Each time a card is scanned, the digital code is brought down from the "cloud," the identity is retrieved and portrayed on the iPhone, or, smartphone.

So, identity is achieved in front of the proctor three ways: It's on the student's card, whose photo matches the student; and it's on the proctor's smartphone, whose photo matches, both, the student and the ID card.

[New slide being shown.]

Some of the additional protection on the card consists of covert markers. We have covert markers that are optical, ultraviolet, infrared, physical, and chemical. And all of those can also be read by hand-held devices in the corridor, or, anywhere.

Now, when it's read, analytics are reported in real time through Google Maps, and the agency controlling the web portal -- whether it's the school, where it's the Higher Education Committee, whether it's the College Board -- would have access to real-time data as to where that student is at the moment that their card were read; or, whether or not that student is roaming, and could possibly be an impersonator. But, as they roam, each of their locations would be noted forensically.

[New slide being shown.]

And then, finally, as perhaps the highest level of authentication available, is the forensic DNA element.

While the roaming proctors can amplify any student's ID with the UV light, the identity can be authenticated anytime with a smartphone.

In the event of a suspected impersonation or a falsified card, this slide shows the forensic sampling, as a CSI would do, with a simple swab,

that removes using a special approach, the DNA that's been embedded in various locations in that card.

That would ascertain the identity of that card, without doubt, in court. An expert witness report would be produced by the forensic scientist that applied DNA, and provided to a prosecutor.

[New slide being shown.]

Secure checkout: The student's identity is once again verified at the conclusion of the test.

And I should say, that you could also print the digital DNA code on the test itself, to match it to the card.

But, under the circumstances, we think the system is tight enough that you may not have to do that.

And, both, time and location are recorded on the SAT portal in real-time.

Now, these very brief videos portray, in sequence, so that you can see exactly how it would work.

Pre-registration: It's a very smooth process, done simply.

The data are uploaded to the "cloud." The data from the cloud is used to print, in a

centralized location, the information for the card, and the card is shipped back to the school; picked up by the student.

[Videos being shown.]

SENATOR LAVALLE: I think we, uhm -- I think we get the, uhm --

DR. JAMES HAYWARD: Sure, you get the point.

SENATOR LAVALLE: How much does this cost?

DR. JAMES HAYWARD: Well, the DNA required to embed the card is infinitesimally small.

Our analytical methods allow us to detect, literally, as little as a single card.

So, the DNA required, per card, is really pennies, or less.

SENATOR LAVALLE: But there's a -- so, if someone came to you and said, "We have a million students in a year, in New York, and we want to put this methodology into use," what would be the cost to College Board?

DR. JAMES HAYWARD: I'll tell you the variables, and then tell you what I think it would actually cost.

The variables would be:

How many locations we would have to originate the students, upload the data from.

You have to have a server at each location. Chances are, the schools already have those;

You'd have to have a camera capable of taking their photograph. Chances are, the schools already have those.

When it comes to authentication, we have two tools:

We have the hand-held rapid-reading tool. And it's a little hard for us, given the data that we have heard, to estimate the numbers of those tools. They cost a couple of hundred dollars each.

The DNA-based authentication, which produces court-valid data, runs on the order of four to five hundred dollars.

But, the number of those authentications required would be limited by only those cases in which there is now, because you have selection processes, based on rapid screenings, when you arrive at serious doubt that there is a crime that's been produced, the number of those events, as we'd even heard from ETS and the College Board, relative to the total number of students taking the test, is quite small.

So, the cost of authentication could actually be dialed in to whatever budget the College Board

wants to work with.

And, you know, could easily be under a dollar a card.

SENATOR LAVALLE: $100 a card.

DR. JAMES HAYWARD: Under a dollar a card.

SENATOR STAVISKY: A dollar -- one dollar.

SENATOR LAVALLE: Under a dollar.

Okay.

Okay.

SENATOR STAVISKY: I have two really quick --

DR. JAMES HAYWARD: Sure.

SENATOR STAVISKY: -- two really quick questions.

Number one: Have you approached College Board with this technology?

DR. JAMES HAYWARD: We have not.

Our platform has been used by the federal government, by the highest secure facilities, that we can't talk about.

And, as we became aware -- we were unaware of the SAT issue -- we rapidly developed the system that we think would work quite well, would be quite readily managed, and could be rapidly deployed.

SENATOR STAVISKY: And my last question was presented by my Senate fellow, Vincent Stark, and he

has a very interesting question: What do you do in the case of twins?

DR. JAMES HAYWARD: I use -- since -- remember, there is no human DNA involved --

SENATOR STAVISKY: So there's no human DNA --

DR. JAMES HAYWARD: -- at all.

SENATOR STAVISKY: -- in the photographs, presumably, might be a question?

DR. JAMES HAYWARD: Yes, but they would also be given different codes.

SENATOR STAVISKY: DNA. Yeah, okay.

DR. JAMES HAYWARD: Their codes would be distinct --

SENATOR STAVISKY: You've answered my question.

DR. JAMES HAYWARD: -- and their markers would be distinct.

We'd have no trouble.

SENATOR STAVISKY: No trouble.

SENATOR LAVALLE: Yeah.

SENATOR STAVISKY: Thank you.

SENATOR LAVALLE: I'm just going to give you, for your own, if you could jot these numbers down, and we could talk about it at some other time.

And, this is for the other two groups that

are going to testify.

There are 170,000 students who took the SAT in New York in 2011. It's given 8 times a year, at 138 locations.

SENATOR STAVISKY: That's just New York. They would do --

SENATOR LAVALLE: That's just New York.

SENATOR STAVISKY: -- and they would do this -- presumably, they would do this nationally.

I think Mr. Elmsdorf, from the College Board, testified, there were 2 million people, nationally, last year, who took the College Board.

MALE UNIDENTIFIED SPEAKER: Is that, 170,000 each time, or is that total?

[Inaudible] eight times a year.

SENATOR LAVALLE: Is that total?

FEMALE UNIDENTIFIED SPEAKER: [Inaudible].

SENATOR LAVALLE: That was total.

MALE UNIDENTIFIED SPEAKER: Total, eight times a year?

SENATOR LAVALLE: Total.

DR. JAMES HAYWARD: Yes, I should point out the scalability of our process.

That, we have marked over a billion items to date.

That, in our defense relationship, we are working a microchip annual turnover of some 300 billion chips, with another 100 billion counterfeit chips.

The system is extremely scalable.

What we would like to propose to the Committee, as well as, perhaps to the College Board, is a pilot program, which could be placed underway quite rapidly, perhaps at one or two schools, in the very near term, under very affordable circumstances, and demonstrate the complete utility of the method, with little delay.

SENATOR LAVALLE: Okay, just in closing, and, this is not only for you, Dr. Hayward, but for the other members, as I had said, my opening remarks, you and the other two individuals came forward as citizens, to say: Hey, we have something that might work.

From this point forward, the Committee has no jurisdiction. It is, either, College Board that would entertain calling any one of the three of you, or whoever else is out there.

We're just, kind of, a facilitator.

And as I said, we didn't need to hire anyone to have people come forward and give us good solid

ideas.

Thank you for your testimony.

DR. JAMES HAYWARD: You're very welcome.

SENATOR STAVISKY: Thank you.

SENATOR LAVALLE: David Wicker, vice president of research and development, DSS - Security Wise.

David, you will introduce your associate --

DAVID WICKER: Yes.

SENATOR LAVALLE: -- who I have met, but...

DAVID WICKER: Good afternoon, ladies and gentlemen of the Committee.

I have, uhm -- I'm David Wicker.

And this gentleman is Jody Sherman. He's the Document Security Systems' senior business development specialist.

SENATOR LAVALLE: Nice and loud so people can hear you in the back.

DAVID WICKER: Thank you for inviting me to speak on the policies and procedures of standardized tests.

My name is David Wicker, and I'm the vice president of research and development for Document Security Systems, a Rochester, New York-based technology company with over

100 employees.

Representing DSS, I also serve as a member and committee chairperson for the Document Security Alliance, an organization comprised of industry experts and government officials that make and guide recommendations on U.S. security documents.

I'm also an advisory board member of the Utica State College's Center for ID Management and Identity Protection Organization.

And, I teach periodic seminars on substrate security features at the Rochester Institute of Technology, and several federal agencies.

Now, as to why I'm here addressing standardized testing procedures, and possible cheating preventions that could be put into place, there are multiple points in the process where security can be added.

First: One first protection, in the standardized test booklets and the accompanying answer sheets, without compromising legibility to the test applicants or the answer-sheet scanning equipment, would be the addition of a technology that appears as a light-gray tint.

This tint has been certified by the Rochester Institute of Technology, to be used in

digital printing or office printing, as a test material that would create robust warning messages if the document was copied or stamped.

So, in other words: If someone was trying to bring a counterfeit or a duplicated document into the test site, just switch.

I've an example here.

SENATOR LAVALLE: Okay.

[Document handed to the Chairman.]

SENATOR LAVALLE: Thank you.

DAVID WICKER: So, that is a test for citizenship. And the inside sheet is a copy off a standard color copier.

[Document being reviewed by Committee members.]

DAVID WICKER: So, those warning messages would appear on the criminal's computer screen, or on the output of the copier scan, and stop them from duplicating the test or inserting other information.

SENATOR LAVALLE: The alleged criminal.

DAVID WICKER: Yes.

Okay.

We have many types of technology.

The technology that you see there, is used on documents that are in your back pocket today, and in

your vehicle. So, the information is quite robust, as far as imaging technology.

So, we talked about these tests being administered in world.

We operate in the world, in over 90 countries now, to protect government documents.

So, you're giving basic printing technology to the documents themselves.

Now, this would lead to the document that we talked about, that would be -- that would gather the student's signature at the home school.

So, we can put technology in that document, that can be verified at the test site.

I'm going to -- I'll give Jody another document, here.

So, this is an idea, example, of an image that was put in by a normal desktop printer, that can't be copied or scanned. It's an identifier that could be visualized at the test site by a simple hand-held lens.

[Document handed to the Chairman, and reviewed by Committee members.]

SENATOR STAVISKY: Well, I'll be darned.

[Discussion being held off the record between Committee members and Jody Sherman at the

Committee's table.]

DAVID WICKER: So, specific information about the student could be put in at the home school. It would not be known to the student. They couldn't decipher that image, until it was recognized or authenticated at the test by the proctor.

JODY SHERMAN: And all those lenses are different. So, you can't have one application, then pick this lens over, and use it.

SENATOR STAVISKY: And they can't replicate the lens?

JODY SHERMAN: Correct.

DAVID WICKER: What I described, there would be -- during the registration process, you'd be able to -- they'd be able to vet the information the student gave them, and put some of that information in the hidden image, to be verified by the proctor at the test site.

A step further could include a portable digital system that would integrate the identity of the student to the answer sheet.

Upon arriving at the test location, the student's registration form would have a bar code that would be scanned into the computer, to bring up the personal information.

The student would then be photographed on the site, and the student's photo would be printed alongside the bar code on their answer sheet.

The digital photo would be stored in the database with the student-identity information.

When the test has been scored, the results can be printed onto the secure paper, along with the student photo ID taken at the time of the exam.

The test results, sent to the school and parents, would show immediate evidence that someone else other than their child took the test.

The photo on the actual answer sheet would back up if there were databased error claims.

While I could go on further, my time is about up.

Exam security procedures could be explored much more thoroughly, to create custom, effective solutions.

SENATOR STAVISKY: Thank you.

Interesting.

And what would this cost?

DAVID WICKER: This is --

SENATOR LAVALLE: That's the bottom-line question.

SENATOR STAVISKY: Yeah.

DAVID WICKER: -- there's two ways to deliver it --

SENATOR STAVISKY: The State is not paying for it.

DAVID WICKER: Right. Right.

There's two ways to deliver it: Normal offset printing, or digitally.

It -- right now, the tests are printed with black ink on white paper.

We're utilizing that same process, so, we're talking pennies, to give currency-level technology.

SENATOR LAVALLE: Uh-huh.

DAVID WICKER: Currency level of counterfeit protection to the actual test documents.

SENATOR LAVALLE: Okay.

Citizens stepping forward, giving us ideas; and, hopefully, College Board ideas.

Thank you.

DAVID WICKER: Thank you.

SENATOR STAVISKY: Thank you.

SENATOR LAVALLE: Ray Philo is the director of research operations, Department of Economic Crime and Justice Studies at Utica College.

RAYMOND PHILO: Good afternoon.

I would like to read a short statement into

the record.

Chairman LaValle, and members of the Committee: Thank you for the opportunity to testify on the important issue of cheating on college-entrance exams.

We live in a very credentialed society, and these credentials indicate that a particular person is educated, trained, and competent within a certain discipline.

The consequences of cheating on competency exams, whether they be SAT exams, professional-licensing exams, or civil-service exams, has a detrimental effect on our society, our safety, and, ultimately, on this nation's ability to compete effectively in an ever-contentious and competitive global economy.

Cheating also violates those core values imparted to us by our parents, schools, and professional training, and provides an unfair advantage to the cheater, at the expense and detriment to the honest student test taker.

This Committee has heard, in previous testimony, on the very consequences of cheating; therefore, I will not take up your valuable time discussing these consequences further.

My time can best be used to address the issue of test-event security, and some mitigating strategies that should be considered to prevent further instances of cheating.

At Utica College, located in Upstate New York, we maintain a research center, referred to as "CIMIP"; the Center for Identity Management and Information Protection.

CIMIP performs cutting-edge research on a variety of identity management issues, ranging from, medical identity fraud, to sex-offender identity manipulation.

Our research indicates, for the most part, that in our very technologically advanced society, the bad guys are employing identity-manipulation techniques much faster than authorities are engaging in counterstrategies.

Identity manipulation can also employ low-technology techniques with surprising results.

A cursory review of the facts surrounding the cheating incidents that allegedly occurred in the Great Neck area indicates a system begging for security enhancements.

These security enhancements need not involve overly expensive technology or the creation of an

additional bureaucracy to enhance test-event security.

The critical issue in test-event security, is verifying that the test taker is actually the biological person who is authorized to take the exam.

As we have experienced, presenting identification is not enough to present [sic] unauthorized individuals from taking an exam.

We must adopt, what we refer to as, "a two-factor security protocol," that authenticates that the identity document presented actually is the person authorized to take the exam.

To put it simply: Identity without authentication lacks proof.

Identity authentication could be a relatively simple and inexpensive process, or it could be complex and very expensive, depending on the measures desired and employed.

For example: A relatively simple authentication of a person's identity could be a "challenge" question, where the -- where only the actual authorized person would know the answer without knowing the "challenge" question beforehand.

Biometrics could be utilized as a method of

authentication.

"Biometric" refers to the biological identifiers unique to only one person. These could include, a fingerprint, a retinal scan, facial-recognition technology, et cetera.

While this authentication procedure can be complex, it may be expensive.

They are currently used -- being used in both public and private sector, and, surely, will be playing a larger role in our lives in the future.

As a matter of fact, biometrics, in the form of a fingerprint, has been used in certain professional-licensing and civil-service exams for years.

One other area of test-event security that should be enhanced is staff security training.

We need to ensure that those who proctor exams have the proper training in recognizing and evaluating identification documents; and, subsequently, administering the authentication process.

Once again, this training not be -- need be overly expensive or time-consuming.

For example: The New York State Department of Motor Vehicle provides excellent training to law

enforcement, in the evaluation of identity documents to include drivers licenses.

DMV offers this training through their office of field investigations, and can be easily adapted to examination proctors.

I would be remiss if I did not address the issue of deterrents as a mitigating factor against cheating on certain exams.

By "deterrents," I refer to the evaluation of existing statutes and the criminality of cheating on these exams.

As an individual who had a 30-year law-enforcement career prior to moving full-time into academics and research, I can testify as to the power of deterrents, not with everybody, but with most people.

It is time that we review our criminal statutes, as they apply to cheating and identity crimes, to evaluate if they are robust enough to deter this activity in the future.

And I do note, the proposed draft legislation.

In particular, we should consider whether the statutes of limitations on these types of crimes, which are generally misdemeanors, depending on the

fact pattern, are long enough to provide for an adequate prosecution once cheating is suspected and determined.

In conclusion: We, as a society, are obligated to adequately address the issue of cheating on certain competency exams before it becomes prolific, and undermines our economic and professional credibility worldwide.

As we continue to move at an even faster pace to an on-line testing world, we must be thought leaders and innovators in the area of test-event security.

Once again, I would like to thank this Committee for the -- their important work they're doing in this area, and for the opportunity to speak on this important issue.

I am not here to recommend any particular type of technology or protocol; just to let the Committee know, based on my work, that those protocols and that -- those technologies, either low-tech or high-tech, do exist. And I believe, even considering the numbers of test takers, that they're adequate for the volume.

SENATOR LAVALLE: Senator Griffo had asked before -- in you -- first page, you talk about, cheating violates core values.

His question was: Are things worse today in cheating?

Are those core values just disintegrated, or, is always been about the same level?

RAYMOND PHILO: Well, I think it always existed, Senator.

However, technology, as indicated by previous testimony, really has leveraged core values, and challenged the core values, because we've made it -- the technology has made it a lot easier to cheat and engage in criminality, generally.

So opportunity -- I guess the answer to the question: The opportunity is there, much more than I believe.

SENATOR LAVALLE: You talked about proctor training.

College Board said they're enhancing that, so that fits in.

Let me ask you: You spent some time, a full paragraph, on deterrence.

RAYMOND PHILO: Yes.

SENATOR LAVALLE: Is our legislation strong

enough?

The Committee went through a very lengthy discussion/debate on -- on what they thought was appropriate, for those under 21, those over 21.

And I think the legislation is reflective of that.

In your own professional judgment, do you think that what we have in our draft bill is strong enough -- a strong enough deterrent?

RAYMOND PHILO: I do, and I'll tell you why.

First of all, I base my opinion, not only as an academic, a person who -- we're dealing with identity issues all the time, especially in on-line learning, but also as a career law-enforcement officer.

I was very pleased to have the opportunity this morning to review the draft legislation.

It was -- it's, uhm, I think robust enough, that it addresses the issues; especially the issues of the statute of limitations.

Statute of limitations, generally, on misdemeanors are two year. That may not be enough.

That's indicated by district attorney, also, of Nassau County.

Some of these crimes, these proposed

statutes, are felonies -- low-grade felonies, but, nonetheless, which increases the statute of limitations; allows for the law-enforcement authorities -- if there is an allegation, the law-enforcement prosecutorial authorities to deal with the alleged crime.

SENATOR LAVALLE: Yeah. Great.

I have no more questions.

Senator Stavisky?

Senator Griffo?

SENATOR GRIFFO: Yes, I just want to take the opportunity, uhm -- just want to take the opportunity, Ray, to thank you for being here.

RAYMOND PHILO: Thank you, Senator.

SENATOR GRIFFO: And, I call him "Chief Philo," because he was also the head of a law-enforcement department in New Hartford for a long time.

And, I think what you said today, though, the importance is, that we do have the means, we do have the technology. We just need to apply that, and that we can prevent what we're seeing.

Correct?

I mean, the incidents that we're seeing now, are preventable?

RAYMOND PHILO: Absolutely.

And I think what the previous two individuals that testified also, indicated that also.

The technology is here. It doesn't need to be overly expensive. It doesn't need to create an additional, large bureaucratic appendage to administer these technological methods.

I think we can get the job done very effectively, even considering the number of individuals that take the tests.

SENATOR GRIFFO: Utica College has a unique situation, because you do have the Department of Economic Crime and Justice Studies, which deals with a lot of issues, not only here in the state, but across the nation.

Do you believe, even though the College Board has primary responsibility, obviously, for the testing, do the universities all have a role to play in this too?

Because, obviously, they're impacted as a result of what takes place, and who may be admitted to schools.

So, what role does -- I mean, you're unique in what you can offer from this specific department.

Do you see a role for the universities, in

general, also to engage in this?

RAYMOND PHILO: Oh, I do.

And to a certain extent, the universities -- colleges and universities are going to be the victims of a cheating scandal, if you kind of look at it that way.

We're going be the ones, that we're going to have to deal with the -- well, quite frankly, the inferior student that comes on board, with false credentials.

So, yeah, we have a large role to play in the mitigation process.

Plus, the whole spectra of identity-management manipulation we're dealing with all the time. It's going to -- and it is a big issue now, because, as on-line teaching takes off, and very much has at most colleges and universities, we've got to, not only identify, but authenticate, the person on that computer a thousand miles away is the actual person taking the exam.

And, that's part of the accreditation process.

So, we're dealing with the same issues, at a different level, or a different scale, and maybe a different level of technology also.

But, basically we're all dealing with this issue of, identity, and authenticating, that the person who's taking a competency exam is the actual person authorized to do it.

SENATOR GRIFFO: I want to give a compliment to work that do you, and the college, and, I want to thank you for being here.

RAYMOND PHILO: Thank you, sir.

SENATOR GRIFFO: Mr. Chairman?

SENATOR STAVISKY: May I just ask -- may I add -- I'm sorry.

And may I add, I am sorry that the College Board and SAT folks left --

SENATOR LAVALLE: No, they're --

SENATOR STAVISKY: They're here?

Great.

Great, I am happy you're here.

That, here is an example of people coming forward to volunteer information.

And I hope that you take that to -- back with you. And I -- because I'm sure everybody wants to work together to resolve this issue.

MALE UNIDENTIFIED SPEAKER: Absolutely.

SENATOR STAVISKY: Thank you.

SENATOR LAVALLE: Okay, I think we had some

great testimony.

Being a former teacher, I am going to give a homework assignment for College Board: By the end of the week, we would like your reactions to the draft bill.

We are going to have a Committee meeting on February the 13th. And at that meeting, I would like the principals of both ETS and College Board to be at that Committee meeting -- it will be a full Committee meeting -- with the possibility of moving the bill out of Committee on the 13th of February.

I will be having conversations with my counterpart, Assemblymember Glick, who is the Chair in the Assembly Committee, to get her reactions, where they might be over in the Assembly.

And, so, we're not on a slow track; and we would like compliance, with the principals to be at that Committee meeting.

Thank you for all being here.

(Whereupon, at approximately 2:05 p.m., the public hearing, held before the New York State Senate Standing Committee on Higher Education, concluded.)

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