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

JOINT LEGISLATIVE HEARING

In the Matter of the
2022-2023 EXECUTIVE BUDGET ON
PUBLIC PROTECTION

Virtual Hearing
Held via Zoom

January 25, 2022
9:36 a.m.

PRESIDING:

Senator Liz Krueger
Chair, Senate Finance Committee

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

PRESENT:

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

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

Senator Brad Hoylman
Chair, Senate Committee on Judiciary

Assemblyman Charles D. Lavine
Chair, Assembly Committee on Judiciary

Senator Jamaal T. Bailey
Chair, Senate Committee on Codes

Assemblyman Jeffrey Dinowitz
Chair, Assembly Committee on Codes

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1-25-22

PRESENT: (Continued)

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

Assemblyman David I. Weprin
Chair, Assembly Committee on Correction

Assemblyman Kenneth P. Zebrowski
Chair, Assembly Committee on Governmental Operations

Senator Diane J. Savino
Chair, Senate Committee on Internet and Technology

Senator Gustavo Rivera

Assemblyman Harry B. Bronson

Senator Pete Harckham

Senator Andrew Gounardes

Assemblyman Erik M. Dilan

Assemblywoman Jenifer Rajkumar

Assemblyman Phil Steck

Senator Zellnor Myrie

Assemblywoman Dr. Anna R. Kelles

Senator James Tedisco

Assemblyman Robert C. Carroll

Assemblyman Joseph M. Giglio

Senator Luis R. Sepúlveda

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PRESENT: (Continued)

Senator Anna M. Kaplan

Assemblyman Thomas J. Abinanti

Assemblywoman Karen McMahon

Assemblyman Ron Kim

Assemblyman Philip A. Palmesano

Assemblywoman Catalina Cruz

Assemblyman Mike Lawler

Senator Kevin Thomas

Assemblyman Michael Tannousis

Assemblywoman Marcela Mitaynes

Assemblyman Harvey Epstein

Senator Anthony H. Palumbo

Assemblyman Michael Cusick

Senator George M. Borrello

Assemblywoman Rebecca Seawright

Assemblywoman Latoya Joyner

Assemblyman Michael Reilly

Assemblywoman Alicia Hyndman

Senator James Gaughran

Assemblyman William Colton

Assemblywoman Monica P. Wallace

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PRESENT: (Continued)

Senator Jeremy A. Cooney

Assemblywoman Marjorie Byrnes

Senator Sue Serino

Assemblyman Angelo J. Morinello

Senator Phil Boyle

Assemblywoman Latrice Walker

Assemblyman Chris Burdick

Assemblyman Mark Walczyk

Senator Patrick M. Gallivan

Assemblywoman Linda B. Rosenthal

Assemblyman Jeffrion L. Aubry

Assemblyman Kenny Burgos

Senator Fred Akshar

Assemblywoman Vivian E. Cook

Senator Peter Oberacker

Assemblyman John T. McDonald III

Assemblyman J. Gary pretlow

Senator Patty Ritchie

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CHAIRWOMAN KRUEGER: Good morning, everyone. Hi. I'm State Senator Liz Krueger, the chair of the Finance Committee in the Senate.

I'm joined by many legislators, but -- perhaps most importantly for budget hearings -- my colleague in the Assembly Helene Weinstein, the chair of the Assembly Ways and Means Committee, which means "Finance Committee" in Senate language.

We take turns in these budget hearings, and today's hearing is the first of 13 hearings, but that will be chaired by the Finance Committee.

I just want to quickly go over a couple of rules of the road for all the hearings.

First, if you're not speaking, please keep yourself on mute, because it's amazing how it can get so confusing if you go to answer a phone or somebody walks into the room.

Second, everyone will be getting -- excuse me, the government representatives

will be getting 10 minutes to testify and then the legislators will be able to ask questions. The chair of the committee also gets -- of the relevant committee gets 10 minutes to ask questions. All the other legislators get five minutes. And we go back and forth between Senate and Assembly until we complete that particular testifier's questions.

And this is a long hearing, for people who have followed Public Protection, so that will continue as a pattern throughout the day and I suspect evening. Hopefully just early evening.

Again, if you want to ask a question, please raise your hand with the hand button at the bottom of your screen, Assemblymembers and Senators, and we will be calling on you.

I want to just make the opening statement first, and then I will start to introduce Senators and Helene will start to introduce Assemblymembers.

So again, good morning. Today is the first of 13 hearings conducted by the joint

fiscal committees of the Legislature regarding the Governor's proposed budget for state fiscal year '22-'23. These hearings are conducted pursuant to the New York State Constitution and Legislative Law.

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

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

I will now introduce members of the Senate, and Assemblymember Helene Weinstein, chair of the Assembly Ways and Means

Committee, will introduce members from the Assembly. In addition, Tom O'Mara, my ranking member of the Senate Finance Committee, will introduce the members from his conference.

And now let me just get to the list of people who are here already. All right. It's a little tricky because we're looking at boxes and lists, but we do our best here. All right, as I mentioned, we have the Senate chair of Codes, Jamaal Bailey; Senator Luis Sepúlveda; Senator Andrew Gounardes; Senator Anna Kaplan; Senator Brad Hoylman, chair of Judiciary; Senator Gustavo Rivera; Senator Jeremy Cooney; Senator Zellnor Myrie.

And Tom O'Mara, I'm going to ask you to introduce the Republican Senators here with us.

SENATOR O'MARA: Thank you, Senator Krueger.

In addition to myself, at this point we are joined by Senator Jim Tedisco on the minority side. And that's it right now. I think a bunch of our members are finishing up

another meeting right now, so I'm sure there will be more joining us.

Thank you.

CHAIRWOMAN KRUEGER: Thank you very much.

And so now Helene Weinstein to introduce the Assemblymembers.

CHAIRWOMAN WEINSTEIN: Thank you, Chair Krueger. It's a pleasure to join you today and start probably our longest budget hearing of the series. And as everybody knows, since we're virtual there is a little -- we'll catch up with -- as things go along.

I want to introduce our committee members who are here: Assemblyman Dinowitz, chair of our Codes Committee; Assemblyman Weprin, chair of our Corrections Committee; Assemblyman Bronson, Assemblyman Burdick; Assemblyman Carroll; Assemblyman Epstein; Assemblywoman Hyndman; and Assemblywoman Rajkumar.

I also just wanted to clarify the time frames, because -- for the chairs are

10 minutes, and the chairs of each of the committees are the only ones who will have a second round of three minutes. The rankers have five minutes. And so that we end before the next hearing begins, all other members who are here have three minutes.

I just would encourage members to ask questions, not make statements, so that the witnesses have time to answer the questions.

And now I'd like to turn it over to the ranker of the Assembly Ways and Means Committee, Assemblyman Ed Ra.

ASSEMBLYMAN RA: Thank you, Chair Weinstein. Good morning, everybody.

We are currently joined by Assemblyman Joe Giglio, our ranker on the Corrections Committee; Assemblyman Mike Lawler, the ranker on the Gov Ops Committee; Assemblyman Angelo Morinello, our ranker on Codes; as well as members Palmesano, Walczyk, and Tannousis.

CHAIRWOMAN KRUEGER: Great. Thank you very much.

And Helene, thank you so much for

clarifying on the second-round issue and on the three minute versus five minutes. It's so easy to get lost in the details of these hearings as we re-practice what we'll be incredibly good at by Day 13, for those of us who stick it out with us.

With that, I would like to introduce the Honorable Lawrence Marks, Chief Administrative Judge of the Office of Court Administration, as our first testifier.

And all the legislators should have already received the testimony. And I believe the public also has access to the testimony for following along.

Good morning, Judge Marks.

CHIEF ADMIN. JUDGE MARKS: Good morning, Chair Krueger, and good morning, Chairperson Weinstein. And I'd like to say good morning and acknowledge the Judiciary chairs, Senator Hoylman and Assemblyman Lavine, as well as all the other members participating today.

I'm Lawrence Marks. I'm the Chief Administrative Judge of the state court

system. And thank you for the opportunity to be here with you this morning to discuss the Judiciary's budget request for the 2022-2023 fiscal year.

Our budget request will enable the courts to continue to fulfill their mission of providing justice to the people of New York. It calls for an appropriation of approximately $2.4 billion in state operating funds. Our budget also projects a $58.2 million increase in state operations spending, which is a 2.5 percent increase over our current cash plan.

So as was the case last year, this year's budget request must be viewed in the context of the ongoing COVID-19 pandemic. The pandemic has presented the Judiciary with multiple challenges. These have included the unprecedented task of keeping the courts open consistent with rapidly changing public health needs -- and, at least in the early stages of the pandemic, to do so with significantly less funding than would otherwise have been available during a normal

year.

Throughout the course of the pandemic, the court system has adapted its operations to comply with the prevailing guidance provided by public health authorities. And very early on, while determined to keep the courts open for business, we limited our in-person operations to essential and emergency applications only. That was quickly followed by a program of virtual court operations which used the latest in technology. And this made it possible for judges and staff to safely adjudicate cases in all of our courts across the state.

But as time passed and as we learned more about COVID-19, we were able to resume in-person court appearances in critical matters such as grand jury proceedings, criminal arraignments, evidentiary hearings, and criminal and civil jury trials. In doing so, we followed a rigorous screening program of temperature checks, self-reporting of exposure and symptoms for court personnel and court users, extensive use of masks and other

personal protective equipment in all public court spaces, social distancing, and cleaning protocols.

In addition, beginning in the late summer of 2021, we were one of the leaders in the state in introducing a mandatory testing program requiring all unvaccinated judges and nonjudicial staff to undergo weekly COVID testing; and, subsequently, in introducing a mandatory vaccination program requiring judges and staff to be vaccinated unless they qualified for a medical or religious exemption.

Looking forward, we are committed to resuming full court operations, including the full resumption of jury trials, in the upcoming fiscal year. And this budget will enable us to do so.

In following through on this commitment in 2022-'23, we will continue to make every effort to fill vacant nonjudicial positions in the courts. During the pandemic the court system has seen hundreds of employees retire and leave for other reasons.

And at the same time, because of the state's fiscal crisis in 2020-'21, the Judiciary, at the urging of the Executive, cut its planned spending through a variety of austerity measures, which included a system-wide hiring freeze.

These circumstances prevented the courts from filling vacancies, although fortunately this past year we were able to end the freeze and resume hiring. And the budget we have submitted will enable us to continue to fill vacancies during the upcoming fiscal year.

While this will still leave us with vacancies to fill to return to pre-pandemic employment levels, the new hires will allow us effectively to resume full court operations. This in turn will enable us to continue our commitment to Chief Judge Janet DiFiore's Excellence Initiative, our comprehensive effort to achieve operational and decisional excellence throughout the Unified Court System.

Our budget submission will also permit

us to meet other critical goals. These include the funding of three new court officer academy classes to help ensure safety in courthouses statewide, and an upgrading and expansion of the courts' technology capacity to facilitate virtual court appearances where appropriate, to expand case management systems, to enhance cybersecurity for the courts' computer network, and to increase our ability to provide the Legislature and the public with critical information regarding caseload activity.

Another crucial goal addressed in our budget request is enhancement of the Judiciary's support for civil legal services. In our budget we ask for an increase from $85 million to $95.7 million in funding for nonprofit agencies that provide direct legal services and access to justice services to help low-income New Yorkers across the state secure the essentials of life. We also ask for an increase from $15 million to $16.8 million in funding for the Interest on Lawyer Account Fund, likewise to be

distributed to nonprofit agencies that provide legal services to the poor. These increases are necessary to help fulfill the state's longstanding commitment to civil legal services.

I'd like to mention briefly three other key initiatives that we are actively pursuing, and the first is our commitment to expanding our statewide program of presumptive alternative dispute resolution.

And in the interests of time, I won't go into the details of this, but I would refer you to the written remarks that I've submitted to the members.

But we are also continuing our full commitment to implementing the recommendations of the Johnson report. In 2020 the Chief Judge appointed Jeh Johnson, the prominent New York City attorney and former U.S. Secretary of Homeland Security, to serve as our Special Advisor on Equal Justice in the Courts. His charge was to conduct a broad review of the programs, practices, and policies of the court system

for evidence of systematic and implicit racial bias.

In the fall of 2020 he reported that, notwithstanding the hard work of Judiciary personnel, there is ample evidence that New York's court system remains underresourced and overburdened, and that this has a disparate impact on people of color. In his report, Secretary Johnson presented numerous recommendations to broadly improve the court experience for people of color.

We have fully embraced all of them, and our efforts have yielded numerous accomplishments, which are summarized in an annual report released last November by the Chief Judge. Many challenges remain, however. And in the year ahead, we will redouble our efforts to keep faith with Secretary Johnson's recommendations to promote a court system free of bias and discrimination.

Finally, in 2022 we will renew our effort to simplify our trial court system

through a constitutional amendment to merge our nine major trial courts into two courts: a Supreme Court and a Municipal Court. In making this effort, we will be joined by a coalition of over 100 groups representing all corners of the community -- bench, bar, legal services providers, business, and good government.

Our task is challenging, but it is not insurmountable. The end we seek -- a court system that can be more efficiently managed, that distributes its resources more evenly to ensure that every community has fair access to justice, and that is more easily accessible and understandable to the public -- is one we all should share. We look forward to working with you in the days ahead to make it happen.

So I close by emphasizing that even while the COVID-19 pandemic stays with us, the courts remain committed to assuring the fair and prompt administration of justice. And the budget we have submitted, if approved, will enable us to meet that

commitment.

So thank you for your attention, and of course I'm more than happy to answer any questions you may have.

CHAIRWOMAN KRUEGER: Thank you very much, Judge.

And before we turn it over to the first questioner, Judiciary Chair Brad Hoylman, I want to announce that we have been joined since the last time we went through the list by Senator Diane Savino, by Senator Jim Gaughran, by Senator Patrick Gallivan, by Senator Pete Harckham.

I don't know if you have additional Assemblymembers, Helene. Okay, I don't think so right now.

Then I'm going to turn it over to -- oh, hi. Did you have additional Assemblymembers you wanted to announce?

CHAIRWOMAN WEINSTEIN: Yes, if we could.

CHAIRWOMAN KRUEGER: Sure.

CHAIRWOMAN WEINSTEIN: We've been joined by Chair Zebrowski of the Government

Ops Committee; Assemblyman Abinanti; Assemblyman Cusick; Assemblywoman McMahon; Assemblywoman Mitaynes; Assemblywoman Seawright; Assemblyman Steck; and Assemblywoman Walker.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

All right, so our first questioner is Senator Brad Hoylman, chair of the Judiciary Committee.

SENATOR HOYLMAN: Thank you, Madam Chair -- Madam Chairs.

Good to see you, Judge Marks. I look forward to discussing further with you the plans on court reorganization. We've already had some preliminary conversations. I know how important this initiative is.

And I also am happy to see that your budget has increased by 2.5 percent. I think you know that we in the Legislature want to continue to support your efforts with the state resources available.

I wanted to ask you first about what's in the news recently -- of course, bail

reform. Since the enactment of bail reform we've seen, I believe, an inconsistent application of the laws by judges across the state. Many tragic incidents that have been blamed on bail reform stem from situations where the defendant was bail-eligible but the judge, it appears, in some instances declined to exercise their discretion.

I was wondering if you could inform us what kind of training has the Office of Court Administration and the Judicial Institute provided to judges about the new laws. And in some cases, judges know the law but apparently purposefully flout it.

And as a follow-up, what are the consequences for those judges who do flout the law?

CHIEF ADMIN. JUDGE MARKS: Well, I guess I'd have to take issue that judges are deliberately flouting the law. I mean, I'm not aware of that.

Judging obviously is not a science. Judges don't have a crystal ball. And, you know, it's impossible to predict -- you can

try to predict but it's impossible to predict with any certainty what the consequences would be of releasing someone to the community or not releasing someone to the community.

But in terms of the training that judges received on the bail legislation, they did receive extensive training, in-person training in 2019 at our summer judicial seminars following the original enactment of the legislation.

And the amendments that were made to the bail legislation in the -- around the adoption of the budget in 2020, again -- although judges I don't believe received in-person training. But there was extensive online training and webinars on bail reform. There have been memos and educational materials, extensive educational materials that have been distributed to judges in the early stages of the enactment of the legislation, so -- look, you can never do enough training.

But I'm comfortable in saying that

judges did receive extensive training on the new legislation, both the original version and then the amendments that took place in the early months of 2020.

SENATOR HOYLMAN: Thank you.

I would point to a Nassau County district judge; in news reports, it appears that the judge ignored the bail reform law last year.

But to change tack, Judge, I was wondering if we could discuss briefly the eviction moratorium, which of course sadly has expired, but thankfully there are still a variety of protections for tenants, including ERAP, the Tenant Safe Harbor Act, and various protections from legislation in the Housing Stability and Tenant Protection Act.

Can you explain to us how courts are assisting tenants in understanding what their rights are and what the instructions to judges are on how to process these cases?

CHIEF ADMIN. JUDGE MARKS: Well, firstly, in New York City -- and the overwhelming, overwhelming number of these

pending eviction cases are in New York City. The number dwarfs the number of cases in the 57 counties outside New York City. And more cases will be filed, certainly, but the vast percentage of these cases are pending in New York City and will ultimately be filed in New York City.

And the most important thing that a judge can do to ensure that tenants' rights in these cases are recognized or understood by tenants and are realized in the court process is the appointment of counsel. And fortunately in New York City, going back to the prior mayor's administration and continuing in the current mayoral administration, tenants who can't afford a lawyer will be matched with a lawyer. And we've established a process in New York City Housing Court where the first appearance will be a virtual appearance -- and actually this has been going on -- this isn't taking effect now, this has been going on for a number of months now in the New York City Housing Court.

The first appearance will be for the purpose of connecting the tenant with a lawyer if the tenant can't afford a lawyer. And the second appearance will be an in-person appearance with the tenant, if the tenant chooses to appear, but the lawyer that's been assigned to the tenant will appear in person. And the landlord, and if the landlord has a lawyer, the landlord and/or the landlord's lawyer will be in person, with the goal of trying to resolve the case without further litigation.

So hopefully that answers your question, that the critically important step, so that not only the tenants understand what their rights are, but that their rights are protected by legal representation, is something that is assured in New York City, again where the vast, vast percentage of these cases are pending and will be filed.

Outside New York City, less of a guarantee that a lawyer will be assigned to a tenant who can't afford one. But I know the Governor has thankfully identified that as a

problem and has suggested at least that maybe there will be funding from the state to replicate sort of the very positive situation in New York City, in that lawyers will be provided to replicate that in landlord/tenant cases outside of New York City.

SENATOR HOYLMAN: Yes. I mean, that's obviously an enormous problem outside of New York City, and thank you for supporting the efforts of the Governor in that regard.

Just to make one more pivot with my remaining time, when we're discussing court reopenings, particularly during the pandemic, many stakeholders have continued to point to significant issues with court plans. Of course since that time we've had vaccines but also variants that continue to threaten the public's safety.

What have you learned since the pandemic in terms of reopenings? And have you considered returning to virtual arraignments as requested by the defense bar? Are there any plans in place for, say, the safe operation of Housing Court as you

described this new process?

CHIEF ADMIN. JUDGE MARKS: Well, let me just say in general, and then I'll get to the specifics on the question you raised, in general we've learned a lot over the last nearly two years, and there have been steps forward we've had to take, and steps backward, based on the public health circumstances. And, you know, public health is critically important to us. I mean, that goes without saying.

With respect to arraignments, for a very substantial percentage of the last two years now of the pandemic, arraignments were conducted virtually. I can tell you -- and I viewed many, many virtual arraignments in this time.

(Zoom interruption.)

CHAIRWOMAN KRUEGER: Would everybody please mute unless they are Judge Marks or Brad Hoylman.

CHIEF ADMIN. JUDGE MARKS: Sorry. That it -- the virtual approach to arraignments is not ideal. And in fact

that's why the State Office of Indigent Legal Services propounds a policy that arraignments, except in extreme situations, need to be done in person. It's a critically important first appearance in a criminal case.

And the communication and interaction between the defendant and the lawyer is far superior in an in-person proceeding than it is in a virtual proceeding at arraignments. And I believe that the Chief Defenders Association of the state also strongly supports in-person arraignments.

As for Housing Court, that's a real challenge, I have to tell you. In normal times our Housing Court facilities, particularly in New York City, are very, very crowded, Brooklyn and Bronx in particular. And which is why in Housing Court we've expanded to some in-person proceedings, but very cautiously and very carefully. And we have a limited number of in-person proceedings.

But most of the proceedings in Housing

Court it's fair to say are still virtual, and we believe it can be effective. I mean, ideally we would have full in-person, but at the moment that's just not practical and feasible. And -- but we can conduct even virtual trials in Housing Court. They're not jury trials, they're judge trials. And we feel a lot can be accomplished and the rights of the litigants can be protected and vindicated with a combination of in-person and virtual proceedings in Housing Court cases.

SENATOR HOYLMAN: Thank you, Judge.

CHAIRWOMAN KRUEGER: I'm sorry, the time is up, shockingly, for 10 minutes.

I'm turning it over to Assemblywoman Helene Weinstein to announce the first Assemblymember.

CHAIRWOMAN WEINSTEIN: Thank you.

The first questioner will be -- and actually, he joined us while Judge Marks was speaking -- chair of the Assembly Judiciary Committee, Assemblyman Charles Lavine, for 10 minutes.

ASSEMBLYMAN LAVINE: Thanks, Chair Weinstein.

And good morning, Judge Marks. Always great to see you.

CHIEF ADMIN. JUDGE MARKS: Good morning.

ASSEMBLYMAN LAVINE: Judge, during the course of our sessions at times some members have criticized the Judiciary, shocking as that may seem, for its inability to open the courts the way the courts were open pre-pandemic. Now, that's an argument I don't accept. I'm not even going to ask you to comment on that. But having spent much of my life in the courts, that's not the way it is.

But can you describe what's been the human toll on the Judiciary and court personnel as a result of the pandemic?

CHIEF ADMIN. JUDGE MARKS: Well, at the outset of the pandemic there was, I think it's fair to say, a devastating toll. We lost three judges, who passed away in the early spring of 2020. Of course there's no

way to know whether they contracted COVID while in the courthouse or in their -- at home or, you know, in their personal lives. But regardless, it was a devastating circumstance for us.

We also lost -- fortunately, a small number, a very small number, but we did lose to COVID, again, back in the early spring of 2020, we did lose a small number of employees who passed away.

And we've been very fortunate since then in that there haven't been further deaths. But a lot of our people, judges and judicial staff, have contracted the virus. We keep careful tracking of this. We know when someone's tested positive; they're required to report that to us.

And aside from the human toll, it's had a very substantial and difficult impact on court operations, particularly I would say under the latest resurgence of the virus, which -- knock on wood -- has not been anywhere near as devastating in terms of the health consequences but has exerted itself on

a much larger scale than prior resurgences.

And we do the best we can. I mean, you know, we haven't been able to operate -- you know, particularly with this latest resurgence, at full staffing, but we do the best we can, relying on virtual proceedings where it's necessary to do that, but relying on in-person proceedings. And our goal is to go back to full in-person proceedings when public health circumstances would allow for that.

ASSEMBLYMAN LAVINE: Judge, I understand that at a recent jury trial on I believe a criminal matter, more than one courtroom had to be utilized. One courtroom had to be used to house the jury, and another courtroom for arguments. It was a total of three courtrooms. Is that accurate? Are we now in a logistical situation, a logistical conundrum, so to speak, where we have to use multiple courtrooms in order to conduct a single jury trial?

CHIEF ADMIN. JUDGE MARKS: You're absolutely correct in what you're describing.

The reason for that is we've adhered and continue to adhere to the six-foot social distancing rule, which is the CDC guideline for indoor public places where there's no assurance that people coming into those indoor public spaces have been vaccinated, which is a category that the courthouses and courtrooms fall into.

So -- and the State Health Department has adhered to the six-foot social distancing rule in these situations.

We would like to get the backing of the CDC and the State Health Department to mitigate the six-foot social distancing rule, because it would allow us to conduct many more trials, which is something that we are very determined to be able to do. As I say, a court system can't be a full court system without being able to conduct a significant number of jury trials.

I mean, as you know as a former practicing lawyer, most cases on both the criminal side and the civil side are resolved without the necessity of a trial. But we

need to do trials. Trials can keep the system honest. And again, under existing protocols, it's been very difficult to do that on a large scale.

But our goal is to be able to return to conducting jury trials on a large scale, and hopefully that will happen.

ASSEMBLYMAN LAVINE: Last question, on a microeconomic scale.

For capital projects, the Judiciary Budget includes $25 million for continued improvements to court technology infrastructure. Can you describe how that money will be used?

CHIEF ADMIN. JUDGE MARKS: Well, it will be used to upgrade and expand our case management systems. For those of you not familiar with that term, our case management systems that every court in the state has, it is a part of -- it's where all the relevant information and data about the case is entered. And it would be hard to imagine running a court system these days, with the volume and complexity of cases we have,

without a robust and efficient and effective case management system.

So some of the funding would go to that. Some of it would go to things like enhancing sound within courtrooms, which believe it or not can be a problem, particularly with participants -- witnesses and lawyers -- wearing masks. Audio, there are audio challenges with that. So some of the money would be going to enhancing sound competency in courtrooms. Money will go to replacing x-ray machines and magnetometers in the lobbies of courthouses. Some of it will go to continuing our digitization of court records, which is an enormous undertaking that's been underway for several years.

So those are some of the examples of where that money will be very well spent.

ASSEMBLYMAN LAVINE: Thanks, Judge Marks. I have no further questions.

CHIEF ADMIN. JUDGE MARKS: Thank you.

SENATOR RIVERA: You're muted, Liz.

ASSEMBLYMAN LAVINE: Am I supposed to just continue on and on?

CHAIRWOMAN KRUEGER: I apologize. I apologize, everyone. I for some reason lost my unmute button for a second. We are now turning it over to --

CHAIRWOMAN WEINSTEIN: Senator, before -- can I just announce some of the members who have joined us while --

CHAIRWOMAN KRUEGER: Of course. Of course.

CHAIRWOMAN WEINSTEIN: -- questions have been going on? Assemblywoman Cruz, Assemblyman Cusick, Assemblyman Dilan, Assemblywoman Kelles, Assemblyman Kim, Assemblywoman Rosenthal.

Thank you. Now to the Senate.

CHAIRWOMAN KRUEGER: Thank you.

And actually we've been joined by Senator George Borrello and Senator Fred Akshar since the last list was called up.

And I believe our next questioner, for three minutes, is Senator Zellnor Myrie.

SENATOR MYRIE: Thank you, Madam Chair.

And thank you, Judge Marks. I'm going

to try and be as efficient as possible in my questioning, and my hope is that you will do the same in answering.

I want to talk about Surrogate's Court very briefly. And if you can, again, try and be brief in your responses. Am I correct in understanding that the Surrogate's Court and specifically the Kings County Surrogate's Court handles upwards of tens of millions of dollars in real and personal property every year?

CHIEF ADMIN. JUDGE MARKS: That's correct.

SENATOR MYRIE: And it is correct that that is also handled by the Kings County public administrator's office?

CHIEF ADMIN. JUDGE MARKS: The public administrator's office handles cases where there's no will and there's no family member or relative or someone who will step forward to serve as the administrator of the estate.

SENATOR MYRIE: Thank you. So they do handle, in many cases, pretty valuable real and personal property, correct?

CHIEF ADMIN. JUDGE MARKS: Yes.

SENATOR MYRIE: And is there an auditing function by the OCA? Do you oversee that particular office to assure that general accounting principles are met and that the estates of the deceased are being handled correctly?

CHIEF ADMIN. JUDGE MARKS: We don't have any formal oversight role. The public administrator and the staff of the Public Administrator's Office are city employees. The public administrator is appointed by the surrogate judge, and in Brooklyn there are two surrogates, so they would be appointed by the two surrogates.

There have been problems that have plagued that office for a number of years, and there have been audits done by the New York City Comptroller's office, which has jurisdiction and authority to conduct those audits.

SENATOR MYRIE: Thank you for that, Judge Marks. And speaking of those audits, the Comptroller's office has done, I think,

recently one in 2021 and another one in 2015. They issued I believe 18 recommendations. That office has not adopted the overwhelming majority of those. Is there any consequence from OCA for that office not complying or not fulfilling its duty as recommended by the audits by the Comptroller's office?

CHIEF ADMIN. JUDGE MARKS: Since I've been in this position, although I have no formal role in the public administrator's offices in Kings County or any other counties, for that matter, I've tried to facilitate disputes and disagreements between surrogates in that court to try to address and get the public administrator to try to address some of those problems.

By the way, I believe the current public administrator has announced that he is resigning. So --

SENATOR MYRIE: So Judge Marks, I'm sorry, just because my time has expired. So there is no function for a public administrator's office that has been found not to meet the recommendations -- some of

those recommendations include competitively bidding vendor contracts. They can flout that without consequence from OCA?

CHIEF ADMIN. JUDGE MARKS: If you look at the relevant statutes, the surrogates themselves have direct oversight, the ability to hire the public administrator and the ability to dismiss the public administrator. And there's been serious disagreement on that topic among the surrogates in that court.

SENATOR MYRIE: Thank you, Judge.

CHAIRWOMAN KRUEGER: Thank you, Senator Myrie. We need to do more work on this issue, I agree with you.

I'm turning it over to Assemblywoman Weinstein.

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

And to chair of the Codes Committee, Assemblyman Dinowitz, for 10 minutes.

ASSEMBLYMAN DINOWITZ: Thank you.

Good morning, Judge Marks. It is very good to see you.

CHIEF ADMIN. JUDGE MARKS: Good

morning.

ASSEMBLYMAN DINOWITZ: I have a few different, unrelated questions, but I'm going to talk fast because I want to get all my questions in.

So the backlog. I know at least in the Bronx there's not a whole lot of trials going on. There are some, but not a lot.

Given two years of this, and a continuing pandemic, in terms of time, how long do you think it will take to clear up the backlog, just the backlog from the pandemic, let alone what we had before the pandemic?

CHIEF ADMIN. JUDGE MARKS: That's a great question, but a very difficult question to answer.

You know, the thinking and the wisdom about civil litigation in particular, but it applies to criminal litigation as well -- and I think, Assemblyman Dinowitz, is your question more focused on the civil term of Supreme Court when you ask that, or is it both?

ASSEMBLYMAN DINOWITZ: Well, I think it's both. While I'm more familiar with, you know, the goings on on the civil side, the fact is in terms of, you know, really affecting people's lives in an extremely serious way, I think perhaps on the criminal side is what we really need to focus on.

CHIEF ADMIN. JUDGE MARKS: Yeah. Yeah. Yeah. Yeah, I agree. But I think it's both sides.

But the conventional wisdom was always that you needed the real and credible threat of a trial -- and this is to the lawyers -- to resolve cases, to either settle them on the civil side or to achieve guilty pleas on the criminal side. And that conventional wisdom is still the conventional wisdom, but there have been dispositions and resolutions of many, many cases during the pandemic on the civil side and the criminal side without the realistic threat of -- throughout the pandemic of a robust capacity to try cases.

But that's had its limitations. You know, I think alternative dispute resolution,

which we're committed to and sort of -- we were in the process of institutionalizing that throughout the state as we came into the pandemic in the spring of 2020 -- that can play a very significant role in resolving backlogs. And getting judges actively involved in trying to resolve cases can play an important role.

But I'm not going to minimize the importance and utility of trials to resolve cases. And, you know, we have been conducting jury trials. It's a limited number compared to pre-pandemic levels. And I'll mention again the comment to Assemblyman Lavine, which is that if we could get some relief with the six-foot rule, which requires -- makes it so much more difficult to conduct jury trials than under normal circumstances -- if there could be some relief with that.

And that's obviously influenced by the circumstances of the pandemic. But if that can happen, you know, we can return to something resembling the normal court system

that we had pre-pandemic, where the overwhelming percentage of cases get resolved without the necessity of a jury trial, but the jury trial is critically important to achieving dispositions and resolutions of cases.

ASSEMBLYMAN DINOWITZ: I will rely on Dr. Fauci as to whether or not six feet is the right and correct distance. Personally, I'd rather have a larger distance, but okay.

On a separate issue, I held a hearing back in October, a Codes Committee hearing, not on the subject of bail reform, but several witnesses decided that was their opportunity to talk about bail reform, including some of the top police people, including then-Commissioner Shea.

And I make it a habit of not necessarily believing everything I read in certain newspapers unless -- unless there's a second source, I suppose. But I asked the commissioner -- and I know my colleague Assemblymember Walker will remember this well -- I asked him does he have any data

that shows that people who are accused of certain offenses and were out without bail then committed the same offense.

And he said that it happens rarely. I don't know if that was his exact words, but that was essentially what he said. Meaning that the people who were out were not necessarily committing the same offense again.

And I was wondering if you -- I don't know if you would have data on that. Because, you know, reading one thing in some of the newspapers, that all the people that are out without bail are committing crimes, but the data doesn't seem to back that up. And I just would like to know what the reality is.

CHIEF ADMIN. JUDGE MARKS: Yes, we have extensive data that's on our website. We worked with the State Division of Criminal Justice Services on this. And I know the DCJS commissioner is testifying, and you should, if you're able to, ask her that question as well.

But we have extensive data. I can tell you I haven't absorbed it all, it's not sort of on the tip of my brain right now. But I can tell you that there have been people who have been released either on their own recognizance or non-monetary conditions, or for whom bail was set and they posted bail and have been released.

There have been a fair number of people who have been arrested while they were released. I mean, the good news on bail reform is that only 14 percent statewide were detained over the period of time we looked at, which means that approximately 200,000 people were released. And if you're a proponent of bail reform, that's I think a positive statistic. But at the same time, there have been -- 22 percent of that number were rearrested.

Were they rearrested for the same offense for which they were charged, on the pending charge? I can't answer that. But I can tell you that if you have specific questions or queries that you could send us,

you know, we can answer probably most if not all of the questions that you might have.

ASSEMBLYMAN DINOWITZ: On a separate issue, as you know, I was not happy about the -- I'll call it the firing, for lack of a better word, of the 70-year-old-plus judges at the end of 2020, most of whom or many of whom are back.

I'm concerned that this could happen again. And I'm just wondering what future you see in terms of budget and whether we would see a repeat performance of that.

CHIEF ADMIN. JUDGE MARKS: Well, as I think you know, it was entirely 100 percent driven by what we viewed as very dire budget circumstances that we found ourselves in in the 2020 calendar year.

Thankfully, that budget situation turned around. And I want to thank the Legislature for that, because the budget that was approved for the current fiscal year, the one we're still in, allowed us to lift our hiring freeze and undo a number of the strict austerity measures that we imposed, including

we invited back the judges who because of the budget problem were not certificated.

In the fall of 2020 we invited them to reapply. Many of them did. And judges returned as certificated judges and are sitting on the bench handling cases today, which is a great thing.

In terms of the future, I can tell you last fall, when the next class of judges were up for certification or recertification, they were all approved. I think it was -- I think it was 27, approximately 27, who were all approved.

So to answer your question, I'm not the -- clearly not an economics expert. But from everything I read and hear and people tell me, that the state's economic situation looks pretty rosy for the next few years. And if that's the case, you know, we will continue to have a full and robust certification program.

ASSEMBLYMAN DINOWITZ: I have a few seconds left. You had mentioned earlier that the judges in the system, basically they're

all vaccinated, or pretty much all. I thought I read -- I mean, shockingly, I thought I read that one of the Court of Appeals judges has refused to be vaccinated and therefore is not appearing in person in court. Am I wrong about that, or is that true?

CHIEF ADMIN. JUDGE MARKS: You're correct in saying that you read that. I'm reluctant to talk about individual judges because there's an exemption process where you can apply -- either be vaccinated -- and 98 percent of the judges across the state have been fully vaccinated. But there's a process to apply for a medical exemption or a religious exemption. And that's a strictly confidential process.

But I can tell you that there are a very small number, you could count them on one hand, or part of one hand, who are not in compliance with our program, who either have not provided proof of full vaccination or have not received a religious or a medical exemption. There's a tiny number of judges

who fall into that category. And hopefully you'll understand why I don't want to identify individual judges by name.

ASSEMBLYMAN DINOWITZ: Right. Well, the newspaper took care of that anyway.

Anyway, thank you very much, Judge Marks.

CHIEF ADMIN. JUDGE MARKS: Thank you.

CHAIRWOMAN KRUEGER: Thank you very much.

So there was a little confusion and Assemblymember Dinowitz, the chair of Codes, was given 10 minutes. So I want to make sure that I give my chair of Codes, Jamaal Bailey, the remainder of his 10 minutes. He had three minutes already, so we'll give him another seven minutes, please, Mr. Clock. Thank you.

SENATOR BAILEY: Thank you, Madam Chair.

Judge Marks, good to see you.

CHIEF ADMIN. JUDGE MARKS: Good to see you.

SENATOR BAILEY: Thank you for

testifying today.

To piggyback off of what Assemblymember Dinowitz was talking about regarding the data in relation to bail and securing orders, how was that data collected?

CHIEF ADMIN. JUDGE MARKS: That data is collected from the state court system's database as well as some of it, particularly rearrest data, comes from the State Division of Criminal Justice Services database.

And the statute reflected that by requiring the court system and DCJS to work together to develop data and to post it on our websites.

SENATOR BAILEY: Sure.

So in terms of the aggregation of that data, how was that aggregated? Is it aggregated based upon offense? Is it aggregated based upon bail eligible and non-bail eligible? How is that data aggregated?

CHIEF ADMIN. JUDGE MARKS: Yes, all of the above. It's categorized in a number of ways which we think will be helpful.

And we added additional data fields because researchers from Vera and John Jay and the center for court innovation were very interested in this data, and we added fields at their request. And we provide it in a format that we think is very user-friendly so that they can do, you know, extensive research and really dig down into this data and draw, you know, whatever conclusions they draw from it.

SENATOR BAILEY: Excellent. Because it will be helpful to be able to find out -- you know, because there's much ado -- as Senator Hoylman mentioned, maybe certain judges may or may not be flouting the law. And if it was aggregated based upon bail eligibility and non-eligible offenses, I think that would go a long way in helping us determine what judges are in fact not setting bail when they have the ability or discretion, as has been asked.

So I think that would be very helpful to do that.

Also another point that you mentioned

in your prior commentary with Assemblymember Dinowitz, do we have data about individuals who pay bail and reoffend? And do we have percentages of that data as well? Is that in the aggregate as well? Because we always -- like the conversation is generally about those who are released on bail reform, or based upon what people believe bail reform is. But individuals who pay bail and are out, they often also reoffend, correct?

CHIEF ADMIN. JUDGE MARKS: Yes, they do. And there's data on that, and it's categorized and available to whoever is interested.

SENATOR BAILEY: Okay, excellent.

A question about Raise the Age. You know, when an adolescent is arraigned in a youth part of the criminal court, what criteria are used to determine whether that kid should stay there or be moved to -- be moved to Family Court or be moved to criminal court?

CHIEF ADMIN. JUDGE MARKS: Don't hold me to the precise language, but I'm pretty

sure there's a presumption that the case would stay -- would go to Family Court. An application would be made by the prosecutor. If the prosecutor would like to see the case transferred over to Family Court, or the attorney for the child would like to see that, there's an application that's made. The prosecutor could argue the case should stay in criminal court; you know, the converse of that. And the precise standard -- I apologize --

SENATOR BAILEY: No problem. I just want to get to the heart of it, is that each of these cases are handled on a case-by-case individual basis, correct?

CHIEF ADMIN. JUDGE MARKS: Absolutely.

SENATOR BAILEY: And it's not like a blanket policy, right?

CHIEF ADMIN. JUDGE MARKS: Correct.

SENATOR BAILEY: So like these individuals, they would know the facts of the specific case better than anybody else because it's individualized, correct?

CHIEF ADMIN. JUDGE MARKS: It's a

case-by-case determination, that's right.

SENATOR BAILEY: Okay. A question about -- thank you for the questions on that.

Questions about 18-B, assigned counsel. Like there's obviously been conversation about it in the media. And do you believe that, you know, a raise in attorney compensation would help alleviate backlogs that we have in the court system?

CHIEF ADMIN. JUDGE MARKS: Absolutely. It's been -- and I know you have a bill on that --

SENATOR BAILEY: Yes.

CHIEF ADMIN. JUDGE MARKS: And thank you. You know, we support what you're trying to do, and thank you for your leadership on this. I think it's been 18 years now, am I correct, since the last increase in the 18-B fees?

SENATOR BAILEY: Correct.

CHIEF ADMIN. JUDGE MARKS: And that's having like a serious, serious impact on the processing of cases. The attorney panels or rosters from which -- these attorneys apply

and get on rosters and then take assignments to these cases in the criminal courts and in the Family Court. Those rosters are depleted. Fewer and fewer attorneys are able to -- they've concluded they can't afford to take these cases because the rate is so low and there's been no increase in such a long period of time.

I would add that prior to the last increase, which I think was 18 years ago, it was a 16-or-17-year delay. Which I remember, actually. And there's got to be a better way to do this. It has a direct impact on delays in the criminal courts and in the Family Court, and it's just something that really must -- it just needs to be done. It's a long time.

SENATOR BAILEY: Thank you. I would certainly agree. As you mentioned, there's a piece of legislation that I carry. And understanding that those backlogs could be alleviated significantly and those who are at most risk could be able to receive counsel that is efficient.

I guess the last question that I'll have is related to diversity in the courts. And you and I have spoken about this I think at every budget hearing since I've been a member of the New York State Senate. And strides have been made in terms of the LEO Program. But in terms of greater diversity, what steps is OCA taking to make sure that we have great diversity, not just in race but in gender, in orientation, in any diverse group? What steps are we taking in OCA to make sure that this is taking place in our court system? And not just on the bench, in terms of court personnel and employees as well.

CHIEF ADMIN. JUDGE MARKS: Yeah. No, thank you for that question.

There's a lot going on. We're particularly focusing on human resources practices and protocols. We're doing more outreach into the community about opportunities in the court system, particularly when we conduct a civil service test for court officers or court clerks and a lot of the courtroom titles. We're doing

much more outreach.

We are providing services to people who -- it's not just hiring people into the court system, it's promoting people and having a full opportunity for everyone to have a chance of promoting within the court system. And we've organized workshops to help people with their interview skills and resume-building opportunities.

We are making it clear to managers that their efforts to diversify the people who work under them will be a factor in the performance evaluation of court managers. So we're taking a number of steps to further diversify our nonjudicial staff in the court system.

And in terms of judges, obviously we don't pick the judges, with the exception of Housing Court judges. And I think our record is strong on diversity among Housing Court judges whom we appoint. Administrative judges, a lot of diversity. The administrative judge for the New York City Criminal Court is a person of color. The

administrative judge for the New York City Civil Court, which includes the Housing Court, is a person of color. The administrative judge for the New York City Family Court is a person of color.

Three of four of our deputy chief administrative judges, which is the level below me as the chief administrative judge, three of four are judges of color. So we --

CHAIRWOMAN KRUEGER: Thank you, Judge Marks. I'm afraid I'm going to have to cut you off because we are beyond time.

I'm going to ask everybody to mute if they're not actually speaking.

I apologize, Senator Bailey, I need to also end your questioning.

SENATOR BAILEY: I am grateful for the extra time. Thank you, Madam Chair. Thank you, Judge Marks.

CHAIRWOMAN KRUEGER: Thank you.

We've been joined by Senator Phil Boyle, the ranker on Codes; by Senator Pete Oberacker, Senator Sue Serino, and Senator Pat Ritchie.

And now turning it over to the Assembly.

CHAIRWOMAN WEINSTEIN: We've been joined by Assemblyman McDonald, Assemblyman Pretlow.

And we go to Assemblyman Weprin, three minutes.

ASSEMBLYMAN WEPRIN: Thank you, Madam Chair.

And thank you, Judge Marks, for -- once again, I'm glad to see that we're getting back to trials, although slowly.

I've had a bill for a number of years to allow for a program of allowing televisions in the courtroom. That bill has been dormant for many years. I've reintroduced the bill. And I think with some of the skepticism in the courts during the pandemic, and the lack of trials, hopefully the return of trials as we get out of COVID, that's something I'd like to see you and OCA look at to restore confidence in trials and in the courtroom post-pandemic.

Would you be able to comment on that,

Judge?

CHIEF ADMIN. JUDGE MARKS: Well, personally, and this is just my own opinion -- I don't think we have an institutional opinion or position on cameras in the courts, but personally I favor cameras in the courts.

I remember the statute going back a number of years that would come up for sunset every few years and would be renewed, and then ultimately was permitted to sunset. And there's been no formal authorization for camera coverage of court proceedings in New York since then, and it's been a long time.

ASSEMBLYMAN WEPRIN: Yeah, that was my -- my late father is the one that sponsored that original bill, Sol Weprin. So I'd like to see it restored.

CHIEF ADMIN. JUDGE MARKS: Yeah. I can -- again, I'm speaking for myself, not for the institution, but I think the more sunlight you can shine on court proceedings, the better that is.

The public -- it's difficult to go to

the courthouse and sit there, for people who work, have childcare or other responsibilities, and if there was more -- particularly all these remote judicial proceedings that we've been conducting during the pandemic, I don't know if that supports, I'd have to think about that, whether that supports cameras in the courts for the more public viewing of court proceedings. But, you know, we need to be as responsive a governmental institution as we can possibly be, and I personally believe that audiovisual coverage of court proceedings promotes responsiveness and accountability.

ASSEMBLYMAN WEPRIN: Yeah, I think it particularly may be more relevant post-pandemic as we're restoring trials and the public is reenergizing.

So thank you.

CHAIRWOMAN WEINSTEIN: We go now to the Senate.

CHAIRWOMAN KRUEGER: Thank you very much.

And we're actually going to jump to

the ranker for Codes, Senator Phil Boyle.

Are you there, Senator Boyle? Well, perhaps we're not right now. Senator Boyle, are you there? Well, we're going to come back to Senator Boyle next round, and we're going to go instead to Senator Andrew Gounardes.

SENATOR GOUNARDES: Thank you very much, Senator Krueger.

Hello, Judge Marks.

I really have just two questions. One you kind of touched on a little bit in terms of the backlog of cases. I'd like to hear your thoughts specifically in response to what the mayor had called for yesterday, citing the 4,000 gun cases that are still pending in our criminal trials. And understanding the issues with spacing and the logistics of trying to get back to normal, he had talked about prioritizing a lot of these cases. And I would just love to hear you talk more about -- in response to what the mayor was asking the courts to undertake as part of this fight against gun violence.

CHIEF ADMIN. JUDGE MARKS: We support what the mayor announced yesterday. There were discussions that took place before the announcement with respect to the courts, and we're fully supportive.

We have an existing gun case initiative with designated judges handling gun cases. The goal is to be able to conduct more suppression hearings, which is the fancy name for a court proceeding that determines whether -- typically in a gun case, whether the gun was constitutionally seized from the accused. And so our goal is to conduct more of those suppression hearings. Which presents fewer pandemic challenges than a jury trial does because it's just a hearing before the judge with far fewer people in the courtroom.

And with the capacity to conduct more suppression hearings, that will lead to quicker resolution of cases even if the case needs to go to trial.

But the mayor also called for something which I mentioned a few minutes

ago, which is relaxing or reducing the six-foot social distancing protocol, which I think it was Assemblyman Lavine described very accurately requires multiple courtrooms to be able to try before a jury a single criminal case. And we're in discussion with the public health authorities about the possibility of being able to do that.

So in terms of being able to conduct more trials and applying more resources to that goal, we fully support what the mayor announced yesterday.

SENATOR GOUNARDES: I appreciate that. Thank you very much, Judge.

And my second question is the Executive Budget is proposing to cut $86 million in pension contributions under general state charges, mostly because a lot of the pension obligations have been fulfilled last year, as well as the growth of employees in the Tier 6 system.

In my former capacity as chairman of the Civil Service Committee, we've heard a lot of issues about the difficulty in

recruiting and retaining state workers because of the pension benefits that are under Tier 6. As you are looking to fill in some of the open vacancies you have, both pre-pandemic and because of the pandemic, what challenges do you think you're facing because of the benefits package that we are now currently offering state employees?

How does that affect your ability to fully staff up your department's operations?

CHIEF ADMIN. JUDGE MARKS: Well, it's a good question.

I think, you know, in general our benefits in state government -- you know, and the Judiciary is part of the civil service benefit structure that the executive branch -- particularly health insurance that they offer, and it's pretty good, the health insurance benefits. It could always be better, but it's pretty good, particularly compared to other large organizations including, I think, in the private sector to some extent.

So does the Tier 6, which obviously is

less generous than the lower tiers, does that discourage people from looking at employment within the court system? You know, that's something I'd have to take a look at that and ask our HR people, and I could get back to you.

SENATOR GOUNARDES: That would be great. Thank you.

CHIEF ADMIN. JUDGE MARKS: But there's no question it's a less generous pension benefit than some of the other tiers.

SENATOR GOUNARDES: Thank you.

CHIEF ADMIN. JUDGE MARKS: Thank you.

CHAIRWOMAN WEINSTEIN: So we go to our ranker on Ways and Means, Assemblyman Ra, for five minutes.

ASSEMBLYMAN RA: Thank you, Chair.

Good morning, Judge Marks. Good to see you again.

CHIEF ADMIN. JUDGE MARKS: Good morning.

ASSEMBLYMAN RA: Just to go back to the bail reform conversation, as people know, you know, right now only in qualifying

offenses is it legally permissible for judges to exercise really any form of discretion, and it's really only when the judge finds bail or remand to be the least restrictive means necessary to ensure court attendance.

You know, in light of yesterday's plan that was put out by Mayor Adams of New York City, do you have any thoughts on his statement basically asking for discretion for your judges to consider dangerousness?

CHIEF ADMIN. JUDGE MARKS: Well, I haven't seen the details of the mayor's proposal. He did call for that. I can tell you -- and, you know, to be fair about this, many judges, if not most of our judges who sit on criminal cases, would like more discretion in making determinations about bail and release of people accused of crimes.

I mean, we don't have a formal proposal. But judges as a group, I think it's fair to say -- you know, I'm not speaking for a hundred percent of our judges, and I'm not sure what percentage I am speaking for, but I think it's fair to say

that individual judges would like to have more discretion in making this decision and feel that they would be able to fairly and effectively make decisions on a case-by-case basis if they had more discretion.

I believe that's a fair characterization of how most judges who sit on criminal cases in the State Unified Court System feel.

ASSEMBLYMAN RA: Thank you.

Could whoever is unmuted and typing, please mute? It's coming through the feed.

A totally different topic with regard to, you know, backlogs in eviction proceedings and all that with the eviction moratorium now having expired. And one of the issues obviously is that despite that, there is the Emergency Rental Assistance Program, and that does provide protection for an applicant, you know, with a case, requiring that to be reopened.

How is OCA handling that, A, in terms of knowing -- do you have a number of how many cases are currently stayed as a result

of somebody applying for the Emergency Rental Assistance Program?

CHIEF ADMIN. JUDGE MARKS: Off the top of my head, I don't know the number, but I've seen the number. OTDA, you know, the executive branch agency that's administering the ERAP program, has that information. We can get it for you or you could get it directly from them.

But, you know, there is number of pending applications for ERAP grants. And if there are eviction cases pending for all of those people who have applied -- and there isn't necessarily an eviction case pending in all of those situations. But if there is, as you know, the eviction proceeding is stayed.

And we have data that the OTDA has shared with us on, you know, listing people who have applied. And that information is used in Housing Courts throughout the state when cases are calendared, which they have been all along and will continue to be calendared now that the moratorium has been lifted. And those lists are referenced by

courts to ensure that someone who has a pending application is not evicted, that their case is stayed.

ASSEMBLYMAN RA: And with regard to just ones that do have filed eviction proceedings, now with the -- taking out ERAP, assuming that's not a factor in a case, are those being automatically recalendared? Or is it on the litigant to come and make an application to recalendar those matters that had been, you know, subject to the eviction moratorium?

CHIEF ADMIN. JUDGE MARKS: The courts are recalendaring cases themselves. Particularly in the New York City Housing Court, which has, as I mentioned before, the vast lion's share of pending eviction cases, the court itself is calendaring cases -- you know, generally speaking, in chronological fashion, meaning the older cases are being calendared. That's sort of -- that's the process.

So the courts are calendaring cases, to answer your question.

ASSEMBLYMAN RA: Thank you.

CHIEF ADMIN. JUDGE MARKS: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Okay, now we're going to try again Senator Phil Boyle, ranker on Codes.

SENATOR BOYLE: Thank you, Madam Chair. And thank you, Your Honor.

Just a quick question. Obviously on Long Island we've had a long history of overburdened courts. And I'm asking you what are the steps that you're taking to advance the creation of a Fifth Department appellate division for the Long Island region?

CHIEF ADMIN. JUDGE MARKS: Well, interesting you raise that, because in our proposed constitutional restructuring of the trial courts -- which focuses mainly on the trial courts. We have 11 trial courts in New York; it's far more than any other state in the country has. And we're trying to get approval to consolidate and reduce the number of trial courts. But within that proposal, that issue was addressed, the Fifth Department.

You're in the Second Judicial Department. The four departments of the Appellate Division were created I think in 1898, back when there was roughly equal population among the four. And that's changed drastically. The Second Department has over 50 percent of the population of the state within its jurisdiction, which is a problem.

And our constitutional proposal addresses not only consolidating the trial courts, but would specifically give the Legislature, I think every five years or every 10 years -- I apologize, I don't remember the exact time period -- but would give the Legislature authority by statute -- the Constitution would be amended to give the Legislature the authority, every five years or 10 years, whatever it is, to determine the number of appellate judicial departments.

So it's in that proposal.

SENATOR BOYLE: Thank you. I hope that the need for this department is not held up by other reforms that may have been talked

about for a long time.

But thank you very much, Judge. And thank you, Madam Chair.

CHIEF ADMIN. JUDGE MARKS: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assemblywoman.

CHAIRWOMAN WEINSTEIN: Yes, so now we go -- next up is Assemblywoman Rajkumar, followed by Assemblywoman Walker.

ASSEMBLYWOMAN RAJKUMAR: Thank you.

Good morning, Your Honor.

CHIEF ADMIN. JUDGE MARKS: Good morning.

ASSEMBLYWOMAN RAJKUMAR: I want to talk to you about the severe backlog of cases in our courts. As is often said, justice delayed is justice denied. And yet around our state, as has been mentioned, courts are backlogged severely with cases. The district attorney of Onondaga County actually estimated that clearing his backlog will take 18 months to two years.

Now, part of the reason may be delays related to COVID-19. And OCA I know limits

the number of trials conducted at once. But I'm very interested in last year's study by the Center for Court Innovation, which partnered with you at OCA. And that study concluded that the actual caseload is not the real driver of delays; the culprit is inefficient calendar management and judges setting lengthy adjournments without considering whether parties could complete the tasks sooner in between court appearances.

And in 2019, the Center for Court Innovation managed to launch a study with you, and in it they increased the percentage of cases disposed in six months by 11 percent.

So could you please speak more about how OCA can resolve this backlog of cases in an expeditious manner, and how we can help make that happen?

CHIEF ADMIN. JUDGE MARKS: Well, again, there's a number of steps to be taken. I've mentioned some of them.

I think first and foremost there's

wide agreement that we have to be able to conduct more trials, jury trials in particular. And under the social distancing protocols currently in place, it's very hard to do that, as we discussed -- as I discussed with a previous colleague of yours.

So more jury trials. Broader use of alternative dispute resolution, where a judge, a court attorney, a community dispute resolution center, a private mediator gets the parties together and tries to mediate a settlement --

(Zoom interruption.)

CHAIRWOMAN KRUEGER: Somebody please mute.

SENATOR RIVERA: Brad. Brad.

It's Brad Hoylman. There you go.

CHAIRWOMAN KRUEGER: Oh, thank you.

CHIEF ADMIN. JUDGE MARKS: So greater use of ADR. Refocused attention on individual cases, inventories and -- this is a component of the Chief Judge's Excellence Initiative. Which I should say, by the way, the pandemic has presented real

challenges to resolving more cases in attacking backlogs. But the Excellence Initiative, which was in effect from 2016 to 2020, eliminated backlogs in many courts throughout the state and greatly reduced backlogs in other parts of the state. And but for that, the situation would be even more challenging today.

As to the Center for Court Innovation, yes, we worked with them and supported that pilot program which tried to reduce the time between court appearances and made efforts to ensure that the lawyers performed the tasks that they were supposed to perform between court appearances. And that court appearances be meaningful, that something happened at every court appearance in a case to move the case forward.

We worked with them on that pilot program, and it was successful -- I don't want to say it was dramatically successful, but it was successful in reducing the age of cases and promoting the earlier disposition of cases. And we've been in discussions with

them to replicate that approach in other courts, which is something that we would like to do.

CHAIRWOMAN KRUEGER: Okay, the time is up. I'm going to take it back for the Senate.

Senator Sepúlveda.

SENATOR SEPÚLVEDA: Good morning, everyone. Good morning, Judge.

CHIEF ADMIN. JUDGE MARKS: Good morning.

SENATOR SEPÚLVEDA: You know, we've had discussions about diversity in the courts over the years. When you talked about the merger plan, the first information I received about it indicated a lot of traditional law firms, but very few -- law firms and law groups, like the Bar Association and so forth, but not many law groups, bar associations of color were included in the initial consideration.

Has that changed in the development of this issue of court merger? Which I believe will have a deleterious effect on

representation of color in the courts.

CHIEF ADMIN. JUDGE MARKS: Well, we just zoomed our efforts, which were on the back burner since the pandemic for obvious reason -- but we returned our attention back to the court simplification proposal, and we are reaching out to more groups and will be reaching out to and seeking input from affinity bar associations, for example. That's something that there wasn't enough opportunity to do a few years ago when we last made a push, because of the pandemic, which put a halt to the pursuit of the proposal.

But you're absolutely right, the affinity bar associations in particular raised some concerns. And those are concerns that, you know, realistically will have to be addressed if this thing is going to progress.

SENATOR SEPÚLVEDA: Judge, you know, again, we'll be battling that when the time comes. But I just wanted you to be aware of my feelings about the entire merger discussion.

1 Any particular reason why you only
2 have two Latinos in positions of either
3 policy or management in the entire OCA
4 system? You have an administrative judge in
5 the Bronx, and I believe you have Judge
6 Rolando Acosta in the Appellate Division. No
7 other judges exist in the entire OCA. Is
8 there any particular reason for that?
9 CHIEF ADMIN. JUDGE MARKS: There's no
10 reason. We did lose three Hispanic judges
11 to -- Judge Jeanette Ruiz, who was the
12 administrative judge for the New York City
13 Family Court, retired. Julio Rodriguez, in
14 your county, who was the administrative judge
15 in the Civil Term in the Bronx, went to the
16 Appellate Division. And Judge Joe Zayes, who
17 was our administrative judge for the criminal
18 term in Queens Supreme Court, went to the
19 Appellate Division.
20 So the -- I agree with you, it's
21 difficult sometimes, you know, in terms of
22 who applies and who has the best
23 qualifications for the job. And by the way,
24 these administrative jobs are critically

important these days, because our focus is so much on court operations and frontline court activity. So --

SENATOR SEPÚLVEDA: Judge, I'm sorry to interrupt you, because I have a really critical question also on HP actions in Housing Court. You have multiple courts for holdover proceedings and nonpayment proceedings, but you only have one part that's set aside for HP actions. In light of the fires and the explosions and everything that's happening in our county, is there any particular reason why we don't increase the number of HP parts so that we can address these issues and have less fatalities and tragedies like we had?

And again, I apologize for cutting you off, but my time is limited.

CHIEF ADMIN. JUDGE MARKS: No, no, no problem at all. You're referring to Bronx?

SENATOR SEPÚLVEDA: I'm referring to most of the court systems, they only have one HP part --

CHIEF ADMIN. JUDGE MARKS: In each

county --

SENATOR SEPÚLVEDA: -- that handles -- in case people don't know, they handle the complaints about building violations and so forth.

CHIEF ADMIN. JUDGE MARKS: Right.

I can promise you we'll look at that. We'll look at the inventories in those parts and if the inventories are preventing those courts from resolving those cases efficiently and fairly, we can make changes.

But frankly it's the first I've heard about this, but I promise you we'll look into it. And if you're right, we can make changes.

SENATOR SEPÚLVEDA: Hopefully we can have a discussion soon.

CHIEF ADMIN. JUDGE MARKS: Sure. Thank you.

SENATOR SEPÚLVEDA: Thank you.

CHAIRWOMAN KRUEGER: I do have to cut you off.

But Judge, I suspect that if we took a hand-raising here, you would find many

legislators from New York City agree with that last recommendation. So just raise your hand if you agree with Senator Sepúlveda.

I thought so. So yes, please, Judge, let's all look into that.

SENATOR SEPÚLVEDA: And this is just a question that Senator Gustavo Rivera and I were talking about, so I don't want to get all the credit for raising the issue.

CHAIRWOMAN KRUEGER: Fine. Well, thank you, everyone.

Assemblywoman Weinstein.

CHAIRWOMAN WEINSTEIN: We go to Assemblywoman Walker.

ASSEMBLYWOMAN WALKER: Thank you. So in your opening remarks, Judge, you mentioned a finding of systemic racism, inherent bias and discrimination that are found in the court system. So I guess my question is, is there a particular court such as criminal court where those findings seem to be more prevalent than others? As one note.

And on the other note is if we allow for the judges to have discrimination in

their analysis of dangerousness, do you believe that those inherent biases, discrimination and systemic racism will and can have an impact on a determination of dangerousness for the people who we have jurisdiction over?

CHIEF ADMIN. JUDGE MARKS: Okay, two questions. Let me answer the first question first.

I mentioned in my opening remarks that the Chief Judge appointed Jeh Johnson to conduct a sort of a top-to-bottom evaluation of are we doing a good enough job in the court system of combating and preventing institutional racism and bias. And he concluded, and I think you're following up your question on his conclusion that there are two systems of justice in New York, one for the economically disadvantaged, people of color, which would include --

ASSEMBLYWOMAN WALKER: Thank you, Judge. Judge, I'm just asking whether or not the biases that were found have the ability to be utilized in assertation of

dangerousness in the discretion that's being requested for people with respect to bail reform.

CHIEF ADMIN. JUDGE MARKS: I would hope not. But do people have biases and do judges have biases? They probably do. But they should work to ensure that they don't have biases --

ASSEMBLYWOMAN WALKER: Thank you. Thank you.

CHIEF ADMIN. JUDGE MARKS: Okay. You're welcome.

ASSEMBLYWOMAN WALKER: If there's any accountability or indictment -- is there any accountability or indictment on judges for exercising these biases and/or discriminations?

And if so, I'd like to hear more about those. Because I did notice that it was cited that there was bias and discrimination that was alleged against a judge in Surrogate's Court prior to her removal. So is there any accountability and/or indictment with respect to those judges?

CHIEF ADMIN. JUDGE MARKS: The -- I mean, I don't want to get into great detail about the example you raised, but that -- that is an extreme situation that was brought to our attention, and we addressed it -- after investigating it, we addressed it immediately.

But on an overall level, if people -- people in the court system have biases and those biases impact decisions that they make, judges in particular.

ASSEMBLYWOMAN WALKER: Thank you, Judge. Last moment before I have to end.

So then the information that you cited with respect to DCJS may not be available prior to bail reform was implemented. The Mayor's Office of Criminal Justice also has data that contradicts the data that you just mentioned, and I'd like to discuss more with you about what happens with bail reform rearrests prior to bail reform and after bail reform, so that we are comparing apples to apples.

Thank you, Honorable Chairwomen.

CHAIRWOMAN WEINSTEIN: We go to the Senate.

CHAIRWOMAN KRUEGER: Thank you.

And we go to Senator Diane Savino.

SENATOR SAVINO: Thank you, Senator Krueger.

Good to see you, Judge Marks. I only have three minutes, so I'm going to try and be brief because I have two areas that I just want to mention.

One of course is following up on this continuing public discussion around bail reform. As you know, we undertook three years ago to change what was inherently a discriminatory process to begin with. But as legislators, we write laws, somebody implements them, and then it's up to you good folks in the judiciary to interpret them.

And I think it's important that from time to time we hear from judges as to whether or not we've drafted a confusing statute. And for those of you who think that we did or we didn't, I would suggest you read an op-ed in the January 21st Daily News

written by a criminal court judge from the Bronx, Jeff Zimmerman, who in fact says that what we have handed them is an incredibly complicated, confusing statute.

On the one hand, we are the only state in the country that says we utilize bail for the sole purpose of making sure defendants return to court. Every other state allows the consideration of dangerousness. At the same time, we amended the statute a short time later to delineate certain crimes that the Legislature determined were potentially violent.

So we've given them a confusing statute, and I think it's important that be part of the public debate. So I just want to leave that there. I suggest we start to talk to judges more frequently about what we are asking them to do so we have a clear statute that people can apply.

On to the other issue I want to talk to you about. I notice you're not asking for money to cover the cost of labor contracts. You do have some outstanding ones. And

you're in the middle of negotiations, I believe, with the Superior Court Officers Association -- which is not going well, from what I understand, because there's not enough money at the table.

So can you talk to me about why you're not seeking more money, since we seem to be printing it in the basement right now.

CHIEF ADMIN. JUDGE MARKS: Well, we are seeking -- we have money in the current-year budget to pay for a percentage salary increase this year, and we're putting money in our proposed budget for the next year to pay for percentage salary increases for our represented employees --

SENATOR SAVINO: Not to cut you off, but my understanding is the percentage you're offering is certainly not something they're willing to accept. Again, that's a labor negotiation that you're in the middle of.

But if we go back to -- an earlier questioner was talking about recruiting and retaining people and the problems you're having recruiting people to work in the court

system. You might want to aim higher, Judge Marks. So perhaps a higher percentage increase would assist you in recruiting people, retaining them, and keeping the courts operational.

CHIEF ADMIN. JUDGE MARKS: Well, I appreciate that comment.

SENATOR SAVINO: (Laughing.) Thank you.

I'm done. I yield my 30 seconds.

CHAIRWOMAN KRUEGER: Thank you very much, Senator Savino.

Assemblywoman Weinstein.

CHAIRWOMAN WEINSTEIN: We've been joined by -- a little while ago by Assemblyman Aubry, and we go to Assemblywoman Mitaynes.

ASSEMBLYWOMAN MITAYNES: Hi. Thank you very much.

My question is more around Housing Court. And I'm actually from Brooklyn. But so just wanting to piggyback on the HP cases. We have various ones that we're aware of that are trying to be filed and they're not moving

forward. And our understanding is that there is a backlog because they don't have sufficient staff to process them. So I just wanted to throw that out there.

But also you talked about the upgrade and expanding the court's technology capacity to be able to facilitate virtual court appearances. So my question is what are you doing with respect to those people that might not have access to technology or own a computer at home? What does the judicial process look like for them? And please describe at what point in the judicial process this technological literacy is evaluated and who conducts such evaluations and how such evaluation changes and determines the process that they go through.

CHIEF ADMIN. JUDGE MARKS: Well, first let me say our goal is to return to as high a level of in-person proceedings as we can, because the courts are an in-person business. And that's our goal, to be able to conduct as many in-person proceedings as possible.

However, there will be a role for

virtual proceedings going forward. And you highlight an important issue about not everyone has the knowhow or the technology and the equipment to participate in virtual court proceedings. It's a real problem. You're absolutely right.

And we -- there are a number of ways to address it, including installing technology in the community so that people can go to a community organization or a house of worship, perhaps, and use the technology there to be able to participate in court proceedings. And that's an initiative that we are very interested in pursuing, and will pursue, because hopefully, you know, the pandemic will go away one of these days for good, or largely go away for good, and we can go back to more normal proceedings in courthouses, which would mean in-person proceedings.

But we can't predict for sure that that will happen, so we may have to rely on virtual proceedings for some time longer. And even if we go back to normal, there could

still be a value for people, in the example that I'm raising, who rather than have to travel all the way to the central courthouse, can participate by going to a nonprofit organization in their community which --

ASSEMBLYWOMAN WALKER: That sounds great. And I understand -- sorry -- that this is for the future. But what are you doing right now to address those issues?

CHIEF ADMIN. JUDGE MARKS: Well, in Family Court, which has a significant number unfortunately of unrepresented litigants, people who come to court without a lawyer, the telephone, believe it or not, it's not ideal, but the telephone has been found to be helpful and useful. And, you know, more people have phones than have Surface Pros or, you know, fancy computer equipment.

So it's low-tech, but the phone has served its purpose in a court like Family Court. So on an immediate basis, that's not ideal, it's not perfect, but it's sort of a patchwork approach that we can do immediately.

But in the long term, where we can think, you know, with more vision, technology in the community could be of great benefit to people who don't have equipment to participate in virtual proceedings or the knowhow or the computer savviness to be able to do that.

CHAIRWOMAN WEINSTEIN: Back to the Senate.

CHAIRWOMAN KRUEGER: Thank you very much.

Senator Palumbo for five minutes, ranker on Codes.

SENATOR PALUMBO: Thank you, Madam Chair.

Nice to see you, Judge Marks. How are you?

CHIEF ADMIN. JUDGE MARKS: Very good, thank you.

SENATOR PALUMBO: Good to see you again.

And just by way of follow-up on what you were just discussing, do you think that some form of hybrid may be here to stay?

CHIEF ADMIN. JUDGE MARKS: Yes, absolutely. Because the crowded courtrooms, they're called "cattle calls" by some people, where 150 people are in a courtroom, you know, at 9:30 in the morning, are really a thing of the past.

And you know, there are routine court appearances for scheduling and, you know, where routine decisions have to be made, can absolutely be conducted virtually and will be in the future. It's more efficient for everyone, it saves money for lawyers for their clients. It can be more efficient for the judges. And, you know, absolutely there's a permanent place for technology in virtual court proceedings in the court system of the future.

SENATOR PALUMBO: Sure. Sure. And in that regard, I came in and I missed some of the conversation with Chairman Bailey. But on the 18-B panel, are you seeking additional funding to increase their rates?

CHIEF ADMIN. JUDGE MARKS: We don't have our own bill, but we strongly, strongly

support increasing the assigned counsel fees. It's been --

SENATOR PALUMBO: I've had many friends who --

CHIEF ADMIN. JUDGE MARKS: Yeah.

SENATOR PALUMBO: Yeah, I'm sorry. I've just had many friends who have turned down cases who are, you know, the best lawyers in the room, they're there every day, but they just can't make a living. And unfortunately the indigent individuals are not getting, you know, excellent representation that they otherwise would have had. So --

(Overtalk.)

CHIEF ADMIN. JUDGE MARKS: I'm sorry. Because there are fewer lawyers willing to serve on these rosters and panels, it's leading to -- we discussed this earlier -- it's leading to further delays in the processing of cases.

SENATOR PALUMBO: Sure. Sure, I agree.

On to the public protection side, and

really just on the criminal justice side of the conversation. And you indicated earlier that there was a conclusion that there were some -- that it was socioeconomic, as far as the discrimination that you indicated, or was it based on race or something else? Tell me a little more about that data, if you can. Fairly quickly, I'm running out of time, please.

CHIEF ADMIN. JUDGE MARKS: Yeah, it wasn't so much in data. It flows from the study and report of our special advisor on equal justice in the courts, Jeh Johnson, who concluded that the courts that tend to service poor people, people of color from economically disadvantaged communities, are more crowded, have fewer resources, and struggle more than the courts that service, you know, people of means or people who can afford to hire a lawyer.

And that was an observation made which we accept and embrace as the reality, and it's a problem that needs to be addressed.

SENATOR PALUMBO: Sure. And do you

have a demographic of the judiciary itself? Because I know there have been many positions taken by some members of the Legislature as well that the bench itself is inherently racist. But I'm just curious as to the demographics of the judiciary themselves. Do you have that?

CHIEF ADMIN. JUDGE MARKS: Absolutely. Yes.

SENATOR PALUMBO: Can you tell me a rough percentage as to what that would be?

CHIEF ADMIN. JUDGE MARKS: I can tell you that the percentage of judges of color is less than the percentage of people of color in the state at large. I don't have the exact numbers handy, but of course we can get you that.

SENATOR PALUMBO: That would be great. Thank you, Your Honor.

And regarding, you know, there's -- just as discussed by Senator Savino as well, that there's some concern about the clarity, the results of the criminal justice reforms that have been implemented in recent years,

do you have any numbers on people who are released pursuant to that program who have actually been rearrested or reoffended?

CHIEF ADMIN. JUDGE MARKS: Yes.

SENATOR PALUMBO: I know there's something -- I believe the new county executive in Nassau County is asking his police to keep track of that. Do you have any numbers in that regard?

CHIEF ADMIN. JUDGE MARKS: Yeah, we have detailed information that -- data that the court system collects and that the State Division of Criminal Justice Services collects, and we have detailed data on that point.

SENATOR PALUMBO: Great. And if you wouldn't mind forwarding that to me as well, that would be terrific.

And lastly, with 8 seconds to go, do you have any comments with regard to allowing judges to have discretion of some kind? because we could just have a computer sit on the bench if we're not going to allow judges to actually exercise discretion, in my

opinion.

But do you have any opinion in that regard as to whether or not that's something we should be considering on the policy side?

CHIEF ADMIN. JUDGE MARKS: What I can tell you is judges as a group -- and I can't be certain that I speak for 100 percent of the judges -- but judges as a group who handle criminal cases would favor having more discretion to make these decisions.

SENATOR PALUMBO: Thank you again, Your Honor. Nice to see you.

CHIEF ADMIN. JUDGE MARKS: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Chair Weinstein.

CHAIRWOMAN WEINSTEIN: Yes, we go to Assemblyman Lawler. I believe he's back from his committee. Yes, there he is.

ASSEMBLYMAN LAWLER: Thank you, Madam Chair.

And Your Honor, good to see you. I apologize, I was on a committee meeting, so I may have missed some of your answers. So just bear with me if I ask something that

you've already answered.

But yesterday Mayor Adams released a plan to try and combat gun violence in the City of New York, and part of that plan was allowing judges to consider a dangerousness standard. I think that has been one of the issues -- and my colleague just touched on it, with judicial discretion -- that has been one of the major concerns of those who have been opposed to some of the bail reform changes.

New Jersey implemented bail reform around the same time that we did, but they allowed for a dangerousness standard and allowed judges to consider whether or not the public safety was at risk. New York State is the only state in the country that does not allow for a dangerousness standard under these previous laws.

So I know you briefly elaborated on it just now. I think it really warrants a more thorough response, with all due respect. I think the mayor of the City of New York, the new mayor, has inherited quite a problem when

it comes to a rising level of crime, a rising level of gun violence in the City of New York. He is asking and imploring all of us to act with respect to giving judges judicial discretion. And so I'd really like to hear from you, you know, why New York State is the only state that does not allow it and whether or not you think it's warranted.

CHIEF ADMIN. JUDGE MARKS: Well, I can't answer why that is, but I can -- the answer I can give you is that judges as a group favor having more discretion. You know, that's -- this is what they're trained to do, they're trained to make assessments, to evaluate facts and circumstances, to achieve a fair result.

And we support them, you know, we train judges, we provide them with assistance and resources to be able to do their job as best they can. And that judges as a group, judges who handle criminal cases, would favor having more discretion.

Now, having said that, are they able to carry out their duties and their functions

under the current bail reform legislation? Yes, absolutely, they're able to perform their responsibilities.

ASSEMBLYMAN LAWLER: Your Honor, do you believe -- and I'm sorry to cut you off, I'm just running out of time. Do you believe that the evidence and prior criminal history should weigh in the decision with respect to bail?

CHIEF ADMIN. JUDGE MARKS: Do I believe that? I don't think my own individual opinion is what matters.

But I can report to you that as a group, it's fair to say that judges feel that way, yes.

ASSEMBLYMAN LAWLER: Okay. Thank you very much.

CHAIRWOMAN WEINSTEIN: Senate?

CHAIRWOMAN KRUEGER: Thank you. Senator Kevin Thomas.

SENATOR THOMAS: Thank you, Chair Krueger.

And good morning, Judge. Thank you for joining us once again.

I wanted to talk about Article 81 guardianships. As you know, this is under the New York Mental Health Law, where the judges make a decision as to whether this individual has capacity. So OCA has not made any efforts to fully or consistently fund guardianship programs. OCA has relied for a long time on volunteer guardians, usually attorneys. But as you know, these cases are intensive and time-consuming.

We know there's a critical need for guardians here on Long Island and throughout the state. And OCA has administered a pilot program on Long Island that was funded by the Legislature since 2018, but that funding is always tied up in bureaucracy, going through other agencies before reaching OCA, who then distributes the funds to local organizations who provide guardians.

Why has OCA not requested funds through the budget in order to fund this critical program and streamline the money to get it out quicker?

CHIEF ADMIN. JUDGE MARKS: Well, let

me say I agree with you that this is a problem, that the population is aging, as everyone knows, and older people often are not able to manage their day-to-day personal affairs and/or their finances. And ideally there's a relative or a close friend who can step in to do that, but that's not always the case, so that courts have to appoint someone off a list to serve as guardian. And if there's --

SENATOR THOMAS: But, Judge, why hasn't OCA asked for funding through the budget for this?

Like I get it, we know there's a huge need. By why hasn't OCA asked for money to fund these programs?

CHIEF ADMIN. JUDGE MARKS: Well, is that a -- we could have a discussion about this, and we should, because this is the first time I think we've talked about it. We've talked about other issues, but I don't know that we've ever discussed this issue.

SENATOR THOMAS: Okay. Would you -- would you support a statewide program through

the budget for guardianship?

CHIEF ADMIN. JUDGE MARKS: I think we would have to discuss who -- what is the right organization or entity to administer a program like that. Is it the county social service agency? Is it a state social service agency? Or is it the court system?

SENATOR THOMAS: Well, it's the courts that really determine the capacity issue here, so they should be the ones that are, you know, giving out the money. I mean, I know it's under New York Mental Health Law, but again, we can talk about this after the budget hearing, but I just wanted to get your thoughts on this and maybe we can work towards funding this program. Because there's a huge need, as you say.

CHIEF ADMIN. JUDGE MARKS: There's absolutely a real problem and a growing need, and I'm in complete agreement with you about that. We should talk further about how to address it.

SENATOR THOMAS: All right, will do.

Thank you, Judge.

CHIEF ADMIN. JUDGE MARKS: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Chairwoman Weinstein.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Carroll, but I just wanted to announce first we were joined by Assemblyman Burgos and Assemblywoman Wallace.

Now to Mr. Carroll.

Assemblyman Carroll, we can't hear you. You're not muted, but we still can't hear you. I'm not sure why.

Why don't we -- why don't we go to -- we're going to go to the next -- and let's try and figure out what's going on. Let's go to Assemblywoman Hyndman. And maybe exit and come back in, Mr. Carroll, and then we'll get back to you.

Assemblywoman Alicia Hyndman.

ASSEMBLYWOMAN HYNDMAN: Thank you, Chairs Weinstein and Krueger.

Judge Marks, I have two questions. I'll ask them both because of the time. In Housing Court, are there resources and/or measures in place for litigants that don't

have and haven't had access to the technology required for virtual hearings? That's the first question.

And the second question. Data from the New York City Mayor's Office of Criminal Justice shows pretrial rearrests have remained consistent over time and haven't changed with bail reform. In January 2019, prior to the implementation of bail reform, 95 percent of people had no new arrests. January 2021, two years later, the number increased to 96 percent, meaning slightly fewer people were rearrested following bail reform implementation.

Shouldn't we look at the city's data, being that everyone outside of New York City refers to New York City when it comes to this matter?

So if you could answer both questions, I'd appreciate it.

CHIEF ADMIN. JUDGE MARKS: Yeah, taking the last one first, if the city data is showing different results from the court system and DCJS data that I'm familiar with,

we should look at that. There must be an explanation for that.

But if there are discrepancies -- I mean, this is very important. I mean, bail reform seems like it's always debated, the debate never ends. It's an important public policy issue, and the data is critically important. If there are any discrepancies in the data, that should be resolved so that policymakers who have to make these decisions know that they have accurate and reliable data that they can rely upon.

In terms of technology available to Housing Court litigants, I did speak about that a moment ago. I think the number-one most important --

ASSEMBLYWOMAN HYNDMAN: I was at a hearing, sorry.

CHIEF ADMIN. JUDGE MARKS: No -- no problem. I'll repeat what I said. Happy to do that.

But the most important thing that we can do in Housing Court is to provide lawyers for people who can't afford one. And

fortunately, in New York City the city government is committed to doing that and has been committed to that for a while, so that everyone who can't afford a lawyer, every tenant who can't afford a lawyer in New York City will get one to represent him or her.

And in terms of outside the city, there isn't that guarantee, although as I noted a while ago, the Governor has suggested that maybe funding -- the state should identify funding to offer that opportunity for people outside New York City who find themselves in Housing Court and can't afford a lawyer. Ultimately, that's the answer to the problem.

But where that isn't the case, you know, there are real challenges for -- not everyone has the computer equipment that you would need to successfully participate virtually in a court proceeding. Or if they did, they might not know how to use it effectively.

And one of the answers -- and it's not an immediate answer, because this will take

time and money. But one of the answers is to install technology in community organizations where people can go to a nonprofit community organization in their community which has the technology, and they can participate virtually from that remote location.

ASSEMBLYWOMAN HYNDMAN: Thank you.

CHAIRWOMAN WEINSTEIN: We go to the Senate.

CHAIRWOMAN KRUEGER: Thank you.

Senator Fred Akshar.

SENATOR AKSHAR: Madam Chairwoman, thank you so much.

Your Honor, good to be with you. Thanks for joining us today.

As you can tell, not only today but for the past many months or last couple of years, we've been having this robust debate about public safety and the criminal justice system throughout the State of New York. I for one believe that we are failing New Yorkers and we are less safe today than we were just a short two years ago.

I have two questions, very briefly.

Does OCA have measures in place to address the perceived racism or biases that exist? So in the event that something like this presented itself, are there measures in place for OCA to deal with them directly?

CHIEF ADMIN. JUDGE MARKS: Yes. We have a robust investigative process when there are complaints of bias or discrimination happening in the court system. We have our own independent inspector general's office which will fully investigate and make findings and recommendations.

And if there is a finding of bias or discrimination, we have a zero tolerance policy now in the court system and will take swift and appropriate action to address it.

And to address implicit bias, we're embarking on a mandatory five-year implicit bias anti-bias program for all judges and all staff in the court system. It will be mandatory. It will be mandatory. It will not be just a one-and-done presentation, it will be a series of educational programs for everyone over the course of a five-year

period. And we're very excited about this and looking forward to this starting. And we feel that effective training on bias will prevent bias.

SENATOR AKSHAR: Your Honor, thank you. So not only have you had a strong program, you've taken the steps to ensure that you have an even stronger and more robust program moving forward. Is that a fair assessment?

CHIEF ADMIN. JUDGE MARKS: Yes, it is, absolutely.

SENATOR AKSHAR: Thank you, Your Honor.

Secondly, I say this with all due respect. When Assemblyman Lawler asked you a question, I think you had referred to like your opinion didn't matter or what you felt didn't matter specifically. I would say this very strongly, that your opinion does in fact matter.

So I'm just looking for a yes or a no, if you can. Do you believe that if your judges were able to make the determination

from the bench of the dangerousness of a defendant in front of them, would that ability keep New Yorkers more safe, yes or no?

CHIEF ADMIN. JUDGE MARKS: I think judges would be able to make a more informed and more effective decision about issues like bail if they had broader discretion to do so.

SENATOR AKSHAR: So if they were able to weigh the dangerousness of the defendant in front of them, they would be able to make a more informed decision with respect to keeping New Yorkers safer?

CHIEF ADMIN. JUDGE MARKS: They -- if they had -- I'm sorry, could you repeat that question?

SENATOR AKSHAR: Yeah. I just want to make sure I understood your answer.

If judges in fact could make that determination from the bench, the dangerousness of the defendant in front of them with respect of what to do with the defendant, they could make a more informed decision about whether or not to release them

back into the community or to set bail?

CHIEF ADMIN. JUDGE MARKS: I think they could be -- judges would feel that they would be able to make a more informed decision if they could take more information into account in making these decisions.

SENATOR AKSHAR: Do you believe that, as the chief administrative judge of the great state of New York?

CHIEF ADMIN. JUDGE MARKS: You know, I'm not sitting on criminal cases these days so, you know, I'm loath to express my own opinion. But I'm here to convey how judges feel as a group. And by the way, I'm not saying a hundred percent of judges feel that way, but I'm confident in saying that the great majority of judges who sit on criminal cases would agree with that.

SENATOR AKSHAR: Madam Chairwoman, thank you so much. Your Honor, thank you for answering my questions.

CHAIRWOMAN KRUEGER: Thank you, Senator.

Assemblywoman Weinstein.

CHAIRWOMAN WEINSTEIN: Yes, we go back to Mr. Carroll. I think he's corrected his -- the issue he had. Three minutes.

ASSEMBLYMAN CARROLL: Chair Weinstein, can you hear me?

CHAIRWOMAN WEINSTEIN: Yes. Yes, we can hear you.

ASSEMBLYMAN CARROLL: I'm not that much of a troglodyte.

CHAIRWOMAN WEINSTEIN: Okay.

ASSEMBLYMAN CARROLL: Judge Marks, thank you for being here. I have a comment and I have a question.

I would like to reiterate what Senator Myrie said before about our Surrogate's Court, especially in Brooklyn, and the issues around the public administrator's office. For my colleagues who don't know, I have a piece of legislation that would actually put the public administrator's office inside the corporation counsel and have the mayor appoint our public administrators in New York City, which I think would be very important to depoliticizing that office and making sure

the New Yorkers most vulnerable, you know, those who have family members who die intestate, are treated fairly and equitably.

But my question for you, Judge Marks, is there are many members of the bar who have reached out to me, especially in our civil parts of the Supreme Court, who are at their wits' end. They have had civil matters delayed and delayed and delayed. You know, they can't get simple motion work done let alone actually get a trial date set.

What can the OCA do to make sure that we find a way to efficiently run our civil parts so that plaintiffs can actually have their cases heard? This is a massive windfall for the insurance industry and monied interests who have been able to delay cases and delay judgments, to the detriment of plaintiffs.

And I'm highly, highly concerned, and I'm concerned that OCA is not directing judges at all costs to figure out ways to get trials done, but to just get settlements done, because they know that there is so much

delay and backlog.

What can OCA do, what can the Legislature do to help you do your job?

CHIEF ADMIN. JUDGE MARKS: The best thing that we can do is to resume fuller trial capacity. And I don't know if you were on the meeting earlier, but we talked about that, that it's the realistic threat and capability of a trial that drives settlements. Not entirely. And believe me, we've resolved thousands and thousands of cases over the last two years during the pandemic, but we're not doing enough trials. We fully acknowledge that. There are social distancing requirements that make that particularly challenging.

We're making an effort on both the civil side and the criminal side to get Health Department officials to mitigate, but --

ASSEMBLYMAN CARROLL: Judge Marks, I --

CHIEF ADMIN. JUDGE MARKS: That's the number-one thing we can do.

ASSEMBLYMAN CARROLL: I have limited time.

You know, I hear from trial lawyers in New York City every single day that they just can't get simple appearances, that they have judges who are, for lack of a better phrase, missing in action. What is going on?

CHIEF ADMIN. JUDGE MARKS: Well, judges are not missing in action. Judges have been in the courthouse for months and months. They're conferencing cases. I'm happy to talk about this with you further, but --

ASSEMBLYMAN CARROLL: I would love to because I don't think that there -- you know, there are so many stories that I've heard, and I don't think they're all anecdotal, where folks who have trials cannot get appearances. And they feel as if they cannot -- they can't practice, and they can't represent their clients. And I really do believe that this is a massive, massive windfall for the insurance industry and monied interests generally against plaintiffs

who otherwise would have claims be adjudicated in their favor.

CHAIRWOMAN WEINSTEIN: With that, we'll go to the Senate. Senator Krueger.

CHAIRWOMAN KRUEGER: Thank you. Just double-checking on a hand that disappeared but was not supposed to disappear.

Senator Jose Gustavo Rivera. I added a Jose. What am I doing? Senator Gustavo Rivera.

SENATOR RIVERA: That is my full name, Madam Chair.

CHAIRWOMAN KRUEGER: You know, I was looking at a text from you and it had the full name. So sorry.

SENATOR RIVERA: No worries. Thank you, Madam Chair.

Thank you, Your Honor. My question will be quick, and I actually just want to underline something that was said earlier. Many of the questions that I wanted to ask have been asked, but specifically something that Senator Sepúlveda brought up earlier at the end of his questioning, and I just wanted

to give you, just so that you know -- because I understand, obviously, you're responsible for the entire court system.

But in the Bronx there are Part H and Part A. Part H is for HP actions, and Part A is for NYCHA cases -- you know, nonpays and holdovers. But then Part B, C, D, E, F, G, I, J, K and L are all of them dedicated to nonpays and holdovers.

So the difference is extreme. So I would certainly ask you to please look into this, because it is obvious when you have -- I mean, the fire that killed all these folks in the Bronx happened in my district in a building that had, you know, all sorts of issues with lack of heat, et cetera. And we deal with these issues on a daily basis in my district office. And I know that everybody else probably in the city, but certainly in the Bronx, deals with it.

So I just wanted to put that on the record. There is that enormous a distinction: One part for HP actions and eight, I think, or nine for everything else.

That's -- that just seems completely -- just crazy.

CHIEF ADMIN. JUDGE MARKS: Yeah, I promise you we will look at that to make sure there's not an imbalance in that. I mean, we have to be able to address code violations, it's critically, critically important. And, you know, the latest tragedy underscores that, obviously. And if, you know, the numbers justify additional HP parts, we can do that. But it's something -- it's the first I'm hearing about this. So this is helpful, and we'll absolutely look into it and --

SENATOR RIVERA: I will definitely follow up with you on it. But since you've said that this is the first time you heard it, I wanted to make sure to underline it so that it is right there. Underline it in your notes or what have you, and we will follow up with you afterwards.

Thank you, Your Honor. And thank you, Madam Chair.

CHIEF ADMIN. JUDGE MARKS: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assemblywoman Weinstein.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Burdick.

ASSEMBLYMAN BURDICK: Thank you. And thank you, Your Honor.

I had two questions. I will ask both of them, in the interests of time.

A question from a long-serving town justice in one of the towns I represent, whether the court system might go to centralized arraignments, as he believes they do in Nassau County. And if so, how would this impact the future role of town and village courts?

And the second question is I represent a portion of Westchester, and prior to bail reform nearly 24,000 people were incarcerated prior to -- in pretrial between 2010 and 2014 because bail couldn't be met. Those who are white made bail at twice the rate of those who are Black.

And bail reform, as you know, was intended to address this disparity as well as

to reduce the degree that people are jailed without a conviction.

And apart from bail reform, what additional basic guardrails and protections against jailing without a conviction exist?

CHIEF ADMIN. JUDGE MARKS: The first question, about centralized arraignment parts, we've expanded them. They're terrific. I mean, they're a great improvement over what preceded them in counties, particularly -- not just rural counties, but particularly rural counties throughout the state where, if someone gets arrested, they have to go find -- wake -- in the middle of the night, the police have to take the person and find like a judge and wake him or her up and conduct the arraignment. Not an ideal system.

So the centralized arraignment part for -- off-hour arraignments can take place in a central location where there will be a lawyer, staff there, and a prosecutor staff there and a judge, obviously, there. And it's far preferable to, you know, running

around all over the place trying to find a judge in the middle of the night, and often not succeeding.

So we're supportive. We have them in many jurisdictions around the state, many counties. And this is of course outside New York City exclusively. And we're committed to setting up more of them.

In terms of the economic inequality of cash bail, I mean, I agree with you completely about that, that whole notion of, you know, how much money you have can dictate whether you can attain your liberty is -- it's un-American, frankly. I mean, it flies in the face of everything this country is about.

So, you know, I'm just -- now I'm expressing my own opinion, which some of your colleagues asked me to do.

But we still have cash bail in this state, and there are states that have eliminated cash bail. And, you know, that's something that should be considered, obviously.

ASSEMBLYMAN BURDICK: Thank you very much. I appreciate it.

CHIEF ADMIN. JUDGE MARKS: You're welcome.

CHAIRWOMAN WEINSTEIN: Thank you. Now to the Senate.

CHAIRWOMAN KRUEGER: Thank you. And I believe our last Senator, unless someone else pops up, is Senator Sue Serino.

SENATOR SERINO: Thank you, Chairwoman.

And hello, Your Honor. Thank you for taking our questions today.

CHIEF ADMIN. JUDGE MARKS: Sure.

SENATOR SERINO: I know some of my colleagues have already asked your thoughts on allowing judges to consider dangerousness when setting bail, and I really appreciated your answers. I've carried a bill since 2019 that would give judges discretion to consider dangerousness, and I would be interested to hear your thoughts on that bill. But obviously you don't have that bill in front of you, so I'd like to follow up after the

hearing, if possible, because we really think that that change is critically important.

And I also share the concerns for the backlogs that some of my colleagues have spoken about as well.

But my question is, does the Housing Court have anything in place right now where people who are not eligible for ERAP but may have an application pending that will likely be denied, can be directed to other appropriate resources? And I apologize if somebody asked that question; I had to jump off for a Zoom before.

CHIEF ADMIN. JUDGE MARKS: Well, the current state of the law, and this includes a judicial decision from a judge in Manhattan rendered within the last couple of weeks, is that if -- even though the money is exhausted at the moment -- and there may be more money coming, and hopefully -- I think everyone would agree that it would be good if there were more money, good for tenants, good for landlords, good for everyone.

But the current state of the law is if

there's an application pending -- and people can file new applications now, even though there's no money at the moment. But if an application is filed, then the court proceeding is stayed. So that's the current state of the law as a result of a court decision from a few weeks ago.

SENATOR SERINO: So -- I guess that answered my question. It's just a -- okay. All right, thank you, Your Honor. I appreciate it.

CHIEF ADMIN. JUDGE MARKS: You're welcome. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

So Chairwoman Weinstein, I think the Senate has completed its list. So why don't you just start rolling Assemblymember after Assemblymember.

CHAIRWOMAN WEINSTEIN: We have two members, Assemblywoman Kelles and then it will be Assemblyman Walczyk, to close.

ASSEMBLYMAN EPSTEIN: Helene, my name's been on the stack for a bit.

CHAIRWOMAN WEINSTEIN: Wait, who's

this?

ASSEMBLYMAN EPSTEIN: Harvey.

ASSEMBLYWOMAN KELLES: Harvey's first.

CHAIRWOMAN WEINSTEIN: Oh, I'm sorry. Yes, I cut you off. Yes, Assemblyman Epstein and then Kelles and Walczyk.

When I copied it, I left you out. It was unintentional, Harvey.

ASSEMBLYMAN RA: Chair, we also have Mr. Reilly, who joined us and has his hand raised.

CHAIRWOMAN WEINSTEIN: Okay. I don't see that on my screen, but that's not a problem.

ASSEMBLYMAN RA: Okay. Thank you.

CHAIRWOMAN WEINSTEIN: So we go to Assemblyman -- oh, the problem is for some reason Assemblyman Reilly is mixed in with the Senate. I don't know if that was a demotion or a promotion for him.

(Laughter.)

CHAIRWOMAN KRUEGER: I'm sorry, we're not starting that fight today. No, no, no.

CHAIRWOMAN WEINSTEIN: Assemblyman

Epstein.

ASSEMBLYMAN EPSTEIN: Thank you, Chair.

And thank you, Judge Marks, for being here.

I know we all don't have a lot of time. Just on the diversity of the bench, what percentage of judges are Black in OCA?

CHIEF ADMIN. JUDGE MARKS: I have those numbers. I could find them, it might take me a minute. Could I get them to you post-hearing?

ASSEMBLYMAN EPSTEIN: Yeah. I mean, great to know Asian, Black, Latino judges, court attorneys who are Black, Asian, Latino. I mean, because -- you know, obviously people's personal experiences impact how they view the bench. And you're saying the majority of judges are in favor of dangerousness, I'm just wanting to know who those judges are and how they represent our state. I'd love to have that data.

CHIEF ADMIN. JUDGE MARKS: We have the demographic data, and of course happy to

share it with you.

ASSEMBLYMAN EPSTEIN: I appreciate that.

And do you have the eviction data for 2021, how many evictions occurred in 2021?

CHIEF ADMIN. JUDGE MARKS: We have that also, yes.

ASSEMBLYMAN EPSTEIN: Could I get -- could you share that with my office? I'd appreciate that.

CHIEF ADMIN. JUDGE MARKS: Of course.

ASSEMBLYMAN EPSTEIN: And I just want to reiterate what we heard from my colleagues around the HP issue. I understand that you may say that the percentage of cases might be lower for HP actions, but as someone who's practiced in Housing Court for decades, what we've heard is not just the number but the slowdown of these trials where heat and hot water cases are taking months because the judge is -- even though there's only -- there's one HP judge, and they do a half a day, you know, for weeks at a time because they have an HP calendar.

So I just would love for you not just to look at the number of cases but how those cases are impacting the people appearing before them.

CHIEF ADMIN. JUDGE MARKS: Yeah. No, I -- that's I think an excellent point.

ASSEMBLYMAN EPSTEIN: Great. And then I want to turn our attention to the backlog, because I know that you mentioned that a lot on the backlog. Because what we've heard is a lot of people who are being held at Rikers are staying there because of the backlog of their trials.

And I understand the issues of the social distancing. But, you know, the real world impact that's having on people who, you know, there are allegations that they've committed a crime and are just sitting in Rikers six months, a year -- we've heard from defender associations that they're there for long periods of time.

Like what is the real plan? Because 18 months isn't a real plan to get these cases taken care of. We really need to hear

what the short-term plan is. Is it additional resources? What is the plan, is it additional space? Like what is the plan to get this backlog taken care of?

CHIEF ADMIN. JUDGE MARKS: Every week we schedule criminal jury trials with a great preference to, you know, what are described as in-defendants, who are in detention, as opposed to being out at liberty.

And we -- as was discussed two hours ago at the outset of this hearing, under social distancing protocols -- and the defender groups will certainly support what I'm saying -- it's very difficult to conduct criminal jury trials because of the -- particularly the jury selection requires multiple courtrooms.

And so it's a function of space, which is a function of the 6-foot social distancing rule. And I don't know if you --

ASSEMBLYMAN EPSTEIN: Judge Marks, I'm almost out of time, but I know -- if there's more space, then that's something we can talk through. If it's a space issue, please come

to us and say it's space.

And I ran out of time, but I do want to talk about the court consolidation issues. I have some concerns I raised years ago when you first produced that, and I'd love to follow up with you about some of those concerns that I still have.

CHIEF ADMIN. JUDGE MARKS: Sure. Sure. Absolutely.

ASSEMBLYMAN EPSTEIN: But please come to us if it's a space issue.

CHIEF ADMIN. JUDGE MARKS: Okay.

CHAIRWOMAN WEINSTEIN: Thank you.

So now we go to Assemblywoman Kelles.

ASSEMBLYWOMAN KELLES: Thank you so much.

In the interests of time, I'm going to try and run through mine as well really quickly.

Just, first, one comment that was previously mentioned about funding and staffing for assigned counsel. I just wanted to add my two -- you know, additional support for that. We are also having a very

difficult time and I know the rates have not increased since 2004. I definitely think we are due.

And wanted to also add my two cents to considering requesting or putting in funding also for any kind of centralized staffing. It's not just that they don't have the funds -- the correct rate at this point, I think -- but that whatever they do get, they have to use it if they want to get any staffing support. So that's something we don't talk about very often, but I do think that that's also an issue.

And another thing I wanted to ask you about was related to mental health court or wellness court. It statistically has been shown to be hugely successful, and there have been a lot of people in my district who are asking questions of whether or not that could be expanded in every county throughout the state. I have one county that has it, it's hugely successful; another county that does not.

And so I wanted to ask really quickly

if that has been something that you at all discussed and something that you would consider supporting and advocating for.

CHIEF ADMIN. JUDGE MARKS: Yeah, I think it's fair to say that's our ultimate goal, that the mental health courts are successful. And every county ideally should have one, and I think that's a reasonable goal to strive towards.

They are resource-intensive, however, and the -- usually they're initiated by grant money, grant money that the state gets from the federal government. The SAMHSA administration, which is part of HHS, distributes block grant money to states. And the State Office of Mental Health would want to be on board on that. So yes --

ASSEMBLYWOMAN KELLES: Thank you so much. I will follow up with you on that. I'm so sorry to cut you off. But I will definitely follow up, because if there is a way to do that together, then I certainly am interested.

But I did want to make one comment

quickly about bail reform, and a question.

One thing that I'm very concerned about is that we are not taking the data in context. We have seen an increase in gun violence and violent crime throughout the entire country, and in fact New York State is less than the average across the entire country. Which begs the question if we're the only ones that have had bail reform, then would we not expect that we would actually be higher?

So I would ask you, do you think that the COVID crisis has influenced the increase that we are seeing, rather than bail reform? That is my first question about it.

And my second question is a concern that I have, which is the fact that as a result of bail reform we have seen a reduction in people incarcerated pretrial, but we've actually seen as a result a significant increase, an exacerbation of the number of Black people who are incarcerated specifically after bail reform.

So I wanted to know if you could

comment on that, and specifically the questions on right now, given implicit bias and the lack of the fact that you've had that yet, of whether you feel comfortable with the movement forward of giving the discretion of assessing dangerousness, given the imbalance I believe --

CHAIRWOMAN WEINSTEIN: Assemblywoman, leave --

ASSEMBLYWOMAN KELLES: -- for people of color.

Yes, thank you very much. If you could just answer those briefly, that would be good.

CHAIRWOMAN WEINSTEIN: If you have a very brief response, Judge Marks.

CHIEF ADMIN. JUDGE MARKS: Sure. I think that the rise in shootings is not just a phenomenon here in New York, but it is particularly in cities across the country, some of which have bail reform, some of which don't, I assume. I don't have all the information on all the jurisdictions across the country.

But there's no doubt, I would think, that it's fair to say that the pandemic has had an impact on that. Exactly how, I'm not sure. I'm not a criminologist. But I think the evidence would point to the pandemic having an impact on the rise in shootings in jurisdictions around the country.

In terms of bias built into the pretrial detention in New York, I would hope that's not the case, but I haven't seen data on that one way or the other. And I don't know if there is data. There should be.

ASSEMBLYWOMAN KELLES: I'll share the data.

CHIEF ADMIN. JUDGE MARKS: Okay.

CHAIRWOMAN WEINSTEIN: Okay, thank you. We're going to move on to Assemblyman Walczyk.

ASSEMBLYMAN WALCZYK: Thanks, Madam Chair.

Your Honor, wonderful to hear from you today. Appreciate your answers to a number of the questions, and that's cut down on the number of questions that I have today.

So the Judiciary Budget that's presented by the Executive here requests -- shows that the New York City Civil Court is disposing of less than half of the new case filings, yet the budget does not request a significant increase in personnel and requests only a minuscule amount of overtime -- I think I'm reading this right, only $14,000?

So how would OCA address the terrible increase in cases that have not been disposed?

CHIEF ADMIN. JUDGE MARKS: Well, you can't be looking at the right number for overtime. The overtime number that we're seeking is closer to -- between 25 and $30 million, and closer to the $30 million.

So we are relying on more overtime because our staffing numbers are down, so there's pressures to -- more reliance on our existing workforce and getting them to work additional hours for which they're entitled to overtime.

ASSEMBLYMAN WALCZYK: Yeah, so on

page -- and, Your Honor, it may be a typo that you want to take up with the Executive, because on page 74 I'm reading the personal service request also includes $14,239 for overtime, which supports current level of operations. Which I was surprised by that small number to even be able to -- but, I mean, understandably, if there's almost no overtime allotted, that we would be less than 50 percent of filings to dispositions.

CHIEF ADMIN. JUDGE MARKS: Yeah, I'm sorry, I'll have to take a look at that, and I will.

ASSEMBLYMAN WALCZYK: Okay. And then if you could comment, with my remaining time, town and village courts were virtually closed for a year pursuant to directives from OCA, creating a substantial backlog. And I know you've talked about this quite a bit already today. Is the funding for town and village courts increased to address the huge backlog of cases in a timely manner consistent with the Executive's initiative goals of fairly and promptly adjudicating cases and

eliminating delay and backlog in court operations?

CHIEF ADMIN. JUDGE MARKS: Well, we -- this budget doesn't fund town and village courts. I mean, we have a unified court system in New York, you know, state-financed and state-managed. But when the Constitution was amended to provide for that, it did not include the town and village courts. They're funded and staffed by their local locality, their local town and village.

We do have a grant program, which has been in place for a number of years, that allows town and village courts to apply for enhancements like to purchase a magnetometer or to build a bench.

ASSEMBLYMAN WALCZYK: Yeah, Your Honor, how do you expect those local courts are going to be able to catch up on their backlogs?

CHIEF ADMIN. JUDGE MARKS: I think they -- and, by the way, they never closed. They operated virtually. You know, we always emphasize that, that during the worst days of

the pandemic, once we set them up with technology -- and we help the town and village courts with technology, even though we don't fund them -- you know, the courts conducted proceedings virtually.

But I think the way to do it is -- and virtual has great advantages, but it sometimes can't be as efficient as in-person. And I think the town and village courts, like a lot of the state-paid courts in New York, are going to just have to plow through -- calendar these cases and plow through them and resolve them as best that they can.

Is that going to happen overnight? No. But, you know, improvement in the public health conditions will facilitate the resolution of many more cases once that happens.

ASSEMBLYMAN WALCZYK: Appreciate it, Your Honor. Thanks, Madam Chair.

CHIEF ADMIN. JUDGE MARKS: You're welcome.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to Assemblyman Reilly.

ASSEMBLYMAN REILLY: Thank you, Madam Chair.

Thank you, Your Honor, for coming today and talking to us.

One question that I have up front is there's a lot of misinformation going around about the current case out of Nassau County with the mask mandate, saying that it was unconstitutional. There's talk going on now that there's a stay on it.

Can you clarify for us today, is there an actual stay on that decision right now, where everything will remain in place, or is there not?

CHIEF ADMIN. JUDGE MARKS: Yeah, I haven't read the decision. I saw a newspaper account about it. But don't hold me to this, because I could be incorrect, but I believe when the state files a notice of appeal under Civil Practice Law, that there's an automatic stay of the trial court decision.

So I don't know if that's happened yet, but what I read is that there will be an appeal, and if there's an appeal there will

be a notice of appeal filed. And you know, that will resurrect an automatic stay of the trial court's decision.

ASSEMBLYMAN REILLY: Thank you for that clarification, sir.

So one thing I want to raise under public protection is Raise the Age, and we talked about -- many people have talked about gun violence here. And especially the things in New York City, we see the uptick in crime.

One of the parts of Raise the Age -- I have a bill I introduced where it's about 16- and 17-year-olds in possession, arrested for possessing a loaded firearm. Currently they would go to Family Court unless they used it in the act of a crime. I'm hoping that the legislation will allow them to stay in Youth Part Criminal.

The reason why I say that is here are some numbers that we have from over the last two years: 2021, under 18, 940 -- combined 2020 and 2021, 947 people under the age of 18 were arrested for a firearm. In 2020, there were 411, and in 2021 there were 536. That's

an alarming number, and it's on the rise.

And I think one part of clarifying Raise the Age, where the DAs could say that they have extenuating circumstances, just by possessing a loaded firearm, under the Penal Law, to stay in Youth Part, would help address those concerns. Do you have any insight on that?

CHIEF ADMIN. JUDGE MARKS: I really don't. I know there's been talk about revisiting the Raise the Age statute, which I think over the four-plus years, however long it's been of its existence, I think has worked well.

That's not to say that it's perfect, but I really have no opinion and haven't evaluated the change that you're suggesting.

ASSEMBLYMAN REILLY: One of the concerns we have is that when you have someone like a 14- or a 15-year-old that has a firearm and it goes to Family Court, that case is sealed and can't be used.

While just a recent incident in the Bronx, that defendant actually had a case in

Family Court Act and pled, and it was a misdemeanor they pled it down to, but it can't be used, and now the 16-year-old incident. So it's as if that never happened. So they've used a gun twice, and unfortunately only one could be used. So I think this is a step that could help us in all directions.

Thank you.

CHIEF ADMIN. JUDGE MARKS: Well, let me just say quickly that I think one of the primary purposes of the Raise the Age statute was not to saddle people of that age bracket with criminal records. But is that always the right policy? It may --

ASSEMBLYMAN REILLY: I agree -- I agree with that --

CHIEF ADMIN. JUDGE MARKS: It may or may not be, but that was one of the underlying purposes of the legislation.

ASSEMBLYMAN REILLY: Well, when we have gang members that are using 16- and 17-year-olds to skirt the law by having loaded firearms, knowing that they won't be

held accountable, that's where we jeopardize safety. And I think that's something that we have to consider, and that's a narrow point of change that could be made.

Thank you, though. I appreciate it, and I'm sorry for cutting you off.

CHIEF ADMIN. JUDGE MARKS: No problem.

CHAIRWOMAN WEINSTEIN: Thank you, Assemblyman.

And our final questioner is Assemblyman Palmesano.

CHAIRWOMAN KRUEGER: I'm sorry, I'm just going to jump in for one second. Apparently the stream for people on the outside watching and listening to us cut off for a few minutes. But it was fixed, and everybody should be back on. So if you get any individual complaints that your constituents suddenly weren't there, whatever the issue was, it was resolved.

Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

So now to Assemblyman Palmesano.

ASSEMBLYMAN PALMESANO: Yes, thank

you, Your Honor, for being here and your patience for this long day.

My first question really is last year the Legislature approved funding -- or approved 14 new Supreme Court judgeships. Does the Judiciary Budget account for funding for the judges and their support staff? And also, along that same line, who pays for the physical courtroom space for these 14 new judges that they will need for court operations? Is this going to be a fiscal burden that's going to be placed on our localities and counties, or is this going to be in the Judiciary Budget?

CHIEF ADMIN. JUDGE MARKS: First of all, the funding for the new judgeships is absolutely included in this budget request, so the money will be there for the judges and their staff.

And court facilities, as you may know -- it's a state court system, and the judges and employees are all state employees. But the facilities are -- at least for the trial courts, the facilities are owned and

maintained by the localities, New York City in the City of New York, and individual counties outside New York City.

So we -- these judges were elected in November, the new judges, and they came on board in early January. And if there was any problem in securing space for them, I'm sure I would have heard about this, and I haven't heard any problems. So I think the existing facilities are able to absorb the new judgeships. Of course, they're spread out over a number of counties. If 14 new judges showed up in one county, that would be a problem.

But I haven't heard of any facilities concerns, and as a result of that I'm assuming that they've been absorbed successfully in the courthouses where they're assigned.

ASSEMBLYMAN PALMESANO: Great. Thank you, Your Honor. I have one more question.

Last year the Legislature unanimously passed legislation, A6044, that basically required that any retired judge of the Court

of Appeals shall be recertified by the OCA, instead of may, as long as they have the mental and physical capacity to perform such duties.

What is OCA's position on this legislation, and have you had conversations with the administration on whether they're supporting the bill or chaptering it or reading the legislation? Because obviously that's an important piece of legislation that had unanimous support from the Legislature.

CHIEF ADMIN. JUDGE MARKS: To be blunt, we think it's a terrible bill. It would lead to really unfortunate consequences if that became law. I could go into the reasons why with you, but we could talk about that offline. And we've made our views known to the Governor's office why we think it's a really bad bill.

ASSEMBLYMAN PALMESANO: Fair enough. Thank you, Your Honor, for your time and patience.

CHIEF ADMIN. JUDGE MARKS: You're welcome.

CHAIRWOMAN WEINSTEIN: Thank you. We have one more Assemblymember, Assemblyman Abinanti for a question to conclude. He seems to have raised his hand and now not, so perhaps that was an error. We'll assume that was an error.

So I just want to take a moment, Judge Marks, to thank you for being here with us and spending as much time as you did. And I just really want to say thank you. I don't have any questions for you; our colleagues have asked sufficient questions to cover any of my concerns.

CHIEF ADMIN. JUDGE MARKS: Thank you.

CHAIRWOMAN WEINSTEIN: Senator Krueger?

CHAIRWOMAN KRUEGER: Yes, I also want to thank you for your time with us today.

I think it's clear, Judge Marks, that we appreciate how much the court system has been going through during this complex period of COVID and keeping distance and keeping people healthy and safe while ensuring our judicial system goes forward. But I also

think it's we have lots of questions and concerns moving forward. And we look forward to working with you and the court system to make our New York court system even better in addressing the needs of our communities.

So I know we took up quite a bit of your time today. And for people following along, we have a very extensive list of testifiers, so stay comfortable in your chairs. We're going to be around for a while.

We'll allow Judge Marks to leave, and we will welcome Robert -- I never pronounce your name right, but I'm going to try it -- Tembeckjian, who is the administrator and counsel for the New York State Commission on Judicial Conduct.

Hi, Robert, how are you?

ADMINISTRATOR TEMBECKJIAN: Fine, thank you, Senator. And how are you? And I appreciate the opportunity to see you and all of your colleagues.

I'm in an unaccustomed position this year because for the first time in a decade,

the Executive Budget and the Judicial Conduct Commission are in agreement on what our funding levels should be. And I believe that this is primarily due to two factors. One is that we have a Governor with a senior staff that appreciate the commission's constitutional independence, recognize that although our budget comes to the Legislature through the Executive, that we are not a gubernatorial agency and that these recommendations ought to be the result of conversation as opposed to dictation.

And secondly, because I think the effect of several years of assistance that the Legislature has provided to the commission, by supplementing what previous Executive Budgets have recommended for us, has made a statement and is having an impact.

So apart from this Governor having an appreciation for the unique constitutional role that the commission plays, I think that she and her senior staff appreciate that the Legislature has had that appreciation for quite some time.

As you know, the commission is the state agency that enforces the rules of ethics on the judiciary. There are 3500 judges in the State Unified Court System over whom we have jurisdiction. Despite the disruptions over the last two years as a result of the pandemic, we have managed to meet our responsibilities with innovative technological improvements and advances, so that we processed last year over 1900 complaints and over 3400 over the last two years. We engaged or conducted over 630 preliminary reviews and inquiries, we have initiated over 240 full-fledged investigations, and have removed or effectuated the permanent resignation of 24 judges, publicly reprimanded 17, and confidentially cautioned 53.

So despite the challenges posed by the pandemic, we have been effectively meeting our responsibilities.

The one thing that I would ask the Legislature to consider -- and it's not strictly a money-related bill, although it

affects the manner in which the commission makes its financial presentation to the Legislature. I have asked the Governor's office to consider, in one of the 30-day amendments, a single-sentence addition to our governing statute in the Judiciary Law which would emulate the way the Executive presents the Judicial Budget to the Legislature. We're asking for authorization to submit our budget to the Legislature through the Executive, but without amendment and with comment.

Because we don't report to the Governor, because we are not an executive agency, we would like to enshrine in law the relationship that we have with the current Governor and her staff, because history has taught us all too clearly and painfully that a different governor, a different budget director, different senior staff have a view of the commission that is less appreciative of our independence of the executive branch.

We are in the Judiciary Article of the Constitution. We perform an exclusively

judicial branch function, which is to discipline judges of the State Unified Court System. And while you and the various committees of both houses -- Assembly Judiciary, Senate Judiciary, Finance on both sides -- have long appreciated that the Executive should not control, via the funding, the discipline of judicial branch officers, a simple amendment in the law would codify that and resolve, you know, any dispute or issue that we might have with future governors as we certainly have had with past governors on this issue.

So if it is in the 30-day amendment, I hope it would be adopted. If it's not, I've spoken to Senator Hoylman's staff just this week about standalone legislation for this proposition which I think would resolve the conflicts that have so often in the past been the subject of my testimonial appearances before you.

So seeing the smile on my face instead of the hat in my hand this year, I'm happy to answer whatever questions you might have,

Senator Hoylman, Chairman Lavine on the Assembly side, and any of your other colleagues.

CHAIRWOMAN KRUEGER: Great. Thank you very much.

I also want to thank you for coming and testifying at the Senate's recent Ethics hearing on visiting JCOPE and that it could be built back better, so to speak, and you were very helpful and enlightening to us as well.

ADMINISTRATOR TEMBECKJIAN: Well, thank you, I appreciate that. And I never fail to note that the legislation you've proposed to fashion an alternative to JCOPE is in large part modeled on the Judicial Conduct Commission, which has demonstrated success as an ethics enforcement entity.

CHAIRWOMAN KRUEGER: Correct. Thank you.

I'm going to turn it over to the Judiciary chair for the Senate, Brad Hoylman.

SENATOR HOYLMAN: Thank you, Chair Krueger.

And good to see you. We're so glad that you're happy, because that's been an effort in both of our houses. And I just want to acknowledge Senator Krueger, our Finance chair in my house, for her leadership on this issue over the years to make certain that you are well-funded and that our judges are reviewed properly, as you do. And so we appreciate all of your work.

And I'll be reaching out to Chairman Lavine on the legislation that you discussed to see if we might pursue that option.

But I wanted to ask you a couple of questions. Specifically, we've heard conversations around bail reform today and the issue of how judges have implemented it. In the CJC annual report from last year, the report says that the commission doesn't take a position on the efficacy of the law or proposals to amend it -- this is under a section entitled "Judicial Responses to the New Bail Law" --

ADMINISTRATOR TEMBECKJIAN: Right.

SENATOR HOYLMAN: -- but that the commission "takes the opportunity to remind judges that whatever their individual views of the law may be, they are obliged under the rules governing judicial conduct to respect and comply with the law, to be faithful to the law, and to maintain professional competence in the law.

"In a particular case, a judge who in good faith interprets the law need not fear disciplinary consequences for what may turn out to be a legal error that is reversed on appeal. However, a judge who purposefully fails to abide by the law, e.g., to make a political point or because s/he personally disagrees with the law, invites discipline."

I wanted to ask you, on that specific point, inviting discipline, have any judges been subject to discipline on this basis since the implementation of bail reform?

ADMINISTRATOR TEMBECKJIAN: We have not publicly disciplined any judge yet for violating or failing purposefully to avoid the bail law.

You're absolutely right, in the section that you read, that judges are obliged to respect and comply with the law, to be professionally competent in the law, to be faithful in the law. There have been -- and I heard your exchange with Judge Marks on this subject earlier today -- there have been some newspaper reports, not all of them accurate, about highlighting some situations in which it appeared as if a judge or two were purposefully avoiding the bail law.

To date, we have not found that to be the case. We get several complaints every few months related to the bail law issue. We examine them carefully. If we find that there is any judge who is purposefully not enforcing the law -- and that's true of the bail law, it's true of any statute -- that judge would be subject to discipline for it.

We have in the past, even before the bail law reforms, publicly disciplined, including removed from office, judges who were abusing bail and otherwise not abiding by statutory guidance. So we're not afraid

to take it on. We have disciplined judges in the past for violations of the bail statutes. And if we find that anyone is currently purposefully avoiding, as opposed to making a good-faith error that would be reviewable on appeal, we have reviewed those complaints and we would take action.

SENATOR HOYLMAN: So you say that you have in the past disciplined judges on the issue of bail laws, but not since the bail reform laws were passed.

ADMINISTRATOR TEMBECKJIAN: Correct. Publicly, correct. Absolutely right.

SENATOR HOYLMAN: And are there any open investigations or inquiries?

ADMINISTRATOR TEMBECKJIAN: We do. There are a couple of matters that we are currently reviewing. But obviously, as you know, because of our confidentiality statute, I can't say more about that.

SENATOR HOYLMAN: Yes. Speaking of which -- so I appreciate that response.

We've previously discussed ways to increase transparency in judicial conduct

proceedings, including making proceedings public once there is a formal charge. Could you discuss how that might work and why it would be important to foster public trust in the judiciary?

ADMINISTRATOR TEMBECKJIAN: New York is in the minority of states which keep confidential all judicial disciplinary proceedings until the very end and then make them public only if there is a public discipline imposed.

And I think that the significance or the importance of transparency is twofold: One, for the public to have confidence that the disciplinary system is working as it should. So in the same way that a grand jury investigation of an alleged crime would be confidential, once there is an indictment returned, even if the individual goes on to be acquitted at trial, the matter becomes public. That is enshrined in the U.S. Constitution and in our law since post-colonial constitutional government was founded.

Secondly, as the commission itself has said in previous annual reports, it's a way to keep the disciplinary body honest and for the public to appreciate or understand that the body is dealing with important, serious matters in a way that the public can see, the process can be seen, so that the public can have faith that the commission is not, for example, to use an old vernacular, deep-sixing the case unjustifiably.

And I think that would be true of any ethics enforcement entity. Investigations should always be confidential. There is too much at stake for any allegations without some sort of filtering process to become public. But once an official body has determined that cause exists to discipline a judge -- or any other public official -- it's my view that that should be public both to keep the enforcers honest and to undermine -- and to underscore the public's faith that the process is working and that public officials will be held accountable for wrongdoing.

SENATOR HOYLMAN: Thank you.

We've seen in recent years how judges can avoid discipline by resigning. Do you think we should amend the commission's jurisdiction to provide continuing oversight jurisdiction after resignation?

ADMINISTRATOR TEMBECKJIAN: I do. And the commission has written about this as well.

Currently, under law, Section 47 of the Judiciary Law limits the commission to 120 days after a judge resigns and then only if the discipline is going to be removal from office, because under the Constitution a judge who's removed is ineligible ever to return to the bench.

But there is a lot of behavior that is less than removable -- censurable or admonishable -- that a judge should not be able to avoid the consequences of by leaving office before the inquiry is done. And I think a fair amendment of that statute would give the commission -- keep the 120 days, but give the commission 120 days to conclude its investigation. And it if determines that

formal charges are required, then let the process play itself out.

And if a judge did something in the last six months of office that should be censured, so be it. That is certainly true of other public officers. The law was amended some years ago so that other public officials can be disciplined after resigning; resignation doesn't give you a free pass from accountability. And the same should be true of the judicial branch.

SENATOR HOYLMAN: You know, we're hearing of unvaccinated judges, you heard that mentioned today. Last week there was news of a City Court judge who was not only unvaccinated but continuing to come into the office, and refused to wear a mask despite court rules requiring him to work from home.

Are there any complaints to the Commission on Judicial Conduct on this subject? And what are the potential consequences for a judge that, you know, puts their colleagues and staff and litigants at risk?

ADMINISTRATOR TEMBECKJIAN: Well, judges are obliged by the Ethics Code to obey not only the law but court rules. And the court system has promulgated rules on vaccination and on masking -- in fact, the state has obviously the masking requirement that is the subject of some litigation.

Failure to abide by rules subjects a judge to public discipline. So as Judge Marks was unable to discuss specific cases, suffice it to say that a serious as opposed to an inadvertent violation of an important public health rule of the court system, such as vaccination or masking, would subject a judge to review by the Commission on Judicial Conduct. And in fact the Office of Court Administration has publicly said that it would refer judges who don't abide by those rules to the commission.

Now, I can't get into the individual details, but this is something that in my experience suggests that Judge Marks and OCA are taking seriously, and I know the commission is taking seriously.

SENATOR HOYLMAN: Thank you, Mr. Tembeckjian. Thank you, Madam Chair.

CHAIRWOMAN KRUEGER: Thank you, Mr. Chair.

Assemblywoman Weinstein.

CHAIRWOMAN KRUEGER: We go to the chair of our Judiciary Committee, Charles Lavine.

ASSEMBLYMAN LAVINE: Thanks, Chair Weinstein.

So Mr. Tembeckjian, it's always good to see you. As someone who --

ADMINISTRATOR TEMBECKJIAN: And you, you've had a busier year than I have with the ethics matters, haven't you?

ASSEMBLYMAN LAVINE: Which may be good. Which may be good for you.

But as former chair of the Legislative Ethics Commission and chair of the Assembly Ethics Committee and presently chair of the Judiciary Committee who had responsibility for the investigation of the former governor and the report, I want you to know something that I know you know, which is that I have

great respect for what the Judicial Conduct Commission does and what you do for the Judicial Conduct Commission and for all the people of the State of New York.

Number two -- but I only have three, but this is the second one. Number two, I share with you a sense of joy at the fact that the commission's budget is being substantially increased this year. And that is a good thing for everyone in New York.

But what I want to ask you is this. In the age of the pandemic, which is affecting each and every one of us, even the people who seem to think there is no pandemic -- but which is affecting each and every one of us, and we're now about two years into it, just about -- but have the number of cases that have come before the commission increased? And if so -- compared to the prior years. And if so, can you associate any of the conduct with stresses of the pandemic?

ADMINISTRATOR TEMBECKJIAN: The raw number of cases is more or less static. I

think in five of the last six years we have averaged over 1900 complaints a year. Last year was the -- two years ago, 2020, was the only year where we dipped under 1900, and that was -- we still had over 1500. And that was I think significantly attributable to the early effects of the pandemic and the fact that the court system was in, let's say, hiatus for several months.

But otherwise we're back up to norms this past year. We had over 1900 in 2021, and that's pretty much usual.

We're not seeing any different distribution in the subject matter of these complaints than usual. The range has more or less been steady. I can't really say that we've seen that the stresses of the pandemic have been responsible either for changes in judicial behavior or among those who are making complaints. And it's understandable, because there's a lot of stress involved even without the pandemic in -- for all the participants in judicial proceedings, from judges and court staff down to the litigants.

And in certain places, such as Family Court, where the stakes are more volatile, there is a natural built-in stress to the process.

But the pandemic per se, I can't say -- from what we've seen so far, I can't say that the pandemic has been responsible for any greater proportion of our complaints than the ordinary stresses of litigation.

ASSEMBLYMAN LAVINE: Thank you very much. I have no further questions.

CHAIRWOMAN WEINSTEIN: Thank you.

Senate, do you have --

CHAIRWOMAN KRUEGER: Thank you. I think we have Senator Palumbo.

SENATOR PALUMBO: Thank you, Madam Chair. I was up and down with my hand. I was contemplating. But it's always nice to talk to Robert here. Good to see you again. How are you?

ADMINISTRATOR TEMBECKJIAN: Likewise, thank you.

SENATOR PALUMBO: So my question was -- it's more of a hypothetical. So I was thinking, as you were speaking earlier about

disciplinary rules and your disciplinary concerns with some judges, I'm sure -- or how do you reconcile situations where a judge is particularly reluctant to go along with the positions of a district attorney? Obviously they have discretion. We see what's going on in Manhattan now with some proclamations as to how they're going to proceed.

I'm almost thinking in the other direction. When a DA is too heavy-handed according to a judge's liking, have you had any situations where there were ethics concerns? And I'm thinking -- that's what made me think of kind of an odd question, but either the judge was trying to do what they could outside of the parameters of, say, someone's a prior felony offender, and it's an indicted felony. They can only give them a felony. They cannot reduce it to a misdemeanor in that example. But judges were doing what they could to possibly get around the Criminal Procedure Law or the Penal Law.

ADMINISTRATOR TEMBECKJIAN: We have not seen instances where -- not typically,

anyway. There has been an odd case here or there over the years in which judges seem to be working hand in hand with law enforcement as opposed to being independent arbiters of the cases.

One of the matters that I alluded to earlier, which was some years ago, involved a city court judge who was setting punitive bail, literally -- and shocking to hear -- $25,000 for bicycle equipment violations. Which is not even a violation of law. Riding your bike on the sidewalk without a warning device, meaning a bell, is not punishable as a crime.

But there were several defendants brought into court on such charges. They were all indigent. And the judge set $25,000 bail. They were remanded. And a week later, a week later after being in custody, they were given the option of pleading guilty and being sentenced to time served. And by the way, a week in jail is not an authorized penalty for riding your bike without a bell.

That judge was removed from office.

There is that rare case where it does happen.

More often than not, what we see are judges who -- through social media or other public forums, allying themselves with law enforcement by liking tweets that promote police causes or the prosecution of certain cases, failing to appreciate that remaining neutral is an obligation, and appearing to remain neutral is an obligation regardless of the medium.

So if you can't say it personally, you shouldn't say it on social media. The disciplinary result is going to be the same. And we have had disciplines, including censure and some resignations of judges who have publicly aligned themselves with one side of the criminal justice system as opposed to honoring their obligation to remain neutral.

That's usually where we see the crossing of the line.

SENATOR PALUMBO: Thank you. And I'd expect you could also see in the other direction as well --

(Inaudible overtalk.)

ADMINISTRATOR TEMBECKJIAN: On occasion we do. Yes, we do. We absolutely do.

SENATOR PALUMBO: Great. Well, thank you again.

CHAIRWOMAN WEINSTEIN: Thank you.

Assemblywoman Cook and Assemblywoman Byrnes have joined the meeting -- the hearing, and we go to Assemblywoman Walker.

ASSEMBLYWOMAN WALKER: Thank you, Robert, for your insightful testimony.

So Judge Marks indicated that there was a finding that there was bias and discrimination that was found throughout the court systems of New York. Is there any indication as to a timeline for the number of bias and/or discrimination complaints that you've received? And how has your office worked with the Office of Court Administration to address those biases?

ADMINISTRATOR TEMBECKJIAN: Typically, if the OCA inspector general finds evidence in some court system inquiry of bias by a

judge, they refer that to the commission. We also get complaints of bias from third parties. And we also, on occasion, come across it on our own in the course of investigating other misconduct.

We have an annual report that indicates in chart form at the back of the book a breakdown of the subject matter of complaints, so that we can actually trace the number of bias complaints, the number of demeanor complaints and so forth that come in in any given year, and report on the action that's taken.

It's been relatively constant in the last few years. But we have, in the last several years, either removed or negotiated the resignation of judges who have publicly made biased statements against the LGBTQ community, against the Black community, against women. We've had several public decisions where judges were either removed or forced to resign. For example, we had one case involving a judge in deep upstate New York, near the Canadian border --

ASSEMBLYWOMAN WALKER: Can you speak a little bit more about the judge -- the Surrogate's Court judge in Brooklyn? Because I think that's also a huge concern.

Because once a judge is censured or removed, what happens to that person's court case? Is that person allowed to just sort sit in limbo for the remainder of their term? Like what -- what happens in those situations?

ADMINISTRATOR TEMBECKJIAN: Well, I don't want to speak specifically about the Brooklyn surrogate.

But in general, whether it's Surrogate's Court, criminal court or anywhere else, if a judge's caseload has been removed because there is serious pending allegations of misconduct, typically what the chief administrative judge will do, either directly or through one of his deputies, is to order an acting judge to take the place of the one whose caseload has been removed. So that those cases will not languish, there will be some other judge who comes in with authority

to do this.

In the same way that in a perfectly innocent situation it might be the case -- if, for example, a judge takes ill or if a judge must step aside from a case because a family member is involved, the Office of Court Administration has the authority -- the chief administrative judge has the authority to make a corrective assignment. So that those cases should now be addressed.

If the situation were or the complaint were that the judge was not doing the job, and so the cases were taken away from that judge, they would be given to someone else who can take the job. And there have been public reports in Brooklyn of that having happened.

ASSEMBLYWOMAN WALKER: Well, I was asking what happens to the judge. Does she just -- well, do they just sit and languish on the state payroll? Like what happens with that particular person?

ADMINISTRATOR TEMBECKJIAN: Two things would occur. One is the commission would

investigate. Because clearly the failure to perform the duties of the office is spelled out in the Constitution as a basis for a judge to be disciplined. And secondly -- but this is less often the case, because the Constitution narrowly limits the authority to suspend a judge.

The Judicial Conduct Commission has no authority to suspend a judge. Only the Court of Appeals can suspend a judge, but only in very, very limited circumstances. So if a caseload is taken away from a judge for failure to do the job, the commission would investigate and potentially discipline, including the option of removing the judge from office.

But until then, there's no means in New York to stop the salary of that judge or to remove that judge from office. We have to go through the disciplinary process. And as Senator Hoylman's question pointed out, that process by law is confidential until there is a result.

CHAIRWOMAN WEINSTEIN: Thank you.

We've been joined by Assemblywoman Joyner.

I'm going to send it back to the Senate. I believe there are no further questions on our side.

CHAIRWOMAN KRUEGER: Thank you very much, Chair Weinstein.

I just have one final question for you, Robert. I'm always shocked when I learn that there are judges in New York State who never went to law school. Do you think we need to change this law?

ADMINISTRATOR TEMBECKJIAN: To be clear, the town and village courts -- which are not courts of record under the Constitution -- may be populated by individuals who are not law trained or are not admitted to the bar. Of the approximately 2100 or so town and village court justices in New York, about 1400 are not attorneys. And over the years, I think a statistical analysis of the commission's public disciplines would reveal that a significant majority of our public

disciplines involve judges who are not attorneys.

The commission has itself purposefully never taken a position on this subject because we don't want to be perceived -- or we don't want our disciplines to be perceived as having been motivated by a bias or a predisposition that we shouldn't have non-lawyer judges in New York.

I have a personal view on that subject which I would be happy to share with you privately. But institutionally, we've never taken that position publicly for want of undermining confidence in the disciplines that we do impose.

And by the way, as our public record I think would plainly illustrate, there is almost no behavior for which we have disciplined a non-lawyer judge for which we haven't also disciplined lawyer judges. Lawyer-trained judges as well as non-lawyer-trained judges can engage in misconduct. And when they do, we discipline them without regard to whether or not they

hold a law degree.

CHAIRWOMAN KRUEGER: Thank you.

I mean, I'm not a lawyer. I don't even think I should get involved in endorsing judges because I didn't go to law school and don't have an ability to judge whether someone's qualified to be a judge or not. It is always amazing to me that we allow people who never even had to study the law to be the judges in our courtrooms. So I know where I stand on this. So I appreciate your -- if not showing what your opinion is, your research result is from your work on the commission that clearly, statistically, we end up with far greater problems brought to your attention by people who sit on -- sit as judges who were not trained in the law.

So thank you very much. And thank you for your testimony here today and your continuing good work on behalf of the people of New York. Because if we can't have faith in our courts, I don't know where else we can go. So we need to have faith in our courts, that and we need to police them correctly.

So thank you for your testimony and your hard work, and we're going to excuse you.

And we're going to invite I think perhaps as of today our newest officially confirmed nominee to a commissionership, Jackie Bray, as the new head of the New York State Division of Homeland Security and Emergency Services.

Hi, Jackie.

DHSES COMMISSIONER BRAY: Hi, good afternoon.

CHAIRWOMAN KRUEGER: So I've been in this hearing; I don't even know if we got to the confirmation yet or not.

DHSES COMMISSIONER BRAY: Not yet. Not yet. I'm acting commissioner as of this hour still.

CHAIRWOMAN KRUEGER: Okay. Well, the rumor is that will be completed as an assignment later in the day.

Welcome to the budget hearing, your first budget hearing. And please -- you have 10 minutes to give us your testimony.

DHSES COMMISSIONER BRAY: Thank you.

Well, I want to thank Chair Krueger and Chair Weinstein and the distinguished members of the joint committee. My name is Jackie Bray. I am the acting commissioner of the Division of Homeland Security and Emergency Services. It's my honor to share with you the accomplishments of our agency and provide an overview of the Executive Budget as it relates to our mission.

Division staff continue to work tirelessly on COVID-19 response and recovery efforts while performing their daily emergency management duties, including responding to extreme weather, natural disasters, and providing training to first responders.

The Executive Budget provides necessary resources for the division to carry out our mission of enhancing public safety and to continue pandemic response. The total agency appropriation in the Executive Budget is $4.9 billion, which includes $32.5 million in new appropriations. The Executive Budget

puts forth additional funding to build a new Emergency Operations Center, expand the division's cybersecurity capabilities, and further improve our State Preparedness Training Center.

The Executive Budget continues last year's appropriation authority of $4.15 billion, which will allow DHSES to administer federal funding in New York State. This funding supports COVID-19 response and recovery efforts, including testing and vaccination operations as well as other costs associated with reopening public services during the pandemic.

The division works directly with FEMA and State, local and nonprofit applicants to maximize federal funding to recover from natural disasters and other emergencies, including COVID-19. This past year there were two federal Major Disaster Declarations in New York: Tropical Storm Fred in August, and Hurricane Ida in September. This appropriation will also help deliver funding to New York to rebuild and recover from the

impacts of these two storms.

Following the devastation of Hurricane Ida, division staff worked with our federal and local partners to quickly assess damages, which ultimately led to the approval of FEMA's Public Assistance Program for 13 counties. This partnership also resulted in FEMA authorizing Individual Assistance programs in New York State for the first time since Superstorm Sandy. Through the Individual Assistance Program, over $195 million was directly provided to more than 88,600 New Yorkers to help them recover and rebuild.

The division also worked to secure federal public assistance for nine counties impacted by Tropical Storm Fred. While our request for Individual Assistance was denied, we continue to fight for Steuben County and have obtained a Small Business Administration Disaster Declaration that will provide low-interest loans to homeowners and businesses in Steuben.

Throughout the pandemic, the division

has managed and coordinated efforts to address the many challenges presented by the ongoing public health crisis, including testing and vaccination operations, PPE storage and distribution, and responding to local requests for assistance. These are all coordinated through the State Emergency Operations Center, which has been continuously operational since March of 2020.

Designed and built during the Cold War, this underground fallout shelter is outdated. It has real space and technology limitations. Governor Hochul's budget puts forth $25 million in capital funding for the development of a modernized Emergency Operations Center, which will absolutely enhance the state's preparedness and response capabilities.

Governor Hochul's proposed budget also seeks to expand the Division's Cyber Incident Response Team. Since 2018, the CIRT has assisted local governments, school districts, and non-Executive agencies through assessments as well as direct incident

response support. In 2021, the CIRT responded to all requests for assistance, helping more than 50 local entities. Governor Hochul's commitment to cybersecurity in the budget will allow the CIRT to expand preventative assessments, response capabilities, and training.

The Executive Budget also allocates $3 million for additional classroom space, training space, a new auditorium and technological upgrades at the SPTC in Oriskany. Because of the Legislature's approval and support of prior capital funding over the last decade, the SPTC has added our CityScape and our Swift-Water Training Facilities, some of the most state-of-the-art facilities across the country. This next round of upgrades will continue to keep the SPTC as a national leader in emergency response training for our state, local and national partners.

It's impossible to address all the fantastic work of the division during this testimony, but I appreciate the opportunity

to appear before the Senate and the Assembly today. I look forward to our continued partnership with the Legislature, and I'll gladly take any questions you have at this time.

CHAIRWOMAN KRUEGER: Thank you very much.

I'm just looking to see who's raised their hand, and I don't see any -- oh, good, a Senator raised their hand. Thank you, Pat Ritchie, because I wanted to be able to call on a Senator first.

Senator Patricia Ritchie.

SENATOR RITCHIE: Thank you, Chairwoman.

I just have a question about something that happened at the New York State Academy of Fire Science. We unfortunately had a young firefighter who was killed there, and your predecessor had assured us that your agency would be commissioning an independent investigation into the incident.

I'm just wondering, are you planning to do that? Do you have financial resources

to do that? Or do you have an update, by any chance, on this issue?

DHSES COMMISSIONER BRAY: Absolutely. Thank you, Senator.

In March of 2021 there was a tragedy that occurred at the State Fire Academy, and there was a death of a firefighter recruit during our recruit training program. There are currently three independent investigations, one of which has concluded, the PESH investigation. There are two additional independent investigations ongoing, one by the State Police and one by the CDC NIOSH.

I was briefed on this incident, on this event on my first day on the job. I directed my team to continue to fully cooperate with all of the independent investigations. And as soon as we have the results of those independent investigations, I'll be taking appropriate action.

SENATOR RITCHIE: Okay, I very much appreciate this. You know, it's been very difficult for the family and as time goes on,

it's, you know, made it even more difficult to move on. So I appreciate that, and I'm glad that you were briefed and you're going to move ahead, and I'm sure the family will be glad to hear that also. Thank you.

DHSES COMMISSIONER BRAY: Thank you.

And I should say my sympathies are absolutely with the Morse family and the community. And, you know, I -- it's an unimaginable loss, and my thoughts are with them.

SENATOR RITCHIE: Thank you very much.

CHAIRWOMAN KRUEGER: Thank you.

And because Assemblywoman Weinstein had to step away for a few minutes, I'm going to call on Ranker Ed Ra for a question, or questions.

ASSEMBLYMAN RA: Great, thank you.

Just really one particular question. You know, as I'm sure you're aware, you know, with some of the recent incidents we've seen, there's a recent federal Department of Homeland Security and Federal Bureau of Investigation announcement that faith-based

communities have been and will likely be targets of violence. And I know there's hate crime grant funding within the DCJS budget, but I was wondering if within the Department of Homeland Security if there are any particular programs or funding in place to try to prevent these types of incidents and protect, you know, houses of worship and other faith-based facilities that could be targeted.

DHSES COMMISSIONER BRAY: Mm-hmm. So you're absolutely right, the state hate crimes program moved to DCJS last year, and it remains in DCJS. That was in an effort to expand the flexibility that our local partners needed from that program.

At DHSES we continue to administer the federal grants for the federal hate crimes program. And in addition, I think we all need to be clear-eyed about the fact that in New York State, as is true across the country, domestic violent extremism, motivated by antisemitism and white supremacy primarily, is on the rise and represents one

of the great terrorism threats that we face today.

And so this agency administers about $250 million worth of Homeland Security grants, and I think that more and more of that money over the past couple of years, and certainly moving forward, will go to make sure that our local law enforcement is prepared for these domestic violent extremists and for the new evolving threat.

ASSEMBLYMAN RA: Okay, well, thank you for that. I know certainly, you know, I've had local facilities, particularly within the Jewish faith, reach out looking -- over the past, you know, really decade, looking for support for grants and things of that nature.

So, you know, definitely a continuing concern for all of us with these events unfortunately continuing to happen. So thank you.

DHSES COMMISSIONER BRAY: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Senator Tom O'Mara.

SENATOR O'MARA: Thank you, Chairwoman

Krueger.

And Commissioner Bray, thanks for being with us again.

My question is a brief one. And we have spoken directly on the Tropical Storm Fred disaster that hit Steuben County back in August, and the denial of individual assistance aid by FEMA.

I see in the budget, in the Aid to Localities, there's a $4 million appropriation, I believe is the amount. Is that something that could be utilized by the state should the Legislature and the Governor approve providing some individual assistance aid from the state, since the feds are not doing that?

We have certainly a track record of past disasters where that type of assistance has been provided directly by the states, and I'm just wondering, from your perspective, where those funds could be found if approved for that, and where they should be in the budget, if they're not in there right now, for something like that.

DHSES COMMISSIONER BRAY: So let me say I share your frustration and disappointment that the feds didn't approve the individual assistance for Steuben and for Tropical Storm Fred. I thought they should have done that, and I'm very sorry that they didn't and frustrated that they didn't.

DHSES does not have an appropriation at this time that could support state funding to replace that federal funding. It's our job at DHSES to maximize the federal dollars we can bring in, and I am glad that we got public assistance after Tropical Storm Fred, and I'm also glad that we got the Small Business Administration's low-interest loan program for homeowners and small business owners. But we don't have an appropriation for the type of individual assistance you're talking about.

SENATOR O'MARA: Would that not be able to come out of that $4 million appropriation that's in the Aid to Localities if the Governor chose to utilize it that way, or a portion of that?

DHSES COMMISSIONER BRAY: I don't believe it would. That appropriation specifically is a federal pass-through appropriation and not designed for state funding. But I'm happy to continue that conversation with you.

SENATOR O'MARA: Thank you. That's all I have.

DHSES COMMISSIONER BRAY: Thank you.

CHAIRWOMAN KRUEGER: Chair Weinstein.

CHAIRWOMAN WEINSTEIN: Yes, we go to Assemblyman Burdick.

ASSEMBLYMAN BURDICK: Thank you very much.

And thank you for your testimony, and congratulations for your appointment. And I appreciate your testimony about what your agency is doing to try to help recover from natural disasters. And I represent a portion of Westchester County, which got hit pretty hard by Hurricane Ida. And the federal infrastructure bill appropriates a huge amount of money to FEMA, and I'm wondering the extent to which some of those monies --

which I understand are still in the process of being distributed to the states -- might be coming to New York State and the extent to which you see it coming into Westchester County.

I'm working very closely with a couple of my municipalities and would love to see what might be available, because I assume that your agency is going to be involved in that.

DHSES COMMISSIONER BRAY: Yes, thank you.

So the first thing I would point to is we just released a Notice of Funding Opportunity for about $315 million worth of hazard mitigation funds for FEMA. That wasn't based specifically on the Ida disaster, but that's a funding opportunity currently on the street. We expect to release a hazard mitigation funding opportunity for Ida and for Fred in the coming weeks, so those opportunities will be out there for counties.

I do think it's essential that we as a

state maximize the amount of money that we have coming out of these infrastructure bills. This is a little orthogonal to your question, but there is a pot of about $429 million that's going to the National Water Centers, specifically to increase what they call hyperspectral -- think of that as very high resolution -- urban and suburban area flood mapping for inland rain events, that should increase our preparedness.

So there's I think a number of pots of money, and we do have our eyes on all of them.

ASSEMBLYMAN BURDICK: And I'm sorry to cut you off here; I have very little time.

Do you expect more money to be becoming available, and so further as we proceed in the year into next year, more funding opportunities to be made available by your agency? And do you see any of that being made available to towns and villages, not just counties?

DHSES COMMISSIONER BRAY: Yes. We are waiting for FEMA to release those

opportunities, but we certainly expect them.

ASSEMBLYMAN BURDICK: Any idea about how much, the magnitude?

DHSES COMMISSIONER BRAY: I don't have the magnitude yet for New York State, but I'm happy to follow up with you as we learn.

ASSEMBLYMAN BURDICK: If you could, that would be wonderful.

DHSES COMMISSIONER BRAY: Absolutely.

ASSEMBLYMAN BURDICK: I'm working with a number of my Westchester colleagues on the issue that I posed to you, so -- thank you very much for your good work. Appreciate it.

DHSES COMMISSIONER BRAY: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

I don't believe there are any more Senators, Assemblywoman.

CHAIRWOMAN WEINSTEIN: So let us go to Assemblywoman Rajkumar.

ASSEMBLYWOMAN RAJKUMAR: Thank you.

And congratulations, Commissioner Bray, on your appointment.

DHSES COMMISSIONER BRAY: Thank you.

ASSEMBLYWOMAN RAJKUMAR: In June the

New York City Law Department was the victim of a cyberattack. I'm a senior advisor to Mayor Eric Adams' transition team, and interestingly, he stated that while discussing the transition with Bill de Blasio, the outgoing mayor told him, "COVID is a problem, but the real problem we're facing is cybersecurity."

There are approximately, as you know, 2,800 non-executive agencies, local governments and public authorities, with which the Department of Homeland Security's Cyber Incident Response Team is tasked to provide cybersecurity services. However, a report from the State Comptroller's office found that CIRT was reaching only a small percentage of these entities, had only offered five sessions on phishing emails, only conducted 11 risk assessments for entities from August 2019 through 2020. And moreover, most of the team's work is by request instead of proactively evaluating systems and educating the government entities.

So my question for you is, do you believe that CIRT has the capability to support the cybersecurity of 2,800 government entities? And if not, how can we help and what additional resources would you need?

DHSES COMMISSIONER BRAY: Thank you for the question.

So it's clear that we need far greater investment in cybersecurity across the board. That's why I'm so happy that Governor Hochul has increased our cybersecurity in this Executive Budget by $44 million. That includes additional money for DHSES, 4.5 million additional directly to DHSES specifically to increase our proactive security assessments for our non-executive agencies, our localities, our counties, and to make sure that we can continue to respond to any calls we get, the CIRT response to a hundred percent of the requests for help we get, and to increase those training programs that you mentioned, the training sessions that you mentioned.

But critically, it also for the first

time appropriates money for shared services for localities. So that DHSES, working in partnership with ITS, will be able to offer localities the type of end-point detection and incursion detection and protection that they want, if they choose to opt in.

So I agree with you there's more work to be done, but this budget is a big, important first step.

ASSEMBLYWOMAN RAJKUMAR: Great. Thank you so much for your good work.

DHSES COMMISSIONER BRAY: Thank you.

CHAIRWOMAN WEINSTEIN: So we go to Assemblyman Walczyk, I believe is our final questioner.

ASSEMBLYMAN WALCZYK: Thank you, Chairwoman.

And congratulations on your appointment, Commissioner.

DHSES COMMISSIONER BRAY: Thank you.

ASSEMBLYMAN WALCZYK: Sort of following up on what Senator Ritchie brought to your attention, I appreciate your cooperation with any investigation that has

to do with Peyton Morse's death, which was tragic.

Were you able to read the PESH report?

DHSES COMMISSIONER BRAY: Yes.

ASSEMBLYMAN WALCZYK: Any reaction, sort of as a commissioner who obviously doesn't want to see this happen to any recruit under your care ever again? Any reaction to that report?

DHSES COMMISSIONER BRAY: Yeah. So let me say you're absolutely right. I think that this is a tragedy and we always want to take every step we can to increase safety and to protect anyone that's training at either of our major training facilities.

You know, the PESH report found no violation of current health and safety standards, but they did make a handful of recommendations about how to improve -- how to help our recruits report any injuries or illness they might be experiencing and how to make sure that our Fire Academy meets the standards that we set for ourselves. And we're taking those recommendations and

working them in as we move forward.

So, you know, reading the PESH report for me was about making sure that I was taking this incident as seriously as it deserves to be taken, and that I understood from an independent perspective what happened that day.

ASSEMBLYMAN WALCZYK: I appreciate that. And I brought this up with your predecessor. Have you had the opportunity or have you taken the opportunity to call the family?

DHSES COMMISSIONER BRAY: The family reached out to me with -- through a letter. I have responded to that letter. I understand the family has retained counsel, and I want to respect the process that the family is engaged in. But if they wanted to talk to me, I would be absolutely happy to talk to them.

ASSEMBLYMAN WALCZYK: I think it might go a long way.

Shifting gears -- and I appreciate the continued dialogue on that topic -- on

January 13th I sent you a letter about fraudulent testing kits and masks that have been in circulation in some cases. When should I expect a response on that?

DHSES COMMISSIONER BRAY: Well, sir, your letter in mid-January was about masks that were sent out -- we've sent well over 30 million masks out. In the last month alone, we've sent over 6 million. Less than 5 percent of them, when they arrived in the counties, were found to be counterfeit. These were masks that were bought in the spring of 2020 and were reviewed at that time by the Department of Health. We have an ongoing process to bring legal action against any of the vendors that have provided the state over the past two years with any counterfeit goods, and these masks certainly triggered that.

I will say I believe the ones that you were holding up in the photo were 3M masks. That's an incredibly high-quality brand of mask. So I wouldn't worry about the masks that you got. But I think the reference is

to some masks that were sent -- less than 5 percent in the last month. We've gotten those masks back and have replaced them for the counties that got them.

ASSEMBLYMAN WALCZYK: I see that I'm out of time.

CHAIRWOMAN WEINSTEIN: Thank you.

We now have Assemblyman Palmesano to ask a question.

ASSEMBLYMAN PALMESANO: Yes, Commissioner, thanks for your time. And I apologize, this is probably repeating a little bit of what Senator O'Mara asked earlier -- I wasn't there when he asked -- relative to the FEMA reimbursements to localities of $4 billion. And it's my understanding it's the same level as last year's. It goes to -- you know, for disasters that happened, and it's to reimburse localities.

So is this funding available? I mean, I know maybe it's -- we had terrible flooding in Steuben County that received a FEMA disaster declaration, which would be

75 percent from the federal government, and then it's a 12.5 percent state share, 12.5 percent local share.

Isn't this funding available at the discretion of the administration, working with your office and the Legislature, to be able to use this funding, this $4 billion that's there to provide to pick up the local share for those local municipalities? As there is precedent for, it's been back as far as Sandy, Lee, Irene, Yates County in 2014, Lake Ontario flooding.

Isn't this something, if worked out with the Governor's office and DHSES -- which you guys have been very helpful, your office and staff, which we appreciate it. Isn't there something that can be done to their -- when it talks about reimbursements for locals, whether it's a pass-through or not, that can be allocated to provide that assistance to pick up that local share for these communities that were affected by particularly Tropical Storm Fred on August 18th? I know Ida in New York City was

another one.

I mean, isn't that -- this funding available for that purpose that could be used? Or is there a way to make it work under those circumstances?

DHSES COMMISSIONER BRAY: So the $4.15 billion appropriation specific for FEMA is really only for federal pass-through dollars. And for Steuben and Fred specifically, obviously we've got the public assistance money coming and the Small Business Administration loans.

As I've said to Senator O'Mara and I will say to you, I want to come out and see the damage. Let's arrange to do that quickly. And I understand that there's real pain there and that people lost property, and we should continue the conversation. But that 4.15 billion, that's unfortunately just for the federal dollars to come to the state.

ASSEMBLYMAN PALMESANO: That would be like putting the -- if that's the -- that total storm was like $36 million, that would be like to cover that 75 percent of local

share, the $27 million, which would be the federal share, possibly.

DHSES COMMISSIONER BRAY: It would cover that and then the COVID dollars that we expect to be flowing this coming year.

ASSEMBLYMAN PALMESANO: But we would welcome you to come out to see what happened there, and it was disastrous.

DHSES COMMISSIONER BRAY: Yeah.

ASSEMBLYMAN PALMESANO: Jasper-Troupsburg School was decimated. You see videos of the flood coming, breaching the doors. I mean, homeowners and businesses were decimated.

And we've been pushing, and we want to see the state provide individual assistance because the federal government failed and did not provide that individual assistance. And there's precedent for the state providing direct grant assistance to individuals and businesses over the past storms Lee, Irene, Sandy, Lake Ontario, Yates County flooding.

So we want to push on that front too, because these individuals -- they announced

SBA grants. They don't need grants, they need loans {sic}. And this is an area that needs that help.

So you coming out there would really send I think a positive message and hopefully we can make the case to the administration that they need to provide that direct assistance, both on picking up the local share for -- and not just for Steuben County, other counties -- pick up that local share for those communities that were decimated and devastated by this flooding. And also to provide direct grant assistance to individuals and businesses who were also impacted.

So we would welcome to have you come up there to see the devastation of the schools, see the devastation of those communities. It's been five months, and they haven't really received anything yet, and they -- they need help.

Thank you.

CHAIRWOMAN WEINSTEIN: Thank you. Thank you. So I do not believe -- at this

moment we do not have any further speakers.

Thank you, Commissioner Bray, for being here, and congratulations also on your appointment.

So the Senate?

CHAIRWOMAN KRUEGER: Yes, Commissioner Bray, thank you for being with us today.

Of course the Senate Finance Committee had an opportunity to interview you extensively yesterday, so I think we didn't have enough time to come up with more questions today. And so thank you and good luck to you. Thank you.

DHSES COMMISSIONER BRAY: Thank you.

CHAIRWOMAN KRUEGER: All right, the next testifier will be Rossana Rosado, New York State DCJS, the new commissioner -- although many of us know her as our previous Secretary of State.

Commissioner, are you here with us?

DCJS COMMISSIONER ROSADO: I am. Can you see me?

CHAIRWOMAN KRUEGER: Thank you, yes, we can now. Welcome. You have up to

10 minutes to offer your testimony. We'll be listening.

DCJS COMMISSIONER ROSADO: Thank you.

Good afternoon, Chairs Krueger and Weinstein, legislative fiscal committee members, and other distinguished members of the Legislature. I am Rossana Rosado, acting commissioner of the Division of Criminal Justice Services. Thank you for the opportunity to be with you today to discuss Governor Kathy Hochul's fiscal year '22-'23 budget for DCJS.

Before I begin, I would like to take a moment to share my heartfelt condolences with the families of the fallen and wounded officers from this past weekend's tragedy, and the extended family of the New York City Police Department. As the Governor expressed, we are here to fully support our city partners in any way.

While I know many of you from my previous position as Secretary of State, I wanted to share a little about myself before outlining how the Executive Budget expands

the critical work of DCJS.

I joined the agency eight weeks ago, after serving as Secretary of State since 2016. I chaired the state's Council on Community Re-Entry and Reintegration since 2014.

I came to state service after a 30-year career in media, including as CEO of El Diario La Prensa, the nation's oldest and largest Spanish-language newspaper. As a journalist, I got to hear and share stories about society's most vulnerable. Those experiences shaped my life and inspired me to earn a master's degree in criminal justice from John Jay College. I also taught at John Jay College and in four of New York State's prisons.

Now, this leadership role at DCJS and the Governor's proposed budget provide a tremendous opportunity to positively impact the state's criminal justice system.

Later this year, DCJS will mark its 50th anniversary. We have continued to evolve with the criminal justice system and

gained invaluable experience working with each and every stakeholder. We also have the knowledge to see where the system has been, where it is now in a moment of change, and the vision to help guide it forward. That is the very mission of DCJS: to enhance public safety by providing resources and services that inform decision-making and improve the quality of the criminal justice system.

The work of talented professionals at DCJS, often in partnership with state and local colleagues, has advanced New York toward a more fair, equitable, and efficient justice system. New York is the safest large state in the country and maintains the lowest rate of incarceration. However, our work is unfinished. Our statewide progress has not been shared across all of our neighborhoods. We know that communities of color are disproportionately affected by violence.

Just as New York's recovery from the COVID-19 pandemic has been challenging, so too have the persistent issues of gun violence and violent crime. While overall

reported crime remains near its statewide historic low, we have seen a surge of gun violence within our state and across the country, in the wake of the pandemic and social unrest in 2020. Preliminary data from 2021 reveal a continued decrease in overall crime but a slight increase in violent crime, indicating that we have not returned to a pre-pandemic state.

While last year's data are still being finalized, we estimate there will be more than 800 homicides statewide for the second consecutive year. This has not happened since 2008. This trend mirrors the nation, where homicides increased by 29 percent in 2020 -- the largest one-year increase on record. Alarmingly, more than three out of every four of those homicides involved a firearm.

In response to the continued epidemic of gun violence in 2021, Governor Hochul extended a disaster emergency, which leveraged interagency resources and expedited funding. This allowed DCJS to administer

$8.3 million to support 129 new positions within hospitals and community-based organizations that participate in the SNUG Street Outreach Program and the New York City violence interruption network.

The Governor's proposed budget provides DCJS with an additional $100 million. This significant investment will allow us to provide law enforcement and communities with resources, programs and strategies to better address the persistent problem of crime. This budget also continues our agency's evidence-based and innovative practices that have been nationally recognized, placing New York at the forefront of public safety in the nation.

To support our law enforcement partners, DCJS will invest $18.2 million in our Gun-Involved Violence Elimination initiative, known as GIVE, and $15 million in our Crime Analysis Center network. These investments reflect a combined increase of $10.7 million and will provide local law enforcement agencies with resources to solve

gun crimes, build community trust and relationships, and expand an evidence-based community supervision model.

To support our communities, DCJS will provide $24.9 million to support street outreach and violence interruption throughout New York. This commitment sustains emergency funding from 2021 and provides an additional $6.1 million to add gun violence prevention specialists within hospitals, expand the SNUG program to three new cities, provide wraparound social and employment services, and recruit and retain outreach workers.

The division will also provide $20 million for collaborative programs in the areas hardest hit by gun violence. This funding will foster new partnerships between government and community organizations, with the goal of repairing and rebuilding neighborhoods by meeting the complex needs of individuals and families living in those communities.

To support the successful reentry of justice-involved people, the Governor's

proposed budget includes the Clean Slate Act, which would seal certain criminal history records after the completion of a sentence, including any incarceration or supervision and a defined period of time -- seven years for a felony, three years for a misdemeanor.

The Governor also announced a new Jails to Jobs initiative, which includes a plan for DCJS to train Department of Corrections and Community Supervision parole officers on a comprehensive employment curriculum to better support each person's return home and transition to the workforce.

Recognizing that recent pretrial reforms were implemented without dedicated resources from the state, this Executive Budget also provides $10 million to support pretrial services outside of New York City. This funding, paired with the existing resources, will expand the continuum of these services, including screening and assessments, supervision, case management, and information-sharing with the court system.

Finally, the proposed budget includes another round of the Securing Communities Against Hate Crimes grant program within DCJS, providing up to $25 million to safeguard New York's not-for-profit organizations at risk of hate crimes or attack.

At DCJS, public safety is paramount. We look forward to building upon our evidence-based work, strengthening police-community relationships, and enhancing the capabilities of our local partners to reduce crime and save lives.

Thank you for your support and time today. I look forward to answering any questions you may have.

CHAIRWOMAN KRUEGER: Thank you very much.

I don't see a Senate hand yet, so I'm going to actually start with a couple of my own questions as chair. So thank you very much, Commissioner.

So you talked about your role as sort of an agency that tries to pull together the

siloes of different criminal justice agencies. And certainly from New York City, currently much of the conversation is about people with mental illness behaving dangerously in public and ending up being thrown into Rikers -- perhaps before they do something heinous, or after, but clearly the services we intended to provide the people who suffer from mental illness and act out in ways that are dangerous to themselves and others, you know, are inadequate at best.

Does your agency have any role or can it have any role in expansion and improvement of these programs -- I believe that are called AOT?

DCJS COMMISSIONER ROSADO: Senator, I don't believe that DCJS has a direct role in that. I think that is an issue for OMH. I'd be happy to look into that for you.

CHAIRWOMAN KRUEGER: So you don't see a role for yourself in trying to help figure out why we simply don't have the right services or aren't getting them, you know, through the court system. Because my

understanding is that AOT is something that you might be assigned into when you are arrested or when you are ready for parole.

DCJS COMMISSIONER ROSADO: I see ourselves in a role to help everyone in the criminal justice system figure these things out. We don't have a direct role right now when it comes to issues of mental health. And I'd have to do a deeper dive on that specific issue in Rikers and the city and in mental health.

CHAIRWOMAN KRUEGER: Okay, thank you. I hope you will because I think this issue is -- it crosses mental health lines, it crosses criminal justice lines. It's clearly a major concern for public protection, you know, I think throughout the state but certainly in my city at this point in time.

You also talked about, you know, the research component of the Office of Criminal Justice. So at one point in time the state passed a law that required the tracking of guns and even a database on bullets that was never actually implemented. Are you familiar

with that law, and do you see a role for your agency at this time in that?

DCJS COMMISSIONER ROSADO: I am familiar with that you're referring to. I think that is mostly State Police.

CHAIRWOMAN KRUEGER: You think it is State Police. But you do research and tracking of criminal justice data, is that correct?

DCJS COMMISSIONER ROSADO: That's correct.

CHAIRWOMAN KRUEGER: And do you do any tracking of gun crimes or guns?

DCJS COMMISSIONER ROSADO: Yes. Yes, we do.

CHAIRWOMAN KRUEGER: And what is that that you do?

DCJS COMMISSIONER ROSADO: Well, we do collect the data and we post that data. We do that in -- you know, in collaboration with the individual police agencies. And we use that data to help both folks on the local level and at the state level, you know, work on solutions. And we post it, you know, for

the public, we try to track that.

CHAIRWOMAN KRUEGER: Okay. So perhaps my primary question is then for State Police a little later in the hearing today. All right, thank you.

Assemblywoman Weinstein.

CHAIRWOMAN WEINSTEIN: We go to our chair of Codes, Assemblyman Dinowitz.

ASSEMBLYMAN DINOWITZ: Okay, thank you very much.

Good afternoon.

DCJS COMMISSIONER ROSADO: Good afternoon.

ASSEMBLYMAN DINOWITZ: One of the issues which remained unresolved in the last session dealt with Clean Slate. We had a -- I guess a two-way agreement between the Assembly and the Senate. Assemblymember Cruz sponsors the bill in the Assembly.

There is a Clean Slate proposal in the Executive Budget, as you alluded to. But while both proposals contain the three- and seven-year waiting periods, under the legislative proposal those waiting periods

would begin to run when a person is released from custody, but on the Executive proposal it will begin to run upon the expiration of the maximum sentence imposed by the court, regardless of when the person is released from custody.

Those two dates could be very different dates. There could be years in between. And I was wondering if you could comment on that and why that aspect of the two proposals is so radically different.

DCJS COMMISSIONER ROSADO: Well, I can tell you that we are ready, you know, to implement Clean Slate as it is passed by the Legislature. We're ready to implement -- implement whichever one of those -- we are ready to implement.

I think one of our -- not so much a concern, but we'd like to do it as quickly as possible, and we believe we're prepared. We believe in this -- in this. We estimate there are about 2 million records that we can seal immediately upon passing that legislation.

ASSEMBLYMAN DINOWITZ: Okay. So let me just make sure I understand this. If the Assembly and the Senate pass the bills as is, let's say, next week, it's your opinion that that would likely be signed into law then, as opposed to waiting for the -- with the proposal in the Executive Budget?

DCJS COMMISSIONER ROSADO: I think it has to be in the Executive Budget in order to be passed.

Upon -- you know, as soon as we have the green light to implement, we're ready to seal, and we estimate it will be 2 million right at the start.

ASSEMBLYMAN DINOWITZ: Okay. Well, I mean --

DCJS COMMISSIONER ROSADO: We have the ability to do that rather quickly.

ASSEMBLYMAN DINOWITZ: Right. I mean certainly there may be costs attached, but I think some of us believe as a general rule that major policy decisions such as this would be best done not in the budget.

But in either case, I'm glad to hear

that there's room for discussion in terms of the specifics of the proposal as we just discussed.

DCJS COMMISSIONER ROSADO: Yes, I'm saware that those conversations are happening right now.

ASSEMBLYMAN DINOWITZ: So the legislative proposal also contained an exception that would allow access to sealed records of convictions for entities required under state and/or federal law to request criminal history background information such as public schools, childcare facilities, adult care facilities and nursing homes.

But in the Executive Budget proposal, that piece is not included. Do you have any explanation for that?

DCJS COMMISSIONER ROSADO: I understand that we are working on that right now with the Legislature in sorting that out.

ASSEMBLYMAN DINOWITZ: Okay. There's another -- there's another significant difference between the two proposals. The legislation -- the legislative proposal, that

is, provides for private right of action for people who are aggrieved by violations of the sealing statutes, and it makes it a discriminatory act under the Executive Law for employers to inquire or base employment decisions upon sealed convictions.

Now, the proposal in the Executive Budget doesn't get into that at all. Comments?

DCJS COMMISSIONER ROSADO: I don't really have a comment on that directly.

As I said, we remain poised to implement what is passed, you know, both in the budget and through the Legislature. We have the ability to seal those records, and we take that responsibility very seriously. I think it's a positive move.

ASSEMBLYMAN DINOWITZ: I know this is not common for legislators to do, but I'm not going to use up all my time. So thank you very much.

DCJS COMMISSIONER ROSADO: Thank you.

CHAIRWOMAN KRUEGER: Well done, Mr. Chair.

CHAIRWOMAN WEINSTEIN: Okay, back to the Senate.

CHAIRWOMAN KRUEGER: Thank you.

Chair of Codes, Jamaal Bailey.

SENATOR BAILEY: Thank you, Madam Chair.

And thank you, Chair Dinowitz, for ceding me your additional five minutes in time. I truly appreciate it.

(Laughter.)

SENATOR BAILEY: Commissioner, good to see you. Thank you for the work that you've done throughout your career.

Briefly on Clean Slate, which in the Senate is carried by Senator Zellnor Myrie. You mentioned the number of people that would be affected -- did you say roughly 2 million people would be affected?

DCJS COMMISSIONER ROSADO: Correct.

SENATOR BAILEY: And the amount of time that it would take to seal these records, it would take approximately how long?

DCJS COMMISSIONER ROSADO: About a

year and a half.

SENATOR BAILEY: About a year and a half. And the additional resources required to do so? Just want to make sure we're continuing to take up the req.

DCJS COMMISSIONER ROSADO: We're working with OCA and the Legislature to, you know, come up with the cost.

SENATOR BAILEY: Okay. I would just like to figure that out, because again, you know, I go on record as a proponent of the legislation. I think that being able to provide individuals with economic justice and the ability to sustain themselves economically is the best prevention method in terms of justice involvement.

And I think you sort of alluded to it in your opening remarks, but I don't want to put words into your mouth.

DCJS COMMISSIONER ROSADO: Oh, I agree that it's a positive thing to say, and I think it's our responsibility to do it in the most efficient way possible so that someone is -- you know, we're affecting people's

livelihood. And if they can have a clean slate, we should deliver that.

SENATOR BAILEY: Certainly.

I want to talk about gun violence, because I think some of my colleagues will touch on the -- the sponsors will touch on the Clean Slate bill in a little bit.

Gun violence -- you mentioned in your opening remarks that this was a problem that's not just happening in New York State, it's happening across the country. And you mentioned that you have a background in criminal justice. Is there any data that shows us what this spike is being caused by nationwide?

DCJS COMMISSIONER ROSADO: Senator, as you know, communities across the country, including those in New York State, experienced increases in gun violence over the past two years -- 2020, 2021. The researchers, academics, pundits and everyone will debate the causes.

There is a complex confluence of factors that occurred in 2020 and throughout

the pandemic that shouldn't be discounted. It may not be the cause, but it cannot be discounted. Right? Unemployment, we had closure of schools and other essential programs, we had isolation from family and friends and support systems, we had disruptions within the criminal justice system itself. And obviously we had social unrest and anti-police sentiment in communities.

As I mentioned in my testimony, the Governor's proposed budget for DCJS includes an additional $100 million, and most of that funding is dedicated to reduce gun violence by scaling our existing programs that have been -- you know, they're tried and true, and establishing new ones to address the complex causes of violent crime and meet the needs of the victims.

In 2019, New York State reported 304 firearm-related homicides, the second-lowest number during the most recent 10-year period. Only 2017 had fewer, at 296. I don't know if you want to hear all these

numbers, but -- in addition, shooting incidents involving injury and the number of shooting victims reported by police departments in communities with these programs declined annually from 2016 to 2019, when both reached 10-year lows.

New York uses programs like GIVE and SNUG, applying evidence-based strategies and proven practices. And the state has been recognized nationally as a leader for its comprehensive statewide investment to reduce gun violence.

In GIVE, we work with the folks in the law enforcement community, you know, we bring them all to the table and we work on not just solving crimes, solving them quickly, but also, you know, identifying all the crimes that involve guns.

And in SNUG we work with street outreach teams and folks in the community at the very grassroots level in trying to prevent the use of guns.

SENATOR BAILEY: So in sum and substance, based upon what you created as --

would it be fair to say that there is no one particular causation factor that we could attribute to the rising gun violence? Would that be a fair statement?

DCJS COMMISSIONER ROSADO: That's a fair statement. None of the experts here in the city or across the country have been able to point to -- you know, to prove that it's one thing.

SENATOR BAILEY: Certainly. So let me first -- and I was hasty to begin my question, but let me also echo your sentiments in giving my condolences to the families of the officers who were taken from us far too soon with this scourge of gun violence.

But I wanted to ask you about the SNUG programs. I'm a long-time proponent of them. The expansion, you mentioned expanding to three new cities. When we're expanding these programs, are we looking -- is this money that's in the budget going to be able to expand the catchment area of existing programs? Because in one of the recent -- in

one of the unfortunate incidents in my borough, in the City of New York, there is a Credible Messenger group that stops just a couple of blocks away from where that took place.

Are we going to be able to get funding to expand it? And quite frankly, are we going to be able to get that money out the door, as it were, yesterday in order to be able to effectuate that sort of change?

DCJS COMMISSIONER ROSADO: Yes. The answer is yes. The short answer is yes. We work with the data. You know, we follow the data based on the communities where we already are, and we use the data to determine the new communities where we're going. But the answer is yes.

And -- I'm sorry, I forgot the last part of your question. But we are able to get the money out of the door because these are programs that already exist. And so, you know, we know how to do it. I mean, obviously we have, you know, procurement processes and things to follow. But we

consider this -- I mean, under the leadership of Governor Hochul, this is an emergency.

SENATOR BAILEY: And I certainly appreciate that. The exigent circumstances that we're in, I would hope that we could figure out a much more streamlined way to get this money out the door, because as you well know, with these Cure Violence programs, it is not merely just about sending these Credible Messengers into the street, it is often removing these individuals from the neighborhoods, taking them somewhere to do something as simple as taking them bowling or getting something to eat, away from the areas in which these traumatic incidences are taking place.

So our Credible Messengers need to be able to get this funding, and they need it sooner rather than later because the cost fluctuates. I just want to make sure that we're trying to get it out the door as soon as possible because we are in the midst of an incredibly important crisis.

I would ask another question in

relation to the capital funding. There are some buses that -- Erica Ford and LIFE Camp, they have these buses that go around. Would this funding be able to utilize some of these mobile trauma centers in order to -- would this be able to be purchased or procure some of those centers as well?

DCJS COMMISSIONER ROSADO: Yes. Again, the short answer is yes. We have a $50 million budget for that, for capital.

And so we're working with the folks we already work with, with Erica Ford and other folks on the ground, and so we are -- and they have tons of ideas on how to put this money to work, and we intend to do that.

SENATOR BAILEY: Certainly. And again, Erica Ford is just one of the many great folks doing this incredible work.

I would ask, I guess the last couple of minutes of my questions would be related to the bail reform conversation that began with Judge Marks in terms of the data. He mentioned that DCJS would be able to further illuminate us on some of the data as related

to bail eligible or not eligible. What information would you have to be able to further illuminate that point?

DCJS COMMISSIONER ROSADO: Okay. Well, you know bail takes more than a few minutes, Senator.

But I'll start with one of the main arguments for reforming cash bail was to make pretrial release decisions more equitable and remove the perverse connection between financial means and freedom. Whether or not a person was detained or released from pretrial was associated with, you know, an increased likelihood of conviction and sentences to incarceration. We went through all this several years ago, right?

Given that important fact, an evaluation of bail would have to include pretrial release decisions and court appearances, both of which are available, and court case outcomes, which are not yet available. And so our position is that we need to have -- you know, wait till that information is available to make what I think

someone referred to earlier, in very scientific language, as an apples-to-apples comparison. Right?

A review of pretrial data shows that 48 percent of New York City arraignments in 2020 for violent felony offenses was still pending as of September 2021, and 42 percent was still pending outside of New York City.

To evaluate the impact of bail reforms on appearances rates and racial equity in release decisions and final case outcomes, many more of these cases would need to be disposed. We continue to work with the researchers to best understand the dynamics of pretrial reform implementation and its impact on the criminal justice system and New Yorkers.

And you will recall, or you may recall that in this year's budget, the Governor added money -- 20 million? -- 10 million for the pretrial services outside of New York City to address those concerns.

SENATOR BAILEY: Certainly. And I guess that leads me to my final question, at

least for now. Like that $10 million for discovery reform, right -- I guess that's primarily going to be utilized for it -- how is it going to be utilized? Do you have a breakdown for it, or is it going to be based upon what the county's specific need would be?

DCJS COMMISSIONER ROSADO: Yeah, it will be based on what the specific needs of the counties are, but that has not been worked out yet.

SENATOR BAILEY: Okay. Perfect timing. Thank you, Commissioner, for your indulgence.

DCJS COMMISSIONER ROSADO: Thank you.

SENATOR BAILEY: Thank you, Madam Chair.

CHAIRWOMAN KRUEGER: Thank you.

Assemblymember Weinstein.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Ra, Ways and Means ranker, for five minutes.

ASSEMBLYMAN RA: Thank you, Chair.

Good afternoon, Commissioner. Good to

see you again in your new role.

Just continuing on the conversation you were just having with Senator Bailey with regard to bail reform and some of the data. And I think that's I guess an important point as we go forward and have more -- right, as this is beginning to affect more and more, we have more data. But certainly if you don't have a full conclusion of a case, you know, so that makes -- you can't fully evaluate that individual matter.

I was just wondering if you could just clarify -- you know, there was this whole issue -- obviously you have to work in conjunction with OCA regarding this data. There was, you know, the data that had been put up and then taken down and then re-put up. Exactly what happened there? And, you know, for the public, why we should be confident that, going forward, the data will be properly compiled.

DCJS COMMISSIONER ROSADO: Sure. You should be confident because when we see that there's something wrong, you know, we deal

with it immediately.

There was nothing wrong with the data per se. It's just that the data that was posted included some post -- post-trial information that should not have been included. Because in order to measure the effectiveness of the bail reform as it was passed, you need the apples-to-apples comparison, which is the pretrial to pretrial.

Our researchers at DCJS noticed that and decided to repost, you know, with the right information.

ASSEMBLYMAN RA: Okay. And so according to the data that you do have, in terms of kind of an apple-to-apple comparison do you have numbers on, you know, what you've seen in terms of rearrests and then what, you know, they were for, whether they were violent felonies or weapons charges?

DCJS COMMISSIONER ROSADO: Sure. But I'll start by repeating, you know, what I said earlier, that we don't feel that there -- we don't have enough numbers to

have, you know, the -- to reach -- to have a complete picture, I should say.

The public perception of bail reform is that it has increased violent crime and made us less safe. But in fact the preliminary data is far from a complete picture.

As required by law, DCJS collaborated with OCA to publish the data on pretrial release and detention, and that data is available on our website as well as OCA's website. However, the data does not include roughly half of the arraignments outside of New York City that are current town and village courts, nor does it include Superior Court arraignments.

So OCA will begin to collect that information over the coming year. And again, when the data comes to us, it comes to us through OCA.

Furthermore, given the ongoing impact of the pandemic, there has been a fundamental disruption to the criminal justice system, and I think the judge spoke about that

earlier. The time from arrest to arraignment has increased, and so has the time from arraignment to disposition. We also see that more than a third of all cases from the most recent data are still pending. All of that makes comparing the current system to the pre-COVID one an exercise in comparing apples to oranges.

We are working with the best minds in the state to continue to review the information we and OCA have to -- you know, what we have access to.

So I just want to run through the numbers that we do have in terms of the number of arrests. From June 2019 to June 2021, the number of arrests dropped 36 percent in New York City, and 28 percent in the rest of the state. And I'm happy to take any of you on a deep dive of these numbers, you know, in the coming days if you're interested.

Arraignments. From June 2019 to June 2021, the number of arraignments fell 38 percent in New York City and 29 percent in

the rest of the state. Notably, the types of arraignments shifted. Proportionally, there were fewer misdemeanors and more violent felony charges.

In terms of releases, from January 2020 to June 2021, 87 percent of people were released at arraignment in New York City, and 81 percent in the rest of the state.

In terms of the pretrial jail population, from September 2019 to December 2021, the average number of people detained in New York City's jails dropped 25 percent, 25 percent being like 1,726 -- in New York City -- and 24 percent, which is about a total of 3,000, in the rest of the state.

And then rearrests after release. For a limited analysis of 2020 arraignments where defendants were released, first, most individuals released after arraignment, 72 percent in 2020, were not rearrested while their case was pending. Secondly, of those who were released and rearrested, most were rearrested for nonviolent felonies and misdemeanors. Third, rearrests for firearm

charges occurred the least often -- only 1 percent of all of those who were released.

Does that give you a picture? I mean, I have --

ASSEMBLYMAN RA: All right, so you said just in terms of misdemeanors, what was that percentage of those rearrested?

DCJS COMMISSIONER ROSADO: So of those who were released and rearrested, most were rearrested for nonviolent felonies. That's 12 percent. And misdemeanors was 10 percent.

So to translate that, the 12 percent is 12,542 of 108,552, to be precise. And the misdemeanors, 10 percent, which is 10,561 of 108,552.

ASSEMBLYMAN RA: Great. Thank you very much.

CHAIRWOMAN WEINSTEIN: The Senate?

CHAIRWOMAN KRUEGER: Thank you.

Senator Diane Savino.

SENATOR SAVINO: Thank you, Senator Krueger.

Good afternoon, Commissioner.

I'm not sure if people saw the news

that the police commissioner just announced the second police officer passed away just a few minutes ago. So we might want to take a moment of silence for him. It's a bad week for all of us.

But I want to thank you for providing your testimony. And I want to just focus -- because I only have three minutes, I just want to focus on a couple of things. I know many people will continue on the discussion of the statistics on bail reform. I just want to direct you to the issue of the SNUG program, which I'm glad we're continuing. The SNUG program was born in the New York State Senate, in fact in the Senate Democratic Conference. It was an idea that was the brainchild of the current mayor of the City of New York, Eric Adams, when he was a member of the Senate.

But as we move forward and put money out there, not all of the SNUG programs work as well, and so I would hope that we actually invest in the ones that are working, the ones that have an anti-violence collaborative

approach, that they bring in the local precinct, local social services, healthcare providers. I have one in Coney Island, it is amazing, and you can see the effects of it. It has driven down gun violence tremendously and also worked on other issues.

They have a saying that in social work -- it's very simple: Hurt people hurt people. And so you need a collaborative approach. So hopefully we'll put money where it works.

On the issue of pretrial detention, I just have a simple question. Why -- it's $10 million, it's not a lot of money. But why is it only going to areas outside of New York City, which as we know, New York City is more than 50 percent of the population, and a significant number of the cases are in the five boroughs.

So if there's a reason that that makes sense, it's just not evident to me. I'm hoping you can explain it to me. Why aren't we helping with discovery and pretrial services in the five boroughs of the City of

New York?

DCJS COMMISSIONER ROSADO: It's -- we already fund in New York City, I think it's about $30 million. And so, you know, New York City is already covered in that sense.

SENATOR SAVINO: Okay. See, that was simple. Thank you.

(Laughter.)

DCJS COMMISSIONER ROSADO: And I just want to say, you know, you mentioned the second officer. Really, you know, it's --

SENATOR SAVINO: It's heartbreaking.

DCJS COMMISSIONER ROSADO: It's really heartbreaking because, you know, these kids are the same age as, you know, my children -- my daughter's 27, my son is 30, so -- and they're the same age as the students I taught at John Jay College, you know, at least a dozen of whom are in the -- you know, have gone through the academy and are in the police force.

So I think it's appropriate that we take time -- that we take time to mourn them,

you know, to honor them, and then to work together, you know, to find solutions.

SENATOR SAVINO: Absolutely. Thank you.

CHAIRWOMAN KRUEGER: Thank you very much.

Assemblywoman.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Weprin, three minutes.

ASSEMBLYMAN WEPRIN: Thank you, Madam Chair.

Thank you, Commissioner Rosado. I'm very excited about your new appointment --

DCJS COMMISSIONER ROSADO: Thank you.

ASSEMBLYMAN WEPRIN: -- and working with you. This is now my seventh year, going into my seventh year as chair of the Corrections Committee, and we've spent a lot of time together at various facilities with educational programs, seminars and what have you.

So I've had a bill for educational release in correctional facilities for a number of years, and one of the oppositions

to it was not having TAP available to incarcerated individuals. The Governor, of course, has proposed in her budget that that change. And that goes back to an old Pataki law.

So I'm looking forward to working with you on some of these educational programs. I don't know how much you know about the proposal on the educational release and furlough for those eligible, but if you could maybe talk a little bit about it. And I look forward to working with you on that expansion.

DCJS COMMISSIONER ROSADO: Thank you, Assemblyman. And yes, you and I have visited many of those facilities together and seen evidence of the value of the educational programs. We've seen them graduate, and we've actually seen them come home as well.

The work release program, which I had been involved with when we were on the reentry council in talking about it, you know, and kind of including it, you know, on a list of things every year, is really

something you should talk to Commissioner Annucci about, something he's passionate about, and he would have the details.

We do not have a direct role. DCJS does not have a direct role. Except, you know, I would love the opportunity, regardless of what agency I'm in, I'd always love an opportunity to go and visit and to help in any way possible people coming home from prison, you know, find employment and get those opportunities.

ASSEMBLYMAN WEPRIN: Well, I look forward to visiting other facilities with you, hopefully when COVID dies down a little bit. We thought it was over, but obviously now, you know, it's come back a little bit. But hopefully the worst is behind us.

DCJS COMMISSIONER ROSADO: Agreed. Thank you so much.

CHAIRWOMAN KRUEGER: Thank you.

Our next testifier is -- excuse me, our next questioner is Senator Sepúlveda, three minutes.

DCJS COMMISSIONER ROSADO: Hi,

Senator.

SENATOR SEPÚLVEDA: Thank you. {In Spanish.}.

DCJS COMMISSIONER ROSADO: Gracias.

SENATOR SEPÚLVEDA: So I just read an article -- I can't remember what paper it was in, I'm having senior moments. But they indicated that if you look at Texas and New York, Texas is the easiest state to get a gun. New York is one of the most difficult. However, if you look gun violence involved in Texas, something like 75 to 80 percent of the guns were purchased in Texas. And something like less than 10 percent of the gun violence in New York were guns that were purchased or manufactured in New York.

Now, why do I mention this? There is a case before the Supreme Court, the New York Rifle and Pistol Association vs. Bruen, which I believe if the Supreme Court rules the way I believe they're going to rule, it's going to be a disaster for New York State. I believe you're going to see more guns sold.

Unfortunately, where you have an

explosion of guns as you had during the pandemic -- we had an article by The Atlantic that said that they believe that one of the causes and one of the main causes of gun violence in the country, it's the explosion of gun -- purchasings of guns in the country. And I know there's a segment in our society that just refuses to have that discussion, that the main reason why we have so much gun violence now is because there are more guns in circulation, especially here in New York.

With what I believe is the impending decision that's coming, what is the State of New York going to do to fight back against what I believe is going to a massive amount of more sales of guns into our communities and our communities of color where we don't produce guns, we don't make them, we don't sell them, we buy them many times illegally. But what preparation do you have to combat this potential crisis?

DCJS COMMISSIONER ROSADO: Well, Senator, I can tell you that we use our crime analysis centers that are funded through DCJS

to keep track of guns and to stop them from coming into the state.

I understand the Governor is having a major gun discussion tomorrow, right here in the area, and bringing everyone to the point that that effort is being led by State Police. But we are all in this space -- you know, those of us in the criminal justice space are all greatly concerned and newly motivated to get these guns off the street.

SENATOR SEPÚLVEDA: Well, I'd like to see hopefully what kind of a plan of action your agency has, the New York State Police has, because if we're not ready on Day 1, I believe we're going to see even more gun violence, we're going to have more tragedies like, you know, the deaths we had of our police officers.

I'm not going to talk about bail reform because many of my colleagues have asked you the questions. I just hope that the Governor doesn't fall prey to the massive amount of fearmongering and misinformation that's out there in the media and other

sources, because it's just not accurate.

Thank you.

DCJS COMMISSIONER ROSADO: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

I've been asked to pinch-hit for Chair Weinstein while someone fixes her Zoom, so Assemblymember Mike Reilly, you're up.

ASSEMBLYMAN REILLY: Thank you, Madam Chair.

Thank you, Commissioner, for joining us today.

You know, I'm a little shaken up. I mean, losing the -- Officer Mora now, as a retired member of the NYPD, you know, you never lose that brotherhood and sisterhood. So thank you, Senator Savino, for asking everybody to take a moment of silence. We all will.

So I have a couple of questions, just on Raise the Age. The firearms portion of Raise the Age at 16 and 17 years old, where just the mere possession goes to Family Court, it's not eligible to go to Youth Part Criminal Court -- do you have the numbers on

how many arrests there were for 16 and 17 year olds, or under 18 with loaded firearms?

DCJS COMMISSIONER ROSADO: Senator {sic}, I'm going to have to get back to you on -- is he a Senator or Assembly?

ASSEMBLYMAN REILLY: That's all right, I'm not -- you can -- just don't call me late.

(Laughter.)

DCJS COMMISSIONER ROSADO: I'm going to have to get back to you on that. I do not have that data -- I'm sure the agency has it, but I don't have it in front of me broken out. And I can turn that around for you pretty quickly.

ASSEMBLYMAN REILLY: So just -- I have some data from New York City, and I'm thinking that, you know, there's a carveout there that we can help in Raise the Age where we can have loaded firearms as one of the extraordinary circumstances that could remain in Youth Part.

Over the last two years, 2020 and 2021, 947 people under 18 were arrested for a

firearm. In 2020 there were 411, and in 2021 there were 536. Now, we see the uptick -- yes, I know there's a whole bunch of issues that could be responsible for it. But I think one of the key issues that we have to look at is the street violence with gangs. They know that those under 18 are not going to be held criminally responsible, potentially, for holding a firearm for those older gang members.

And I think this is a loophole in there that's actually endangering us, you know, endangering public safety. And of course we want to make sure that we have the resources in there -- not necessarily to -- you know, it is to hold them accountable, but we also want to stop them from repeating it. And unfortunately we saw in the Bronx that the officer who was shot was shot by a defendant who was convicted in Family Court -- or I should say, right, it was not convicted, because it's not convicted in Family Court, but they took a plea deal for the firearm but now committed another

firearm case and now the officer was shot.

So I think these are the things that we could use to stop recidivism. And I'm hoping that we can get changes. What's your thoughts on that?

DCJS COMMISSIONER ROSADO: Well, Senator {sic}, we're looking at these issues now. And as I mentioned, the Governor is holding a big conversation about guns tomorrow. I'm aware that the Mayor proposed some things yesterday. I've been preparing for this, and I haven't seen his plan.

I would just say, on Raise the Age, that -- that Raise the Age, you know, dramatically changed how New York State's justice system processes cases involving kids who are 16 and 17. The goal of Raise the Age, to keep those kids out of adult prisons -- and we're doing that. Raise the Age is doing what it set out to do.

But as with, you know, Raise the Age and bail and all of these other initiatives, they came about and they were passed by the Legislature to solve problems of the past. I

don't think anybody believes that they're perfect solutions, but we remain open, you know, to all the conversations. We're in touch with, as I said earlier, through the CACs we're in touch with folks on the ground trying to solve crimes. We're in touch, through SNUG, with folks at the community -- and you're right, you know, we're in touch with the folks who are working with the gangs to prevent these things from happening.

So I think we all have to be -- collectively we all have to be open to, you know, new conversations.

ASSEMBLYMAN REILLY: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Next is Senator Gounardes.

SENATOR GOUNARDES: Thank you, Senator Krueger.

Hello, Commissioner. Really appreciate your dialogue on a lot of these issues today.

I want to focus a little bit on hate crimes. There was a recent report that said, based on NYPD data, that there was a

361 percent increase in hate crimes specifically against Asian-Americans in New York City over the last year. And so I'd love to hear you talk a little bit more about what more we can be doing in relation to helping to stop these hate crimes from being committed.

I know the Governor proposed the $25 million I think in capital costs for enhanced security for Securing Communities Against Hate Crimes, but that's for capital.

What more should we be doing to address this outrageous spike in hate crimes targeting some of our neighbors?

DCJS COMMISSIONER ROSADO: Thank you, Senator. As you know, you know, we believe that hate doesn't have a place in New York State.

And we -- at DCJS we collect and report the data on hate crimes incidents, and we give that data back, you know, to all of you, to the communities and to the law enforcement agencies. Police agencies are required to report hate crime incidents to

DCJS. The investigating police officers are responsible for determining if an offense is a hate crime and identifying the specific bias or motivation.

And then using that information, DCJS publishes an annual report providing an overview of hate crime incidents and arrests throughout New York. To ensure the completeness of the information, DCJS staff follow up with all reporting agencies to ensure that the data is submitted each month. And to ensure the accuracy of the information, staff review the incident report as it is received and then contact the submitting agency to correct any details.

From the most recent data, through the first months of 2021, hate crimes are up 52 percent compared to the same period in 2020. The most notable increase was an anti-Asian bias --

SENATOR GOUNARDES: Commissioner, I just want to cut you off a second. We know the data. We know what the numbers are showing. I don't need to hear the process.

I'd love to hear your thoughts.

What else should we be doing from a funding perspective, from a law perspective? Clearly we know there's a problem. And so based on your experience and your expertise, where do you think we can be improving and moving the ball down the field to keeping these neighbors safe, who literally fear walking down the street based on their -- you know, their ethnic, their cultural, their physical attributes?

Do you have any thoughts, any suggestions, anything you can be doing more of, looking at more? I'd really appreciate your insights there.

DCJS COMMISSIONER ROSADO: Yeah, sure.

I think that, you know, we have the $25 million in the Securing Communities Against Hate Crimes grant program, and I think we should do what we do with our other programs, which is listen to folks on the ground and try to help them with the resources that they need.

And in the case of the Securing

Communities Against Hate Crimes grants, we had over 352 applications. And we got more money in the new budget for more of those. Those are -- and those are the organizations that are not only just being targeted, but also work with folks, you know, in those communities. And so we should listen to them and help them access the resources they need.

SENATOR GOUNARDES: I'd love to carry on this conversation with you offline, as my time has expired. Thank you.

DCJS COMMISSIONER ROSADO: Any time.

CHAIRWOMAN KRUEGER: Thank you.

I believe the next Assemblymember up is Assemblymember Harvey Epstein.

ASSEMBLYMAN EPSTEIN: Thank you, Chair Krueger.

And thank you, Commissioner, for being with us today. I really appreciate your time.

I'm wondering -- this is a different conversation point about trainings for police officers in using firearms and tasers. You know, we had an incident recently where, you

know, someone was tased and unfortunately they were set on fire. I'm wondering if you think there should be a centralized process for training people how to use firearms and tasers before they have access to them.

DCJS COMMISSIONER ROSADO: Well, we do have a centralized process, Senator {sic}. We have, as you may know, the Office of Public Safety at DCJS. We have an incredible staff of folks who work every day to help law enforcement, you know, both implementing kind of the Professional Policing Act, but also trainings -- a long list for trainings for existing what we call in-service officers, people who, you know, came through the academy a long time ago. And so that includes firearms.

And I want to --

ASSEMBLYMAN EPSTEIN: Commissioner, you know, I don't have a tremendous amount of time, so I don't mean to cut you off, but --

DCJS COMMISSIONER ROSADO: Oh, no, please.

ASSEMBLYMAN EPSTEIN: But my

understanding is for every officer statewide there isn't one centralized training program so that every officer across the state -- but maybe we can continue this conversation offline and talk more about it.

DCJS COMMISSIONER ROSADO: I'm happy to talk to you offline. We have basic courses at BCOP --

ASSEMBLYMAN EPSTEIN: And it's mandatory for everyone?

DCJS COMMISSIONER ROSADO: Yes. Except for State Police.

ASSEMBLYMAN EPSTEIN: And so I just wanted to follow up with you around some of the information you said around rearrests.

I'm wondering what the numbers are for people who are rearrested who when they initially were arrested, bail was set and then they were released. Were they -- what data do you have about those people being rearrested who had bail the first time and then maybe were rearrested for violent or nonviolent offenses or not rearrested?

DCJS COMMISSIONER ROSADO: Let me see

what I have, if I have the numbers. Rearrests -- did you say after paid bail?

ASSEMBLYMAN EPSTEIN: Yeah, after bail was set and they paid bail.

DCJS COMMISSIONER ROSADO: Got it. So here are the numbers I have for rearrests after paid bail. This is, again, from a limited analysis of 2020 arraignments where defendants posted bail.

Thirty percent -- which would be 906 out of 2986 -- of individuals who posted bail in New York City were rearrested. And 32 percent in the rest of the state, the 32 percent being 619 out of 1963.

The individuals who posted bail were rearrested at a greater rate than those released on their own recognizance.

ASSEMBLYMAN EPSTEIN: And do you know, were they rearrested for violent or nonviolent offenses?

DCJS COMMISSIONER ROSADO: That I would have to get back to you. We'd have to do a deeper dive into those cases.

ASSEMBLYMAN EPSTEIN: I'd greatly

appreciate that. Because, you know, the conversation around bail, we need facts.

DCJS COMMISSIONER ROSADO: Absolutely, yes.

ASSEMBLYMAN EPSTEIN: You know, obviously -- I represent one of the seven neighborhoods across the state where we see 75 percent of incarcerated folks coming from --

DCJS COMMISSIONER ROSADO: Let me tell you that I am extremely motivated that we have conversations around accurate data.

ASSEMBLYMAN EPSTEIN: Thank you Commissioner. Thank you, Chair Krueger.

CHAIRWOMAN KRUEGER: Thank you very much.

CHAIRWOMAN WEINSTEIN: Senator, do you have any other Senators?

CHAIRWOMAN KRUEGER: Hello. I've been just going down the Assembly list, Assemblywoman.

CHAIRWOMAN WEINSTEIN: Okay. So I'm back. They certainly fixed my computer; now I can see everybody.

So we're going to go to -- I see Assemblywoman Walker is here. She was next on the list, so we'll go to her.

CHAIRWOMAN KRUEGER: Great.

ASSEMBLYWOMAN WALKER: Awesome. Thank you much.

And thank you so much for your testimony as well.

So one of the things that we have noticed here is that there's some contradictory data between the Mayor's Office of Criminal Justice and then the report that your office has placed out. And so one of the things that we saw was that the data from the Mayor's office includes information post -- pre, sorry, pre-bail reform, and then they looked at it juxtaposed -- with respect to the rearrests, they looked at it juxtaposed to post-bail reform.

Does your data show, you know, any analysis of that pre-bail reform information? Because, you know, for whatever reason, people think bail is a phenomenon that just began in 2019, as opposed to recognizing that

people have been paying bail and being released since, you know, the beginning of time. For the State of New York, at least.

DCJS COMMISSIONER ROSADO: Yes, Senator {sic}, I do not have the city's data. I know that they collect that and that they report it in that way, but we don't have access to that data.

ASSEMBLYWOMAN WALKER: So one of the things that I wanted to just also ask is whether or not the Division of Criminal Justice Services, with respect to desk appearance tickets -- there's also been this conversation about these sort of repeat arrests with respect to desk appearance tickets.

Now, if a person is arrested for, let's say, a petty -- stole a bottle of aspirin and they go to the precinct for a desk appearance ticket, it's DCJS that has to approve that desk appearance ticket. Part of the question is whether or not there's another rearrest before that person actually appears in court.

Is it possible, through your agency, that you can have a shortened time period for when that person actually appears in court so that there isn't as much of a time period for another rearrest during that wait?

DCJS COMMISSIONER ROSADO: I understand the question that you're asking, and I'd like to look into it for my own curiosity. But that information is not reported to DCJS.

ASSEMBLYWOMAN WALKER: No, the -- so it's DCJS who actually approves the desk appearance ticket -- no?

DCJS COMMISSIONER ROSADO: No, it's not.

ASSEMBLYWOMAN WALKER: Okay. So do you know which agency that provides that approval?

DCJS COMMISSIONER ROSADO: No. There may be an entity in the city. I mean, I'd have to look into that. I'm sure someone in this agency will be able to answer that question.

ASSEMBLYWOMAN WALKER: Okay. All

right. So that --

DCJS COMMISSIONER ROSADO: It's not -- it's not DCJS.

ASSEMBLYWOMAN WALKER: Okay. And then the information that was provided with respect to the rearrest -- no, so one of the things, too, does your organization also deal with like maybe the algorithm or the system in terms of how a person gets determined to get release on their own recognizance because there was some --

DCJS COMMISSIONER ROSADO: (Shaking head.)

ASSEMBLYWOMAN WALKER: No, you don't deal with --

DCJS COMMISSIONER ROSADO: (Shaking head.)

ASSEMBLYWOMAN WALKER: So none of those pretrial services gets included in, you know, sort of looking at -- because it's the pretrial services that determines whether or not someone gets -- when they are released on their own recognizance, how that scorecard gets, you know, utilized, the community

check-ins and all of the other things with respect to bail reform.

DCJS COMMISSIONER ROSADO: We collect the data, but we don't provide the services. We don't -- you know, that would be somewhere between OCA and -- you know, and the city.

ASSEMBLYWOMAN WALKER: Okay. Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to Assemblywoman Wallace now.

ASSEMBLYWOMAN WALLACE: Good afternoon, Commissioner. Thank you so much.

A few times today you were asked about if we implemented this initiative or that initiative, how quickly would DCJS be able to get that up and running. And I believe you mentioned a few times that once it was passed by this Legislature, DCJS has the ability to get the programs up and running pretty quickly.

I want to talk about a program that we passed in last year's budget. In last year's budget you may recall we allocated $10 million for the purchase of police body

cameras by local municipalities to help offset the costs associated with acquiring them, because we recognized that there was a need to increase transparency in policing, and we thought that that would be a good practice.

But to date, to my knowledge, none of that money has been allocated, and I don't even think that there's a plan for allocating or granting that money. There has been -- I know the police agencies that I work with have been looking -- asking questions about how can we apply for it, and I haven't really received any answers yet.

So I'm wondering -- I just wanted to flag that for you, and I wanted to see if you had any sense of how quickly it is that you can get that up and running. And if you don't have an answer to that, I guess I'd ask that you look into that and reach out and let us know.

DCJS COMMISSIONER ROSADO: Yes, I am aware, because you sent me a letter.

And as I mentioned earlier, I've been

here for eight weeks. And within the eight weeks, I got your letter, we have a response, I believe there is an RFI, we do have a plan.

And I don't know what the delay was. As I said, I got here on November 30th and I am extremely motivated to move solutions out the door. So I will -- I believe we have a response to you or we sent a response to you, Assemblymember. I will look -- you know, I will look into it and definitely get back to you directly.

ASSEMBLYWOMAN WALLACE: Okay. And when do you anticipate once the RFI goes out, how quickly do you think you might be able to get those funds out the door?

DCJS COMMISSIONER ROSADO: For me, it's as soon as possible.

ASSEMBLYWOMAN WALLACE: Okay. Thank you.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Lawler.

ASSEMBLYMAN LAWLER: Thank you, Madam Chair.

And thank you, Commissioner, for

joining us.

I know you're two months in, and so I understand, you know, you're not going to have everything at your disposal. But I want to follow up on something that my colleague Mr. Reilly focused on a short while ago with respect to Raise the Age.

According to DCJS, in 2020 only 3 percent of 16- and 17-year-old AOs were arrested for a felony -- that were arrested for a felony received a felony conviction. So that was only 119 out of 3,727 AOs received a felony conviction. And of that, only 44 were sentenced to one year or more of imprisonment. And that is -- notwithstanding the fact that 48 of those folks were arrested for homicide, 52 for attempted homicide, 55 for sex offenses, 460 for firearms and dangerous weapon offenses.

So when we talk about the rise in gun violence in New York City and we're looking at some of these stats from DCJS, isn't it concerning to you in some way that we aren't going after violent offenders, even if

they're 16 and 17 years old? As my colleague pointed out, many of those folks are being used by gangs in furtherance of crime, because they're not going to be treated the same as adults.

And so some of these violent offenses and gun violence really needs to be reexamined. And in light of the Governor's comments the other day, the Mayor's comments the other day, many of my colleagues' comments today, don't we need to kind of reevaluate that a little based on those statistics?

DCJS COMMISSIONER ROSADO: I think it's the job of -- I mean, I think it's appropriate to reevaluate, you know, all initiatives. I reiterate that the goal of Raise the Age and our responsibility was to implement what was passed and agreed upon. The goal of Raise the Age was to keep 16 and 17 year olds out of adult prisons. We've done that.

ASSEMBLYMAN LAWLER: Right. But -- but -- but -- and I understand that was the

goal. And in most cases I think that's a fair goal. But when you're talking about violent offenders -- I mean, 48 people were arrested for homicide, 52 for attempted homicide, 55 for sex offenses, 460 for firearm or dangerous weapons -- and only 44 were sentenced to a year or more in prison, and only 119 were actually convicted of a felony offense.

So I get we want to keep them out of an adult prison, but not at the expense of public safety. And certainly if they're committing violent felonies, that needs to be the priority, not keeping them out of an adult prison just for the sake of reaching some laudatory goal.

DCJS COMMISSIONER ROSADO: I think as I mentioned earlier, you know, the Governor -- I mean, this is an appropriate moment to talk about gun violence. Which, you know, I would only, you know, continue to point out that it's not a New York problem, it's a national problem. And we need help, you know, from the federal government in that

regard too, across the board, with all crimes that involve guns.

Our job at DCJS is to track them and to give the data back to law enforcement and to work with all of you and people in elected office to, you know, find the right solutions.

ASSEMBLYMAN LAWLER: And I know my time has expired, but I --

CHAIRWOMAN WEINSTEIN: Thank you.

We go to Assemblyman Tannousis. Thank you.

ASSEMBLYMAN TANNOUSIS: Thank you so much.

Thank you, Commissioner, for testifying before us today.

I know that you went through some statistics in regards to defendants that were released because of bail reform and how many of those individuals reoffended. I just -- I know that you divided it with misdemeanors, violent felonies and nonviolent felonies.

What I'm interested in is a total picture of how many of those individuals were

arrested again, whether it be a misdemeanor, felony or violent felony. Do you have those total statistics for us?

DCJS COMMISSIONER ROSADO: I don't have them in front of me, but we have them available. They're posted on our website. And I'm happy to do a deep dive with our research people -- anytime, you know, you're available, we can give you precise data based on, you know, what we've posted so far.

ASSEMBLYMAN TANNOUSIS: Okay. But I just want to be clear about something. Because before you testified, Judge Marks testified, and he threw out a number, and I want to ask you if this is accurate. He said 22 percent of individuals that were released because of bail reform recommitted another crime. Is that accurate? Is that specific to felonies or nonviolent felonies or misdemeanors, or was he mistaken as to that number?

DCJS COMMISSIONER ROSADO: I can't say if he was mistaken because I'm not looking at the data that he's looking at. I can look

at -- I am certain that we're both looking at the same data that we posted on both of our websites and I'm happy to go through that.

And I don't remember -- I was watching his testimony; I don't remember the 20 percent number. But I'm happy to take a look at that for you.

ASSEMBLYMAN TANNOUSIS: Okay. Thank you very much.

And I also just want to ask you one more question in regards to Mayor Adams, his press conference yesterday where he stated that there are changes that need to be made in regards to the Legislature's bail reform laws that were passed a few years back.

What is your position as to those laws, being that you do have the statistics? Do you think that there needs to be a change in regards to these laws for the safety of New Yorkers, or is there another solution that you see going forward?

DCJS COMMISSIONER ROSADO: I think that, you know, the role of DCJS is to implement the laws as they are passed, and

we've done that. And I think that the conversations are taking place -- I did not get to watch, you know, the Mayor's. I think that based on this weekend's events, you know, we're all feeling incredibly sad and motivated, you know, to address all of these policies. And I think that those conversations should happen.

ASSEMBLYMAN TANNOUSIS: Okay. Thank you very much.

CHAIRWOMAN WEINSTEIN: Assemblyman Brown.

ASSEMBLYMAN BROWN: Thank you, Madam Chair.

Commissioner, thank you for being here. I wanted to ask you -- I'm the ranker of the Assembly Committee on Alcoholism and Substance Abuse. And with bail reform, a very powerful tool was taken away to treat individuals with substance abuse problems by having an opportunity to go in front of a judge and take involuntary treatment in lieu of incarceration.

So my question to you is, how can we

get back that tool, get people into treatment more easily, you know, get them in front of a drug court judge to allow them the opportunity to choose treatment in lieu of incarceration? Thank you.

DCJS COMMISSIONER ROSADO: Thank you. Thank you for the question. I think that question is a good one, and it's appropriate for both OASAS and OCA, who really -- that's their bailiwick, and we're not -- we don't have a direct role in that.

ASSEMBLYMAN BROWN: That was my question, Madam Chair.

DCJS COMMISSIONER ROSADO: Thank you.

ASSEMBLYMAN BROWN: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

So our last -- oh, we have Assemblyman Burdick and then Assemblyman Palmesano.

But Assemblyman Burdick, the floor is yours.

ASSEMBLYMAN BURDICK: Thank you.

And congratulations, Commissioner, on your recent appointment.

I represent Bedford, which has two

correctional facilities, as you may know. And there are several community-based organizations which have done really and are continuing to do a stellar job in providing correction programs for those who are incarcerated there. And I notice that in -- your website sets out the core services of your agency, which includes funding and oversight of probation and community correction programs.

So I have two questions related to that. One is, where -- what funding is in the Executive Budget for such programs, and how might it be accessed? Is it done through grants? And if you don't have the answer to that, I'm fine with hearing back from you on that.

And the other is, can you explain how your agency coordinates and collaborates with DOCCS in terms of the oversight of probation and community correction programs?

DCJS COMMISSIONER ROSADO: Sure. On the first question, we work through existing communities -- you know, through the existing

community organizations --

CHAIRWOMAN KRUEGER: Sorry. Could everyone else please mute your lines so we can hear the commissioner? Thank you.

DCJS COMMISSIONER ROSADO: Sorry about that.

And I've been to both of the facilities in your district. I'm also a Westchester resident. So we work through the organizations that exist, and we work through our office -- OPCA, I'm learning all the acronyms, works directly with the organizations, with probation officers in the communities, and we, you know, provide funding for tons of organizations doing this work at the very local level.

And your second question, you know, we work closely with DOCCS. As you know, at DCJS we oversee probation directly, and DOCCS oversees what we used to know as parole, but is community supervision now. And those are people who are mostly released from the state prisons and have still time to serve, you know, under supervision.

But we collaborate -- as I mentioned in my testimony, in the new budget we have some money, we're going to use our trainers to help do some training of parole officers in the Jobs to Jail program, you know, in workforce development and to help the folks -- you know, to help them with their clients who are on parole. And, you know, we have a lot of mutual, you know, support between DOCCS and DCJS. They don't report to us and we don't report to them, but we collaborate on a lot --

ASSEMBLYMAN BURDICK: I'm sorry to interrupt, but could you get back to me with how we can get information to some of these local groups on accessing some of the funding that you mentioned, you know, for the programs?

DCJS COMMISSIONER ROSADO: Absolutely. Absolutely.

ASSEMBLYMAN BURDICK: That would be wonderful.

DCJS COMMISSIONER ROSADO: I'm interested to know if you have organizations

that haven't received our funding or who, you know, may qualify. You know, some organizations are tiny and we work with them, you know, to partner with others so that we can move the money to them more efficiently and help them --

ASSEMBLYMAN BURDICK: That would be great if I could get some information on that.

DCJS COMMISSIONER ROSADO: Absolutely.

ASSEMBLYMAN BURDICK: Thank you so much, Commissioner. Appreciate it.

DCJS COMMISSIONER ROSADO: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

And our last questioner is Assemblyman Palmesano.

ASSEMBLYMAN PALMESANO: Thank you, Commissioner.

I know there's been a lot of talk about the rising gun violence that's going on in our cities across the state. You know, we talk about New York City a lot, obviously. Isn't it time -- we all know that Mayor de Blasio got rid of the Anti-Crime Unit, whose

job and focus was to track down and find illegal guns that are used in the commission of a crime. Wouldn't you agree it's time for us to reinstate the Anti-Crime Unit in New York City to maybe help on this situation? And if there's a -- we could make a direct correlation in the closing down of that Anti-Crime Unit with the increase in gun violence that you're seeing in New York City -- and isn't there a direct correlation there?

And shouldn't they re-set that up again so we can have the Anti-Crime Unit on the streets trying to find the gun trafficking and the illegal guns? Which they were tasked to do before the mayor closed it down.

DCJS COMMISSIONER ROSADO: Thank you, Assemblyman.

I -- you know, as I said earlier, I believe, you know, that we're all in this moment in time based on the incidents of the last few weeks. We have a new mayor. I understand -- I think he spoke about that

yesterday too, and I haven't had time to really focus on it. But I believe that we're all looking for solutions and that it's time to -- you know, to reevaluate all the things that happened. Sometimes things that worked in the past can work again.

And we stand ready, again, when all those conversations are done and those of you who are elected into these positions, as well as the Governor and the Mayor, and everyone agrees on what to do, we stand ready to implement at every level any innovative ideas that will work to (a) reduce gun violence and keep our communities safe.

ASSEMBLYMAN PALMESANO: One of my colleagues, Mr. Lawler, was talking about the -- and Mr. Reilly were talking about the Raise the Age, and Mr. Lawler brought up some of the statistics. Along with those statistics, do we have -- do you have -- where are the rearrest statistics for those individuals who qualify under Raise the Age? Where are those numbers as far as rearrests and reoffense, so we can see them for

transparency purposes?

And wouldn't you agree that there are a multitude of crimes that are being committed that we don't even know about? And doesn't this really kind of -- not having these numbers or not being transparent with the numbers really kind of question the accuracy of the statistics that are really being provided by DCJS and OCA?

DCJS COMMISSIONER ROSADO: As I -- I'll make you the same offer as everyone on this call. I'm happy to take you through a deep dive. I'm sure the numbers exist. I don't have them on my screen. We can help you find them. You know, we can help to find them and, again, help you make the --

ASSEMBLYMAN PALMESANO: Appreciate that.

DCJS COMMISSIONER ROSADO: -- with the most accurate information and make the comparisons.

I understand --

ASSEMBLYMAN PALMESANO: Wouldn't you agree that it's important for the public to

know those numbers as well? I mean, not just the --

DCJS COMMISSIONER ROSADO: Yes, we post -- all of the numbers that I would take you through, you know, with the research folks are already posted. You know, we post all of our numbers online.

But those -- you know, that doesn't mean they're easy to analyze. One of my visions for the agency is that we also spend some time, you know, on the narratives, you know, on helping folks understand what those numbers mean. You know, bring that back to the communities as well.

But I thank you for the question.

ASSEMBLYMAN PALMESANO: Thank you, Commissioner.

CHAIRWOMAN WEINSTEIN: Now we go to Assemblywoman Kelles, who I believe is our last questioner for this witness.

ASSEMBLYWOMAN KELLES: Hi, and congratulations, I want to add my congratulations as well.

DCJS COMMISSIONER ROSADO: Thank you.

ASSEMBLYWOMAN KELLES: Absolutely.

I see that you're starting a program to reduce rural juvenile delinquency. That's one of the programs that there's I think an RFP out. I'm curious, the criteria -- when you put your programs together, are you looking at things like programs that are providing community services, housing stability, mental health supports, substance use issues, some of these issues that we have seen that are highly critical correlated with criminality, to help reduce some of those?

Or is this specifically addressing, you know, helping getting people who are committing crimes off the street? I'm trying to get a sense of what you're looking for in the program.

DCJS COMMISSIONER ROSADO: Yes -- no, I don't know about the actual one you mentioned, but I can tell you that, for example, before I got here -- as I said, I've been here eight weeks and kind of focused on confirmation and this, which -- I haven't been confirmed yet, though. But I've been

focused on preparing for the -- you know, on the budget.

But I can tell you, for example, I want to say two years ago in the SNUG program, you know, we had a very important collaboration between the folks doing SNUG and the Office of Victim Services, OVS, where OVS provided funding from some of the federal funding to provide social workers in those SNUG sites.

Because, you know, we know from the people on the ground that some of these issues can be solved, you know, with case management, with alternatives to incarceration, with redirecting of resources where someone may -- you know, I don't know, may need a notebook or some tool that they need, you know, for -- especially in the work we do with youth.

So, you know, in all of our work, both with law enforcement and with community folks, we try to have a holistic approach, which is --

ASSEMBLYWOMAN KELLES: Great.

DCJS COMMISSIONER ROSADO: -- why the money that we got in the budget this year allows us a little more flexibility to address those things that are not, you know, in the budget line. You know, whether you have to try to help someone get a pair of shoes or a shirt for an interview. I mean, we have to --

ASSEMBLYWOMAN KELLES: I'm going to throw in -- thank you so -- I'm going to definitely be one of those people and get in line to meet with you, because I would love to hear more in depth about these.

I'm going to just throw a few things --

DCJS COMMISSIONER ROSADO: (Inaudible.)

ASSEMBLYWOMAN KELLES: Thank you. Thank you. So I'm going to throw a few things out there about the training with law enforcement on implicit bias. If you could describe some of that, community policing efforts.

And the third one, I'm particularly

interested in your focus on or support of or help in expanding Law Enforcement Assisted Diversion programs, LEAD programs.

DCJS COMMISSIONER ROSADO: So I can tell you I'm -- first of all, thank you for providing an opportunity to talk about the professional policing. You know, we had an executive order, 203, which allowed us to work with, you know, the local law enforcement.

I think as I mentioned earlier, one of my goals is to tell the positive stories. I mean, we've focused on all the things we've talked about today, but this agency has a lot of, you know, great things to demonstrate how we've worked with law enforcement and how we have provided tools.

You mentioned implicit bias. We have -- you know, DCJS was consulted on the guidance that the administration provided to the police agencies as a result of EO203, which is where, you know, the police departments submitted plans last year. And, you know, I was on the outside of the agency

and I said, I wonder whatever happened to those plans. And, you know, we were busy dealing with COVID, and so everybody just assumes nothing happened.

And I came to this agency and I was -- it was heartwarming to know that a lot of things were being done, in fact, as a result of that. And we've talked to folks outside of the agency who are also looking at the plans and really saying to police departments, We want to help you accomplish these plans. As you remember, that process involved bringing stakeholders and communities to the table, and we want to help them go back to those communities and say, Here are the solutions, how can we help?

Some of that is resources, and some of them are learning modules. We've already been involved, our Office of Public Safety has already been involved over the last year in training law enforcement, specifically officers and folks both in the academy and what we call in-service, training on implicit bias, on deescalation, on, you know, kind of

all of these -- you know, the buzzwords of the things that we actually provide training on how to do these things in the spirit of -- in the spirit of professional policing.

And we've had a lot of success --

CHAIRWOMAN WEINSTEIN: Commissioner, I --

DCJS COMMISSIONER ROSADO: Yes?

CHAIRWOMAN WEINSTEIN: I hate to cut you off --

DCJS COMMISSIONER ROSADO: Oh, is that the clock? I'm sorry.

CHAIRWOMAN WEINSTEIN: -- because it's exciting information you're sharing with us. And perhaps, you know, we can have some follow-up conversations offline on it.

DCJS COMMISSIONER ROSADO: I'm happy to do that.

CHAIRWOMAN WEINSTEIN: Right now I've been -- and also I've known you for a while. Congratulations in this new role --

DCJS COMMISSIONER ROSADO: Thank you.

CHAIRWOMAN WEINSTEIN: -- and look forward to continuing to work with you.

I would like to turn it back over to the -- our chair Senator Krueger for the next witness.

CHAIRWOMAN KRUEGER: Thank you. Thank you very much.

And yes, thank you, Commissioner Rosado, and welcome to your new assignments in Albany. We all look forward to continuing to work with you. Clearly there are many members who have I think some really excellent ideas as well as proposals, so thank you very much for your time today.

DCJS COMMISSIONER ROSADO: Thank you.

CHAIRWOMAN KRUEGER: And we're going to move now to -- for people who are following, we have a very long agenda for the remainder of the day. We're really only on No. 5, Anthony Annucci, the New York State Department of Corrections and Community Supervision. And Anthony has been the acting commissioner for a very long time, but apparently he likes that job and doesn't want to become the commissioner.

Are you with us, Commissioner?

ACTING COMMISSIONER ANNUCCI: Good morning, Senator. Yes, I am with you.

And I'm also pleased to announce that my name was submitted in nomination by Governor Kathy Hochul. So I'm very pleased about that and look forward to the confirmation process.

CHAIRWOMAN KRUEGER: Wonderful. And you had the illusion you'd be testifying in the morning, but for the record it is actually a quarter to 3:00 in the afternoon.

(Laughter.)

ACTING COMMISSIONER ANNUCCI: I apologize.

CHAIRWOMAN KRUEGER: It's not your fault.

ACTING COMMISSIONER ANNUCCI: Good afternoon --

CHAIRWOMAN KRUEGER: It's our fault; we have so many questions for everyone.

So please, you have 10 minutes to submit your testimony to us.

ACTING COMMISSIONER ANNUCCI: Sure. Thank you.

Good afternoon, Chairwoman Krueger, Chairwoman Weinstein, and other distinguished chairs and members of the Legislature. I am Anthony J. Annucci, acting commissioner for the Department of Corrections and Community Supervision. It is my honor to discuss some of the highlights of Governor Hochul's Executive Budget plan and the various initiatives that will benefit public safety.

Over the past year, while COVID-19 has plagued our nation and state, the department was not spared from its effects. Accordingly, at the start of the pandemic I convened a multidisciplinary COVID-19 Task Force to guide our comprehensive response.

Throughout the pandemic, there have been many heroes along the way. Our essential workers, including corrections and community supervision staff, came to work every day and consistently carried out their professional duties in a superb manner, oftentimes going above and beyond their traditional responsibilities. I am very proud of the dedication and sacrifice staff

have displayed throughout the duration of the pandemic, and I thank them for their tireless efforts and resoluteness, despite the obvious risks.

Similarly, incarcerated individuals have shown resiliency in the face of the many changes in policies to keep them safe. They too contributed to the response effort in a variety of ways, such as manufacturing millions of masks, gowns, and hand sanitizer, that significantly helped to support and protect fellow New Yorkers.

The dramatic reduction in the incarcerated population has assisted our ability to manage the system safely during this pandemic. Through the efforts of the Legislature in enacting various laws, and the good work of DOCCS staff, New York leads the nation with the lowest imprisonment rate of any large state. Remarkably, the incarcerated population, now under 30,500, has decreased by more than 40,000 since 1999, marking the lowest total since 1983, and representing a 58 percent decline from its

all-time high of 72,773. More significantly, the total population reduction since January 1, 2020, exceeds 13,700.

Even with these drastic reductions in incarceration, New York proudly remains one of the safest large states in the country.

With this significant reduction in population, the state has safely eliminated excess capacity through the closing of correctional facilities and the removal of all double bunks in our medium-security facilities. This year's closure process is underway with the transfer of staff to vacant positions at other facilities or offices, while the incarcerated population is transitioned into vacant beds elsewhere. There are no additional closures contemplated in the upcoming fiscal year.

Despite the pandemic, the department has worked hard on last year's new laws that included implementing voter registration for those being released from prison; moving individuals to facilities in close proximity to their children; preparing to enact the

HALT and Less is More laws; and continuing to expand our Medication Assisted Treatment program. I look forward to seeing these bold new initiatives come to fruition, and I believe that they will lead to better outcomes for both the incarcerated and releasee populations.

The Governor has set a vision for this state in the coming fiscal year, and the department is excited to pursue many new initiatives that will be more humane and better prepare individuals for reentry to their communities. In addition to gender-affirming treatment for incarcerated individuals, the Governor's Jails to Jobs initiative prioritizes education by the restoration of Tuition Assistance Program funding for incarcerated students and an expansion of eligibility for educational release.

I have been a strong supporter of education throughout my tenure as acting commissioner, and I look forward to implementing the Governor's vision to elevate

education behind the walls to a whole new level altogether.

Additionally, the other initiatives include starting new programs that will align with today’s workforce and conducting a comprehensive review of existing vocational programs to meet today's challenging job market. We will work with the Division of Criminal Justice Services to train reentry managers and parole officers around the state on career planning and job placement and retention.

We will also leverage one of our residential treatment facilities as a pilot for use as transitional housing for undomiciled parolees returning to New York City.

Furthermore, we will offer stipends to the head of households that provide opportunities for those individuals to transition to stable housing, and we will eliminate the parole supervision fee.

Lastly, the Governor has proposed a constitutional amendment to allow for

public-private partnerships that would enable hybrid work-release programs within our facilities.

In conclusion, while we will continue to tackle the many challenges posed by COVID-19, under the Governor's vision, we will continue to move this department forward in support of a more just criminal justice system that delivers necessary programs and services while simultaneously advancing safety within our facilities and in the community.

I look forward to furthering the Governor's agenda with the assistance of our professional, well-trained and dedicated workforce that performs its responsibilities in an exemplary manner, often under dangerous and difficult circumstances.

Thank you, and I will be happy to answer any questions.

CHAIRWOMAN KRUEGER: Thank you very much.

And our first questioner is the chair, Julia Salazar.

SENATOR SALAZAR: Thank you, Chair Krueger.

Thank you so much, Commissioner, for taking the time to testify today.

I wanted to begin by asking you about the Governor's proposal to allow gender affirming treatment for incarcerated individuals. Does DOCCS currently take an incarcerated individual's gender identity into consideration when determining where they will be housed?

ACTING COMMISSIONER ANNUCCI: The answer, Senator, is yes, we do. We've had a process in place for a number of years. We have a central office committee composed of deputy commissioners for program services and facility operations and class and movement, assistant commissioner for prayer and mental health, counsel, and I believe program services as well.

And every case is considered on an individual basis. And we have moved individuals -- I will just call them trans, for purposes of this exchange. But we take

them into consideration, they have been moved.

A quick anecdotal story: When I was in Rikers island doing a tour and I toured their unit, one individual recognized me. She was from a state facility, and she came up to me and said, "Commissioner, I want to thank you. I had been in a male facility, you allowed me to be moved to a female facility, Taconic. I'm much happier there." And I said, "Always happy. We want you to succeed and be safe."

So with that, we're prepared to implement this new law, which will formalize many of the existing processes and do many other things; in particular, bring the locals online so that we can better coordinate, in advance, the information that we need before transfer happens.

SENATOR SALAZAR: Thank you.

I'm curious about what effect the Governor's proposal would have on DOCCS online search -- you know, search of incarcerated individuals. Will it display

the gender identity that the person prefers or their sex assigned at birth? Do you know yet what the impact would be there?

ACTING COMMISSIONER ANNUCCI: Well, I can tell you that currently -- the sex that appears currently matches the gender classification of the facility.

But we are in the process of updating the system to remove the sex field from display from the lookup.

SENATOR SALAZAR: And I wanted to ask also about the proposal to expand educational release and furlough.

According to DOCCS' 2020 Temporary Release Report, it looks like only six individuals applied for educational release, and none were approved. And according to previous temporary release reports, since 2014 a total of only about 23 individuals applied for educational release, and none were approved.

So I wanted to clarify, based on what the reports show, does zero participation mean that zero applicants were approved? Is

that correct, or were potentially some approved and didn't participate for some other reason?

ACTING COMMISSIONER ANNUCCI: More the latter, Senator. We have a number of temporary release programs, and people can simultaneously be approved for work release and educational leave, and they might choose to participate in work release.

We have a number of other different types of temporary release programs, and a number of individuals may not have been eligible by virtue of their crime.

The Governor's initiative changes this dramatically, because it takes a whole cohort that can't apply now, by allowing them to be eligible. And these are people that have been in the system a long time. Many of them are doing very well in college programs, and this will raise it to a whole new level by letting our incarcerated students learn side by side with students on the outside campuses. Sometimes we brought the outside students in; it has opened their eyes.

This will open the respective individuals' eyes to each other as they side by side learn at the same time in classrooms.

SENATOR SALAZAR: Great. And assuming that this policy is adopted in this year's budget -- or, rather, it's in this year's adopted budget -- and for the record, I hope it will be -- how will incarcerated individuals be informed of the policy change of the expanded eligibility, both actually for educational release but also for furlough?

ACTING COMMISSIONER ANNUCCI: Well, we will assuredly make sure that we put out the formal notices to the population. It may be a memo from me to the entire population; it's easy enough for me to write something detailed to explain how it would work.

It's very exciting. We already have so many in the college programs. We have, for example, people at Otisville that might be interested in continuing to apply and participate in John Jay or wherever they would be accepted.

And the other benefit, it allows them to participate in furlough at the same time. So you would go temporarily to like Queensboro, and then you would have a furlough approved and you'd be allowed to go there. And after a year and a half of combined total, you would meet the limited credit time allowance to allow you to actually be released six months early.

So we will get the notice out. There will be changes in the regulation. There will be -- everyone that will need to know will know how to do it and be eligible to apply and be approved.

SENATOR SALAZAR: I want to pivot to a different subject entirely, and that's the Inspector General's report that was recently released that revealed that DOCCS had administered previously faulty drug tests, which led to false positives and of course in some cases -- in many cases -- led to punishments for incarcerated people that jeopardized their release dates or resulted in punitive segregation.

What action has DOCCS taken to respond to this and remedy the situation where there was harm caused by the false positives?

ACTING COMMISSIONER ANNUCCI: Yes, Senator, thank you very much for that question. It is one of the most regrettable things that happened in the past couple of years.

I always say: If anything, a corrections system has to be fair. We have to hold ourselves accountable if we're ever to teach individuals entrusted to our custody to respect the law. We committed a terrible mistake here.

I can tell you that we no longer have that vendor and we've dramatically changed our policies going forward. We (a) have a new vendor for the preliminary test, and now we have an outside laboratory that must confirm any test that indicates a positive result -- and only then will we take action.

Moreover, we have changed our disciplinary system so that a positive drug test is only a Tier 2, it's not a Tier 3.

You can only get SHU or segregated confinement with a Tier 3 offense. So we're moving in a whole new direction altogether on that.

What I also did, once we realized the terrible mishap that had happened, I convened a major task force of every single discipline in our system, and we met on a regular basis. So we had class and movement, we had guidance and counseling, we had grievance, we had temporary release. We had every program imaginable -- we had discipline, facility operations -- and we would review and counsel everything about unwinding every individual that had been affected, which included everybody that legitimately was positive. It wasn't everybody that was a false positive, but in the interests of correcting this harm, we simply took everybody that had a positive test during that period and we took every possible action to restore good time, to expunge their records, to restore them to temporary release, closer to home transfers, whatever was involved. It was a massive

effort.

And I can also tell you that we do have a lawsuit pending against the original vendor, and I believe PLS and perhaps another law firm also has a separate lawsuit on behalf of the harmed incarcerated individuals.

SENATOR SALAZAR: Thank you. It's encouraging to hear that.

I wanted to ask you a bit about the incarceration of older adults. When does an incarcerated older person generally begin to be defined as an older individual or as aging? At what age would they be designated that way by DOCCS?

ACTING COMMISSIONER ANNUCCI: Senator, it's more or less an informal designation. It is not something that is defined as an official classification.

So for example, for our senior program, which is a program we're very proud of, the age is 55 and older. For Adirondack it's 65 and older.

I think generally speaking, because

we've compared ourselves to the regular population, whereas you might look at somebody 65 and older as a senior, it's fair to use 55 as the cutoff, for a variety of different reasons. Many individuals come to us with having not had the best healthcare in their lives. They may have had addiction issues, they may have had smoking issues, they may have high blood pressure. And then of course add to that the stress of being confined and being separated from family; that could exacerbate any health problems.

So generally speaking, 55 and older is kind of looked at by us as a senior category, but it's an unofficial classification.

SENATOR SALAZAR: Thank you, Commissioner. I have many more questions, but I realize that I'm out of time, so I'll give it back to you, Chair.

CHAIRWOMAN KRUEGER: Thank you very much.

Assemblymember Weinstein.

CHAIRWOMAN WEINSTEIN: Yes, we're going to go to our ranker on Corrections,

Assemblyman Giglio.

ASSEMBLYMAN GIGLIO: Thank you. Thank you. Can you hear me?

ACTING COMMISSIONER ANNUCCI: Yes.

ASSEMBLYMAN GIGLIO: Good afternoon, Commissioner. It's good to see you.

ACTING COMMISSIONER ANNUCCI: Good to see you.

ASSEMBLYMAN GIGLIO: And I've got some questions. My first question is, you've mentioned population. And you mentioned that population keeps dropping. And you use 1999 as your base point. Of course it's going to seem excessive at that point when you go back that many years. I'd be more curious to -- a closer part. How about like 2015 to 2021, to give us actual numbers, and see how much the drop -- you know, how dramatic that was.

ACTING COMMISSIONER ANNUCCI: I can give you all those numbers. I can even go back 50 years to give you the entire numbers.

I can tell you that prior to twenty -- prior to COVID, which was 2020, that in 2019 we had the single biggest drop in the history

of Corrections. And so we -- our decline matched the declining crime rate and came well past all the Rockefeller drug laws.

I have a chart here, I can give you the population totals from 2021 going back to 1970. I think 2018 we were at 47,459; 2017, 50,271; 2016, 51,466; 2015, 52,344.

ASSEMBLYMAN GIGLIO: Okay. Well, thank you. Thank you.

I'd like now to get to what nobody's talked about yet, is the men and women that work in Corrections. How much overtime costs are included in this budget, and how many of these people are forced to work overtime?

ACTING COMMISSIONER ANNUCCI: I don't have the current overtime numbers for you, Assemblyman. I certainly can get them for you. It's something we try to avoid.

It was a real challenge managing through COVID, it really was. There were huge numbers of people at any one time who had to be quarantined at home or tested positive, et cetera.

I can tell you that right now we're

making big inroads into redistributing the staff where they're needed, because the staff are moving from the closed facilities to the facilities where there are huge numbers of vacancies. So we're making some significant progress there. There's another whole movement of staff scheduled in a couple of weeks, in February. That will further help.

ASSEMBLYMAN GIGLIO: Thank you. Can you give me a ratio of how many inmates to one correction officer, say on the midnight shift?

ACTING COMMISSIONER ANNUCCI: One to three, I believe, is the current number.

ASSEMBLYMAN GIGLIO: Okay, thank you.

Now, the other thing I'd like to know about is what kind of training are you providing for the men and women that work within Corrections to help them deal with the COVID problem and every other problem that they're facing right now?

ACTING COMMISSIONER ANNUCCI: Well, we have a whole slew of different resources from our health services staff that are

continually providing updated information. We make the vaccine available, we provide protective equipment, masks, et cetera.

Training in general is something we always pursue. I have a task force that I've just formed where I've invited and I'm getting participation by union representatives so that we can work together to address prison violence. We train on implicit violence {sic}, deescalation training. And I also make it a big priority to provide them with all the latest equipment as a safety -- not just the regular pepper spray, but new pepper spray that -- MK that should help in certain situations like when there's a melee in the yard and it's a group of individuals fighting.

ASSEMBLYMAN GIGLIO: Okay. So what kind of mental health services again are you providing for these folks that are under such pressure to perform on a daily basis?

ACTING COMMISSIONER ANNUCCI: I have a huge priority centered around wellness, and my associate commissioner for mental health

is chairing it.

We deal with corrections systems across the country so that we can learn what they are doing, and we have new apps that we're putting on phones to make available for them. We have telephone contacts that they can make if someone's feeling stressed and potentially wanting to harm themselves. Many other things --

ASSEMBLYMAN GIGLIO: They know all this is opportunity for them and all's they have to do is ask?

ACTING COMMISSIONER ANNUCCI: We're making it available. We have systems staff to make it available for them, and many other things.

We have an employee assistance program, and they have all kinds of contacts that they make available to our staff. So we try very hard --

ASSEMBLYMAN GIGLIO: I have one more question -- I don't mean to cut you off, sir, but one more question. What are you guys doing about recruitment to get people to come

and take these jobs now under the conditions that they're being offered?

ACTING COMMISSIONER ANNUCCI: We aggressively advertise at different fairs. We put notices out to different individuals so that we can get the word out.

I want people to understand that we are a very progressive system. We prioritize wellness, we prioritize our people. And I think our last announcement was about 5,000 that it went out to. So I think the word is getting out. And people are interested, especially who know -- who know people that have families, and they know it's a good place to work.

ASSEMBLYMAN GIGLIO: Thank you, sir.

CHAIRWOMAN WEINSTEIN: We go to the Senate.

CHAIRWOMAN KRUEGER: Thank you very much.

Our next questioner is Senator Pat Ritchie.

SENATOR RITCHIE: Thank you, Chairwoman.

Commissioner, I have a couple of questions starting with the issue of violence in our facilities that I'm really concerned about. You sent out a memo in November, I believe it was, that described some of the violent actions as savagery. And that is definitely concerning.

So part two of that question is instead of closing correctional facilities like Ogdensburg Correctional Facility -- where the staff feels safe, where those individuals who are incarcerated there wrote letters to myself and the Governor begging for the facility to be kept open because they felt safe there -- instead, the facilities continue to be closed, including OCF, in a time when we have 60 to one -- 60 individuals incarcerated to one officer at midnight, on the midnight shift during COVID, when you would think that it would be the best time to space out not only staff but those individuals who are incarcerated.

So I would like to know what caused you to send out that memo, but also what

caused you to close Ogdensburg Correctional Facility, given the positives there, including $10 million that was just spent on upgrading the facility that I believe is supposed to be completed this month, and the fact that we have an incidence of rise in violence. And would not it make more sense to keep those incarcerated separated more and keeping these other facilities open, at least during COVID?

ACTING COMMISSIONER ANNUCCI: A lot to address there, Senator. Let me try to do as thorough a job as I can.

First of all, never an easy decision to close any correctional facility. The staff at Ogdensburg have always done a great job. It's very difficult to tell them that we need to close. They did nothing wrong.

There's no density problem whatsoever. We have thousands and thousands and thousands of vacancies throughout the system. I'm not sure where you got the 60-to-1 ratio. We've taken down all the double bunks in the system, which means the maximum number at any

one time at any medium-security prototype dorm is 50.

I can tell you that what prompted me to send out that memo was that there were some serious assaults -- it's not raw number -- serious assault where somebody was seriously beaten and the individual was in a rage at the time. There's about three or four of them at a time.

And I put that memo out there because I wanted the individuals to realize that there are going to be serious consequences. We have liaisons with outside prosecutors throughout the entire state. And if you seriously assault an officer or any staff, if you commit a Class B violent felony offense, that is punishable by a consecutive 25-year determinate sentence. And I wanted everybody to understand that.

We continue to work together with the union. We created the Prison Violence Task Force, and we will work together, we'll get their recommendations, we'll look at a number of different things to make sure that we run

the safest possible system.

One thing I'm very thankful of, since being acting commissioner I've never had to add another name either to the Correction Officer Memorial or the Parole Officer Memorial. And that is something that is very important to me, and I want to keep going in that direction.

SENATOR RITCHIE: Well, my time is up, but I would just like to say I find it totally in opposition to what I believe should be happening in COVID. I am certainly not saying COVID is not serious. I wholeheartedly think we all should be doing everything we can.

But I don't -- I don't understand why we would be closing facilities in the middle of a pandemic and sending people away from their families at this moment.

Thank you, Commissioner.

ACTING COMMISSIONER ANNUCCI: Sure.

CHAIRWOMAN WEINSTEIN: Thank you.

Just want to remind everyone, including chairs, to please make sure -- if

you want to speak, please raise your hand virtually. We can't just look over at you.

I want to next go to Assemblyman Weprin, the chair of our Corrections Committee. Ten minutes, Mr. Weprin, please.

ASSEMBLYMAN WEPRIN: Thank you, Madam Chair.

Thank you, Commissioner Annucci. This is now my sixth year, starting my sixth year as chair of the committee, and I've enjoyed working with you for these many years. And I know you've been involved a lot longer, but I look forward to your tenure under Governor Hochul once you're confirmed.

I wanted -- as you know, we've been on a number of panels together on educational release. I've had legislation for years about educational release, which -- and the answer, the pushback has always been that we didn't have TAP for incarcerated individuals. Obviously the Governor has proposed changing that, and I'm hoping with TAP there will be a way to pay for it.

Can you just get into, for me, how

this new initiative on educational release as well as furlough will be operated? And how are you going to see that you have the maximum amount of people that are eligible? Because I know you're very committed to education in facilities.

ACTING COMMISSIONER ANNUCCI: Thank you, Assemblyman. And you're right, it's a pleasure working with you. I look forward to continuing to collaborate, and especially on something like education. We've both been at events where education and higher education, college has been prioritized.

So let me say that first of all we already have a fairly developed network of college programs. And I can also tell you that I just came from a conference where I heard a briefing on the potential rules and regulations for the restoration of Pell funding, which will be coming in about a year, I believe. And so the eligibility for TAP will coincide nicely.

And I believe that that will help further build the option of the different

colleges that are out there and can build upon what they're able to offer.

I can tell you that if there is one single thing that really addresses recidivism, it is the word "education." More than anything else, education is transformative. I think that's the key thing for everybody to understand. And you not only see that from the studies that are performed, you see that from the individuals who have been through the system and completely changed their lives around.

And I can tell you that we will work with the current students that are there, we will look at who becomes eligible for educational release, meaning that if they're in a college program and they come within two years of their earliest release date, and they have one year already of college under their belt, they can then transfer into the general confinement facility, but probably a facility like Queensboro in New York City, and start there and then enroll in classes and then get approved for a furlough on the

weekends and come back to the facility, you know, when they have to.

So they gradually get -- almost like a work release inmate -- to the point where they fully get LCTA credit. And then when they release their -- reach their LCTA release date, they get released.

So they'll be studying in the same classrooms, on the same campuses with other individuals, and I think it's a great learning experience for everybody.

ASSEMBLYMAN WEPRIN: Can you tell me, as a follow-up, how many and approximately what percentage of incarcerated individuals in DOCCS custody are enrolled in college-degree-granting programs? And how many facilities are offering a degree-granting program?

ACTING COMMISSIONER ANNUCCI: So right now I think it's -- we have a college program in 30 different facilities. And I think we currently have about 23 different higher education institutions that are delivering at 30 different correctional facilities.

I have to get you the exact number. I think obviously with COVID we had our challenges. But we have been able to deliver programming through the tablet program, through the Ashland College that delivers it through the tablets, and we have the ability for others to use that technology as well.

So I'll get the exact number of current participants, but I think I -- it's about 2056 right now is the current number of college participants. I'd have to do an analysis of how many of them are within two years of their earliest release date, and that's the ones. And if they have one year of college under their belt, they'd be able to go into educational release.

ASSEMBLYMAN WEPRIN: Okay, I just want to talk a little bit about deaths in prison. As you know, we passed legislation to prevent the redaction where you can't even determine what the deaths were.

And of course the Rikers Island situation with the highlighting of how many people have died in the last year in prison,

you know, has gotten obviously a lot of airing in the public.

It was the Columbia university report that found that an incarcerated person in New York State prisons dies every three days. How many total incarcerated people have died in DOCCS custody in 2021?

ACTING COMMISSIONER ANNUCCI: I think I have that number here. And I may have misplaced it. One second. Give me a few moments.

There were 136 deaths reported in 2021. Which is an increase of 14 from the year before, 122. And 97 were considered natural causes; that's about 71 percent.

(Pause.)

ASSEMBLYMAN WEPRIN: Hello?

ACTING COMMISSIONER ANNUCCI: I can hear you.

ASSEMBLYMAN WEPRIN: Okay, I lost you for a second. Technology problems.

CHAIRWOMAN KRUEGER: Okay. Are you still with us?

ASSEMBLYMAN WEPRIN: I'm still with

you.

CHAIRWOMAN KRUEGER: Are there any more --

ASSEMBLYMAN WEPRIN: Yeah, along the same line as deaths in prison, I know there are a number of states that actually publish online various deaths in prison. Is that something that DOCCS would be able to consider?

And also I know there's been a lot of information about, you know, deaths related to COVID, but I think it's important that we know what the cause of a lot of these deaths are in facilities. Commissioner, would you be able to comment on that?

ACTING COMMISSIONER ANNUCCI: Yeah, certainly we'll consider that, Assemblyman.

One of the things is sometimes we don't always know the cause of death for a little bit of time. As you know, every single death is required, under the County Law Section 674, to have an autopsy performed. If it's an outside hospital or if it's inside a facility, wherever it occurs,

an autopsy must be performed, even if seemingly it might be natural causes, like somebody has cancer or what have you.

Now, that may take a little bit of time before we get the final results. So we're always a little bit behind where we are. COVID deaths are posted.

But we'll consider whether or not at any one time we would post that. Certainly I think -- I can see giving the accurate information. But the final determination as to whether or not something is a natural-cause death or a drug overdose death is something that may have to wait until nine months or whatever until we get an autopsy report.

ASSEMBLYMAN WEPRIN: Okay, thank you, Commissioner.

One last question on the area of the public/private partnership and increasing work release programs with the private sector once it's allowed. I know there was an issue with paying labor.

I mean, what's contemplated as far as

how much incarcerated individuals will be paid by the private sector? Have you determined that? And has there been discussions about, you know, what wages would be paid to those incarcerated individuals doing, in many cases, skilled labor?

ACTING COMMISSIONER ANNUCCI: They would be paid the exact same salary that John Q. Private Citizen would get doing that same job in the private sector. If somebody is, on the outside, making X dollars an hour working in a food establishment, and that same food establishment is working them behind the walls, they would get the same exact rate of pay. There's going to be no difference whatsoever.

Just like now in work release. You participate in work release, you get the same salary, the labor laws are applicable, you pay taxes on your salary, et cetera. Just like that, it would work behind the walls.

ASSEMBLYMAN WEPRIN: I know you've been doing a lot of work on vocational programs, so I look forward to a

public/private partnership with expanded opportunity for incarcerated individuals. So I look forward to that.

ACTING COMMISSIONER ANNUCCI: Thank you, Assemblyman.

CHAIRWOMAN KRUEGER: Thank you.

ASSEMBLYMAN WEPRIN: Thank you, Madam Chair. I don't know if my time's up, but it probably is.

CHAIRWOMAN WEINSTEIN: Sure, you gave us back 13 seconds.

CHAIRWOMAN KRUEGER: Thirteen seconds.

CHAIRWOMAN WEINSTEIN: Senator?

CHAIRWOMAN KRUEGER: Thank you so much.

Senator Pete Harckham.

SENATOR HARCKHAM: Thank you, Madam Chair.

Commissioner, good afternoon. Thank you for your testimony. Good to see you.

ACTING COMMISSIONER ANNUCCI: Good to see you, Senator.

SENATOR HARCKHAM: And congratulations on your appointment. That's good news.

ACTING COMMISSIONER ANNUCCI: Thank you.

SENATOR HARCKHAM: Let's talk a bit about medication-assisted treatment. As we know, the largest per-capita group of deaths from overdose are from recently released folks from incarceration.

So in the beginning of your testimony you alluded to expanding medication-assisted treatment. So if you could tell us in detail what you're doing, but also how we're going to have a continuum of care so when people leave from behind the walls to get out into society, that medication-assisted treatment prescription is going with them in some sort of continuity of care.

ACTING COMMISSIONER ANNUCCI: So let me first address people leaving.

We've made it a big priority to make sure that individuals get registered on Medicaid before they leave. We've hired a number of clerks that their job is to go around and register individuals so that they have the Medicaid card when they leave.

We have all forms of MAT right now in a number of different facilities. I may be able to give you the breakdown, but we are expanding it. We have methadone, we have buprenorphine and -- naltrexone? I'm sorry, it's eluded my mind for a moment.

But we're expanding the program now, and we were planning to put out an RFP in February so that we have one provider that will be able to respond to all of our facilities. Our target is to be able to have MAT present in 40 facilities I think by sometime later this year -- I'll get you the exact month. But we are moving forward aggressively with that. We strongly believe in it. It will have to continue with the appropriate connections to the providers in the community when we get out. It's part of discharge planning. It is lifesaving.

We also do training for the population so that they can take with them kits when they leave to be able to resuscitate someone who might be on an overdose that they encounter in the community.

So it is an initiative we're proceeding on multiple fronts. It is lifesaving. There's no question people dying of drug overdoses in the communities is on the rise. We need to do everything possible to safeguard that.

SENATOR HARCKHAM: Thank you. That all sounds very promising.

Do you know what the increased number of individuals from those who are receiving medication today to when you expand the program to the other facilities?

ACTING COMMISSIONER ANNUCCI: I do. I have a projection, it was based upon screening that we've done in the population. And I have a number, I just don't have it at my fingertips --

SENATOR HARCKHAM: If you want to get it to me offline, that would be great.

ACTING COMMISSIONER ANNUCCI: Sure, absolutely, Senator.

SENATOR HARCKHAM: All right. Thank you for your testimony.

CHAIRWOMAN KRUEGER: Thank you,

Senator.

Assemblywoman Weinstein.

CHAIRWOMAN WEINSTEIN: Yes. Next we have Assemblyman Lawler.

ASSEMBLYMAN LAWLER: Thank you. And thank you, Commissioner, for being with us.

Over the past six months or so I've visited Sing Sing, Rikers, and my county jail, and one of my biggest takeaways from visiting these facilities was really the need to support our corrections officers, as well as the need for some level of punitive segregation.

And I note that in November you sent a memo to the incarcerated population where you described some of the violent actions as, quote, unquote, savagery. And I want to know what exactly prompted this memo, and why did you specifically use that terminology?

And you talk about holding individuals accountable to the fullest extent of the law in that memo. What does that mean, in your mind?

ACTING COMMISSIONER ANNUCCI: So as I

said earlier, there were several different attacks that rise to the level of something I hadn't seen in a while -- cutting an officer seriously on the face, breaking orbital bones, knocking a female officer down and trying to stomp on her with boots. Those are the examples that I was talking about. They're very serious.

And the message I wanted to send was that for those small number of individuals that think it's okay to do that, there are going to be serious repercussions. We have a saying in corrections: 95 percent of the problems that are caused by incarcerated individuals are caused by 5 percent of the individuals. It's a small number that disproportionately cause the most harm.

And in order for them to understand what might happen, I put that memo out that described in detail these are the convictions that will happen if you commit these acts. We have liaisons with every single prosecutor office in the state. We pay -- by operation of law, we pay for all the costs related to

incarceration. So if this is going to happen and we have these liaisons, we are going to pursue a consecutive sentence of imprisonment for these types of acts.

Again, it's a small number, but they need to have their --

ASSEMBLYMAN LAWLER: I appreciate -- I appreciate that explanation, and I support you in that. And absolutely do what you need to do to keep your corrections officers safe.

With the time I have left, I just want to make a statement to you with respect to community supervision and the Parole Board. I think the Parole Board is an absolute disgrace. I think what they have done in just this past calendar year -- in my district, they've released a domestic terrorist and cop killer who was responsible for the deaths of two law enforcement officers in the 1981 Brinks robbery, and they released a child rapist and murderer who killed a 16-year-old girl on her way home from school -- from work at the library.

It's an absolute disgrace what has

happened, and I hope you'll support my efforts to reform the Parole Board and stop the release of unrepentant cop killers and child rapists and murderers.

CHAIRWOMAN WEINSTEIN: Thank you, we go to the Senate.

ACTING COMMISSIONER ANNUCCI: Assemblyman, I just need to respond that I have the utmost respect for the chairwoman and the Board of Parole. They work very, very hard. It's basically a thankless job. No matter what they decide, someone is going to be upset with the decision. And it's never an easy decision. I respect your opinion, and you may be critical of them for that, but they work very hard and in an often thankless job.

CHAIRWOMAN KRUEGER: Thank you.

Senator Bailey.

SENATOR BAILEY: Thank you, Madam Chair.

Thank you, Commissioner, for appearing.

Senator Harckham asked a lot of the

questions related to the MAT in prison facilities that I was going to ask, and I was going to ask -- I was going to thank you for what DOCCS has been doing in order to make sure we implement this lifesaving treatment, which is quite frankly -- and I see my good friend Senator Akshar on the Zoom. We've spoken about this, and this is clearly a bipartisan issue and this is something that we can all agree on. So I thank you for understanding that, that this expansion is critical.

I just wanted to ask I guess one brief question, yes. And I see I do only get three minutes, I do not get the 10 minutes on this one. I just wanted to ask a brief question about the TAP for incarcerated individuals.

If its place is in the budget and it goes through the process, at what rate would it be able to expand within DOCCS facilities? And how would you see that expansion in facilities?

ACTING COMMISSIONER ANNUCCI: I didn't hear the first part of the question, Senator.

The expansion of MAT, did you say?

SENATOR BAILEY: No, no, I was thanking you for MAT because I was talking about the expansion of TAP.

ACTING COMMISSIONER ANNUCCI: I'm sorry, I apologize for that.

I can't really predict exactly how this is going to play out at this time. I know that we're involved with State Ed. I know that we previously used to have a number of individuals who received the benefit of TAP funding and Pell funding. Certainly we'll work with the colleges.

I think, you know, it's just like in years gone by when they dealt with the applicants and they decided who was eligible. There might be a statutory structure to what might be involved. If we need to enter into MOUs with colleges or other types of legal arrangements, we will.

Presently when we deal with the colleges, we don't require them to enter into anything formal. But whatever the Legislature would want us to do to ensure the

integrity and the fairness and the distribution of funding for incarcerated students, we will certainly support and make it happen.

Again, I repeat, education is transformative. It's the single most important thing to deliver for incarcerated individuals to lower recidivism.

SENATOR BAILEY: Without a doubt. And I would say that I had a chance to tour Green Haven and I saw the BPI individuals and I got to witness the magic, for lack of a better term, in that classroom, and it was quite incredible.

And I would just hope that -- I know my actual formal time is ending shortly. I just wanted to make sure I underlined the point that in having these conversations with our SUNY and CUNY institutions that we should make sure that us as legislators and you as DOCCS, we're having substantive conversations about the expansion and making sure that we can take on as many individuals as possible. Because as I tell my kids, as I will tell any

kid, we should never be discouraging anybody from being able to pursue an education.

So I just want to say thank you for your time, Commissioner, and thank you, Madam Chair.

ACTING COMMISSIONER ANNUCCI: Thank you, Senator.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Walczyk.

ASSEMBLYMAN WALCZYK: Thank you, Chairwoman.

Commissioner, the inmate on staff violence is increasing at a faster rate than inmate on inmate violence, at least according to the numbers that we've got from your department. Drugs are like a sieve in our facilities, and you've ignored some of the recommendations that this body has sent to you. Retention is bad, morale is terrible. You're continually closing facilities and moving families all over New York State. The Academy is short and not graduating as many as it used to, so your advertising at fairs probably isn't going to cut it when it comes

to some of those shortfalls.

As far as incentives go, are you looking at raises for corrections officers, doing any staff increases? Or how about tuition reimbursement or loan forgiveness for corrections officers?

ACTING COMMISSIONER ANNUCCI: I don't believe we have any of those in the pipeline. But we're always looking at a number of different things to improve morale or wellness.

I think that their participation on this task force is very, very important. We didn't just want superintendents or central office types, we want the rank and file to be represented. We want to hear from them directly what they think.

And I think you're seeing, in society in general -- it's not just the violence in the streets, you're seeing it on airlines, you're seeing it with traffic accidents, you're seeing generally Americans being intolerant with one another, and it's playing out in a lot of different forms, including

our correctional facilities.

ASSEMBLYMAN WALCZYK: Well, commissioner, respectfully, this isn't crime on the streets, this is crime in your facilities. This is inmate-on-staff violence increasing at a faster rate than inmate-on-inmate violence. How do you square that? What's responsible for that?

ACTING COMMISSIONER ANNUCCI: I don't have an easy answer. I intend to get feedback.

But back to your question on raises, I can tell you that the collective bargaining agreement does call for increases, and that's in our budget presently. And I think there is a provision for tuition reimbursement as well.

ASSEMBLYMAN WALCZYK: How does your staff that works in these facilities every single day, doing a dangerous job, that is getting assaulted with more frequency, feel about free college for the individuals under their care?

ACTING COMMISSIONER ANNUCCI: I can't

speak for them. They'd have to speak for themselves. But ultimately if they're taxpayers and it results in less people coming back to prison and more people becoming law-abiding citizens and more people paying taxes, I think they would be happy as taxpayers.

ASSEMBLYMAN WALCZYK: Will the inmates receiving free college be screened for drugs?

ACTING COMMISSIONER ANNUCCI: They won't be separated out. We have general random testing of the population, all with probable cause. That will be continued.

And if somebody misbehaves while they're in a college program, as is the case now, they could forfeit their place in the program.

ASSEMBLYMAN WALCZYK: I'm glad you brought that up. What misconduct would disqualify them from free college?

ACTING COMMISSIONER ANNUCCI: Well, any misconduct of a serious nature. It doesn't have to be just one particular type. It could be an assault, it could be

destruction of property, it could be paraphernalia. Anything of any serious nature could result in your being removed from a college program -- or any program, for that matter.

ASSEMBLYMAN WALCZYK: I'm out of time.

CHAIRWOMAN KRUEGER: Thank you.

Senator Sue Serino.

SENATOR SERINO: Thank you, Chairwoman.

And thank you, Commissioner. I have a couple of questions. And I just want to say I also share Senator Ritchie's comments that she had mentioned earlier.

You know, as you know, I represent the district where Downstate Correctional Facility is located, and Downstate employs more than 600 residents who have made their homes in and around Dutchess County. I have to say I'm deeply disappointed with how we received news of the proposed closure. And in your letter in November, you noted that you were mindful of the impact the closure would have on the community. However, to

date, I'm not aware that any stakeholders, whether local lawmakers, union representatives, the facility employees or others, were consulted before the closure was announced.

You claim you also did a detailed review, but where are the details and why weren't critical stakeholders consulted or a public meeting held?

ACTING COMMISSIONER ANNUCCI: Senator, respectfully, if we were to consult in advance of announcing a closure with any interested stakeholder anywhere in the state, we would still have 72 correctional facilities and a population of 30,000, which the taxpayers would not tolerate.

I am so sensitive to the impact on communities. We look at a whole number of factors, we look at programs that are offered, we look at infrastructure, we look at capital improvements that are needed, we look at neighboring facilities that are close by -- there's a whole host of factors that we look at in determining to close.

Once closure is announced, the number-one priority I have is to try as hard as we can to arrange a soft landing for all affected staff. I want them to have the opportunity to continue to be employed in our system in as close-as-possible other location or at least with the state.

We've met with the staff. I send my HR directors down there, they explain what their rights are, they meet with the union individuals, they go through this, and then we try and arrange the transfer so that they can continue in our employ. Which --

SENATOR SERINO: With all due respect, Commissioner, because you were just talking about employees having continued employment, so can you tell us, did they have to uproot their families and move elsewhere? Do you know where the employees are being reassigned?

ACTING COMMISSIONER ANNUCCI: Oh, yes. When they're being reassigned, they're given the option -- we can tell you where they've gone, to each facility and how much of a

distance it is.

I don't have that at my fingertips, but I can give you that information for those that are --

SENATOR SERINO: I'd like to follow up with you with that also. And there's another concern.

The Glenham Fire District is located like directly adjacent to Downstate and has been providing fire emergency response there for over 20 years through a contract with the state. And this contract actually provides fire protection coverage, which includes mutual aid protection in the event that a firefighter is injured or equipment is damaged during a mutual-aid response.

Given that the need for fire and emergency response will remain for the facility after its closure, will continue once the facility is closed, so are -- is there going to be aid for the fire companies for the facilities?

ACTING COMMISSIONER ANNUCCI: I'll have to look into that, Senator. I'm not

aware that we've ever done that in the past. But if there is a legitimate need and there's a way to do it, we'll find a way to do it.

We have a whole process that we follow when we're closing a correctional facility, in the maintenance that we have to do and ensuring that it still is a viable asset for potential reuse. There's a lot of different things that we will look at.

I'll certainly take that under advisement and see if there's anything that can be done.

SENATOR SERINO: I hope that that -- the contract will just continue and not have a lapse.

And I just want to say, again, how disappointed I was in the way this has unfolded, especially when the Governor promised to be someone who governs by listening. These employees never even got a chance to make their voice heard -- in a surprise holiday announcement, and with just a couple of months' notice. It's just not right. These men and women put their lives

on the line every day to do a very dangerous job, and the way they were treated here isn't right.

And I really urge my colleagues to do all that they can to prohibit these 90-day closures and enact a better process going forward.

Thank you, Commissioner.

ACTING COMMISSIONER ANNUCCI: I respect your position, Senator.

CHAIRWOMAN KRUEGER: Thank you.

Assemblymember Weinstein.

CHAIRWOMAN WEINSTEIN: We go to Assemblywoman Mitaynes.

ASSEMBLYWOMAN MITAYNES: Thank you.

Good afternoon. Are you aware that the state owes a legal duty to incarcerated people to prevent their death, including by suicide? And how many people died by suicide in DOCCS custody last year? And can you describe what conditions in DOCCS facilities are causing incarcerated New Yorkers in DOCCS custody to take their own lives?

ACTING COMMISSIONER ANNUCCI: So thank

you for that question. And preventing suicide is a challenge to every single correction commissioner in the country. And I belong to an association, we meet periodically. There's 50 of us in the country, and it is something that is very challenging and very difficult.

I have many different initiatives that are related to suicide prevention. I have two hours of annual training mandated for every single employee. I have every single employee that works in one of our mental health treatment units, they receive an annual amount of training I think of either six or eight hours.

We have all kinds of new initiatives to remind families of individuals that if they become aware of any indicia that someone may be thinking of taking their own life, they should let the officials know in the facilities. There's a prompt that is activated when a phone call is made to the family. They hear that. There's a prompt that is made when someone sends a secure

message. We have posters.

We have downloaded a video on the tablet that was made by an incarcerated individual at Attica Correctional Facility as part of a TEDx talk where he talked about his own journey and why he was at one point thinking of taking his own life and why he sees value in his own life.

This past Christmas we played, for the entire population -- donated 100 copies of the movie "It's a Wonderful Life" and a message to the population by two of the surviving actors. The message of that movie is everybody's life matters, everybody's life touches another life.

So we are trying so many different things to make the population understand, regardless of what they've done in the past, it's never too late to do good. Your life still matters. You still have value. We need to look after each other.

ASSEMBLYWOMAN MITAYNES: Thank you.

And really quickly, in 2016 the Second Circuit Court of Appeals found DOCCS

grievance procedures were so opaque and confusing that they were, practically speaking, incapable of use and so confusing that no ordinary prisoner can discern or navigate them, and recommended that DOCCS revise its grievance procedures to make them more usable.

Can you explain what DOCCS has done since then to improve its grievance procedures and whether the filing of grievances has been added as a function to the electronic tablets distributed to incarcerated people?

ACTING COMMISSIONER ANNUCCI: Yes. We have added the grievance process to our tablets. I'm not -- well, it's in the process of being worked on but it's not yet been done. But it is certainly an area that definitely needs improvement, and it is something that we'll give our attention to going forward.

The prior question you asked was the total number of suicides in 2020-'21. I think it was 16.

ASSEMBLYWOMAN MITAYNES: Thank you.

SENATOR HOYLMAN: Thank you. I -- this is Senator Hoylman. I think Chair Krueger --

CHAIRWOMAN WEINSTEIN: Yes, I was going to call on you, Senator Hoylman.

SENATOR HOYLMAN: Oh, thank you. Thank you.

CHAIRWOMAN WEINSTEIN: You're next.

SENATOR HOYLMAN: Thank you, Madam Chair.

Thank you. Good to see you, Acting Commissioner. First I just wanted to compliment you for your defense of the use of TAP for incarcerated individuals. And I want to thank you and the Governor for your support of that and particularly the Bard Prison Initiative, which we've seen such success come from.

I wanted to ask you about various studies from newspapers like the New York Times and Albany Times Union, NYU Law School, the Vera Institute for Justice, that have shown that the Parole Board grants release to

white individuals far more frequently than Black and Latinx people, even when you control for factors such as crime and disciplinary record.

Do you have any comments about that disparity? And what can we do to address it in terms of the Parole Board's release rates?

ACTING COMMISSIONER ANNUCCI: Well, first of all, Senator, let me say that the Parole Board is the most diverse Parole Board that -- throughout my experience with Corrections, and I've been here 37 years.

I can give you the breakdown -- I'll separately send it to you -- are women of color, men of color and Hispanic and all the different categories. So it's the most diverse it has ever been.

Second of all, these studies I question significantly, because there's no way anyone on the outside can actually have all the information in order to do an apples-to-apples, oranges-to-oranges comparison. You have to even actually do a further dive. You have to look at, you know,

Empire apples to Empire apples, McIntosh apples to McIntosh apples, because there's so many different factors in an individual's background, starting with his criminal history or her criminal history.

We have a second felony offender law that we keep applying, and it could be the sixth, seventh or eighth time someone --

SENATOR HOYLMAN: With my remaining -- thank you. With my remaining few seconds, is that something you would commit to examining from within, since you do have the data to make these comparisons?

ACTING COMMISSIONER ANNUCCI: Well, Senator, that's probably a huge study, number one.

Number two, the Board of Parole is independent. And when we merged, the Legislature wisely separated them out, and my responsibility is to give them all the support -- we have a wonderful partnership. I give them access to all the records they need. But their decision-making is independent. And any type of study of the

nature you're proposing I think would be extremely labor-intensive.

I am completely confident that with their diversity, they are making the decisions on the merits, they are completely color-blind.

SENATOR HOYLMAN: With all due respect, I don't think you can question outside analyses and then say this is beyond our ability to double-check the numbers, given the importance of the issue at hand, racial disparities in the, you know, release of incarcerated individuals.

I'd urge you to think about that, sir. Thank you.

ACTING COMMISSIONER ANNUCCI: Thank you, Senator.

CHAIRWOMAN WEINSTEIN: Thank you.

We're going to go to Assemblyman Burgos.

ASSEMBLYMAN BURGOS: Thank you, Madam Chair.

Thank you, Commissioner, for being here today.

I think the State Comptroller released reports that one in four incarcerated folks are older New Yorkers. He even went as far as making the suggestion that policymakers should be decreasing the prison population, especially for older New Yorkers, because they pose much less risk to our society.

I wanted to ask you, are you in agreement with the State Comptroller on this?

ACTING COMMISSIONER ANNUCCI: Well, I don't like to comment on potential legislative matters, and I know it's the subject of a lot of legislative bills out there that want to look at the issue.

Generally speaking, people tend to age out of the criminogenic behaviors as they get older. But you also have to look at how they came to prison. Are we talking about somebody that's been in prison a long time, or are we talking about somebody that at age 50 was a child molester? And that's a whole different paradigm altogether.

I can tell you that sometimes when we release somebody to a nursing home -- it took

us a long time to find a nursing home for a sex offender, then he managed to abuse one of the patients there and it really blew up in our face. So it's a complicated issue.

There's no question the older population requires a lot more attention. I'm trying to deliver to them meaningful programs. We have a senior dorm at one facility for 50 and older where we've selected programs that are just right for them for wellness, for engagement and a number of other things. If somebody requires skilled nursing care, they're placed in regional medical units. But --

ASSEMBLYMAN BURGOS: And I have a -- I'm sorry, just because I have a question that I think you were kind of diving into, so I wanted to take it in that direction.

In the same report the Comptroller reported that older adults, it costs nearly a quarter million dollars more to incarcerate them. So I think you were kind of alluding to that. Can you explain why it does cost so much more to incarcerate an older adult?

ACTING COMMISSIONER ANNUCCI: Well, in general they have a lot more health problems at that age. Once you get to be a senior citizen in a correctional facility, your conditions, whether it's diabetes or you require, you know, heart treatments or you may be HIV-positive, you may have hepatitis C -- the treatment for that is rather expensive -- whatever your medical problems are, like all of us, as we get older they seem to come to the forefront.

And if you have a background where you've neglected your health a little bit or you've also taken drugs or you've smoked or you've abused alcohol and you haven't exercised and you've eaten poorly, those problems will manifest themselves in compromised health conditions as you get older.

ASSEMBLYMAN BURGOS: Okay, thank you.

One last question. I've had difficulty getting a pretty clear and concise answer on this. I guess it can vary sometimes. But I'm really focused on the

reentry, right, when individuals are released from these prisons. And I wanted to know what is the DOCCS policy for individuals that are set to be released? How exactly are we releasing individuals? What are we giving them on the day of release, and how are we setting them on a path, you know, to a fruitful life?

ACTING COMMISSIONER ANNUCCI: It's going to require a little bit of a detailed answer. There's a lot that we do with reentry. In fact, that was a big reason why we merged, so that we can have a smooth hand-off to community supervision when the people are being released from our correctional facilities.

We have transitional accounting plans and Phase 3 is when we really focus on the individual who's leaving prisons. One of the Governor's priorities is to make sure that we facilitate the process of giving them identification so that when they leave, they have the birth certificate in hand, they have their Social Security card -- I'm trying to

advance the date when we can apply for that from four months to six months. We're working with DMV to expand a pilot. We're making them connections in the community. We have reentry managers that we hand off to.

We're going to focus significantly on job retention, so we train our parole officers to get them actively engaged in employment, because ultimately it has to be a smooth transition. We want them to succeed when they reenter society.

ASSEMBLYMAN BURGOS: I appreciate your time, Commissioner. Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

To the Senate.

CHAIRWOMAN KRUEGER: Thank you.

Our next questioner is Senator Savino.

Senator Savino, are you there? I see you, but you're not listening to us. Hi, can you unmute? Senator Savino. Apparently not.

Senator Savino, can you hear me?

SENATOR SAVINO: Yeah, but I wrote in the chat to let Senator Akshar go first because I'm doing something. I'll come back.

CHAIRWOMAN KRUEGER: Oh, I didn't see that, I'm sorry.

Okay, we're going to go to Senator Akshar first, thank you.

SENATOR AKSHAR: Madam Chairwoman, thank you. Senator Savino, thank you as well.

Commissioner, good to be with you.

I want to just turn your attention to HALT, obviously a piece of legislation that had been dated -- excuse me, debated for nearly a decade. We know now that there's no longer debate, it is now law. I've been here for seven years, and you have consistently stated that you cannot, nor will you, opine publicly on pending pieces of legislation.

I'm curious to know, now that this piece of legislation has been enacted, do you believe that the HALT Act will make the prison system safer or more dangerous for both the incarcerated and those that are charged with their care and custody?

ACTING COMMISSIONER ANNUCCI: Sure. First let me say when I don't comment on

pending legislation, I'm not trying to be obstructionist. I always try to take -- whatever the Legislature inquires about, I try to be responsive to your questions. But there's a forum to discuss pending legislation, and it's not a public forum. There may be issues, so we communicate our questions to the Governor's counsel's office and let them --

SENATOR AKSHAR: Let me just publicly say I meant no disrespect by that.

ACTING COMMISSIONER ANNUCCI: Sure. Sure.

So HALT is now the law. And I will be honest, when it was first passed I had some concerns. But I can tell you that we have marshaled tremendous resources in order for us to implement this law as the Legislature intended.

I created an executive steering committee, and then I created four subcommittees, and they have worked extremely hard to structure an elaborate program to go forward to implement it, from infrastructure

to changing our disciplinary guidelines to developing programming for the individuals when they come out of their SHUs and their RRUs and also for movement of incarcerated individuals from the SHUs to the RRUs.

So it was a very labor-intensive process. I am very comfortable where we are that we'll hit the ground running. I believe that we will change behavior for the better, especially when I heard the program presentation. We're not just providing them out-of-cell time. Other systems will provide out-of-cell time, let them play cards. We are really trying to focus on the behavior that got them into segregated confinement to begin with. And I'm confident that we'll be able to make some changes that ultimately they'll reintegrate into general confinement and not return. Or -- oh --

SENATOR AKSHAR: So do you -- I'm sorry, Commissioner. Do you feel comfortable with its full implementation in the timeline that's been prescribed?

ACTING COMMISSIONER ANNUCCI: It is an

aggressive timeline. But at this point, I am. We worked very, very hard coordinating with a lot of different forces within our agency, coordinating with OGS to do all the infrastructure changes, doing the training for the hearing officers, the memos that went out to the field. I feel very confident -- it certainly didn't hurt that the population also continued to decline as well. So that has kind of been the wind at our back somewhat.

But we're confident that we can deliver this. I have a breakdown of every facility where the RRUs are taking place, when they'll be ready, and I'm confident we'll hit the ground running.

SENATOR AKSHAR: Commissioner, with respect, with this looming threat of savagery, as you author in your letter -- I mean, how can you be so confident that, you know, its full implementation will in fact occur, with all of the violence that we've seen? Do you feel like you're being -- a tool is being taken away from you?

ACTING COMMISSIONER ANNUCCI: No. Because at the end of the day, our ability to separate is still intact. The theme going forward is separation, not isolation.

So we'll continue to separate the troublemakers, and we even put a memo out to the population, who may have been under the impression that they can do some act, go into SHU for 15 days, and they'd be back into general population. If that's what they're thinking, they're sadly mistaken, and that's not going to be the case.

They'll get out-of-cell structured programming and treatment, but my number-one priority is when we do this, we're going to keep everybody safe. Other incarcerated individuals, staff, volunteers, whomever, everybody will remain safe. That's my number-one priority.

SENATOR AKSHAR: Commissioner, why hasn't the department reimplemented the Secure Vendor Program?

ACTING COMMISSIONER ANNUCCI: It is something I still intend to pursue and to

follow. I'm looking for feedback from my task force on violence; that might give me some recommendations on that.

We learned the last time; we've talked to the advocates. We think it's valuable. We think it will save lives if it ultimately keeps dangerous drugs like fentanyl out of the system and ultimately be safer for everybody.

It's a question of timing. I need to be able to do this at a time when there is a lot more steadiness to the system. We have implemented so many programs in the last year. We are still in a state of change with closing facilities and new programs that are coming online. So it's a question of when the timing is appropriate, and I fully intend to pursue that at the appropriate time.

SENATOR AKSHAR: I would just respectfully --

CHAIRWOMAN KRUEGER: Thank you. I'm sorry, I have to cut you off, Senator Akshar.

SENATOR AKSHAR: Thank you, chairwoman. Thank you.

CHAIRWOMAN KRUEGER: You can follow up with the commissioner later.

Assemblywoman Weinstein.

CHAIRWOMAN WEINSTEIN: Yes, we go to Assemblyman Palmesano.

ASSEMBLYMAN PALMESANO: Yes, Commissioner, over the last two cycles we've seen 10 prison closures, Willard and Southport included, which I commented which is a bad idea, given the programs they provided, given the fact that none of these facilities are getting any dollars for their communities for repurposing, and given the fact that the short-term 90-day prison closures were disrespectful and an insult to the correctional facilities.

What's used over and over again is a decrease in prison population. But even as the prison population has decreased, the alarming results of assaults continue to rise. I've said over and over again I believe these closures, coupled with bad policy, taking away and not providing tools and resources for our correction officers and

staff, is creating a dangerous powder-keg environment.

We talked about restricting special housing units and now HALT. There's no discipline for these actions. Your letter talked about savagery, but a letter's fine, but that's not -- what are you going to do about it? HALT I'll say is a disaster, it's going to be a disaster and going to lead to more violence inside our facilities.

Even your own numbers show you inmate-on-staff assaults are up 55 percent over the past six years, to an all-time high of 1176 this past year. Yet at the same time, Commissioner, drugs and contraband continues to be a great problem in our facilities -- 3500 last year and 4,000 each year of the past four years.

But yet as we mentioned, we're still here without a Secure Vendor Program. You said the time needs to be right. The time was right several years ago when it was canceled. When we talk about drug dogs in our correctional facilities, you always say

it's a budget issue. You know, TSA-type screening devices to keep the -- we know the drugs get in through the mail and through visitation. Adequate staffing for our staff so they can be safe and not have mandated overtime.

You know, all the savings that are supposed to be realized through closures, why isn't any of it being reinvested back into the communities to provide tools and resources to keep them safe? We talk about iPads and TAP and free college tuition, but nothing seems to be going into the facilities.

Commissioner, you're a career guy. You know what's going on in these facilities isn't working, and you know it's not safe. You need to be speaking out. So why not the Secure Vendor Program now? It was due before. What are we doing about the assaults? Are there any charges being charged for individuals on the assaults since your memo went out? What about drug dogs at each facility? What about technology

screening devices like TSA-type that screen individuals when they come in?

Aren't all these things going to be helpful and make things better? If so, why not advocate to the Governor and say we need to do these things? Better staffing and, you know, speaking out on all of this, I think.

So Secure Vendor, drug dogs, technology screening devices, staffing resources. What's going on with the assaults as far as charges? Where do we stand? because this is not safe and it's not fair to these corrections officers who work a dangerous job, Commissioner.

ACTING COMMISSIONER ANNUCCI: So first of all, Assemblyman, we have invested significantly in K-9 teams. We are significantly expanding them. I think the number is going to be, when all is said and done, about 28.

So we have our own school, we've been -- we've had our people certified by DCJS, and we keep the dogs fresh. And they've been doing a tremendous job

uncovering contraband and leading to the arrests of many individuals. There are serious consequences for bringing in contraband.

With respect to closures, I can tell you that the Governor has created or will be creating a new commission that's going to have private as well as public officials, ESD leading the charge so that we can find a use for these facilities consistent with the job needs of New York State and what all the different possibilities are. So we're paying a lot of attention to that.

The task force, I look forward to its first meeting and hearing feedback, whatever the recommendations are. We're continuing to look at technology, all the different devices that are out there. We're continuing to experiment -- from Cellsense to cameras to you name it, we've invested millions into our facilities. The body cameras and the fixed cameras alone, they show what's happened. So if someone is assaulting somebody and we have it on film, then the district attorney can

easily bring a prosecution based on that evidence.

So there's a lot that we're doing.

ASSEMBLYMAN PALMESANO: Has there been any increase in the --

CHAIRWOMAN WEINSTEIN: Thank you.

(Inaudible overtalk.)

CHAIRWOMAN WEINSTEIN: We're going to go to the Senate, but I just want to remind members to -- and Senators -- to leave enough time for the answers in the time.

So Senate?

CHAIRWOMAN KRUEGER: Thank you very much, Assemblymember.

Now Senator Diane Savino.

SENATOR SAVINO: Thank you, Senator Krueger.

Good to see you again, Commissioner.

ACTING COMMISSIONER ANNUCCI: Good to see you, Senator.

SENATOR SAVINO: We've been doing this dance so many years. At least I'm not yelling at you about overtime this time.

A lot of the questions I had have been

addressed by other members, so I'm not going to belabor the point. I do want to go to the issue of the $45 million that's going to be utilized to support the implementation of HALT -- which I supported. But I'm curious as to -- I heard you describe to I think Senator Akshar and others how a lot of time and effort has gone into how you're going to implement it and the training, et cetera. That has always a concern of mine, how do we train the staff.

So I just -- I'm curious, were they -- did they participate in the development of the training that's going to be used when HALT goes into effect? That's the first question. Because as you pointed out, inmate assaults against other inmates and against COs is -- in very limited areas are very high, and they are very violent, and so there's a real concern there that they're prepared to deal with this. So that's one question.

And then the second thing is we're all focused on some of the challenges we're

seeing in the city with respect to the mentally ill, some of whom have been released from prisons to their own communities with no support services. One of the criticisms of Kendra's Law, among many, is that there's a loophole in it that does not require DOCCS to notify local mental health providers when a prisoner or inmate who has been receiving mental health services while they were incarcerated -- to notify local mental health providers in their home community that they're being released so they can, if necessary, be connected with a local mental health provider or be evaluated to determine whether they have a propensity for violence.

Is there a possibility that, absent a change in the statute, do you think this is something that DOCCS can do? Because people are being released, sent without -- with no resources -- I see in your budget the Governor is putting aside $2.5 million to support transitional housing for people who are released with no resources. But this seems to be, you know, a glaring loophole

that perhaps absent a change in the statute, it could just be a change in policy to connect people at their home base with the necessary services that they need.

ACTING COMMISSIONER ANNUCCI: Okay, Senator, so addressing that question first, there is a statute that does require us to provide notice to law enforcement whenever anybody's getting released, every single --

SENATOR SAVINO: Law enforcement, but not mental health services. That's different.

ACTING COMMISSIONER ANNUCCI: Right, you're right. Not mental health.

But there is a unit that we work with directly with OMH for anybody that is diagnosed as seriously mentally ill. We work together four months prior to their potential release to line up potential resources in the community for them so that there is a smooth hand-off. Which includes, by the way, us doing a direct transport to ensure that the individual arrives at the destination. We don't want to just release them and send them

on their way to public transportation.

Sometimes that's to a residential program, sometimes it's directly to community supervision, so that there's a hand-off.

A lot of times with some of these individuals after they're out there, if they abscond, if they stop taking their medication, there's a problem. So it's not one that's amenable to an easy solution.

I know that they are protected under HIPAA. There's limited information we can give right now, under current law, about somebody's mental health status. I don't know if, you know, that would help public safety if they were giving that information to law enforcement.

I think, you know, we have to continue to make sure we coordinate our services. We're working with OMH. We make sure that they get their Medicaid card, they have that available so that they can continue -- we give them a 30-day supply of their psychotropic medications, if they're on that, when they leave, and they have to continue to

take it when they're in the community.

So there's a lot of different forces at play when these terrible events happen. They just shock everybody's conscience.

Back to your training question, there's a lot of training that's going to go out there, especially for hearing officers. Most of this is going to come from our central office. I'm going to record a message in, you know, a few days as part of that training. It is an all-encompassing effort. A lot has to be done. And certainly we want to listen. It's an ongoing process, listening to the feedback from the rank and file as we roll this out.

CHAIRWOMAN KRUEGER: Thank you.

SENATOR SAVINO: My time is up.

CHAIRWOMAN KRUEGER: Sorry, we do have to cut you off, Senator Savino.

Assemblywoman Weinstein.

CHAIRWOMAN WEINSTEIN: Yes, we're going to go to Assemblyman Epstein now.

ASSEMBLYMAN EPSTEIN: Thank you, Chair.

And thank you, Commissioner, for being with us today.

So I note that the average death of folks behind the wall based on natural causes is between 56 and 59 years old. I'm wondering how you define natural causes for such an -- and how do you -- I mean, it's such a low death average compared to what we see out in the general public.

ACTING COMMISSIONER ANNUCCI: Well, natural causes is something that's basically a health services determination. It is not, you know, an operations determination.

And every single individual has to have an autopsy performed, and that will tell us what the cause of death is. When death happens, that generates what's called an unusual incident report, where we have to put down what seems to be a cause of death, which can change once we get the ultimate autopsy report.

It also might be listed initially as "unknown," because we simply -- if we find somebody who's dead, unfortunately deceased

in their cell, we have no idea if it's natural causes, we have no idea if it's a drug overdose or anything else. We also will have BCI come in and do an investigation.

But you're right about the average age of death for natural causes. It's the same as basically in the general public. If the health services, if the medical examiner tells us natural causes and he writes it up for arterial sclerosis or brain tumor or cancer or whatever the cause of death may be, that's what we go by.

ASSEMBLYMAN EPSTEIN: I would just hope that we could explore that a little more, because it just seems, you know, much lower than the general public and I believe there's something we should be doing about that.

I want to focus on, you know, access to phone calls. I know inmates, folks behind the walls are -- you know, really need to stay connected to their family and their community. And this is an issue that keeps coming up when we hear from advocates. And

I'm wondering, you know, like expanding opportunities for free phone calls -- you know, I know there were free phone calls that's been available during the pandemic -- and looking at extending that. And what's your view on giving them access to more free phone calls to stay connected to their community?

ACTING COMMISSIONER ANNUCCI: Well, let me say I support generally, you know, the practical means to connect incarcerated individuals with their families. That's why I continue to have a family reunion program so that they can have an intimate visit and be a family again, and I put a lot of time and effort into upgrading them so they look like family environments.

Staying connected to family is critical. We have among the lowest phone rates right now because by statute we are not allowed to take any commissions. Other jurisdictions, around the state and local, they use commissions from phone calls and they'll apply it to subsidize their

operations. We do not do any of that at all.

ASSEMBLYMAN EPSTEIN: So, Commissioner, I'm almost out of time. I'd love to, you know, talk to you more about that.

And I just have one last question, because I do think free phone calls is important. I'm wondering if there's any formerly incarcerated people on the Parole Board right now. And what's your thought about having a formerly incarcerated person on the board?

ACTING COMMISSIONER ANNUCCI: I don't believe anyone who's formerly incarcerated is on the board.

I won't speak for the board, but I'll tell you that we hire a lot of formerly incarcerated, they're volunteers in our system. I think they're the most credible people to deliver messages about what their experience has been and get other people to turn their lives around. So I strongly support hiring formerly incarcerated individuals.

ASSEMBLYMAN EPSTEIN: Thank you, Chair. Thank you, Commissioner.

CHAIRWOMAN WEINSTEIN: Senate?

CHAIRWOMAN KRUEGER: Thank you very much.

We're actually up to me. Thank you, Commissioner.

So following up I believe on Senator Savino's last point, a real concern to me -- even though I am very pleased that the agencies have been merged with the intent of far more focus on what happens when people are released from prison and go back to community and the importance of rethinking all of that -- I am still not clear even who is eligible, say, for these housing services. I am very worried that when we release elderly prisoners and/or mentally ill prisoners to New York City, we are releasing them to the streets right in front of the Bellevue Men's Shelter, and then no one ever knows what happened other than I'm pretty sure it's a less humane model than whatever was happening in our prisons.

And so I feel that it is imperative that there be a mechanism to ensure not just notification of criminal justice people -- I mean, with all due respect to NYPD, they're not going to go out there and get mental care health services or housing or senior services for returning prisoners -- that we need a very specific construct of how people are going to be coming back to the city and being placed in a residential site that actually can deal with their needs.

So I'm particularly, again, concerned about seniors and about people with mental health issues. And I'm curious, do we have any pilots that we know anything about that are working or not, or are we -- are we changing the policy that -- I think the last time I checked, you were releasing about 2,000 people from buses to the entrance of the men's shelters in my city and my district.

ACTING COMMISSIONER ANNUCCI: Okay, Senator, let me take it one step at a time.

First of all, the Governor's new

initiative is a bold new initiative with a residential treatment facility where voluntarily, they'll be able to stay for 90 days. It will be without many of the restrictions that we usually have with a correctional facility. They'll be able to have cellphones, they'll come and go.

And then that -- the purpose of that is so that they're otherwise homeless, they can have the right to stay at Edgecombe for up to 90 days. And to help them gain houses, we're going to pay a stipend to the head of the household that agrees to take them for 12 weeks, $100. So -- and if that works like we think it might work to help people get a toehold, we think we'll start to move the needle with respect to homelessness.

I think the average stay, for those arriving at Bellevue now, is I think 37 days. So they end starting there, many of them, but then they are -- they do end up finding housing after that.

So you're right, this is a big challenge. I mean, we are not in the

business of finding, you know, housing for people that are otherwise homeless. We do provide notifications, under the law, like we're required, to all social service districts when someone who appears to require homeless housing is going to be released to that jurisdiction.

So we do that throughout the state. It is a challenge, and I think this is one initiative that will help.

There's many programs out there that are coming online. Right now, if you call -- Fulton Correctional Facility was given to the Osborne Association. That is almost ready, from my understanding, to start accepting people from DOCCS who might otherwise be homeless. There are all kinds of not-for-profits, especially that deal with releasing elderly individuals that may have lost their connections to families.

I know one initiative that's out there in the Ossining area where Hudson Link, the executive director has purchased housing, he's rehabbed them, and he's allowing them to

be used for otherwise people that have no place to go when they're released from Sing Sing.

So there's a well of goodwill out there with a lot of not-for-profits and people that want to help returning citizens get homes, get adjusted. And I can help that in one way by maintaining the family connections while they're still with us. There's a lot that can be done there, a lot that is being done to reestablish family connections while they're with us. So it's a multifaceted approach to a very complex problem.

CHAIRWOMAN KRUEGER: And you described a stipend for this new program beyond the 90 days. So that's $100 a week that you're offering?

ACTING COMMISSIONER ANNUCCI: Yes. To the head of the -- if they find -- if they can find someone that can say, look, my brother-in-law will take me in and he'll let me live with him, finances are tight, but he'll let me in if you agree to pay him $100

a week for the 12 weeks.

So we hope that that's enough to give them a toehold, get them on their feet, get a job and then either stay there or find permanent housing after that.

CHAIRWOMAN KRUEGER: And do you have any data that shows that elderly people and mentally ill people coming out of prisons have any success with getting employment?

ACTING COMMISSIONER ANNUCCI: I know that a lot of the not-for-profits do work with them and they're able at some point to get employment, but it's a big adjustment for somebody that's been incarcerated for many, many years. It's a complex problem.

I don't have any statistics on who gets employed, who doesn't. I mean, the number-one concern is immediate housing, where they're going to live as soon as they're released from the correctional facility. And employment is right on its heels as well. Coupled with sobriety thereafter.

CHAIRWOMAN KRUEGER: Okay. And you're

not going to be using halfway houses as the model? Which I don't think have been very successful.

ACTING COMMISSIONER ANNUCCI: There are people that can avail themselves of halfway houses. There's a lot of resources out there.

But this is going to be different. This is going to be not unlike a halfway house, but it's going to have structure. There's going -- you're going to have to agree to abide by certain conditions. And the punishment is if you don't, then you can't participate anymore. You're going to have to, you know, go elsewhere. Most people probably don't want to go to a homeless shelter if they can avoid it.

CHAIRWOMAN KRUEGER: That is absolutely true.

And again, my particular focus here is the discussion around the most vulnerable people leaving prisons, which I do believe are the elderly and the mentally ill, and they are the least likely to have had an

ongoing relationship with family, you know, either because they've been in the prison system so long or because they, with mental illness, had burned bridges with their family even before they went to prison.

So I'm particularly interested in seeing what we can do that are models that actually work for these populations. Because I know everyone in the world is calling for us to, you know, pass legislation that says just release these people. And my perspective is I certainly don't want anyone to spend a day more in prison than they need to. But I also feel very strongly that releasing them to the streets of New York City with no supports and no future is actually a worse storyline than in many of the situations they find themselves.

So I appreciate your response. I congratulate you on becoming the actual commissioner. I feel like my whole life you've been the acting commissioner. I'm not sure -- that's not really true, but I feel like that.

And I'm going to not use my last two minutes and pass it back to Chair Weinstein.

ACTING COMMISSIONER ANNUCCI: Thank you, Senator.

CHAIRWOMAN WEINSTEIN: Thank you. We'll go to Assemblyman Burdick.

ASSEMBLYMAN BURDICK: Thank you.

And Senator Krueger, you touched upon the very topic that I wanted to discuss as well, and thank you for those questions.

And Commissioner Annucci, thank you for your responses on it.

And I wish to first commend you for embracing Clean Slate and other recent reforms to ensure that they're implemented well. And we do hope that the Governor will be supporting further reforms such as Fair and Timely and Elderly Parole.

And I noticed your reply to the question about what constitutes elderly, and I think you mentioned that there is no definition, but generally thought of as 55 or more. I share the Senator's views that we need to be sure that there is sufficient

supports in the community for those who are released.

And along those lines, and further to the question about those that are released to homeless shelters, I recall in the budget hearings last year there was a question -- not mine, but whether you happened to know, you know, what percentage or what number of those that are released go to homeless shelters. And I'm not looking for an answer now, but if we could try to get that, that would be helpful.

But my question actually goes to what work DOCCS does in coordination with the Division of Housing and Community Renewal, which as I'm sure you're aware, the Governor has provided a great deal of funds for addressing homelessness.

ACTING COMMISSIONER ANNUCCI: Off the top of my head, Assemblyman, I'm going to have to check on that.

I do know that our reentry managers are working very diligently with individuals when they get released to find them housing.

And I'm sure that they have connections with every entity that's out there that could offer housing.

I know that we've worked with MOCJ, which is the Mayor's Office of Criminal Justice. They're making funding available for us that will help with the placement of those with serious mental illness as well as other individuals that are homeless. There is a lot more resources that are available in the city versus in the rural areas of the state, so we are taking advantage of that.

There are, you know, a lot of not-for-profits that --

ASSEMBLYMAN BURDICK: Thank you. And I don't mean to interrupt, but I think that it would be very helpful if there's more of a connection directly with HCR on this. And those community organizations are terrific that you mentioned, and working with the Mayor's programs I think are terrific too.

But I think this needs to be an interagency approach. And it would be terrific if something could be developed

there. This is something that became apparent to me since I serve on both the Housing Committee and Correction Committee, and I would love to pursue that further with you.

And my time is out, but if we could try to set something up where I can discuss it further with you, I would greatly appreciate it.

ACTING COMMISSIONER ANNUCCI: Happy to do it, Assemblyman.

ASSEMBLYMAN BURDICK: Thank you so much.

CHAIRWOMAN WEINSTEIN: Senate?

CHAIRWOMAN KRUEGER: Thank you very much.

And now we have Senator O'Mara.

SENATOR O'MARA: Thank you.

Good evening, Commissioner. It's a long day. You're No. 5 on a list of 30-some. So thanks for your time; thanks for being with us.

I had a couple of questions on the prison closures that came about this year.

In prior years there has been local economic development money attached to the prisons that have been closed. Can you outline for me what's being put in place for these localities for the prisons that are slated to be closed this year?

ACTING COMMISSIONER ANNUCCI: The prior appropriation has been reappropriated for this year, so that money will be available going forward. That's my understanding.

SENATOR O'MARA: And how much is that?

ACTING COMMISSIONER ANNUCCI: I don't know off the top of my head, but I'll get that for you, Senator.

SENATOR O'MARA: Okay. And in regards to the prior prison closures over the last decade or so, how many of those facilities have been reused, repurposed for something else? And how much of that local economic development money for those facilities was used, and how much remains for those?

ACTING COMMISSIONER ANNUCCI: I know that of the closures we've done -- including

these, will total 27 -- that six have been either purchased or repurposed for public use or local use or private use. One was turned over for a not-for-profit in New York City, Fulton, to the Osborne Association. The Buffalo work release facility was converted for use by us. And a number of others are still potentially there for reuse.

Again, I will refocus on what the Governor's initiative -- the proposal going forward to create this commission to have a lot of different perspectives, private individuals who can bring to the table their perspective of how to reuse a closed correctional facility going forward, taking into account the needs, what's best for the community, what the job needs are for the state.

SENATOR O'MARA: In regards to the economic development money available, is that money -- is there a certain amount for each facility, or is there a lump sum to be used across the state?

And do those dollars have to be used

on a site-specific economic development project -- in other words, the actual repurposing of the facility -- or can they go to another economic development project in the community?

ACTING COMMISSIONER ANNUCCI: I believe the entity to answer those specific questions, Senator, is ESD. They would control the money and the flow, and they can answer your questions as to what is a permissible use and would not be a permissible use.

SENATOR O'MARA: Okay. I will follow up with them. Thank you for that.

And if you could, you know, get me the current dollars that are -- were appropriated last year and will be reappropriated this year for these current closures underway.

Another follow-up question in regards to the free college for inmates. You know, we've in recent years enacted the Excelsior Scholarship Program for SUNY students with some pretty rigorous requirements of full-time attendance, certain GPA levels, or

you risk losing that free tuition and actually have to pay that back.

Are there any of those types of requirements being proposed with this free college tuition for inmates at this point?

ACTING COMMISSIONER ANNUCCI: Senator, I think those details will have to be worked out.

But the other thing I'll tell you is this. The students that participate in college behind the walls, they work very hard. I just -- this is anecdotal, I just got the notice from all the recent graduates I think at Washington Correctional Facility. And out of 21 graduates, something like 20 made the Dean's List, and one made the President's List or something along those lines.

They work very hard. They don't take it for granted. They're not there to pass the time away. They really want to get a degree because they know what it means. And the multiplier effect is very often members of their family then follow suit and also are

incentivized to get their college degree as well.

So those kinds of details are still what consequences there would be for not attending class or not following through. I think those things can be worked out. And, you know, they make sense.

SENATOR O'MARA: Thank you, Commissioner. Thanks for being here.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Yes, we go to Assemblyman Carroll.

ASSEMBLYMAN CARROLL: Thank you, Chair Weinstein. And thank you, Commissioner Annucci, for your testimony.

During this current administration, only one incarcerated person -- who was actually physically incarcerated -- has been granted clemency. Of the thousands of people who currently have requested clemency, do you think that only one is worthy of clemency?

ACTING COMMISSIONER ANNUCCI: I'm not sure if your numbers are accurate.

I do know that clemency wisely, by the Constitution of our state, is reserved to the Governor for her to decide, or him to decide.

I know that since the start of the pandemic, the population has decreased by 13,000-some-odd, many of them by the Governor's direction to implement now the spirit of Less is More. I can give you those numbers; it's either 600 or 700 that have been released from our correctional facilities.

I know that we do have a --

ASSEMBLYMAN CARROLL: But clemency specifically, sir, I do believe that this current Governor has only granted clemency to one person who was actually physically incarcerated. I think she has granted it to 10 people, but they otherwise were not in custody when she granted that.

But the reason I ask you is not to say if it was one or 10, but you have spoken passionately previously about individuals who are committing suicide behind bars and what you've done to stop suicide rates in our

jails. And my question really is as our jail population ages -- now one-quarter of our jail population is considered elderly -- don't we think that we are going to see more suicides, we are going to see more extreme outcomes if we do not figure out a way to make sure that more people who are aging in prison are released?

ACTING COMMISSIONER ANNUCCI: I can tell you that my big focus is to give every individual in my system a reason to hope. And hope is something that can come in many ways.

Now, this Governor had to take the reins of state government at a quick time, she had to wrestle with the State of the State, the budget, appointments, a number of things. At some point she will probably have more time to devote to clemency. I'm not going to speak to her --

ASSEMBLYMAN CARROLL: Commissioner -- Commissioner, I believe you believe in hope, and I'm sure you believe in grace. But if somebody is facing down an indeterminate

sentence or a sentence that is so long it might as well be indeterminate, why should they have hope? Why wouldn't they start to believe that they have no hope and that the policy of the State of New York is for them to die behind bars, and thus why not make it quicker and kill themselves?

Aren't we going to see more people kill themselves if we keep having indeterminate sentences where there is no hope?

ACTING COMMISSIONER ANNUCCI: Senator {sic}, I can only say that people that have long sentences, when I meet and speak with them, a lot of them have turned their lives around, a lot of them believe in giving something back to society, and they find purpose where they are.

Whether or not they will someday have the ability to get out and that's what they're hoping for, that is a personal, individual decision for them.

ASSEMBLYMAN CARROLL: Thank you, Commissioner.

CHAIRWOMAN KRUEGER: Thank you.

I think our final Senator is Senator Salazar, who's the chair, and she gets a three-minute follow-up question or questions, plural.

SENATOR SALAZAR: Thank you, Chair.

I just want to quickly note, because Assemblyman Walczyk asked about it, all DOCCS staff actually are eligible for tuition reimbursement, but it's administered through GOER rather than through DOCCS.

I wanted to ask you, Commissioner, about the work release program. My understanding is that currently individuals at maximum-security facilities are categorically excluded from eligibility for work release. Is that correct?

ACTING COMMISSIONER ANNUCCI: Well, you have to be eligible under the rules and regulations. There's nothing that says you can't apply for work release if you are confined in a maximum-security prison.

There are very detailed regulations. You have to be within two years of your

earliest release date. So if you're still in a max, you're probably not within two years of your earliest release, or you're there because of some complicated reason like your mental health or medical reasons.

The statutes are extremely complex that deal with work release, and there are crimes of restriction that are involved. And at some point maybe before I die or -- I'll try and straighten out those statutes and make them a little more understandable.

But for example, if you're convicted of any homicide offense, you're ineligible for work release. And maybe that needs to be reexamined. Sex offenders, for good reason, are barred as well, and other types.

But work release is a very important program. It is a way of transitioning back into society where you're given some degree of liberty. You, to participate, are transferred to a facility designated as a work release facility, and then you gradually furlough and get an approved residence and reintegrate with your family and earn real

money like John Q. Public does as well, and pay taxes.

SENATOR SALAZAR: Thank you. Yeah, I agree with you, it's a very good program, and would also like to see eligibility expanded to include people even if they have been convicted of certain crimes that currently render them ineligible.

Wanted to ask quickly about the Executive proposal to waive fees for non-driver IDs for formerly incarcerated people. Under the current law, when do incarcerated individuals apply for a non-driver ID? Can they begin the process while they're incarcerated, for example, or is it only after?

ACTING COMMISSIONER ANNUCCI: We intend to allow that to happen under the pilot that we're going to work on with DMV.

Right now what we do have is a program that's operated out of a community supervision in New York that is funded by outside money where they can get their non-driver ID when they report there. So --

and that's for parolees in the entire five boroughs. And they have the physical machinery there at the office, so we make it easier for them to apply.

Now, what we're going to do -- and we have to work out the details, and we're currently in intensive discussions with DMV, an excellent partner on this -- we're going to pilot it at least at a couple of sites. There's a lot of logistics that have to be worked out, and what equipment is needed and technology, et cetera. But the idea is to give them, for this pilot, non-driver ID when they leave the correctional facility.

So if that works the way we think it can -- and there's a lot of details that we'll work out, but we're working together, it's an excellent partnership --- it will give us a leg up on that.

SENATOR SALAZAR: Thank you. Appreciate it.

CHAIRWOMAN KRUEGER: Thank you.

I am now playing Chair Weinstein for a little while. The next Assemblymember is

Linda Rosenthal.

There you are. There you are, yes.

ASSEMBLYWOMAN ROSENTHAL: Yes. Thank you, Senator.

Hello, Mr. Commissioner. I have a couple of questions for you. DOCCS has suspended programs and limited visits because of COVID-19. Is the COVID release policy still in place?

ACTING COMMISSIONER ANNUCCI: The COVID release policy?

ASSEMBLYWOMAN ROSENTHAL: Yeah.

ACTING COMMISSIONER ANNUCCI: We have not had to do that recently. So -- but we are implementing the Less is More, we're still continuing to do that and release people that are under -- the spirit of Less is More. Totally, I think it's about 573 that have been released.

Right now we are on program pause. We reevaluate that every two weeks because of the recent spike. But I'm hopeful of reinstating that in the not-too-distant future.

But visits are not suspended, by the way. We're still allowing visits. A visitor comes, they get the test, if it's negative, then they can visit with their loved one.

ASSEMBLYWOMAN ROSENTHAL: So the move from delta to omicron, how has that affected this policy?

ACTING COMMISSIONER ANNUCCI: Because of the spike in numbers, we basically just look at who's positive. And it causes us to -- when we're seeing the spike, and it happened pretty significantly. We think we're on the downswing now.

But we've decided, in the best interests of everybody, just put a program pause on so that that is on hold -- and it's been on since December of whatever date, not too terribly long. And we're watching the numbers, and I'm hopeful of reinstating that in a couple of weeks.

But still delivering program related things with our outside colleges, through the tablets and other means of getting them the materials they need. And then hopefully

bringing the volunteers back as well.

ASSEMBLYWOMAN ROSENTHAL: So what determinants -- do you have like a list of determinants that will guide you in terms of when you --

ACTING COMMISSIONER ANNUCCI: We look at the raw number of positives at every correctional facility, we look at the number of staff that are out, we look at who's positive, pending tests, who's quarantined, who is in an outside hospital. There's no magic number, but it's just when we sit down we'll meet with our deputy commissioner and chief medical officer, who works hand in glove with DOH. And when there's a consensus that we may need to do this now to stay ahead of it before it overwhelms things, we act it.

We want to avoid what happened in 2020, and we're pushing as many things as we can. We just now crossed 53 percent for the number of population that have been vaccinated. It's a lot of cajoling and incentivizing that we're trying to do. I wish I could get that number up higher, but

we'll continue to show them educational materials and anything else that can get them to change their mind and accept the vaccine.

CHAIRWOMAN KRUEGER: Thank you.

ASSEMBLYWOMAN ROSENTHAL: Is it that many people who don't want a vaccine, or for what reasons?

ACTING COMMISSIONER ANNUCCI: People make their own decisions. Just like people in the outside world, they'll decide that they want the vaccine or don't want the vaccine.

We've made the vaccine available going way back, and we keep making it available. And the best we can do is just keep giving them the educational materials, but you can't compel someone to accept the vaccination if they don't want one.

CHAIRWOMAN KRUEGER: Thank you.

ASSEMBLYWOMAN ROSENTHAL: Okay, thank you.

CHAIRWOMAN KRUEGER: I have to cut you off, Assemblywoman. Thank you.

ASSEMBLYWOMAN ROSENTHAL: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Next is Assemblymember Ra, who's the ranker and gets five minutes.

ASSEMBLYMAN RA: Thank you, Chair.

Commissioner, thanks for being with us again.

So just a couple of questions relative to the staff there. And, you know, a lot of people have brought up the situation. And I'm sure you're familiar that last fall Governor Hochul made an agreement for two-and-a-half-times overtime for nurses and other healthcare professionals, which I believe includes healthcare workers that work in DOCCS facilities.

Do you think that perhaps the corrections officers should get a similar overtime rate?

ACTING COMMISSIONER ANNUCCI: I could tell you, Assemblyman, that that's an issue that we're looking at. I've received an official letter from the president of the union.

Our initial approach was to be very

surgical and try to deal with those positions that really were -- we were losing to other agencies. So it was an immediate response to put us on par with other agencies and not have our nurses -- and we already have very high vacancy rates with our nurses and similar healthcare titles leaving. So this was an immediate surgical step.

From Day 1, both myself as well as the Governor has recognized that our staff, all of our staff who have come to work in our correctional facilities during COVID are heroes and heroines, and they deserve our appreciation. And she has come to our medals event, and she personally conveyed the appreciation to the entire audience, which was a cross-section of superintendents and representatives of the union and medal recipients as well.

So I'll tell you that it's something we're studying right now. There's a big fiscal to it, a huge fiscal to that. I'm not sure if we can balance that. But I understand why the request was made, and

we'll give it careful consideration.

ASSEMBLYMAN RA: Sure. And I -- you know, well, fiscal things are what we're here to talk about today, so just wanted to get your thoughts on that.

A few different -- you know, of my colleagues have talked about violence. Obviously there's been a huge uptick. You did talk about, you know, the relationship with the DAs. Do you have any data you can share in terms of how many cases the last couple of years have been referred to DAs for criminal charges for inmate-on-inmate or inmate-on-staff violence?

ACTING COMMISSIONER ANNUCCI: I don't have that number at my fingertips, but it's something I believe we do track and I'll see if I can get that for you.

ASSEMBLYMAN RA: Thank you, yeah. And likewise, if you could, you know, any that have resulted in convictions with, you know, additional concurrent or consecutive sentences.

ACTING COMMISSIONER ANNUCCI: Sure.

ASSEMBLYMAN RA: Great. And then, you know, really along the same lines, I know you mentioned -- you know, I and the rest of the Legislature I think are well aware of this, that there are tons and tons of programs that you have been -- initiatives that you've been asked to implement after the last few years. And my colleagues from the Senate have talked a little bit about HALT.

And, you know, when we look at the fact that over the last few years the inmate population, you know, is half yet, you know, I saw a chart, and it's almost like the violence is going up, you know, in the opposite direction of the number of inmates, which is very alarming.

So, I mean, do you think that implementing something like HALT while the situation seems to be the way it is in the facilities is a problem? Is it something that perhaps needs to be looked at to slow the implementation of that?

ACTING COMMISSIONER ANNUCCI: Well, first let me say one of the potential drivers

of what we're seeing is how the percentage of the population, the numbers that are convicted of violent felony offenses, it's about 76 percent. So the reduction in the population has been disproportionately nonviolent. It wasn't that long ago it was at 66 percent; now it's 76 percent. So that may be one of the drivers of it. I don't know. I hope that the task force will give us better ideas.

I will repeat what I said earlier: We are still going to be able to separate, which is the number-one thing you need to do when you have violence. Whether it's an incarcerated individual against another one, or against staff, they need to be removed physically from where they are, they can't remain in general confinement.

The conditions of SHU, traditional SHU, are going to change. RRUs are going to change. But they will still be managed safely. We're going to deliver out-of-cell programming and treatment safely so that everybody can still feel safe. If anybody

thinks they can commit serious crimes or, you know, be involved in gangs and they'll still be able to run their game in the yard or whatever -- not going to happen.

ASSEMBLYMAN RA: Thank you, Commissioner.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to Assemblywoman Kelles now.

ASSEMBLYWOMAN KELLES: Wonderful, thank you so much.

Hello, Commissioner.

ACTING COMMISSIONER ANNUCCI: Hello.

ASSEMBLYWOMAN KELLES: Good afternoon, not morning.

Just a couple of comments, a few questions. One of the things that has been brought up before is programming, specifically for rehabilitation.

I just want to mention -- I know I've spoken to your staff about this, others have as well. But I would love to see the Roots of Success program initiated and expanded within the prison system, the program that is a 10-module program to teach about

sustainability and work development in housing, electrification, water resources. It's an amazing program in 34 states, 20 years of experience, two countries. It has shown to reduce costs of waste and water usage and energy usage, reduction in recidivism rates, reduction in violence to corrections officers -- you name it, this program has been really {unintelligible}.

I'd love to see that put in place in our system. I know Ohio has been doing this for 10, 20 years and they have seen huge turnarounds in their system.

Another thing I wanted to mention from my conversations -- I think I asked you a similar question last year and in talks with some of the prisons that I've visited -- the people who are released from prison, between 40 and 50 percent of them go directly into shelters. So I think relying specifically on the goodwill of nonprofits is not going to be enough to absorb that level. I think putting in state funding and supports specifically into transition housing is going to be

necessary. So just wanted to add that.

And you had mentioned -- a quote-ish from you: Whatever you've done in the past, there's still a chance to turn your life around, and your life matters. I believe in this. I agree with you deeply. And wanted to just add, then, if the way that people can build a sense of meaning and self-value in an incarceration system is to actively participate in college courses that build a sense of self-worth and provide valuable life skills that could be used in the community once they're released as well as reduce their likelihood of recidivism, would it not be logical, then, to maximize access to these merit-time programs?

And a previous questioner specifically asked what disqualifies someone from participating in college courses and other programs, alluding to a mindset of punishment in a system that's supposed to be about corrections.

Do you not believe that giving a person hope and a sense of self-worth through

these types of programs could actually be seen as a way to reduce crime in a prison and protect corrections officers?

ACTING COMMISSIONER ANNUCCI: So very good points. First of all, we'll always look at any new programs. The one you just described -- I meet with my corrections commissioners from across the country regularly. We stay in touch with each other. When I go there I look at their programs, whatever's being showcased. There's a lot of good stuff out there. So we'll certainly be happy to look at that.

The shelter issue number is a challenge. I think I mentioned that a lot do go to shelter, but at least they don't stay too terribly long. The average stay in the New York City shelter system for those being released to it is about 37 days. I'd like it to be zero days, but it's 37 days.

Back to who is eligible to participate in college, we don't put up any barriers for anybody to participate in college. We welcome them. I continually showcase the

success stories. When I was out in Phoenix recently there was a presentation by an individual, he gave me his book. I'm going to distribute it in my library. He was a significant drug dealer. His book is From Prison Cells to Ph.D. He got his Ph.D., he's an endocrinologist at John Hopkins. I'm going to put his book in our library so he can further incentivize other individuals.

And his point is we should be as open as we can to everybody to participate in college. It's not just get them a vocational job -- which is very important, but people can go beyond college. They can get master's degrees, they can get Ph.D.s. And if it was possible for him, it could be possible for just about anybody.

CHAIRWOMAN WEINSTEIN: Thank you. Thank you, Commissioner.

We're now going to go to our final questioner, Assemblyman Weprin, chair of Corrections, for a second round of three minutes.

ASSEMBLYMAN WEPRIN: Thank you,

Madam Chair.

Commissioner, thank you for the long day of participation.

The racial diversity study that Senator Hoylman referred to was a little disturbing, based on the statistics that they cited. I think the answer is the diversification of the Parole Board, which has happened since I'm chair. We've filled a number of spots, and they've been a much more diverse board, as you pointed out earlier today.

I believe there are still even three or four vacancies. I think we passed legislation to allow up to 19 members, and I think it's either 15 or 16. I think your website says 15; I've heard 16. So there are either three or four vacancies on the Parole. Can you recommend to the Governor that they be filled as soon as possible? And I would hope that, you know, video interviews not be a substitute for in-person post-COVID. because I know they've been emphasizing video visits because of COVID, but I would like to

see more in-person, especially if we can get more parole commissioners up to speed, up to 19, and then they can travel all over the state. And I think that is certainly the best way to give people a fair chance at, you know, being released and being welcomed back into society.

ACTING COMMISSIONER ANNUCCI: So, Assemblyman, the Governor has already done that. She's announced in her State of the State and it's in the budget that she wants to have all 19 positions filled. There's also a provision in there that they can't do any outside employment so that they can devote their full time and attention to the job at hand, which is making informed decisions following parole release interviews, setting conditions, et cetera, and doing all related work.

So that's her intention. I fully support that. I think it makes sense. And I'm sure they'll come up with continuing diversity to represent all New Yorkers on the Parole Board.

I'll convey your sentiments on the second point to the chairwoman, and it will be her decision what to do with that.

ASSEMBLYMAN WEPRIN: Okay, thank you.

Again, I will also emphasize to the Governor the importance of filling these, because as you know, since I've been chair since 2017, we had about six or seven vacancies, and I urge filling them and have made recommendations of various diverse members.

So, you know, I do think that the newer members are much more diverse than the older members, and certainly more reflective of the population of New York State. So, you know, I strongly would emphasize that as well.

ACTING COMMISSIONER ANNUCCI: Very good, Assemblyman. Thank you.

CHAIRWOMAN WEINSTEIN: Thank you, Commissioner. I'm going to turn -- thank you for being here with us this year as well as so many other years.

I'm going to turn this back to

Senator Krueger.

CHAIRWOMAN KRUEGER: Thank you very much. And indeed, Commissioner, thank you for spending much of your afternoon with us. We will now allow you to go back to the rest of your day.

And we will be calling up, from the New York State division of State Police, Kevin Bruen, the acting superintendent.

Are you with us, Superintendent?

SUPERINTENDENT BRUEN: I am.

And I'm no longer acting, which is good.

CHAIRWOMAN KRUEGER: Okay. Well, welcome, Superintendent.

SUPERINTENDENT BRUEN: Thank you.

CHAIRWOMAN KRUEGER: And you know the drill around here.

SUPERINTENDENT BRUEN: I do.

CHAIRWOMAN KRUEGER: We have your testimony, but try to summarize your key points in 10 minutes or under, and then we will start to ask you questions, those of us who are still standing ourselves. Thank you.

SUPERINTENDENT BRUEN: I will. Thank you, Chairs Krueger and Weinstein and distinguished members of the joint committee, for the opportunity to discuss Governor Hochul's Executive Budget for the Division of State Police.

I'm Kevin Bruen, superintendent of the New York State Police.

I want to thank the Legislature for its continued support of the New York State Police. Because of your support, Troopers continue to uphold this agency's reputation as one of the finest law enforcement agencies in the country.

For more than 100 years, the New York State Police has consistently provided a high level of professional public service. We learn and adapt to the needs of a constantly changing society, and we strive for continuous improvement in every aspect of our work. Our mission priorities remain the same: Highway safety, professional police services, investigative support, detecting and preventing terrorism, preparing for and

responding to emergencies and disasters.

As you are aware, the majority of the appropriations for the State Police operations are in support of personnel service obligations. Most non-personnel service appropriations are non-discretionary expenditures for things like vehicles, equipment, facilities, and communications. These expenditures are essential for providing the tools necessary for the men and women of the State Police to fulfill their law enforcement missions.

Getting the State Police back to an adequate staffing level is a top priority. To that end, we currently have an Academy class, and we are expecting a second, and potentially a third later this year.

In addition, we are currently offering our Trooper Entrance Exam, and we continue to seek the highest-quality candidates. We want to hire and retain the most diverse group of individuals that reflect our communities and the communities we serve. To that end, we have made our exam more accessible by moving

to a computer-based platform, making the exam available at testing centers across the state, upwards of 50, 250 nationwide, and across the military installations around the world.

We have also enhanced our recruiting efforts and implemented a marketing plan to expand our reach into minority communities. I know that many of you reached out to your constituents on our behalf to help build awareness of the exam, and we appreciate any continued assistance you can provide.

Another top priority is addressing gun violence. The Governor has included in the proposed budget expenditures that would help expand our efforts to reduce the threat of gun violence across the state.

One such proposal is funding expanded Community Stabilization Units, where we partner with local law enforcement to proactively address gun violence with an intelligence-based approach that identifies and concentrates on the greatest threats of gun violence. We have had success since this

initiative was started last year, and these additional resources will allow us to assist more communities.

We also seek to improve our crime tracing abilities so that we can identify and break up illegal firearms trafficking operations. We are already working closely with our federal, state and local partners, including the NYPD and the ATF, and have had success in taking illegally possessed guns off the streets.

Governor Hochul's proposal to fund a team of analysts at the New York State Intelligence Center will provide much-needed additional support that would help the State Police and our partners identify, disrupt, and shut down such gun trafficking operations. Our focus on gun trafficking is already paying off -- our gun seizures, as an agency, are up over 200 percent from last year.

Another pressing concern relates to the analysis of smartphones and other digital devices by our Computer Forensic Laboratory.

There has been an exponential increase in the lab's caseload and the complexity of the devices being used to commit crimes has highlighted the need for additional resources. The Governor's proposed budget includes funding for new equipment and software to expand our Computer Crime Unit to combat the proliferation of crimes being committed using highly technological means.

In addition, highway safety remains one of our core missions. I would like to update you on our ongoing efforts to ensure highway safety following the legalization of adult-use cannabis. One part of our safety strategy includes training all Troopers in something known as ARIDE, Advanced Roadside Impaired Driving Enforcement.

This is a federally developed program that allows Troopers with additional training to help identify drug- and alcohol-impaired drivers, and it fills the gap between the standard field sobriety tests and something known as the highly specialized Drug Recognition Expert training.

So far, nearly 80 percent of our Troopers on the road have received ARIDE training, and all new Academy recruits are instructed and trained in ARIDE.

Our highest priority continues to be public safety and the safety of our members. With your support, the Executive Budget continues to provide Troopers with the necessary equipment, training, and other valuable resources to ensure their safety as they carry out their duties in serving and protecting the public.

Again, I am honored and privileged to represent the nearly 6,000 dedicated men and women of the State Police who serve and protect the people of this great state. They do so selflessly, with tremendous pride, and at sometimes great personal risk.

Thank you very much for your support for the State Police and for the opportunity to address you all. I welcome any questions you may have.

CHAIRWOMAN KRUEGER: Thank you very much, Superintendent Bruen.

I believe our first questioner will be the chair of our Codes Committee, Senator Jamaal Bailey.

SENATOR BAILEY: Thank you, Madam Chair.

And Superintendent, good to see you again. We briefly -- we were able to converse last year during your confirmation when you went from "acting" to "superintendent." So I just wanted to congratulate you and thank you for your testimony today.

SUPERINTENDENT BRUEN: Thanks, Senator. Good to see you.

SENATOR BAILEY: Yes, sir.

CHAIRWOMAN KRUEGER: Jamaal, one second. Whoever's on clock, please end the superintendent's 10 minutes. Oh, there you do. Perfect. Thank you, Jamaal.

SENATOR BAILEY: No problem.

So you mentioned the -- obviously the issue of gun violence is something that has permeated a lot of the conversation today in the Public Protection hearing, regardless of

who's been testifying. And you mentioned there was an effort by the Governor in the Executive Budget, speaking about, you know, local law enforcement and the State Police. What does that look like in practice?

Like, for example, how does the State Police -- like how does a certain troop, Troop A or Troop B or whatever the troop number is, how would that troop partner with local law enforcement in order to be able to assist with gun violence prevention?

SUPERINTENDENT BRUEN: It looks different depending on the community and on the problem. When they reach out to us, we assign the right number of supervisors and investigative support. They gather intelligence, they come up with a plan. And it could be, for example, problems on weekends in particular areas, so we may deploy both uniformed Troopers or investigators, and we may do follow-up, depending on arrests or intelligence developed around gang violence.

A lot of this -- unfortunately, a lot

of this gun violence is associated with gang activity, which may mean things like local disputes and if you have enough intelligence you might be able to get ahead of that and disrupt that violent event.

So it will look different at different places.

SENATOR BAILEY: Okay. Because again, there's been conversation about the Troopers and their presence in the City of New York in -- I also represent Westchester County as well, and so I'm just always curious as to how the interagency I guess synergy, for lack of a better term, would work.

SUPERINTENDENT BRUEN: Great question. And quite frankly, the way it works when it's the City of New York or other communities, I may speak initially with the police commissioner of the City of New York, we'll talk about things to develop new plans or things that -- ways that we're not already cooperating.

But we're already cooperating with NYPD on guns. Their intel units and their

people are right up -- the Troopers who develop some of these cases may not in fact be in New York. They may be somewhere else and -- but the destination of these illegal guns, let's say is Westchester or is New York City, and in that case we'll reach out and develop a strategy with them on any particular case.

SENATOR BAILEY: Thank you.

So my understanding is that there's roughly $6.1 million allocated towards recruitment efforts. You mentioned in terms of recruitment that there were efforts afoot to attempt to reach out to communities of color and to engage communities of color in relation to the tests. I know it's a conversation that you and I have had before about the diversity within the ranks of that.

How does that money get spent in actuality? And also I'd like to ask a follow-up question in terms of diversity within the leadership structure of the State Police.

SUPERINTENDENT BRUEN: Right. Let me

answer the first one.

I don't think I have that much money dedicated to recruiting. I would love if I could go into the couch and pull out $6 million for that. We have used asset forfeiture money and are approaching a million dollars in terms of it, but I don't think we're approaching 6 million.

I would say, more importantly, is what we've done is -- I've told you that we've changed that test. And that was a great idea, internally driven. When I looked at our diversity numbers, I said: "You've got a great idea here, we need to now exploit it." And so I created a dedicated recruiting unit that is a full-time recruitment and development unit that has developed recruiting teams and these community outreach programs, and also revamped our advertising, which -- where we spend significant money there, and internet-based advertising, and our own kind of social media presence.

The other thing we've done is we've reached out to community partners across the

state -- Rochester, Buffalo, Syracuse, the Hudson Valley, Poughkeepsie, we've got meetings in New York City -- where we'll meet a range of community leaders -- youth group leaders, church folks, elected officials -- and we'll have sort of a meeting with influencers, community influencers, pitch that idea, and then use those contacts and connections to then get in and do active recruiting.

So -- and I have something to tell you which is -- I don't want to lose the good news for all the details -- we have a testing period right now, people have signed up to take the test, people have actually taken the test. And our numbers, in terms of the minority sign-ups, are double, triple what they were the last cycle. So we're over 20 percent African-American signed up, four times Asian-Americans, increase in Hispanics.

It's early days yet, but this effort, this targeted effort -- and I sometimes like to say it's a targeted effort to someone who doesn't necessarily see themselves as a

Trooper. But you do the social media, and then you do the one-on-one kind of recruiting saying to this person, hey, we see qualities in you that would make you an excellent State Trooper, and here's why.

So the effort has paid off so far.

SENATOR BAILEY: That certainly does bode well for the efforts of improving overall diversity within the ranks of the department.

The second question I guess dovetails off of that in relation to leadership positions within the State Police. You know, and we would hope that the leadership would also be reflective of the great diversity of the state. How is that effort going? How is that taking place in practice? How are we diversifying the ranks of leadership within the organization of the State Police?

SUPERINTENDENT BRUEN: So the second mission of that group I created that's headed up by a commissioned officer -- a captain, which is a significant rank inside the State Police -- the second part of that mission

is -- the first is get people in the door right now. The second part of it is I want you to look at the whole process, holistically. Are there barriers, are there barriers to promotion coming on the job or promotions through the ranks?

The good news is that there doesn't appear -- at first blush, there does not appear to be barriers, that the number of commissioned officers, which is our highest group of supervisors, reflects the number of the overall ranks. So just sticking with African-Americans, I have 4 percent African-American Troopers, I have 4 percent African-American commissioned officers.

But we still have to look at those, are there -- and beyond barriers, is there support we could provide? You know, hey, there's -- to develop leaders, to retain leaders longer into their career to reach the higher level commissioned officer and supervisor ranks.

I still go back to my initial problem, which is I do not have a diverse enough

workforce. We need to put maximum effort into that. I do believe, although it's longer term, that once we get those numbers up, the promotion and supervisory thing will work out, we'll benefit from that. But again, the direction is look at every piece of it, defend every piece of what we're doing, and expand our efforts for minority and women in terms of the higher-ranking officers.

SENATOR BAILEY: Superintendent, so I guess my last couple of minutes will be utilized in terms of speaking about the body cameras, the recent body cameras, I guess. In sum and substance, how many body cameras have you purchased and how many will be purchased this year, and how is the program going thus far in its implementation?

SUPERINTENDENT BRUEN: We have rolled out the body cameras to the vast majority of the Troopers. The number of body cameras will be roughly 3,000. The last troop that's being rolled out is A Troop. That's the Buffalo area. I expect that that rollout

will be completed by the end of next month, and that will be -- and Troopers will have that fully done.

The experience has been very good. The Troopers have accepted it and in fact embraced it. It's been very useful so far, and I think it's a great program.

You know, I've got a concern, which is we've got to make sure that we're able to reproduce and get the video out the door, so that's an effort. It takes a fair amount of time to redact the video and make -- get it ready to be disclosed in a public -- under our FOIL system. But I really wish people could watch the videos I've watched, just randomly. You'd see Troopers helping people and being professional and great all the time.

SENATOR BAILEY: Without a doubt.

And I would imagine -- so I guess the final -- I guess the final question is let's say that there is a violation. What happens if an officer is found not have turned on the body camera? What are the rules and

regulations of the State Police if it's not being recorded during their time of duty?

SUPERINTENDENT BRUEN: Well, it's a requirement. You are supposed to use it. You are supposed to utilize it, engage it when appropriate and required.

If you don't, you're going to be subject to discipline. If you've done it accidentally, if there's a minor inattention to detail, you'll get one set of punishments; if you're really doing it on a routine basis, your job is in jeopardy. You know, there's a wide range of ways that you could create this. So far we have not run into that problem.

SENATOR BAILEY: Okay. Thank you, Superintendent. Madam Chair, I may have a second round. But for now, thank you so much.

SUPERINTENDENT BRUEN: Thank you, sir.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to chair of the Assembly Codes Committee, Assemblyman Dinowitz, 10 minutes.

ASSEMBLYMAN DINOWITZ: Thank you.

Superintendent, good afternoon. It's still afternoon, right, it's not evening yet? Oh, it is evening. Sorry about that.

SUPERINTENDENT BRUEN: We're getting closer.

ASSEMBLYMAN DINOWITZ: We are.

Well, listen, we've made progress. You are the sixth of 26 witnesses, and we have managed to do that in just a little -- about six and a half hours. So pretty good.

So several years ago when we passed the SAFE Act, New York extended -- wrongly, in my opinion -- I should say ended wrongly its own attempt at creating a database to collect and submit all ballistics evidence of weapons sold in New York.

And as I'm sure you know, the Assembly Codes Committee, which I chair, held a hearing that examined in part this database. Now, your agency, for whatever reason, chose not to appear at that hearing, which was unfortunate because I thought it could have been very helpful to try to get to the bottom of why it's taken so long to get this done.

So my question is, when will the state create its ammunition database to track sales to residents who may be assembling deadly stores of ammunition, as mandated by the SAFE Act? Because too much time has passed already.

SUPERINTENDENT BRUEN: The -- if I understand the -- I think you're talking about the ammunition check as opposed to the CoBIS database that was shut down years ago, which was the storage of expended shell casings. So I think we're talking about the SAFE Act, which is the ammunition check.

There are significant problems and challenges with creating that system. The most significant and the biggest problem we face is that federal law prohibits the use of the NICS system to check the eligibility or suitability of someone purchasing ammunition. So the only database that we could check is New York's criminal records system.

The next problem is the problem of infrastructure. We do not have an existing infrastructure or a technology infrastructure

to create the check of the suitability for sale. However, I've spoken to Director Riddick, and he and I both have agreed that he and I need to start meeting on this again and re-look at it from our team's point of view, to see if there are things that we can advance the ball here on. Because I agree with you, it's gone too long and we need to move this further down the road.

ASSEMBLYMAN DINOWITZ: Okay. I mean, nine years. I think the state built the Tappan Zee Bridge, or the Cuomo Bridge, in just a few years, so I'm pretty sure we have the capability of getting this done if we really wanted to.

So about three years ago the Legislature enacted a law that allows law enforcement to remove firearms from people charged with domestic violence offenses and the courts to revoke or suspend their firearms licenses. And this info is then reported to the State Police and DCJS, presumably for inclusion in the statewide license and record database established in

the SAFE Act.

However, as far as I know -- and tell me if I'm wrong -- this -- it's my understanding this license and record database, like the ammunition sales database, is not operational, and it's been -- it's been quite some time.

So I just want to first find out, is that correct, what I just said?

SUPERINTENDENT BRUEN: I don't think so. I mean, the -- there -- a couple of years ago there was something called the ERPO law that was passed, and that's one thing. The -- if you have your license revoked by a county -- or suspended -- based on domestic violence, that county licensing officer would communicate to the State Police that that's occurred, and we'd make a record of it.

The license database years ago was very crowded, had multiple platforms -- in other words, when -- a license that was just issued in the '30s was on paper and, you know, it was done in very different ways around the state. That's been cleaned up

through the recertification process. I think we're now into the second round of pistol permit recertification.

So a lot of that has been cleaned up, and we have a pistol permit database and we also have a -- it obviously mirrors the county records, licensing. The State Police does not issue pistol permits. And we have a registry of assault weapons, which we're in the second round of recertification of that as well.

ASSEMBLYMAN DINOWITZ: Okay. Regarding the first one that I talked about, the ammunition, what is your sense in terms of being able to adhere to the -- what we decided to do so many years ago? Like how soon?

SUPERINTENDENT BRUEN: I don't have an estimate on it right now. I'm telling you that my -- my read and understanding of this is the challenges are very significant. The biggest challenge is that we could only -- due to the federal law, only check records generated in New York. So if you come in

from Iowa, there's no check. So we have that initial problem that's built in.

The next problem is similar to -- you know, is a technological one, which is in the middle of Hamilton County when there's not a lot of connectivity, how do you check that system against the database -- and these databases are in place and owned by DCJS and OMH -- against that?

What I'm telling you is that we're going to -- the director of ITS and myself are going to sit down and grab people and really examine what it is we're doing, what can we do, and what recommendations we can make based on this. I get the frustration.

ASSEMBLYMAN DINOWITZ: Okay. Well, obviously I would encourage that to happen expeditiously. Thank you very much.

SUPERINTENDENT BRUEN: Thank you, sir.

CHAIRWOMAN WEINSTEIN: To the Senate.

CHAIRWOMAN KRUEGER: Thank you.

Senator Pete Harckham.

SENATOR HARCKHAM: Thank you, Madam Chair.

Superintendent, thank you for your testimony thus far. Good evening. And please accept my thanks to all the women and men of the State Police for everything you do to keep us safe.

In my brief time I want to discuss the opioid crisis and overdose. As we know, very often it's law enforcement who are the first to arrive on the scene of an overdose. And we have a spectrum of responses to that. We have some local police that treat an overdose scene like a crime scene, and other departments treat it like a behavioral health crisis and actually will bring peers and social workers to connect those people, if they survive the overdose, with services and treatment.

Where does the New York State Police fall in that spectrum?

SUPERINTENDENT BRUEN: Well, I would say we do both. For one thing, we understand that an individual who's overdosed has a certain set of problems. And I don't think there's anybody in the State Police --

members of the State Police family are not excluded from being aware of people who have had real tragedies with the opioid crisis.

But we also are a police agency and we want to know where they got -- who provided this to them, who's profiting off of this. And so we have a -- I won't get into the details, but a robust effort put on by the Bureau of Criminal Investigation to backward-track how that person got the opioid, how was it dealt, and who was the person profiting from this outrage.

SENATOR HARCKHAM: What are you doing at the scene to hook that individual up with services, whether it be a peer, a warm handoff to treatment? What is the State Police's role, what do you view your role as in that interaction?

SUPERINTENDENT BRUEN: We have crime victim specialists and other people that we make that referral to, but we would also -- it would vary from county to county and place to place depending on the services available.

It's sometimes hard in that very

particular situation, as much as I would like to control and have the response be the same in every community, depending on available services we would do it differently in different places.

SENATOR HARCKHAM: Are all of your Troopers trained in the use of naloxone, and are they required to carry it with them at all times?

SUPERINTENDENT BRUEN: The answer is they are all trained and they all have it in the vehicles, troop cars.

SENATOR HARCKHAM: All right, terrific, thank you. I would like to offline discuss with you, when we have some time, some of the innovative programs that are being done in some of the counties across the state.

SUPERINTENDENT BRUEN: Outstanding. Thank you, sir.

SENATOR HARCKHAM: Thank you.

CHAIRWOMAN KRUEGER: Thank you very much, Pete.

Next, Assembly?

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Lawler.

ASSEMBLYMAN LAWLER: Thank you, Madam Chair.

Thank you, Superintendent, for joining us. I know it's been a long day of waiting around.

So on the issue of bail reform, the mayor of the City of New York put out yesterday, as part of his plan to combat gun violence, the need for judicial discretion and the ability of judges to look at the dangerousness of the individual, look at the evidence, look at their prior history.

Do you support what the mayor has said on this as a means of reforming the bail law that was passed?

SUPERINTENDENT BRUEN: You know, we make it a point of sticking to our lane, and decisions about bail reform or changes or tweaks to the bail, you know, I would leave to all of you and the courts.

You know, we follow and implement the rules as they are. You know, I understand

the general concept that it was difficult to see someone stay in jail when there was -- you know, for failure to be able to post a small amount of bail for a minor offense, and I understand the other end of the spectrum, which is what status do we give to a person when police officers have made an arrest in what's an armed felony offense and the person's armed with a gun? I understand that.

But, you know, we pretty much stick to what my job is, and that whatever you implement, we live with.

ASSEMBLYMAN LAWLER: Okay. And further along those lines, the mayor also indicated that he would be bringing back the anti-crime unit, which has focused primarily, in the past, getting illegal guns off the streets. Obviously the Governor has made it a priority of hers to address the scourge of illegal guns coming into the state. She has also talked about the State Police going down to New York City and working cooperatively with the NYPD on this effort.

Do you support or do you think it necessary for the anti-crime unit to be brought back? And would you support using the State Police to help in that effort?

SUPERINTENDENT BRUEN: I wouldn't presume to tell the NYPD what units to stand up or not stand up. We don't have a similar unit. We have a different approach, and that's the Community Stabilization Unit.

I have been in conversations with the police commissioner, the new police commissioner, and we have discussed a range of options. We want to do something on gun violence. We're already doing it together.

We -- as I told Senator Bailey, we'll -- we, the State Police, can develop intelligence that guns are coming -- heading to a particular area in New York City, open that case up, gather information, do surveillance and other things. And we work directly with the New York City Police Department, and those cases have led to arrests within the last few days. We're doing that constantly.

The Troopers are already there. They may not be wearing the Stetson and the full uniform, these may be investigators who are developing intelligence and listening to phone calls and doing surveillance and that sort of thing. So we're doing it, we're expanding it. The Governor has made it a priority and, in essence, told me, you know, get going. And the new police commissioner and I have had very productive conversations and are really looking forward to continuing to work together and even work together more collaboratively and in sort of a more free police agency-to-police agency way.

ASSEMBLYMAN LAWLER: I appreciate that.

And the last thing, you know, I think there certainly can be bipartisan support for increased training for law enforcement, and especially with some of the reforms that have been put in place in recent years, ensuring that our police officers have the resources they need to implement many of these laws.

And so I've introduced a bill that

would create a $250 million fund for training for law enforcement as well as other first responders. And so I would just encourage you to talk with the Governor, certainly, and certainly I will talk with my colleagues. But I think creating a designated fund to support training for law enforcement -- and truly ensuring they have the resources they need -- is critical. And so I would certainly encourage you to support that effort.

SUPERINTENDENT BRUEN: We certainly would.

But, Assemblyman, we spend a great deal of time and effort training New York State Troopers. It takes a very long time to become a State Trooper, more than six months -- it's almost a year to become a fully functioning State Trooper, and they get thousands of hours of training and then continued training. So -- and that's due to your support.

ASSEMBLYMAN LAWLER: My cousin is one, and they do a great job. So thank you very

much for your service.

SUPERINTENDENT BRUEN: Thank you, sir.

CHAIRWOMAN WEINSTEIN: Thank you.

Senate?

CHAIRWOMAN KRUEGER: Thank you.

Next is Senator Andrew Gounardes.

SENATOR GOUNARDES: Thank you, Senator Krueger.

Good -- I guess it's almost evening now, Superintendent.

I want to talk a little bit about the executive order that former Governor Cuomo issued in 2019 that basically gave your department operational control of the New York State Park Police. And my first question to you is in the last two years, I would like to get your assessment as to how you think that transfer of operational control has been thus far.

SUPERINTENDENT BRUEN: Yeah, the State Police has had operational control of the Park Police for about two years.

The relationship between the State Police and the Park Police, in my judgment,

has been excellent for years. The cooperation between the Troopers and the Park Policemen and Park Policewomen has been fantastic. They were tremendous partners during COVID. They have, like us, not had new recruits for some time, so they've got falling numbers. And my Troopers have had to fill the gaps and provide some services there.

You know, I've met with the Park Police union upwards of half a dozen times, particularly early on. So we're making it work.

We're going to provide the support to the Office of Parks and Historic Preservation going forward in terms of looking at areas that the Park Police -- where they need to be, what's the right size of them, where they should be physically present all the time, what parks can operate as response parks. The parks downstate --

SENATOR GOUNARDES: I'm sorry, superintendent, I want to piggyback -- I appreciate that answer. I only have a little

bit more than a minute left.

SUPERINTENDENT BRUEN: Sorry.

SENATOR GOUNARDES: I do appreciate your answer.

I know over the last two years the Park Police has lost about a hundred members and I think they're under 200 officers right now for the entire State of New York, which is shocking in many ways.

They've had no -- like you said, no new academies, but they've also not been eligible for any transfers or promotions every since this effective merger or operational control was made. And so while it's great, I'm glad to see that the Governor's proposing a new class specifically for the Park Police to graduate in a few years, I really wonder whether or not it makes sense to continue to have the Park Police operate under the State Police control and whether or not you would agree or you would support rescinding that executive order from December of 2019 to allow the Park Police to operate the way that they used

to, with fuller resources, under the Office of Parks and Historic Preservation.

SUPERINTENDENT BRUEN: So I'm also at -- I've lost nearly 600 Troopers during that same period due to retirements and what have you. We're at staffing lows.

The good news for the State Police and the Governor is if the Governor asks us to do something, we'll do it. So we'll either administer and work with our brothers and sisters in the Park Police and serve and protect the patrons of the parks just like we do the citizens of the state, or not.

But in any case, whether we're operating -- using operational control or we're not, I have to say that the working people, Troopers and Park Police officers, work fantastically well together and the relationship is great.

SENATOR GOUNARDES: I appreciate that. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Chair Weinstein.

You're on mute.

CHAIRWOMAN WEINSTEIN: I want to just actually go to myself to -- since my question was a follow-up to Senator Gounardes' question about the Park Police.

Are the Troopers going to be responsible for conducting the next Park Police Academy?

SUPERINTENDENT BRUEN: The Park Police has run their own academy. And to the extent they needed discrete help from us, we would certainly provide it. We've done that in the past and would continue to do it.

They have capabilities in training that we've taken advantage of from time to time. So the Park Police have the capability of running their own academy.

CHAIRWOMAN WEINSTEIN: And as you said to Senator Gounardes, so for the time being you're continuing with the operational control of the Park Police? There's not an end date set for that?

SUPERINTENDENT BRUEN: I've not been told of one.

CHAIRWOMAN WEINSTEIN: Okay, great.

SUPERINTENDENT BRUEN: So we're trying to -- yeah, trying to right-size it, trying to make sure that they're in the right places and where they're not able to do things, we're going to follow up and support.

CHAIRWOMAN WEINSTEIN: Great, thank you, Superintendent.

I'm going to send it back to the Senate.

CHAIRWOMAN KRUEGER: Okay, thank you, Assemblywoman.

Our next Senator is Senator Savino.

SUPERINTENDENT BRUEN: I think Senator Savino has left the hearing.

CHAIRWOMAN KRUEGER: Oh. Well, thank you. I guess -- you're right, I'm looking for her box and I don't see her.

All right, so then I'm going to jump in with my questions, Superintendent.

Let's start with under the Cuomo administration he had a policy of taking I believe up to 250 State Troopers and moving them into New York City at a time. And I'm in New York City, so I'm certainly not

unhappy to see State Troopers, but I never saw any real demand for them from NYPD or other city government agencies, while I've heard from many of my colleagues from upstate that they desperately are looking to find more State Troopers.

So I'm curious whether there might be a change of policy with the new Governor.

SUPERINTENDENT BRUEN: The Governor has instructed me to make sure that what we're doing in New York City is not duplicative of the NYPD. And we're not doing that.

And that's part of the discussions I've had with the police commissioner, that we're going to do things that support them, add value to public safety, and are different than what they would normally do. And we've had plenty of great conversations with the NYPD, and you will be seeing some things that I think really add to the public safety picture of the city.

But there's no doubt, we are not a replacement to the NYPD, nor would we dream

to be. We're the State Police, and we have capabilities and talents that are different and can mesh well with the NYPD.

And the relationship and existence of the State Police in New York City has been there for a long time. I know there was much made of it recently, and there were more uniformed Troopers then, but there have been State Police in the city for over 50 years.

CHAIRWOMAN KRUEGER: And I don't have a conflict with there being a good relationship between the State Police and NYPD, obviously. But 250 is a significant head count. And given that I hear from colleagues in other parts of the state how worried they are that they don't have an adequate supply of State Troopers, I just wondered whether it was a discussion worthy of changing the formula or the number of people on New York City duty --

SUPERINTENDENT BRUEN: There's no doubt -- there's no doubt that we're looking to make sure that we have the right size for the mission that we have in there. There's

no doubt. And that we can support the mission in New York City -- I said this before. That gun task force or gun operation that we're doing, and gun interdiction, the Troopers may in fact -- may not be anywhere near New York City. But the guns they're investigating, the destination is New York City.

So that's a lot of -- a fair piece of what we're doing as well. But we --

CHAIRWOMAN KRUEGER: That's a perfect -- yes, go ahead, sorry.

SUPERINTENDENT BRUEN: Yes, there are things we've done in the city in a uniformed basis, but I can't tell you -- I can't stress enough the Governor has said not to duplicate efforts.

CHAIRWOMAN KRUEGER: Great.

So on a very similar topic, what role is your department taking in investigating and following up on a growing trend in human trafficking that appears to be going up and down the Thruway from different parts of the state, movement of people brought into the

country at Kennedy and then human trafficked through Long Island, through upstate New York. I am told by my colleague in Syracuse, Pam Hunter, that Syracuse is a center of sort of human trafficking intersections going north, south, east, west.

There were definitely reports of growth in this serious problem during the pandemic. Is there a role that the State Troopers have been playing to try to capture the people involved in human trafficking?

SUPERINTENDENT BRUEN: Yes. Those cases develop either from, you know, local intelligence, one-off arrests where the Troopers or the local police interview the people involved.

And they can lead to very significant cases. That's one of the resources that the NYSIC is involved with, and some of the commitments that we've talked about in terms of additional tools -- cryptocurrency detection and the cellphone capabilities of analyzing that.

Cryptocurrency and cellphones go with every major crime, organized crime function that currently exists, from drugs, gun trafficking and human trafficking. So that capability is going to explode and ramp up.

CHAIRWOMAN KRUEGER: Thank you. I look forward to learning more about that.

At the time the state passed its "Enough Is Enough" legislation to try to address the growth in campus sexual assaults, there was supposedly the creation of a campus sexual assault victims unit within State Police, with a funding allocation of $4 million for that unit.

Does that unit exist? And are we spending $4 million, and how is that going?

SUPERINTENDENT BRUEN: Yes, that unit exists and was at one time fully staffed. But like every aspect of my agency, it's been impacted by my dramatic drop in Troopers. I'm at 10-year staffing lows, or close to it.

I do think these next three classes -- the one that's in there in the academy right now, and the two that are proposed in the

budget -- will start to allow us to get back up to being fully staffed.

But that is one place the BCI -- that's a BCI function, and that's a place that I've had to slow the fill. Because if you take -- you get BCI members by promoting uniformed Troopers. And then if you've taken the uniformed Troopers off the road, there's nobody to respond to radio, you know, calls and 911 calls.

So we're in that delicate spot of I've got a lot of great Troopers who are ready to be promoted to investigator and take on some of those roles and work in what we call a backroom, which is like a precinct detective unit. They're ready to go, but I need people out the door.

CHAIRWOMAN KRUEGER: Thank you very much.

I'm going to not need my -- the rest of my time, Assemblywoman Weinstein.

CHAIRWOMAN WEINSTEIN: Okay, so we'll go to Assemblyman Reilly, three minutes.

ASSEMBLYMAN REILLY: Thank you,

Madam Chair.

Hi, Superintendent. Thank you for joining us.

SUPERINTENDENT BRUEN: Thank you.

ASSEMBLYMAN REILLY: I wanted to talk to you on what we spoke about last year during the budget season -- and I was happy to hear that you mentioned it earlier, of course, the ARIDE and the DREs. And I'm glad that you're going forward, everybody -- all the Troopers are being trained for ARIDE, which is an enormous task, and I thank you for that.

Being that in last year's budget we allocated an additional $10 million for DRE training, have we seen any turnkey with that in the State Police?

SUPERINTENDENT BRUEN: We are up over 100 DREs, which is significant.

You know, the real drag -- and I think we talked about this last time -- is there's only so much training capacity in the nation for DRE training, due to the complexity of it and the nature of it, and how advanced that

Trooper or police officer has to be in order to get into the training.

But we're increasing it, and we're over 100. And I think we're shooting for a number that's over 110. And I would like to get there.

ASSEMBLYMAN REILLY: Awesome. Thank you. And I thank my colleagues for actually pushing for that in the budget and making it happen. So thank you.

One thing I want to touch on with the gun violence, with the shootings, especially in New York City. Raise the Age seems to be a point of contention with the 16- and 17-year-olds that are armed with a loaded firearm. Currently that case would go to Family Court because it wouldn't fit under the exception where it could stay in Youth Part Criminal.

So right now we're trying to push for getting that part of the Raise the Age changed to allow loaded firearms to proceed in youth part. Do you know how many firearms the New York State Police have recovered from

those under 18 years old?

SUPERINTENDENT BRUEN: I do not. I do not have that number. We can get it.

I would say that it is probably significantly lower than NYPD's number. They have a different operating environment than we do.

But I can have someone provide that number to you.

ASSEMBLYMAN REILLY: Yeah, if we can get the state one. I have --

SUPERINTENDENT BRUEN: Well, remember, there would be two different numbers. One would be a statewide number outside of the City of New York, and one would be our internal number, how many have we done. So there would be two different numbers.

DCJS would probably have the -- well, we could -- we'll find both numbers for you. But I want to emphasize that, you know, the State Police would have one number and that that would be subsumed into the greater number, which is how many outside the City of New York.

ASSEMBLYMAN REILLY: Yeah, for all jurisdictions besides the State Police. I get it, yeah.

So like in New York City we had -- in 2020 there were 411 arrests for under 18, and in 2021, 536. So I want to see what that comparison is, and I think that's a tool that really needs to be used.

SUPERINTENDENT BRUEN: No doubt that gun arrests and the numbers have been skyrocketing.

ASSEMBLYMAN REILLY: Thank you, Mr. Superintendent, I appreciate it.

SUPERINTENDENT BRUEN: Thank you, sir.

CHAIRWOMAN KRUEGER: Thank you.

I think now we're back to Senator Diane Savino, who's returned.

SENATOR SAVINO: Thank you. Sorry, I was on a phone call, I didn't hear you guys calling me.

Good to see you, Superintendent.

SUPERINTENDENT BRUEN: Good to see you.

SENATOR SAVINO: I'm not going to

touch on some of the issues that have already been raised. I'm happy to hear you guys are focusing on computer crimes and cyber crimes. They are certainly becoming a much more complicated problem.

I do want to ask you about the issue of cannabis. As you know, we legalized cannabis for adult use, we expanded medical, we have a thriving hemp program that's operational. But there seems to be, out there in the general public, this idea that because we decriminalized marijuana for personal use, that you could have up to 3 ounces for personal use, that you could pretty much do whatever you want.

And no one seems to be enforcing this statute that you're not allowed to sell marijuana in the state yet. Anybody that doesn't have a license to sell is operating outside of the law. And yet and still, we have people flouting the law all over the place. They're setting up cannabis shops, they're operating stores, they have mobile vans, they're driving around Manhattan, and

nobody seems to be enforcing the law.

So -- and it upsets me only because if we're going to set up a legal regulated system where we're going to have licenses issued and we're going to expect people that we regulate to play by the rules, how is that going to work if people are openly, you know, violating the law and nobody's doing anything to stop it? Not the State Police, not the NYPD, no local government. Nobody's doing anything to stop this, and I'm just baffled as to why.

SUPERINTENDENT BRUEN: Well, we continue to enforce marijuana penal laws as they exist, and continue to make arrests related to marijuana trafficking.

To the extent that something was regulatory in nature, unlike the NYPD, I don't have the authority to enforce non-criminal regulatory laws. I must --

SENATOR SAVINO: I understand that.

SUPERINTENDENT BRUEN: -- only criminal laws. And we continue to do it, obviously, though, we're not arresting for,

you know, small amounts of marijuana because it's no longer a crime.

SENATOR SAVINO: So not to interrupt you -- because I only have a few seconds left -- so the other day the Albany Times Union wrote a restaurant review of a local restaurant that is getting into the cannabis business now.

And instead of charging people for the cannabis products, they're giving them away: Come into our restaurant, pay a fee and we'll serve you food and then we'll give you cannabis products. And they don't seem to have any concern about having this widely advertised.

Now, would you say that that's something your office or the State Police should notify this restaurant, that they are in violation of existing law because you can't give or sell marijuana yet legally in the State of New York without a license? Or should the Albany police do it? Or what role do you think you should play in enforcing this law so that we don't have a system where

people are just doing what they want?

Because otherwise it doesn't make any sense for us to create a regulatory structure if we're just going to let people do whatever the hell they want.

SUPERINTENDENT BRUEN: I have to fall back on the fact that I can't enforce civil regulations.

So to the extent they violate the Penal Law, and to the extent that was a violation, a crime, to set up your own shop and that was a violation -- I mean a misdemeanor or a crime, you know, we would be able to enforce it.

But to the extent that it's a violation of regulations and it's civil in nature, I don't have that power, based on the way the Executive Law is written and about the jurisdiction of the State Police.

Local town, villages, the NYPD can enforce their city codes and enforce other kind of regulatory schemes, and I don't have that ability.

SENATOR SAVINO: I would just suggest

we might want to rethink that.

I don't have any more time. I'm happy to talk about it offline with you at some point.

SUPERINTENDENT BRUEN: Sure.

SENATOR SAVINO: Thank you.

CHAIRWOMAN KRUEGER: And just for the record, as the I guess lead sponsor of the marijuana legalization bill, I completely agree with Senator Savino.

This is not legal. They were never intended to be allowed to give away cannabis as a freebie with very expensive food or in some places very expensive T-shirts that come with free cannabis.

And I know that the Office of Cannabis Management has told me that they are exploring also how they insert themselves to stop this from happening. So hopefully they will reach out to you, Superintendent, and somehow we all can coordinate. Because yes, we wanted cannabis use to be out of the criminal justice system as much as possible, but it's the same issue. We have liquor

laws, and you can't sell liquor illegally. And we want to have the same approach with cannabis. So thank you.

SUPERINTENDENT BRUEN: Thank you.

CHAIRWOMAN KRUEGER: And now back to Assemblymember Weinstein.

CHAIRWOMAN WEINSTEIN: We next have Assemblywoman Rajkumar up, for three minutes. Thank you.

ASSEMBLYWOMAN RAJKUMAR: Thank you, Madam Chair Weinstein.

Good evening, Superintendent.

SUPERINTENDENT BRUEN: Good evening.

ASSEMBLYWOMAN RAJKUMAR: Our state and our entire country has seen an uptick in hate crimes recently, particularly directed towards the Asian-American community. The NYPD reported that New York City actually had a 100 percent increase in hate crimes in one year. This included a 361 percent increase in anti-Asian hate crimes. And last summer, one individual in Queens was arrested for four separate hate crimes against people of Asian descent. This included assaulting a

75-year-old woman with a hammer.

Last summer in my South Queens District there was a string of crimes targeted at Muslim Americans. And just a few weeks ago, on January 3rd, there was an attack on a Sikh American taxi driver at JFK Airport, one of many completely unacceptable hate crimes against the Sikh American community.

In her State of the State address the Governor included a proposal to combat hate crimes through a new hate and bias prevention unit. The State Police runs the Hate Crimes Task Force, so I wanted to ask you what your division will do to stem this tide of hate crimes and what resources you may need, and how can we help?

SUPERINTENDENT BRUEN: I think you're already helping by getting my staffing back up to acceptable levels. A lot of these things require people.

Even without the increase in staffing, I've doubled our commitment to the NYPD's hate crime unit, which we're part of, and

we've also got our hate crime unit up and running. That provides active support to incidents that occur upstate, mainly upstate. We'll either take the case over or work discrete leads.

We also have -- a big part of that is an education and support training program for other -- for local agencies. While COVID did not disrupt most police operations, it did put a crimp in in-person training, which this hate crimes training is in-person training. But we're ramping that back up and hope to be looking at that -- be expanding that back up.

The increase in anti-Asian hate crime in the city is extremely concerning.

ASSEMBLYWOMAN RAJKUMAR: What have been some of the greatest challenges that you've seen in stemming the tide of hate crimes against this community?

CHAIRWOMAN WEINSTEIN: That's --

SUPERINTENDENT BRUEN: I'm sorry?

(Off-camera interruption.)

ASSEMBLYWOMAN RAJKUMAR: I'm saying what are some of the greatest challenges --

SUPERINTENDENT BRUEN: Well, some of the challenges are what they are, which is, you know, policing in this age is difficult, getting cooperation from communities that may or may not, you know, trust the police.

We have not seen a huge barrier upstate to that. By and large we've had very good relationships with -- the State Police have, with Muslim communities and Asian communities upstate. So we're continuing to work hard and do what we can in terms of training support and apprehension of these folks.

ASSEMBLYWOMAN RAJKUMAR: Thank you. Please let me know what I can do to help bridge any cultural sensitivity gaps with the communities. And thank you for all of your work.

SUPERINTENDENT BRUEN: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Senator Brad Hoylman.

SENATOR HOYLMAN: Thank you, Madam Chair.

Good evening, Superintendent. I just

had a couple of quick questions about the budget and gun tracing.

I see that there's $6.2 million to support expansion of the gun tracing teams, and there is a Gun Tracing Task Force that the Governor is convening. Are you and your organization going to have a role in that?

SUPERINTENDENT BRUEN: That is -- yes, the Governor's directed that we do that. A meeting is occurring tomorrow and is with State Police and state fusion center folks from around the Northeast, as far away as Ohio.

That's an interstate group to look at trafficking, leveraging some new techniques, and leveraging -- I have to compliment the ATF and the person who runs the ATF in New York State. They have been, in my mind, a game-changer in terms of providing information, support and data for us to exploit and analyze. And a lot of that money that we're -- that's coming to the State Police is going to come with folks to analyze information that's been provided by the ATF,

raw information, and then lead to, you know, the criminal-side cases that we're going to be doing.

SENATOR HOYLMAN: Thank you.

I just wanted to bring your attention to -- and I'm sure you're familiar with -- microstamping technology such as the case in California where guns are required to have a stamp on the firing pin that leaves like a serial number on the spent shell casings so you can connect the shells you recover at a crime scene to a particular gun.

We carry -- I carry legislation with Assemblymember Linda Rosenthal in connection with that.

Do you have any thoughts on gun tracing technology and how it might be useful for this task force?

SUPERINTENDENT BRUEN: Well, there are kind of two different concepts. There's the serial number tracing, which is point of sale, and then there's identification of two bits of evidence, either the shell casing or the lead, and tying that back to the gun.

That technology is fairly robust. Experts can generally identify, due to machine marks on the expended casing, that a particular casing has come from a gun.

The thing we're looking to develop is more on the lines of the flow -- what we're doing now is more this flow of guns through interstate trafficking and also tying them to prior crimes by what you're talking about, expended or recovered shell casings and tying that back to the gun.

SENATOR HOYLMAN: Thank you very much.

One final quick question. What do you think about the feasibility of Mayor Adams' idea of doing spot-checks for people bringing guns into New York City?

SUPERINTENDENT BRUEN: You know, I don't wish to express too many opinions. But searches that the State Police conduct have to always be in full harmony with the Fourth Amendment. And if you're coming into transportation infrastructure or getting on an airplane or getting on a train or coming into a public building, you may be subject to

searches or magnetometers.

If you're out on the street or driving your car, the rules are much more stringent in terms of what amounts to probable cause to stop and search somebody.

SENATOR HOYLMAN: Thank you for that.

CHAIRWOMAN KRUEGER: Thank you.

I believe the Senate is now done. We're handing it over to the Assembly.

CHAIRWOMAN WEINSTEIN: We have Assemblyman Burdick, then Assemblyman Walczyk, and then Assemblyman Palmesano, if no one else raises.

So Chris, you're up.

ASSEMBLYMAN BURDICK: Thank you, Chair Weinstein. I appreciate it.

And Superintendent, thank you very much for the work that you do and the women and men who every day do such an outstanding job in their duties.

I represent eight towns in Westchester County, each of course with their own local law enforcement agencies. And could you describe the relationship between

the State Police and local law enforcement, meaning what shared services are there, what programs, training, and so forth? Can you delve into that a little bit?

SUPERINTENDENT BRUEN: Well, we have a relationship with all the police agencies in Westchester County. And it varies depending -- and in other parts of the state. And it varies based on the department.

Some departments upstate are -- contain two or three part-time police officers, so our relationship with them would be very different. We would come in and handle all their investigative work and all their major crimes.

In the case of Westchester County towns, who have a fully functioning, full-staffed department, it may be that we're working cases jointly, we're working a particular problem area together.

In some areas that are heavily policed, we -- our relationship would be different in terms of providing investigative support. We may be more on the highway in

certain spots of Westchester County, doing commercial vehicle enforcement or other things.

But frequently what happens in Westchester County is something happens and multiple agencies respond. And we've assisted all those departments, and they've assisted us in apprehending bad actors.

ASSEMBLYMAN BURDICK: And can you tell me, do you feel -- and obviously I think we're all concerned about staffing levels and we're delighted to see that we're on our way to trying to rectify that in terms of appropriations.

But have there been instances in which it's been difficult for you to have the personnel in order to respond to requests for assistance? And I'm not speaking so much about an emergency situation, which you'd find the resources to do it, but in situations which were less dire.

SUPERINTENDENT BRUEN: There's no doubt about it. It's happening every day.

I'm concerned about burnout on

Troopers who are in on overtime. The COVID response was a massive undertaking by this agency -- staffing locations, testing locations, the Javits Center, upstate locations, in addition to doing our ordinary jobs.

I've already indicated the CSAVU unit, you know, is suffering from people -- there -- our backrooms are -- my main-line detective units are understaffed right now but still have the same number of cases. You know, it's hurting.

And you have done what you can do, which is allocate money in the budget -- or hopefully will allocate money in the budget for two new classes.

The one thing I can say about State Troopers is they can't be made in two months. It's a long process, and so -- it's a long process and a process that has to be planned out, you know, years in advance. They just don't -- I just can't hire them right off the street. It takes a long time to train them.

ASSEMBLYMAN BURDICK: Thank you very

much. Appreciate it.

CHAIRWOMAN WEINSTEIN: Thank you.

We now go to Assemblyman Walczyk.

ASSEMBLYMAN WALCZYK: Thank you, Chairwoman.

Superintendent Bruen, thank you for joining us today. You spent time in the district attorney's office, lots of time with the Troopers, spent some time over at the Department of Corrections. Welcome. I think that is very relevant experience that is going to do great things, I hope, for the New York State Police.

Earlier one of the members brought up the old CoBIS program, which required us to fire projectiles out of every single weapon that got sold in the State of New York. It was ongoing for a while -- I think it was the Pataki administration that originally had put it in. That this was going to be the, you know, gun DNA that would be such a great solver of crimes for New York. And that ran for a while, I think until after 2010, maybe '11 or '12, and was shut down.

Do you remember how many crimes that CoBIS program, the gun DNA solved in the State of New York?

SUPERINTENDENT BRUEN: Yes, I do. It was quite expensive, and the answer is it solved no crimes.

ASSEMBLYMAN WALCZYK: I'm sorry, it was very expensive and not a single crime?

SUPERINTENDENT BRUEN: Not a single crime was solved with it.

ASSEMBLYMAN WALCZYK: Not even one crime in the State of New York.

SUPERINTENDENT BRUEN: No.

ASSEMBLYMAN WALCZYK: All right. Well, thank you very much, Superintendent.

Now that you're out of the Department of Corrections, what do you think about the Secure Vendor Program over there? Can we get it done?

SUPERINTENDENT BRUEN: I will say this, that I think it's wonderful that Tony's getting the commissioner -- is going to be the full-time commissioner and confirmed. I think that's spectacular. And I will keep my

opinions to myself.

ASSEMBLYMAN WALCZYK: (Laughing.) Is it the lawsuits that are the main deterrent over there, is why we don't get the Secure Vendor Program done? Or what do you think it is?

SUPERINTENDENT BRUEN: I -- like I say, I keep my opinions to myself.

ASSEMBLYMAN WALCZYK: That's fair. I will --

SUPERINTENDENT BRUEN: I will say this, that it's my honor to be superintendent and the State Police have done way for me for me than I will ever do for the State Police, I can tell you that.

ASSEMBLYMAN WALCZYK: Well, good deal. It's exciting to have you. Thank you for the time.

And I will yield back the rest of it, Madam Chairwoman.

SUPERINTENDENT BRUEN: Thank you.

CHAIRWOMAN WEINSTEIN: Okay, I see that Senator O'Mara has raised --

CHAIRWOMAN KRUEGER: Yes, I see

Senator O'Mara snuck in there very --

(Overtalk.)

CHAIRWOMAN WEINSTEIN: I'll send it back to the Senate.

CHAIRWOMAN KRUEGER: All right, thank you.

So Ranking Member Senator Tom O'Mara.

SENATOR O'MARA: Yes, thank you. I snuck in at the end.

Sorry, Superintendent, to prolong this any more. But a few questions about the hate crimes, which is, you know, obviously a very growing concern -- my -- my video was stopped by -- I don't know, the host? Okay. There it goes. I'm back on. I don't know why they cut me off. I think I'm dressed appropriately.

But on the hate crimes and the reporting of hate crimes, there has been an effort in my district to encourage the reporting of hate crimes. And there was an entity, a large business in my district that was interested in promoting this, and they did some investigating, some research on

their own and asked my office to look into it, and kind of hit a brick wall on what exactly is being done with the reporting of hate crimes. And there really didn't seem to be any kind of funnel, so to speak, on what either local law enforcement entities did with that or how people could go directly to the State Police too, because there is something for the State Police on a hate crimes reporting system.

So where does that stand? And are we making use of that? Because, you know, we certainly have these crimes -- I'm a very rural upstate New York district. These are not just New York City or larger-city issues. Where we have individuals that want to be more proactive on this, to highlight this, you know, where do I send them? Or how do we better coordinate this?

SUPERINTENDENT BRUEN: Well, I'm not exactly sure what the issue is. If somebody is reporting a crime, they should call 911. If they want to come to the State Police barracks in their communities, whether it's

--

SENATOR O'MARA: It's not about reporting crimes in progress, it's about incidents that were likely hate-related, after the fact. Maybe nobody made a report about it.

You know, how does that -- how can that kind of thing be followed up on?

SUPERINTENDENT BRUEN: Well, I would say that that's the same -- it's not necessarily a crime in progress, but you go and report it to a State Trooper and we'll do follow-up investigation on it.

If we can't develop suspects, which sometimes happens in these things -- for example, you know, graffiti left on a park bench or on a road sign, that -- you know, a swastika -- it can be very hard to figure that out. We've managed to figure out, in some cases, when someone finally told us who it was, you know, when they've done it on a number of occasions.

But for the most part, that's the way it should operate, are the Elmira Police

Department, in your case, the sheriff's department, or my Troop E folks should pick up that case, run it down, and investigate it. And then do the reporting that's necessary up through DCJS for a hate crime.

SENATOR O'MARA: Well, I can tell you that we kind of ran down those lines a little bit and there was no real coordination, it seemed. And even reaching out to the State Police and to DCJS on where this whole hate crimes reporting system stood, we were just unable to get a clear answer.

So I don't know, maybe I should touch base with you further on getting an actual --

(Overtalk.)

SUPERINTENDENT BRUEN: Yeah, I'd be willing to look into that and discuss that with the commissioner of DCJS. Generally speaking, I don't produce those sorts of reports, but I would be a submitting agency to DCJS.

I can certainly also refer to my major in Troop E, Major Staniszewski, and have him follow up on what's going on in that area

vis-a-vis hate crimes, do we feel that it's a sufficiently coordinated response. I know the sheriff and the chief out there I'm sure would be willing to look into it as well. And I'm sure there are other village police departments beyond Elmira and Horseheads and what have you.

SENATOR O'MARA: Yes. Yeah, absolutely. So thank you, I appreciate that.

I look forward to working further with the coordination of these agencies. So thank you.

SUPERINTENDENT BRUEN: Any time. Thank you.

CHAIRWOMAN KRUEGER: All right. Do you have any more, Assemblywoman?

CHAIRWOMAN WEINSTEIN: Yes, we still have Assemblyman Palmesano, with our final three minutes, our final questioner.

ASSEMBLYMAN PALMESANO: First, Superintendent, I just wanted to say thank you to you and the brave men and women of the State Police for the dangerous job they all do each and every day to keep us safe in our

communities, especially in light of the rising and dangerous crimes and violence we're seeing in our cities and communities all across New York State.

So first and foremost, I wanted to say thank you to you and, again, the brave men and women of the State Police for what they do for us. So thank you.

SUPERINTENDENT BRUEN: Thank you.

ASSEMBLYMAN PALMESANO: I just have one question, and it really stems around the issue of the legalization of marijuana.

I was opposed to the recreational use of marijuana and passing that. I had spoken to local law enforcement before this, spoken to local social services agencies and substance abuse agencies, and some of the things they brought up over and over again was the increased -- concerns regarding increased drug use associated with other drugs. Certainly point out the fact that it certainly could lead to more increased illegal and black market sales of marijuana and also lead to other crimes, the cost to

our communities, but particularly the issue of safety.

And I was wondering, do you have any statistics relative to the percentage of guns and victims and crimes that are associated with the illegal or illicit sale of marijuana and how that might be -- is there any association with that that you could share with us on how those crimes might be associated with that relative to guns and violence and victims?

SUPERINTENDENT BRUEN: We -- we certainly have made arrests in the past year where large amounts of marijuana were present with other drugs and guns. I don't know as my -- the Division of State Police numbers on that issue would be dispositive, since we don't track arrest numbers apart from our own agency.

So I can certainly make -- you know, have our analysts look and see, you know, what we could find for the last year in terms of that, but I don't have that specifically broken down right in front of me.

ASSEMBLYMAN PALMESANO: I'd certainly like that information, because I really just think the point I'm trying to get at is, you know, not everyone thinks, you know, this is a positive -- many people think that this is a positive thing, the recreational use of marijuana. But, you know, the concerns that were brought up before we passed this and made this the law of New York, which I understand the ramifications of that that were brought up by law enforcement and others about -- with the passage of this and are we seeing that increase in percentage of guns being involved in crimes, more victims, and more dangerous crimes taking place relative to this, you know, black market, illegal sale of marijuana.

So yeah, it would be good to have, because I think that's something we should be paying attention to.

CHAIRWOMAN WEINSTEIN: Thank you.

And I'm going to throw it back to -- Senator Krueger, I believe we have exhausted all of the questioners for the

superintendent.

CHAIRWOMAN KRUEGER: Perhaps we've literally exhausted them, but I don't know about that.

So I want to thank you very much, Superintendent. And we also, all of us, appreciate the hard work of the men and women of the State Police. So we just pass our appreciation back, and excuse you for the rest of the day. Thank you.

SUPERINTENDENT BRUEN: Thank you. And I will definitely pass on all your good wishes to the Troopers. Thank you.

CHAIRWOMAN KRUEGER: Thank you. And I am going to -- just for a little variation in topic, I will now be calling up, from the New York State Office of Information Technology Services, the interim CIO and director, Angelo Riddick.

Angelo, are you here with us?

INTERIM CIO RIDDICK: I certainly am. Good afternoon.

CHAIRWOMAN KRUEGER: I think it's evening by now. Good evening.

(Laughter.)

CHAIRWOMAN KRUEGER: All right, so I think you know the rhythm of these hearings. We have your written testimony, as does the public. We'd like you to summarize in 10 minutes or less the major themes of your testimony.

INTERIM CIO RIDDICK: Absolutely. Thank you, Chairs Krueger and Weinstein and distinguished members of the State Legislature. It is the honor of a lifetime to partner with you during this pivotal moment in history.

I am Angelo "Tony" Riddick, New York's chief information officer and director of the state's Office of Information Technology Services.

For the last 22 months, ITS has been at the forefront of the state's COVID response. I've had the honor and challenge of being on the job for 14 of those 22 months.

We enabled fully remote and then hybrid work for tens of thousands of state

employees, rapidly built applications and revamped state websites, and provided the tools that allowed New York to ensure uninterrupted services during a pandemic.

ITS created the vaccine scheduling system and the state's return-to-work portal to safely bring workers back to their offices.

We offered 24/7 support for the mass testing and vaxx sites, and provided the necessary upgrades to support online meetings and virtual government.

And we worked with our partners in the public and private sectors to build the Excelsior Pass platform, becoming the first state in the nation to offer digital proof of a COVID vaccine.

In fact, we recently partnered with the federal government and our friends at the Division of Veterans Services and the Department of Health to extend the Excelsior Pass to veterans who received their COVID shots at a VA facility. This information was once outside the state's jurisdiction and

could not be included in our immunization databases. Now, hundreds of thousands of New York veterans are able to access the Excelsior Pass so they can share proof of immunization and be easily welcomed into businesses and venues across the state.

As a 30-year active-duty veteran who was vaccinated at the VA, I cannot thank Governor Hochul enough for her leadership and commitment to getting this done.

So often in the last two years, when New York was challenged in new and varied ways, ITS was there with the solution. And while a number of long-term modernization projects were already underway in March 2020, the pandemic forced our state government to continuously pivot and adapt.

Now that we've entered a new phase, we are leaning forward and working to cement the progress that has already been made. The truth is there are countless opportunities to be smarter, better and more agile.

We are focused on accelerating modernization projects at multiple state

agencies, and understanding which solutions can help bridge the gap while we move to retire legacy technology.

We have enhanced our support model to give more state employees the ability to work remotely, so they can better support their agencies and more quickly and confidently respond to the next crisis.

As a state, we should be embracing technology as a solution -- not only in times of crisis, but also in times of calm. We know technology can support processes and help government operate more efficiently, and it can provide greater access to many more New Yorkers. Digital enhancements are ongoing and will continue to improve citizen interactions with their state government.

New tools are helping state agencies and their hardworking employees deliver faster results for all New Yorkers.

And right now our agency is implementing the technology to support a new law, which originated right here in the Legislature, that will require state agency

websites to be accessible in each of the 12 most commonly spoken non-English languages. We have procured the necessary language translation tools and, following additional testing and configuration work, expect to deploy this new technology on time and to the benefit of many more New Yorkers.

We know technology can provide a lifeline to families in difficult times. During the height of the pandemic, ITS utilized technology to assist the Department of Labor in clearing their unemployment insurance backlog and delivering benefits to families in need.

We know technology can even help provide enhanced cyber-protection for the state's network and its data. And that brings me to cybersecurity, which is fast becoming the defining IT issue of our time.

No agency is better prepared or better positioned than ITS to tackle this diverse set of cyber challenges. We start by taking every threat seriously. We have endpoint detection tools already in place which

provide an extra layer of protection against intrusion, and in the coming year we will work with our partners at the local level to extend these protections.

We have top-notch security professionals who monitor the state's network and global threat landscape all day, every day. Prior to coming to New York I had extensive experience with the Army's Cyber Command and taught cybersecurity courses at the National Defense University, and yet I have never seen more attempted attacks than we are seeing today.

I urge you to join us in making this a priority now. To fight this new cyber war, we need more resources, we need more people and new recruiting techniques, and we need better intelligence-sharing at all levels of government. I am pleased to say Governor Hochul's budget achieves all of this and more.

The Executive Budget funds Year 1 of a multiyear investment that will allow the state to establish a strong "Zero Trust"

framework. "Zero Trust" means everything we do is secure and there are checks and balances on every device, every transaction, and every request for access. This will better protect the state's data from intrusion or attack.

If this budget is approved, we will use a portion of the new funding to enhance our Red Team, a group that tests security across executive agencies by identifying and launching attacks in a controlled environment. They are critical to the state's readiness to respond to a real threat.

The Executive Budget also recommends new cyber resources to provide local governments with expert strategic assistance and security solutions to mitigate ransomware attacks so they can better protect their own assets. I thank Governor Hochul for her leadership on this important issue and know it will allow us to make a strong statement to the world that New York State takes cybersecurity very seriously.

Thank you for your service, leadership and commitment to the State of New York. I am happy to take any questions you may have.

CHAIRWOMAN KRUEGER: Thank you very much, Commissioner.

And I believe that the first questioner will be Senator Diane Savino, our chair of Technology and all those topics that committee is covering.

SENATOR SAVINO: Internet and technology. Thank you, Senator Krueger.

CHAIRWOMAN KRUEGER: Thank you very much, Diane.

SENATOR SAVINO: Commissioner, it's good to see you again. I think the last time we saw each other was in early 2020, at the budget hearing then.

INTERIM CIO RIDDICK: Absolutely.

SENATOR SAVINO: You were just barely days on the job, not really -- I remember we met in my office and we talked about your extensive history and how you would be an amazing asset, not really understanding just how important your experience would be as the

state was about to shut down and go completely virtual.

Thank God you were part of the team; otherwise, I'm not really sure we would have been able to transition to a virtual workforce either on the state side or with local governments.

INTERIM CIO RIDDICK: Thank you very much.

SENATOR SAVINO: I want to talk a bit about, though, the area that you and I spoke about that day and you are an absolute expert on, and that of course is the issue of cybersecurity and the threats, which as you point out is really the threat of our lifetime right now.

We confirmed earlier today Jackie Bray as the new DHSES commissioner, and we talked with her yesterday about the role that homeland security plays with it. We also spoke to the State Police and the role that they play.

But we've had somewhat of a haphazard approach in this state of who's really

responsible. And I'm happy to see you're playing a bigger role certainly with the state agencies. The threats that we're seeing during the pandemic -- school districts being hacked on a regular basis, small local governments under attack constantly. And I know that there are limited resources and there have been up until now.

So I just want to ask a bit about what the Governor's proposing in her budget where she's talking about the hiring of an additional 248 people on your Red Team. And also in the infrastructure bill that was passed in Washington, there was $2 billion set aside for states to apply for cybersecurity grants to enhance their protection.

So I'm wondering, are we going to use this -- are these 248 people, are they going to be part of the team to help local governments and school districts, et cetera, become more responsive and protect themselves better? And were we able to apply for any of

that infrastructure money?

INTERIM CIO RIDDICK: As I understand it, we're working on applying for that infrastructure money. Unfortunately, I don't have visibility on that process. But I can assure you -- and thanks for meeting with me last year -- that absolutely cybersecurity is a priority.

As a matter of fact, after we met, I worked with my team to develop our strategic plan, and the number-one priority was and remains cybersecurity.

The increase in the budget will allow us to hire a number of technicians, some of which will be working specifically cyber, as we look to a whole-of-state approach outside of just the state's infrastructure. But as we look to work with local governments, we have to help with ensuring that that infrastructure is also secure.

There are a number of methods that we can use, and my team is looking very deeply at the methodology that we have to use to get these people on board quickly. And yes,

personnel are a priority and cyber will be inside of that priority stack. Thank you. I think that's a great question.

SENATOR SAVINO: So also because we're a home-rule state and we allow localities and school districts and, you know, villages to make their own decisions and purchase their own equipment, there seems to not necessarily be a cohesive approach to this.

Do you have any recommendations, as a person who's an expert in this, about the way we currently handle issues like technology purchases and software purchases? Should we allow that type of, I guess, autonomy because of the inherent risks of cyber leaks?

INTERIM CIO RIDDICK: I support that autonomy, and I think that's a great question, thank you.

I support the autonomy, but we need to partner with these local governments to make sure that they have the resources that they need, including tools and the sophistication to delivering cyber solutions to their own internal infrastructure.

SENATOR SAVINO: And finally, because I know there's a lot of people that have questions, the State of Pennsylvania two days ago passed a bill -- I'm not sure if the governor is going to sign it, though -- that would ban the payment of ransomware attacks from government funds.

I introduced a bill last year that would essentially do the same thing. It was a little controversial, but it's reflecting how challenging it is for us to deal with ransomware attacks. You know, when we reach out to either, you know, the FBI or the Justice Department, their response to policymakers is not to pay them. Because ransomware -- first of all, you're never going to get your data back anyway. It's just costing taxpayers an extraordinary amount of money. And you're contributing -- my discussion with the FBI was you're contributing to a criminal enterprise, you're aiding and abetting, you know, international criminals. So you shouldn't pay it.

But at the same time, what do we say

to, you know, school districts, what do we say to healthcare facilities who have been hacked and whose data has been encrypted and they can't get access to it? So, you know, we're going to move the bill through the Senate's Internet and Technology Committee, and I'm sure I'll get a million phone calls from people who say that this is not the way to go about it.

But there has to be a way for, you know, states to develop policies that kind of send a message that we are not going to continue to be victims of cybercriminals. The answer, of course, would come from Washington. They're not doing anything on this issue, in spite of, you know, their rhetoric. They actually have not passed any meaningful legislation or adopted any policies.

So what would you suggest we say with respect to ransomware payments?

INTERIM CIO RIDDICK: First, Senator Savino, I absolutely respect your position on not paying ransomware. I don't want to tilt

my professional hand and talk about the strategies that we're discussing in ITS to mitigate these vulnerabilities, to make sure that we have resources available to help our localities and our agencies within the infrastructure recover from a ransomware attack.

Unfortunately, the best we can be in cybersecurity, and I've said this for years, is one town ahead of the posse. So being actively involved in establishing a relationship with localities, and establishing a solid relationship with the agencies that we support, is the first step, so that they understand what our strategy is. And hopefully one day we'll be able to totally defeat the ransomware attack. But until then, my team discusses this daily, and we have a plan.

SENATOR SAVINO: And then finally, do you find that local governments are notifying you when there are ransomware attacks?

INTERIM CIO RIDDICK: They certainly are. We get the notification from our

resource as well as the call from local governments at times. But we usually know just as they know, and we reach out to them, we provide ourselves -- we provide them the availability to discuss mitigation 24/7.

SENATOR SAVINO: Thank you. I look forward to working with you more on these very complicated issues. Good luck.

INTERIM CIO RIDDICK: Thank you so much. Look forward to talking to you again.

SENATOR SAVINO: Thanks. I yield my time back, Senator Krueger.

CHAIRWOMAN KRUEGER: Assemblywoman Weinstein.

CHAIRWOMAN WEINSTEIN: We do not have any Assemblymembers as of yet looking to ask questions of Mr. Riddick. So I will send it back to you, and you can go through the Senators that have questions.

CHAIRWOMAN KRUEGER: Thank you. All right.

Next up is Senator Zellnor Myrie.

SENATOR MYRIE: Thank you, Madam Chair.

And thank you, Director Riddick, for your patience and endurance in bearing with us and testifying now.

I just had a question around -- you know, you mentioned some of the great work the state has had to do during this pandemic to stand up programs and applications. You know, there was just a news article about Guidehouse and the ERAP program and application. And I understand that that is somewhat breaking news, and so you don't really have the opportunity to think and respond to that.

But I wanted to ask, in a somewhat relevant way, what the implications are for the Homeowners Assistance Fund application, which I think is largely being utilized online and that has a short window -- that we are approaching in about a week -- for people to apply.

One, I wanted to see if there were any concerns with what you're seeing as far as those applications and people utilizing it online. And, two, whether the Legislature or

the public is going to get any breakdown on where those applications are coming from and sort of whether they're being highly utilized, underutilized, or whether we need to do some more promotion.

INTERIM CIO RIDDICK: Well, Senator, I can assure you that the applications are being utilized, that the system is working to date, that we work with the agency to ensure that we provide the support that they need. I make myself available. The nuances, of course, always involve privacy and cybersecurity. Our team is actively involved with that.

SENATOR MYRIE: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Senator Brad Hoylman.

SENATOR HOYLMAN: Thank you, Madam Chair.

Good evening, sir. Thank you for being with us, Mr. Riddick. And thank you for your acknowledgment of the legislation that Assemblymember Yuh-Line Niou and I passed to require the translation of websites

into the 12 most widely spoken languages in New York State, and for your assistance in getting this bill signed. It's greatly appreciated.

Given concerns around COVID, and you just heard my colleague Senator Myrie around ERAP and other applications for homeowner assistance, do you have any sense of whether perhaps pushing the bill a little farther than it currently stands -- the statute, which says you have to translate within 60 days for COVID-related websites of the State of New York, six months for everything else -- do you think with some of the more important websites like around ERAP, like around COVID, like around hate crimes, at NY.gov you could maybe get it done sooner than 60 days?

INTERIM CIO RIDDICK: I've made sure that my priority has always been the customer's priority. We understand the prioritization of COVID-facing websites, those agencies that have interaction with COVID business, if you will, for lack of a

better term, are prioritized.

Can we get that done in 60 days? Absolutely, with that prioritization.

SENATOR HOYLMAN: Thank you.

And what's your perspective, looking back, on the Department of Labor and their -- the websites that had crashed repeatedly during the height of the pandemic and the applications for unemployment insurance? Do you have any lessons learned from that?

INTERIM CIO RIDDICK: You know, the biggest lesson I learned is working personally with the commissioners and the senators who have questions, and making sure that I meet with them so that we can prioritize as a unit what their concerns are.

I don't have any future concerns with working with DOL and the infrastructure that's in place. We work continuously to improve not only relationships but the operation itself.

Again, as I stated last year, I'm a people person first, a process person. We've got to look at the products to make sure that

we have the right products in place to deliver the services that residents need, and we also look at policy to make sure we stay and guide them.

SENATOR HOYLMAN: And finally, are we investing enough in your department? Do you have any staff to -- I mean, it's an enormous task that you have before you.

INTERIM CIO RIDDICK: That's a tricky question, Senator.

I will tell you I did relate to my staff just recently that this is the first time that we received more money in any operation that I've ever had the honor of working with as a leader. I compliment and I commend Governor Hochul on her effort to make sure that resources are available.

Can we use more? Absolutely. But do we have enough to operate? I assure you we do.

SENATOR HOYLMAN: Thank you very much.

CHAIRWOMAN KRUEGER: Thank you.

And if the Assembly still doesn't have --

CHAIRWOMAN WEINSTEIN: We do not have anyone.

CHAIRWOMAN KRUEGER: Then I have one more question for the commissioner. Also recognizing that we met, and suddenly you were in the middle of COVID and all the complications therein. I think I asked you this question then, but I'm asking you again.

The state has a system called WMS, Welfare Management System, that OTDA and Office of Children and Family Services operate on and parts of the Medicaid program operated on and our local governments' departments of social services all interact with. It was outdated in 1989 when we first turned it on.

Even yesterday I was in a conversation with a state commissioner who said, "We really want to do this, but WMS is never going to be able to do the simple thing that would really help."

So do you imagine in your tenure with the state we might finally get a system to replace the, again, beyond antiquated, beyond

not working correctly WMS system?

INTERIM CIO RIDDICK: Thank you so much for that question. And thank you for last year's education as well. I did a lot of homework to find out exactly what the impact of upgrading WMS would be.

Number one, I found out that most of the infrastructure itself resides on a mainframe. Now, the challenge with mainframes and moving to newer technologies is to keep life in that mainframe while you build a new solution. Therefore, I asked my technology team to look at mainframe as a service so that we can literally fix the car with the tires rolling.

As we do that, I found out -- thanks to you -- about the new instantiation that we're evolving to, and that's the Integrated Eligibility System. We've hired a new director in IES, a very, very skilled employee who's been with ITS for a number of years. She's taken on that monster, if you will. She's developed a program. We have a now deputy secretary who oversees the

agencies that that particular solution will provide for our residents.

We've had several meetings. I'm very confident that with the collaborative efforts that we've taken thus far, understanding what the mission is, that we can be on track to deliver this IES system in a reasonable amount of time. And we will not be slowed down by an antiquated system because we're breathing life at the same time.

CHAIRWOMAN KRUEGER: Thank you. I take that as very encouraging, and I look forward to living long enough to, I don't know, turn off WMS for the State of New York at some point. So thank you very much.

And I think, with that, we're going to excuse you for the evening and thank you for your hard work and urge you to move forth to do so many things, because we're in a world of everything being driven by technology and we just need to get better and better at it.

So thank you very much for joining us.

INTERIM CIO RIDDICK: Absolutely. It's definitely an honor. Have a good

evening.

CHAIRWOMAN KRUEGER: Thank you.

And now I'm going to be calling up our last government representative for this hearing. You thought it would never end. That's only part one of the hearing, folks.

The New York State Office of Indigent Legal Services, Patricia Warth.

Are you with us, Patricia?

ILS DIRECTOR WARTH: I am here.

CHAIRWOMAN KRUEGER: Great. Welcome.

ILS DIRECTOR WARTH: Thank you.

Good evening, everybody.

So as Senator Krueger said, I am Patricia Warth. I was nominated by the Indigent Legal Services Board earlier this year to replace Bill Leahy in June of 2021 when he stepped down as director. So I'm happy to be here. This is my first time testifying on behalf of ILS.

And I want to thank you on behalf of the ILS board and the ILS office for the support that this Legislature has shown our office in the 11 years of our existence. And

of course I also want to thank you for this opportunity to talk to you about the Executive Budget as it pertains to indigent legal services.

And, you know, the Executive Budget for ILS is a story of good news and not-so-good news. So I'm going to start with the good news.

And the good news is that once again the Executive has included in the budget full funding for ILS to work towards one part of our mission, and that is improving the quality of mandated criminal defense. And this takes the form of, you know, $23.8 million to fully fund implementation of the Hurrell-Harring settlement in five counties -- but, just as importantly, an additional $50 million over last year's Aid to Localities budget to fully fund extension of the Hurrell-Harring settlement to the entire state, so all of the non-Hurrell-Harring counties and New York City. And so this year that will be a total of $250 million in our Aid to Localities

Budget for that endeavor.

And so that's the fifth year of the five-year phase-in for full implementation of the Hurrell-Harring settlement extension to the entire state.

And I know that this funding, both the settlement funding and the funding to extend it statewide, would not be possible without this Legislature's support for the work that we do, and we very much appreciate it. We work diligently to ensure that the funding is being spent responsibly and in accordance with the goals of the settlement and its implementation statewide. And, you know, when I'm done I'm happy to answer questions about our progress in statewide implementation and progress with the settlement.

So that's the good news. But then there's the not-so-good news. The not-so-good news has to do with that part of our mission regarding improving the quality of mandated parental representation for parents in Family Court proceedings.

And, you know, this is just as legally mandated, constitutionally mandated and statutorily mandated as criminal defense, and yet once again, you know, the Executive Budget, at $2.5 million in Aid to Localities for improved-quality Family Court representation is insufficient for the work that we need to do.

And, you know, I feel confident that based on last year's enacted budget, I don't need to convince you of how important it is to fully fund this initiative for ILS, to fully fund our request of $9 million in Aid to Localities for this. And I think I don't need to fully convince you because it's because of you that last year's enacted budget included $2.5 million for improved-quality Family Court representation. This was a legislative add in last year's budget, and we were gratified to see that the Executive in this year's budget honored what you did last year and included it in her proposed budget.

But the 2.5 million in this year's

Executive proposed budget is 6.5 million less than our request of 9 million and just a fraction of what is needed to address the lack of resources under which public defense attorneys currently work in the Family Court part of their practice.

And we recognize that the Legislature alone cannot fix this problem. The right to counsel in Family Court matters is a foundational constitutional and statutory right. It's no different from the right to counsel in criminal proceedings. And so it deserves a commitment by both the Executive and the Legislature to fully fund the quality improvements for mandated parental representation.

And I think that you appreciate the consequences of failure to address the crisis in Family Court representation. I think you understand that currently our public defense providers in their Family Court part of their practice work under crushing caseloads, that they don't have the resources that they need to fully investigate and litigate their cases

or to connect their clients with the supports that can prevent, you know, children from being removed from their parents. And I think that, you know, you understand what the model is that we're looking for in the funding.

In my written testimony I talk about sort of the various lenses through which one can view the importance of adequate funding for Family Court representation. I talk about the importance of family integrity and how fully funding this will not only honor, you know, the constitutional rights that parents have to legal representation, but it will also guard against children from being needlessly removed from their parents. Because currently, under our current system, public defense attorneys don't have the time and resources that they need to get courts the full information courts need in making decisions that are in the best interests of the children about these cases.

I also talk about the racial justice implications of this. I mean, we know that

currently our system is biased towards families of color and that bias plays out every day in our Family Courts. And, you know, the antidote to that is sufficient funding for attorneys who represent parents in Family Court issues.

And I also talk about the problems inherent in fixing one part of the mandated public defense system -- you know, the criminal part of it -- but not fixing the other part of it, which is the Family Court part of it.

So, you know, I encourage you to read my written testimony and to ask any questions that you have about it.

But my ask to you today is that over the next several weeks you make it a priority to include the additional $6.5 million for Family Court defense in the final enacted budget. And like I said, I recognize that it can't just be a legislative add, that this has got to be an Executive and Legislature joint commitment.

And in asking you to do this, I want

to emphasize that this funding does not need to come from the General Fund. There is a special fund available, the Indigent Legal Services Fund, which has adequate funding right now to pay both for mandated criminal defense and to fully fund our request for the 9 million for parental representation. And so I'm happy to answer any questions you have about that.

But before I finish I just want to touch very quickly on two additional issues that, though not in the ILS budget, are directly within our statutory mission.

And the first, of course, is the dire need to increase the Assigned Counsel Program rates. And I don't think I can explain the need for increased rates any better than Senator Bailey did in his editorial for the Daily News, so I'm not going to, you know, go on about it. But I will say that his editorial echoed a 2019 letter that Chief Judge DiFiore sent to the Legislature about the need to increase assigned counsel rates. And of course Judge Marks talked

about it earlier today in his testimony. So I think we can all agree that this is very important and now is the time to do it.

I would also just add, you know, from ILS's perspective we're starting to see that the failure to address this issue is starting to have an impact on our ability to fully implement the Hurrell-Harring settlement and to extend it statewide. Because as you know, an important component of that is caseload relief. But if the Assigned Counsel Program rates are not increased, we will continue to see attorneys just abandon the assigned counsel panels. And as Judge Marks told you earlier today, when attorneys leave the panels, there's not enough attorneys for which courts can assign cases, and the attorneys that are left have overwhelming caseloads.

So that's the perspective that we have. And, you know, I would encourage you to also address this issue as an ongoing discussion with the Executive about the final enacted budget.

And then finally, as we do every year -- and we do this every year because it's important -- we do request full funding for our partner, you know, the New York State Defender Association. NYSDA's work is incredibly important to the work that ILS does. I describe it in a little more detail in the written testimony.

But we see the work of NYSDA as, you know, critical to the ongoing work of improving the quality of both criminal defense and mandated parental defense. So again, I ask you -- you know, reiterate that request, as we do every year, that NYSDA receive full funding.

And so with that, I'm a little bit short of my 10 minutes, and I will pause and entertain questions.

CHAIRWOMAN KRUEGER: Thank you.

All right. So first up out of the box is chairman of Codes, Jamaal Bailey.

SENATOR BAILEY: Thank you, Madam Chair.

And thank you, Patricia, for being so

patient with today's testimony. It has been, as Chairwoman Krueger mentioned, it's been quite an extended hearing.

I want to thank you, and you've already said a lot of what I was going to already ask you about, the 18-B and the necessity for a raise for assigned counsel.

Just to put it in context, the last raise was in 2004. And in 2004 I, you know, was a few pounds -- a lot lighter and I was only an intern in the State Legislature. That tells you how long it's been since there has been a raise for assigned counsel.

But in all seriousness, could you -- if you could flesh out what that means to the average indigent person, to that family who can ill afford not to have representation, especially in a Family Court proceeding. Could you give me an example of what an overburdened attorney pool or what overburdened assigned counsel means for the folks that you advocate for?

ILS DIRECTOR WARTH: Sure. I mean, I think it means two really critical things.

First, there's often a significant delay in the assignment of counsel, as the ACP administrator or the judge, you know, calls around trying to find somebody who will take the case. And so what it means is that somebody's not represented at their first court appearance. And that's true for both criminal cases and Family Court cases.

And, you know, that undermines the goals, of course, of the settlement and its expansion statewide.

But then the second thing that it means is that you're not -- you don't have time to -- your attorney doesn't have time to fully investigate or litigate the case or to meet with you. So practically speaking, as a litigant, you're seeing your attorney for five minutes at the beginning of a court appearance and at the end of a court appearance, and that's pretty much it. You do not have the time to talk to your attorney about the situation, about your life circumstances, to really sort of flesh out the situation.

And so as a result, you don't fully understand the proceeding against you. You're confused, you're anxious and you're upset. But more importantly, you're not able to convey to your attorney really critical information that the attorney can use to fully investigate the case, whether it's a Family Court case or a criminal case. And so what that means is that critical information is left uninvestigated and not presented to a court in whatever type of proceeding it would be key.

And so, you know, from a person's point of view, you know, you walk away from the situation feeling like the system didn't work for you. And often -- you know, I see this a lot in criminal cases, but people give up. And often they take a plea even if they're not guilty, but because they're just -- they know the system isn't working, they know it's not fair for them, and so they just throw in the towel and they just, you know, take whatever plea is recommended to them by the attorney.

And the same thing happens in Family Court proceedings as well. And so sometimes people lose their children, when they really shouldn't have to, because of the lack of resources that their attorney had.

SENATOR BAILEY: So it's fair to say that the raise is not simply just about compensating individuals more, it is about providing families throughout the State of New York with greater support systems via the legal system and the surrounding system. I think that would be a fair assessment to make.

ILS DIRECTOR WARTH: You know, and I'm glad you said that, because what that goes to is that, you know, we're asking for two things. Right? We're asking for the $9 million in Aid to Localities for parental representation, improved parental representation. And we're asking for this Legislature to, you know, work hard on increasing the ACP rates.

And I know you and I talked about that earlier as parallel asks, and I really see

them as intertwined asks, because they both achieve the same thing: Ensuring that there's justice for our families and ensuring that children are not needlessly taken from their parents. And they're both needed to do that.

SENATOR BAILEY: Absolutely. Look, I think that -- you know, I think that we need to fund defense, we need to fund prosecution, we need to fund family attorneys, we need to fund everybody. If we're not funding attorneys or offices or agencies that dispense the representation of the people, then I think that, you know, we're not -- I think we're doing ourselves a major disservice.

My final question before I yield the rest of my time. Is there any -- you mentioned that -- and I think it's something that, if you're paying attention, that these unfortunate circumstances affect people and children of color more adversely. Is there a geographical bent to this in this state? Do you find that this is happening more

downstate or upstate? Or is it something that happens throughout our great state?

ILS DIRECTOR WARTH: It's -- unfortunately, it's something that happens throughout our great state.

People are discriminated against because they're Black or brown and sometimes just because they're poor. You know, I see it every day in our courts, playing out, the moral judgments against people who are poor. And, you know, the sort of implicit biases that play out because of those judgments.

It's unfortunate, but again, you know, I can tell you -- you know, I was a lucky attorney. My first gig as a criminal defense attorney was working for the Capital Defender Office here in New York, and we were adequately funded. And so I had the time to meet with my clients, to meet with their family members, to learn about their life circumstances. And I truly believe that that armed me -- the information I learned from them armed me with the tools that I needed to be able to fend off that type of implicit

bias.

Because it's that ability to humanize our clients, to tell their stories, that -- that's the best anecdote that I can think of to the implicit bias in decision-making that is natural that we see play out every day in our court system.

SENATOR BAILEY: So it's fair to say that whether it's the Bronx County or Broome County, that we need to do this throughout the state. I think that would be a fair assessment.

This is my actual last question, because I just thought of another one. Obviously we have seen the -- based upon the Hurrell-Harring settlement, we have seen increased strength in representation along with a decline in caseload.

Would you venture to say that if the caseloads decline on the parental side, on the family side, that we would see that same quality of representation go up?

ILS DIRECTOR WARTH: Absolutely. I mean, they go hand in hand. And that's not

to say that it happens automatically. And that's -- you know, that's the value of having a state agency like ILS work with the counties on the plan for using the funding effectively to not only reduce caseloads but increase quality.

You know, it's that plan that's effectuated through contracts that we issue to the counties that I think is accountability for everybody involved. And we've seen that it's working very effectively in the Hurrell-Harring counties. We're starting to see it work effectively with, you know, extending Hurrell-Harring across the state. And we have an opportunity to see it work just as effectively with the 2.5 million that was part of ILS's Aid to Localities budget this year, and this week we are sending out the contracts to the five counties that were awarded $500,000 each over three years for that 2.5 million. And we're already starting to meet with the counties to talk about how do we measure the improvement in representation that we're going to realize

through even that small amount of funding.

But yes, you know, the -- reduce the caseloads, monitor what is happening, and you will see improved quality.

SENATOR BAILEY: Thank you. I just want to say thank you for all the work that you do at ILS. I just want to say that the agency remains in excellent hands. Thank you for the work that you do in the agency, Patricia. It's a pleasure to work with you.

Madam Chair, I yield the rest of my time.

ILS DIRECTOR WARTH: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Chair Weinstein. We'll roll it to you for dueling chairs.

CHAIRWOMAN WEINSTEIN: Yes. And we'll go to Assemblyman Dinowitz, chair of the Codes Committee first, for 10 minutes.

ASSEMBLYMAN DINOWITZ: Thank you.

Well, first let me just say thank you to you, Patricia, and to ILS for the work that you do and for the impact that you've had on so many people, so many families in

New York. It makes a difference.

I just have a couple of questions. One is kind of a very general question and then the other is a little more specific.

So your office, your goal is to be able to represent people who need representation. My question is in terms of people who should be eligible for representation, like how many are actually getting representation assigned to them?

ILS DIRECTOR WARTH: That's a really good question.

As part of that, we -- and as part of the settlement, we were required to develop standards for determining financial eligibility for assignment of counsel in criminal cases for the Hurrell-Harring settlement. And those standards are -- our authorizing statute, our implementing statute authorizes us to do those as well. So the settlement, you know, inspired us to do that.

And we have done those standards. We did a very extensive training program in partnership with NYSDA statewide to implement

these standards. I should also say OCA worked with us and the Office of Justice Court Supports on training judges, so we had training of providers and judges.

And what we've been hearing, and particularly in Hurrell-Harring counties, is that they've been very effective at ensuring that people who cannot afford to retain counsel in criminal cases are getting counsel. And that because they streamline the eligibility process, people are getting counsel quickly. It's not a long, belabored process.

This past year we updated those standards pursuant to a recommendation of the Chief Judge's Commission on Parental Representation. We updated those standards to include Family Court representation as well. And we're starting to work very closely with counties on -- and we worked with NYSDA on a training -- again, training providers in how to implement those standards in Family Court cases. And, you know, we're looking forward to having, you know, the

capacity to start to see how that's working too.

But what we're hearing is that when the standards are applied, that people who need counsel get it. In other words, that most people who apply for counsel get counsel.

ASSEMBLYMAN DINOWITZ: Okay. Well, that's good. That's very good to hear.

Coming from the Bronx, one of the big issues we have is the tremendous need for representation of people in our immigrant community, immigrant proceedings where people are facing deportation. And, you know, I don't know what the numbers are, but I'm sure it's quite significant.

Has your office been involved in establishing and improving representation to immigrant-related proceedings for persons who can't afford representation? Which I'm sure are a very significant portion of the community.

ILS DIRECTOR WARTH: Yeah. Our office isn't. That's not part of our statutory

mandate. Again, our mandate focuses on criminal defense in criminal court and parental representation in Family Court.

However, as you may know, several years ago the United States Supreme Court issued a decision saying that in criminal cases it's an obligation of the defense attorney to advise his or her noncitizen client of the immigration consequences of both the arrest and a possible conviction.

And so towards that end, we've developed six what we call regional immigration assistance centers. And so there are six centers across the state, they essentially cover the whole state, and they assist criminal defense attorneys and also Family Court attorneys in advising their clients as to the immigration consequences of either a criminal proceeding or a Family Court proceeding or, for clients who are involved in both, of both proceedings.

And so, you know, it's not quite, you know, what you were asking, but it's still the work that we can do on our end to ensure

that noncitizens have the representation that they need, at least in one part of their involvement in the justice system or the Family Court system.

ASSEMBLYMAN DINOWITZ: Okay. Thank you very much. And again, thank you for everything that you do.

ILS DIRECTOR WARTH: Thank you.

CHAIRWOMAN KRUEGER: I think we'll go back now to our other chair, Senator Brad Hoylman.

SENATOR HOYLMAN: Thank you, Chair Krueger.

Good evening, Ms. Warth. Thank you for your advocacy and all of your work -- and your colleague Burton Phillips, who used to be my colleague in the Senate.

And wanted to also acknowledge all the work that my colleagues did last session in getting your -- and now the Executive having bought in, if you will, to the increase that we were able to provide last year.

But when it comes to Family Court, you know, we look at Hurrell-Harring as kind of

the doomsday scenario, if you will, in terms of the Legislature being able to dictate its own budget.

Are you concerned that we might see something similar -- you know, a court case, a class action lawsuit where it might be mandated for us to require the funding of representation in Family Court?

ILS DIRECTOR WARTH: Absolutely. I mean, you know, Burton talks about this, right? He frames it as we're seeing historical echoes right now. Right?

The Hurrell-Harring lawsuit, you know, as people know was instigated by sort of a couple of key components: One, a constitutional and statutory right to counsel in criminal proceedings; two, you know, the counties having the responsibility of paying for that, you know, implementing that, right, which is really a state obligation; and three, a commission that studied it and found that the current system was deeply flawed and wasn't meeting constitutional and statutory obligations. So those were the essential

1 components that led to the Hurrell-Harring
2 litigation.
3 Well, they all exist right now for
4 Family Court representation. You know, you
5 have the constitutional and statutory right
6 to counsel of parents in Family Court
7 proceedings. You have the state not stepping
8 up to the plate, essentially, and doing its
9 part in funding that but instead, you know,
10 requiring the counties to do it. And then
11 you have -- in 2019 you have a commission
12 convened by a chief judge, in this case
13 Chief Judge DiFiore, which did extensive
14 hearings and collected a lot of information
15 and produced a report that just basically
16 mirrored the report that was issued back in
17 2006 by then the Kaye Commission, really just
18 outlining just how broken the system is for
19 the delivery of legal representation for
20 parents in Family Court proceedings.
21 And I also want to add one thing to
22 that. You know, I was rereading a case, a
23 1972 case called Matter of Ella B., and that
24 was a case in which the Court of Appeals

reminded everybody that the right to counsel for parents in Family Court proceedings is a constitutional imperative. And it was interesting because the argument made to the court at that point for defending a judge's decision to not advise a mother who was at risk of losing her child that she had the right the counsel -- the argument that was made to defend that decision was, Well, it's Family Court, it's not the same as criminal. This isn't a right that is important.

And the Court of Appeals rejected that argument and said we're talking about a fundamental interest that a parent has in his or her children. Of course that's fundamental. Of course that's just as important as the right to counsel in criminal proceedings.

And, you know, what I think is key about the DiFiore Commission's report is that they not only frame the issue as the right for parents, but they also talk about the issue as the right for children to make sure that cases are fully and fairly litigated so

that judges have the full and complete information that they need to make decisions that are in the best interests of the children.

And so I think the DiFiore Commission sort of closed the loop in that regard and really sort of talked about the importance of this funding both, you know, to honor the constitutional right for parents but also to honor the importance of family integrity.

SENATOR HOYLMAN: It's so interesting. So like -- so basically the sanctity of parenthood is viewed as integral, as important as the sanctity to one's liberty in a criminal case.

ILS DIRECTOR WARTH: Yeah. I mean and I've had clients who had both a pending Family Court proceeding and a criminal proceeding, and almost uniformly they were more worried about the Family Court proceeding. That meant more to them. You know, losing their children meant more to them.

SENATOR HOYLMAN: Meant more.

Now, so we're talking about 6.5 million to make up the differential, is that correct?

ILS DIRECTOR WARTH: That's correct, yes.

SENATOR HOYLMAN: And practically speaking, what does that look like in terms of the number of families that would then be represented?

ILS DIRECTOR WARTH: Well, you know, that -- I would love to be able to give you that answer. I think with the 2.5 we're going to find out more, you know, the exact number of how the families -- or how that works.

But it's also -- you know another way to think about it is if, you know, you have one public defender office, even just adding one attorney reduces the caseloads of all the attorneys in that office. So it really impacts all of the clients for that office.

And so, you know, whatever number I gave you -- you know, if I just gave you a number of what that one attorney -- the

number of clients that one attorney represented, it really would underestimate the full impact. Still, that's the kind of information we're going to try to get.

SENATOR HOYLMAN: And then finally, can you help us understand why Family Court representation is part of the Public Protection budget hearing? How are those two connected?

ILS DIRECTOR WARTH: Yeah. I mean, I think I go back to Ella B. for that one. You know, as soon as the Court of Appeals said this is the same, right, these two interests are both so foundational that the state really has a requirement to make sure that there's the right to counsel.

And so after Ella B., the right to representation of parents in Family Court proceedings was added to County Law Article 18, which was already established for criminal cases. And so, you know, it's now the same offices, the same providers do both. They do both criminal representation and the representation of parents in Family Court

proceedings.

And so that's our office's mission. You know, we work to improve the quality of representation provided under County Law 18-B. And so that's sort of where it all came together. But that also speaks to why, you know, I'm sort of reiterating the problem of trying to fix one part of the system and not the other part of the system.

SENATOR HOYLMAN: Thank you.

Finally, on the ILS -- (overtalk). Sorry, my 4-year-old interrupting. On the assigned counsel rates -- I'm not sure if you touched on this with Senator Bailey -- why do you take the position that the cost of any increases should be shouldered by New York State rather than by the counties or localities?

ILS DIRECTOR WARTH: Well, you know, I think we need to learn the lesson that we learned from 2004. And in 2004, you know, when the rate was increased, the counties had to fully assume fiscal responsibility for that increase. And so what we saw across the

state is that in order to pay for that increase, counties cut costs and mandated representation in other ways. Right?

And so we saw public defense providers, you know, their budgets were cut. We saw the creation of these conflict defender contracts that, you know, would ask one person to represent an inordinate number of clients in both family and criminal case proceedings.

And, you know, I really felt like -- you know, my first several years at ILS was working as the chief attorney for the Hurrell-Harring settlement implementation unit, and truly I felt like a lot of what I was doing was undoing the damage from the decision made in 2004 to require the counties to pay the increase.

You know, and I'm not asking the state to pay the full cost for assigned counsel rates. You know, I think for the counties to continue to pay the current rates and the counties to, you know, to pay the increase I think is a sort of fair resolution of that.

SENATOR HOYLMAN: Thank you very much. Thank you, Madam Chair.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to Assemblyman Lavine, chair of the Judiciary Committee, 10 minutes. And he'll be followed by Assemblyman Epstein.

Go ahead, Mr. Lavine.

THE MODERATOR: I think you're still muted.

CHAIRWOMAN WEINSTEIN: No, you are not muted, but we cannot hear you.

Why don't we go to Assemblyman -- since there are no other Senators, we'll go to Assemblyman Epstein while we figure out Mr. Lavine's issue with sound.

CHAIRWOMAN KRUEGER: And it might be the best to just turn yourself off, Chuck, and then try to come back into Zoom. Sometimes that takes care of it.

ASSEMBLYMAN LAVINE: Well, that worked.

CHAIRWOMAN KRUEGER: Oh, okay. Fine.

CHAIRWOMAN WEINSTEIN: Since Harvey's busy talking on the -- yes, go ahead.

(Laughter.)

ASSEMBLYMAN LAVINE: Thanks. And sorry.

Patricia, I was once a public defender. I did 18-B work in the criminal realm and in Family Court. And I was also learned counsel on death penalty cases and did CJA work in the federal courts. So needless to say, I could not be prouder of what you do. But I want to share what my experience was as an 18-B attorney.

Sure enough, whenever I needed an expert, whenever I needed an investigator, I had to engage in a lengthy piece of motion practice -- and that's assuming on some of these cases I could find a qualified investigator or the experts would be willing to work at what were the 18-B rates in those days. Now, this is a long time ago.

I never had that problem on death penalty cases. I never once had that problem in representation in the federal courts.

What's the experience these days in terms of attorneys being able to work with

experts and investigators who actually will be paid?

ILS DIRECTOR WARTH: Yeah. Well, the experience is different depending on whether it's a criminal case or a Family Court case. Because of the Hurrell-Harring settlement and its extension statewide, we've worked with the counties on making funding available -- and this is state funding available -- in criminal cases for the ACP attorneys to access experts without having to go through that difficult motion process.

And so we're working with the assigned counsel programs, you know, so part of what we're doing is we're building the infrastructure for the assigned counsel programs so that there's somebody within the program. And every program designates somebody different to review a request for an expert and then to review vouchers for an expert. But it doesn't have to go in front of a judge, and it's not a complicated request process.

And in some cases, you know, if you

need an expert like an investigator -- sometimes you need the investigator yesterday. And if you have to go through the complicated process, evidence is going to be lost. And so now the ACPs have systems in place in their criminal cases where, you know, the person can get the expert and then get the ACP to pay for it with the, you know, post hoc application, if you will.

And so that's working really, really well for the criminal attorneys. The same thing isn't available for Family Court attorneys because the funding isn't there. And that's the type of thing we want to do, is to make sure that we can do that for both the criminal side of a public defense practice but also the Family Court side of it.

ASSEMBLYMAN LAVINE: Well, good lawyering and good lobbying, Patricia.

If we are able to make some progress in terms of being able to take care of this differential, does the amount that you suggested cover not simply just the attorneys

but experts and investigators as well?

ILS DIRECTOR WARTH: So for -- you know, we're issuing -- you know, again I go back to the 2.5 that was added as a result of this Legislature's work. We worked, you know, very quickly to get board approval to issue an RFP. We issued an RFP for five awards of $500,000 each over three years. So that's not a lot of money. It's $167,000 per year.

We had 25 counties apply, all of them -- I mean, just really excellent proposals. You know, We had a scoring system. We're issuing contracts to the top five awardees this week. And I think three of those contracts include that type of funding. And so like Cortland County was one of the awardees, and so they're funding an attorney to reduce caseloads. And then the extra funding that they have that -- you know, they're having a pot of money so they can access experts in their Family Court cases as well.

And so, you know, it's a small amount

of money, but it's going to have a significant impact in that county. And it's going to jump-start the process of improving the quality of representation.

Now, to be fair, when I talked to the public defender, he said, you know, "I wish I had enough money for a social worker. That's what I really need." You know, so that's why we're asking for more.

ASSEMBLYMAN LAVINE: And let me advocate for that, because as part of the training to be learned counsel on death penalty cases, the fact that social workers play such a critical role in adopting a holistic approach to handling a case is something I will never forget.

So I didn't mean to leave out social workers from the equation. And I simply want to say thanks for what you do. And whatever time I have left, I rest my case.

ILS DIRECTOR WARTH: Thank you.

CHAIRWOMAN KRUEGER: Thank you. I think, Assemblywoman, we're still done, so --

CHAIRWOMAN WEINSTEIN: Okay, we have

now Assemblyman Epstein. Three minutes on the clock, please.

ASSEMBLYMAN EPSTEIN: Thank you, Chair Weinstein.

Appreciate you being here, Director.

So, you know, we've talked about limited resources for -- just to disclose, I'm a former civil legal services lawyer for decades, ran programs. And so this is something that is deeply meaningful to me as well.

And I'm wondering, since we always talk about limited pots, I'm wondering, instead of focusing on an area of law, focusing on a population. And I'm wondering what -- if you've had those conversations internally that say, you know, with a population of veterans, they need family law help, housing help, you know, public benefits. Can we do comprehensive services to that population instead of driven to an area of law?

ILS DIRECTOR WARTH: Yeah, I mean, I think that's a really good question.

Except the issue that we would have with that is that the constitutional statutory mandate doesn't just target a population. You know? It targets everybody who is entitled to counsel. And so I think we'd be doing a disservice to our mission if we were to just limit it to a population.

Having said that, I will admit that for the 2.5 million that we received in Aid to Localities for improved-quality parental representation, we did focus -- for the RFP that we issued, we did focus that funding on one type of Family Court matter, and that's state intervention matters. Those are the matters that involve parents, you know, potentially losing their children.

And so yes, we did -- you know, given the limited funding, we did focus, you know, sort of along the lines of what you're talking about.

I would also say, though, that, you know, I understand the issue of limited funding. But we do know that this year we do have a healthier economy and a healthier

state budget. And I also reiterate what I said about the Indigent Legal Services Fund: The additional funding that we're requesting for parental representation can and should come out of that fund. That's exactly what it was made for.

ASSEMBLYMAN EPSTEIN: Just so you know, I think we should have a right to counsel. I firmly believe in the right to counsel statewide on a whole host of issues for lower-income New Yorkers. And so, you know, I agree that the pot doesn't have to be limited. But I think once we continue to show successes, like you said, like in a certain type of Family Court case if we create a right, in a certain type of, you know, population we create a right -- that, you know, whether it's -- we talked about, you know, more money for housing, but that's still -- then the lawyer is making the choice -- you know, the Governor.

Instead of saying you have a right, now you can exercise this right to get free services because you're entitled to it,

instead of the program saying, oh, we're going to choose which case based on this initial money we got that we think has the most merit.

ILS DIRECTOR WARTH: Right, yeah.

ASSEMBLYMAN EPSTEIN: So I wonder how you'd feel -- I know I've run out of time, but it would be great to continue the conversation about how we reframe the conversation.

ILS DIRECTOR WARTH: Yeah, I mean -- and I think that's how our mandate is different from normal civil legal services. There's already been a court decision that somebody has the right to counsel for the work that we do. You know, so -- so, you know, it's not quite in the same area.

CHAIRWOMAN WEINSTEIN: Thank you.

We have Assemblywoman Kelles to close for this witness.

ASSEMBLYWOMAN KELLES: Thank you.

And my deepest apologies. All of us are running in between three different meetings all at the same time, so I'm sure --

you know, I may have missed some things. And I understand the questions that are being asked.

I see that the budget increases by 50 million in funding for the continued expansion of performed guidance for -- by the Hurrell-Harring. Is that the funding you're referring to that you are requesting?

ILS DIRECTOR WARTH: No. That is already in the Executive Budget. And that is part of the five-year plan to implement the extension of the Hurrell-Harring settlement statewide in a five-year increment. So the first year was 50 million, the second year -- and so this is the fifth year, so this is the full 250 million needed.

ASSEMBLYWOMAN KELLES: Okay. And in the request I'm curious if it incorporates for all the specialty courts like the Mental Health Court -- you were speaking about Family Court earlier -- to cover the legal counsel -- right to counsel.

I agree with my colleague who just spoke. Absolutely huge supporter of right to

counsel across the whole state for everyone who is low-income and needs it. So I'm trying to get a sense of what the request would cover. Does it cover all specialty courts? Does it also cover resource coordinators for these courts that I know help once -- you know, once cases are finalized, help individuals access the resources that they're required to, for example? A really important position on top of the social workers.

So I'm trying to get a sense of what is incorporated into that request.

ILS DIRECTOR WARTH: Well, the extension of the Hurrell-Harring settlement statewide is all criminal cases where somebody's entitled to counsel and financially eligible for assigned counsel.

And so that would cover any specialty court that's a criminal court. Which tends to be the -- you know, substance abuse courts, the opioid courts, the mental health courts. So that involves people arrested for a criminal offense.

For the Family Courts, it's a little bit different. And so, you know, you can face a situation where somebody has, you know, both a pending criminal case and a Family Court case, in it might be an integrated court, and they're going to have one attorney, the criminal attorney, who's going to have sufficient resources because of everything this Legislature has done in supporting our work to implement the settlement and extend it -- but then the Family Court attorney on the Family Court proceeding isn't going to have the same resources.

ASSEMBLYWOMAN KELLES: Right. So the request is to -- but that's not --

ILS DIRECTOR WARTH: The additional 6.5 million in Aid for Localities for improved-quality parental representation.

ASSEMBLYWOMAN KELLES: Got it. And that was the other piece you were speaking with Assemblymember Lavine about.

ILS DIRECTOR WARTH: Right.

ASSEMBLYWOMAN KELLES: And with

respect to the resource coordinators and the investigators for the criminal courts, I had heard earlier a little piece. But does this funding request also cover those types of services and positions?

ILS DIRECTOR WARTH: So our funding can pay for staff or people associated with the public defender. Right? But we can't -- we don't pay for court staff.

ASSEMBLYWOMAN KELLES: Got it. Thank you so much.

CHAIRWOMAN KRUEGER: Thank you for testifying. And I think that our chairs did a good job of grilling you, so we covered a lot of territory. Thank you for being with us tonight.

And for others who have been waiting patiently, we are now shifting into the second part of this hearing. And in the second part, with non-governmental representatives, we have panels that people have been put on.

Each individual will get three minutes to testify. Then legislators will have three

minutes in total to ask questions of the panel. So hopefully that's not too complicated. And the panels aren't that many people. We have two or three -- oh, on one or two we have four reps.

So I know some of you are thinking, Will I ever leave for dinner? Maybe not. But we're trying to make sure that everybody has a chance to testify and that legislators have a chance to ask a few questions.

And again, for anyone watching, everyone is welcome to submit written testimony, even if you feel that you don't have a chance to go over all your critical points in your presentation. Or you might not have gotten a slot to testify. I'm getting questions even today, now, can people be added to today's hearing. The answer is no, of course.

But you can submit written testimony. And every legislator and all of the staff and the central staff that work on the budget on behalf of the Assembly and the Senate do get all of this.

So now I would like to call up Panel A: The Vera Institute of Justice, Shayna Kessler, senior planner; and Neighbors Link, Karin Anderson Ponzer, director, Neighbors Link Community Law Practice.

Are both of our panelists here with us? I see them, yes. All right, so let's -- in the order you were called up.

Hi, Shayna. Take your mute off and please testify.

MS. KESSLER: Good evening. Thank you very much, Madam Chair.

And thank you to the full committee for your time and perseverance today.

My name is Shayna Kessler. I am a senior planner with the Vera Institute of Justice. I am pleased to testify today in support of two areas in which Vera leads work in New York: Legal representation for immigrants, and pretrial reforms in the criminal legal system.

Regarding immigration, we support an increased investment in New York's immigration legal services, specifically a

$15.3 million investment in the Liberty Defense Project and a $9.1 million investment in the Office for New Americans, totaling $24.4 million. This would support critical legal services for immigrants facing deportation, including the pioneering New York Immigrant Family Unity Project, or NYIFUP.

New York's investment in such representation provides a beacon of hope for those torn from their homes by immigration enforcement, which continues to be an enormous risk.

Immigrant New Yorkers are deeply woven into the fabric of our state. One in three New York children has an immigrant parent, and more than one-quarter of our workforce is foreign-born. During the pandemic, immigrants performed work that sustains our economy and safeguards public health, and they'll continue to do so long after it ends.

Providing lawyers to people is key. Immigrants in detention with lawyers are 10 times more likely to prove the right to

remain in the United States than those without lawyers. Governor Hochul included $20 million in her Executive Budget for these services, but that falls short of the need, and thousands are still forced into detention and immigration court without access to counsel.

Just this month we're seeing the worst COVID-19 outbreak in ICE detention since the pandemic began. We call on the Legislature to increase funding to $24.4 million this year and simultaneously to pass the Access to Representation Act, which would establish a permanent right to representation for people facing deportation in our state. The public understands that this is the fair thing to do, and polling shows that 93 percent of New Yorkers support government-funded lawyers for people in immigration court.

Regarding the public safety budget, we appreciate the Governor's proposal to triple Executive funding for community-based gun violence responses and for $10 million in new funding to support pretrial services. These

represent an important investment in evidence-based approaches to gun violence and criminal legal system involvement.

We hope the Legislature will continue its long-time commitment to these issues by providing additional funding, especially for pretrial services. We also urge that this money go to non-law enforcement entities that are better suited to support the success of individuals and communities.

Thank you very much for your time and support for these issues.

CHAIRWOMAN KRUEGER: Thank you.

And Shayna Kessler -- I'm sorry, that was Shayna Kessler.

Karin Anderson, excuse me. It's getting a little late.

MS. PONZER: Absolutely. Thank you so much for the opportunity to testify this evening.

My name is Karin Anderson Ponzer, and I'm the director of the Neighbors Link Community Law Practice. The mission of Neighbors Link is to make the whole community

stronger through the healthy integration of immigrants.

Neighbors Link is grateful to the Assembly and the Senate for convening this important hearing today. We've long been vocal advocates for access to legal representation for immigrants in removal proceedings and in applications for immigration benefits.

We urge the inclusion of 24.4 million in funding for immigration legal services in the fiscal '22-'23 New York State budget. Our legal team represents hundreds of immigrant New Yorkers every year in immigration matters ranging from deportation defense to naturalization. But we still must turn away many more because our attorneys and our Department of Justice-accredited representatives simply can't handle any more cases.

Our community-based organization has witnessed the devastation that immigrant New Yorkers have experienced in recent years due to harsh immigration policies. But we

also know the transformative power of immigration law to protect the vulnerable and to keep families together and transform lives -- if and when an individual facing the immigration system has access to representation.

Our clients are low-to-moderate-income New Yorkers who are balancing jobs, family, and a lot of other responsibilities with limited resources. They're the backbone of the communities where we live and work. They're healthcare workers, food service workers, teachers, child and healthcare providers, construction, building and trade workers, and so many more.

When they are able to achieve permanent legal status, naturalization as U.S. citizens, and reunite with families, our communities are stronger. But when their families are torn apart by deportation, separated by delays in immigration application processing, and preyed upon by unscrupulous practitioners, our communities are weaker and we all feel the pain.

The experience of the past 10 years demonstrates that immigration law will always impact the lives of New Yorkers, whether it's through overbroad civil enforcement that tears families apart or changes in federal law that may create new opportunities to achieve legal status.

Whether it's through barriers to federal benefits like the CARES Act funding, because of a lack of immigration status -- which made it impossible for many people to access those funds -- or the urgent need of New Yorkers that we see these days for legal assistance to help friends and family who fled persecution and violence in their countries of origin, robust funding for immigration legal services is an investment that makes all New York stronger.

Neighbors Link endorses the continued funding of the LDP and ONA, and the expansion of funding to 24.4 million.

Thank you so much.

CHAIR KRUEGER: Excuse me. I see Senator Pete Harckham's hand up.

SENATOR HARCKHAM: Thank you, Madam Chair, and thank you both for your testimony. Thanks for bearing with us so late in the evening.

And Karin, always great to see you. I'm proud that Neighbors Link is in my district and Assemblyman Burdick's district.

You both spoke of the $24 million and the need for more funding. We've been speaking tonight with a number of folks about structural issues with the legal system as it pertains to our most vulnerable. So is this just a fiscal issue for you and your partner agencies? Or are there other structural things that we need to be doing on New York's side of the ledger to improve legal services for our immigrant communities?

I know part of it is dealing with federal law, but there are still some state issues as well. So are there other things we can do to be helpful? And that question goes to both of you.

MS. KESSLER: Thank you very much. I can begin -- and Karin, happy for you to

follow up.

Thank you very much, Senator, for the question, and I think it's a terrific one and thank you for considering it. There's certainly an enormous need for funding for legal and social services. There's insufficient access to not just attorneys but social worker support and a wide variety of things.

And so there's a bill, the Access to Representation Act, which would at the structural level really advance New York's leadership in this area by establishing a right to representation for people in New York facing deportation. And that bill would -- the funding that we're seeking would do a significant amount of good, but it wouldn't come close to meeting the full need of all the people that go unrepresented, of all the people that go without the full scope of services that they should have when they're facing permanent family separation and deportation.

And so, you know, passing the

Access to Representation Act would advance New York's leadership and really -- and ensure that no one in New York faces the terrifying prospect of deportation without an attorney. And so I think that's really the next step.

There's some great work that can be done through the budget by funding this work, and we very much look forward to advancing the Access to Representation Act and advancing New York's leadership on that level.

CHAIRWOMAN KRUEGER: Thank you.

And next I see --

CHAIRWOMAN WEINSTEIN: -- Assemblyman Burdick.

CHAIRWOMAN KRUEGER: Oh, you're back.

CHAIRWOMAN WEINSTEIN: Thank you. The microwave is working.

I see Assemblymember Burdick, to close on this panel.

ASSEMBLYMAN BURDICK: Yes, thank you.

And thank you both for your testimony.

And Neighbors Link, without any

question, is an absolute gem in the district that I represent in Mount Kisco -- but they operate, of course -- you operate throughout Westchester County, and you do some trailblazing work. And I was pleased to be able to get some funding to Neighbors Link earlier this year.

And I just -- a couple questions. One is on the budgetary request. Do you know what agency that would be -- is that going to be -- what agency would that be a part of a budget to? Because I may have missed it in your testimony, but I didn't see what part of the budget it would relate to.

MS. PONZER: The Office for New Americans.

Shayna, if you would like to speak to that.

MS. KESSLER: That's correct. It's under the Office for New Americans. There's two lines --

ASSEMBLYMAN BURDICK: But there are two parts, right? One is the -- that there are two different asks on the money side.

Are they both to the Office for New Americans?

MS. KESSLER: That's correct. Yes. They're both --

ASSEMBLYMAN BURDICK: Okay. That's fine. I just need to know when we're putting together budget letters and that sort of thing to try to get support for it.

And the Access for Representation Act, do you have any idea how that's coming along? I assume that there might be other states in the country that have similar statutes, and could you tell us a little bit about that?

MS. KESSLER: Certainly, yes. This is a growing movement across the country. There is a bill -- Maryland is the other state with the most active bill on this level. Colorado is considering one, and several other states -- there's a total of eight states right now that fund deportation defense. All of them followed New York's lead in doing so.

And really the sort of next step in this movement is the leadership of New York in passing the Access to Representation Act.

And this is really, you know, to both serve New Yorkers facing deportation and providing really critical services to New Yorkers, but also really modeling for the federal government that it should be the federal government stepping up to foot this bill.

And it will be with the leadership of New York and the states that are following New York, I believe, that will ultimately make this happen at the federal level and ensure that everybody does have access to representation.

ASSEMBLYMAN BURDICK: And lastly, and my time is running out, but then it would be made -- by putting it in here, then, it would be grant funding that would then be available to agencies like Neighbors Link, correct?

MS. KESSLER: That's exactly right. Yes.

ASSEMBLYMAN BURDICK: Okay. Thank you very much, and keep up the good work you're doing.

CHAIRWOMAN KRUEGER: Thank you, ladies, both for being with us and hanging

out all day. Although at least you don't have to sit in a conference room all day.

CHAIRWOMAN WEINSTEIN: We have -- we do have another.

CHAIRWOMAN KRUEGER: Oh, you have another --

CHAIRWOMAN WEINSTEIN: Assemblymember Kelles --

CHAIRWOMAN KRUEGER: Assemblymember Kelles likes to come in last.

ASSEMBLYWOMAN KELLES: I apologize. I like to listen to the conversation. I learn so much from it.

But I will be quick. I actually both wanted to thank you both on the work that you're doing. And my deepest apologies, but I'm pivoting slightly. I support -- I'm just going to put that out there -- I will certainly fight -- Chris, I'll second what he said.

But Shayna, I actually wanted to speak with you very briefly about a conversation that I had earlier today with OCA with respect to a report from the Vera Institute

on the worsening of the racial disparities in bail being set that has been significantly increased, actually, for people of color, particularly men of color, and get a sense from you of what needs to be -- what information do we need.

What needs to be done, in your opinion, from the research that you did? How can we address that issue?

MS. KESSLER: I will say I will have to refer you to my colleagues whose expertise is in bail. My expertise is on the immigration side.

But what I can say with certainty is that standing firm on bail reform -- that the reforms were solid. We are grateful that they were enacted, and we certainly support their continuation. And that will be what will enable us to ensure that we have the policy in place to address the racial disparities in the system.

Apologies that I can't speak in detail to that report.

ASSEMBLYWOMAN KELLES: Don't worry

about it.

MS. KESSLER: But certainly I will inform my colleagues and refer them to you as well.

ASSEMBLYWOMAN KELLES: Wonderful. If they could reach out, that would be amazing.

I have worked with your institute for many years as a county legislator as well, so I know you cover many issues. So no worries that you are not an expert in every single one of them. I know you work with a great team.

So thank you to both of you. I relinquish my last minute.

CHAIRWOMAN KRUEGER: Okay. And now -- I just don't want to cut off anybody else accidentally. No? All right.

Now I will thank these two testifiers and go on to Panel B, Legal Services of the Hudson Valley, Rachel Halperin, CEO; New York State Coalition Against Domestic Violence, Joan Gerhardt, director of public policy and advocacy; Treatment Not Jail Coalition, Anthony Maud; and Families Civil Liberties

Union, Sebastian Doggart, executive director.

Good evening, everyone. Okay. Is Legal Services' Rachel Halperin in here? Yes, she is. I'll start with you.

Good evening.

MS. HALPERIN: Good evening. I'm Rachel Halperin. I'm the CEO of Legal Services of the Hudson Valley. We provide comprehensive civil legal services in seven counties in the Hudson Valley.

I'm also here tonight on behalf of the Legal Services Coalition of New York, which is a membership organization of over 50 civil/legal services providers throughout New York State.

We are requesting that New York State dedicate state funding to ensure the continuity and sustainability of New York's legal services for crime victims, which is in jeopardy because of the decline in federal VOCA funds coming into New York State.

In 2018, OVS issued an RFP for attorney services for crime victims and awarded $16.7 million a year to over

60 providers, which created an extensive network of civil legal services support for crime victims. As a result of this funding, for example, my organization created 20 new positions and has provided legal services to almost 1200 crime victims in close to 2,000 cases since 2018.

Last month, OVS notified all the providers under this contract that the contract was going to be terminated one year early, effective September 2022. OVS did explain that was because of a decline in federal VOCA funds to New York State and they could no longer afford these contracts.

OVS invited current providers to compete in an RFP that was issued this month that lumps all three of the OVS programs together so we would compete against each other for a smaller pot of money. Immediately upon receipt of this notice, LSHV, like other providers, had to close our intakes.

These legal cases in custody, immigration, divorce, orders of protection,

take months and years. And as attorneys, we're ethically obligated -- once we enter our appearance, we have to provide representation to clients despite losing our funding. We also put a hiring freeze on any open positions.

Legal Services Coalition, in coordination with NYSCADV, who you're going to hear from after me, met with the Governor's staff prior to her releasing her budget to explain this issue and encourage her to please put funding in the budget to keep providers whole. Unfortunately, this funding was not included in the budget.

Now is not the time to cut back on these critical and life-saving supportive services. You've heard all day about the increase in crime and gun violence. It is not the time to cut services to victims of crime. Respectfully, we ask the Legislature to ensure adequate funding for all providers serving crime victims under the OVS legal services funding for the next two years so that services can remain intact and steady.

And finally, we support our colleagues at NYSCADV and their advocacy to keep all victim service organizations whole in all the OVS organizations they have.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Next, Joan Gerhardt from NYSCADV.

MS. GERHARDT: Thank you. Thank you, Chair.

Yes, that's the New York State Coalition Against Domestic Violence, and we were established more than 40 years ago as the statewide nonprofit organization of local domestic violence service providers committed to preventing and ending domestic violence.

In New York, nearly 100 domestic violence programs operate 250 locations around the state. NYSCADV is recognized by the U.S. Department of Health and Human Services and the U.S. Department of Justice as the information clearinghouse and resource center on domestic violence for New York State. We provide education, training, and technical assistance to service providers and

support policies to enhance domestic violence intervention and prevention.

What makes this Executive Budget so troubling is its funding cuts to victim services and new government mandates. Here are four specific concerns. First, OVS is cutting funding for hundreds of victim assistance providers in the next round of awards -- providers that offer essential services to victims of domestic violence, sexual violence, child abuse, and many other crimes.

These cuts are due to decreases in New York's federal VOCA grant. Despite New York State's surplus, and with millions of dollars available in pandemic aid, there is no proposed solution to these cuts in the Executive Budget. Other states have implemented fixes to protect their victim serice providers -- New York has not. New York's VOCA grant is $140 million less today than it was just four years ago.

We are therefore asking for $140 million in the state budget and again

next year. In total, the federal Crime Victims Fund, which fuels state VOCA grants, is expected to return to prior levels. One hundred forty million dollars represents 0.06 percent of the proposed $216 billion budget and will ensure the continuity of these critical services.

Second, we have several concerns about Part H in the PPGG budget, which would mandate a 40-hour training for all DV advocates. We ask that you remove the proposal from the budget. Domestic violence programs are finding it hard to recruit and train new employees because of high turnover, but creating new mandates and increasing state oversight will not ease this burden.

Frankly, when providers are facing significant funding cuts, the state should be focused on making programs whole so they can retain advocates, not placing more burdens on them. We were not asked to collaborate on this proposal despite our federally designated role as a domestic violence resource center for the state.

Third, we ask the Legislature to increase the TANF set-aside for nonresidential DV services. The Executive Budget returns the set-aside to $3 million, the same level it was when it was first proposed in 2000.

So we're asking for $6 million, and we're also seeking to maintain $5 million of new Aid to Localities funding for an OCFS-directed flexible-funding pilot project.

Thank you very much.

CHAIRWOMAN KRUEGER: Thank you.

Our next testifier is Anthony Maud. I believe I'm -- I'm hopefully saying that correctly.

MR. MAUD: Yes. My name is Anthony Maud, and I'm 35 years old. I'm a proud member of the Treatment Not Jail Coalition, which is what I'm here today to discuss.

I grew up in Buffalo with a developmental and learning disability, including dyslexia and ADHD. As a child, it always took me time to catch on to things. I was also emotionally disabled due to being a

victim of physical and sexual abuse by a trusted family member.

I was in group homes from ages 9 to 12, at which time I experienced additional abuse. My father was severely addicted to crack cocaine, which trickled down to me as a teenager. I turned to drugs as a way to cope. I have a record and have spent time in prison, mostly due to my drug use and untreated mental health issues.

Notably, despite having been through the criminal legal system many times, I have never been offered the opportunity to participate in court-ordered diversion.

I'm not alone. Our justice system currently does not provide enough non-incarceratory opportunities for people like me who are struggling with mental health and substance use issues.

Our default is always jail and prison, but it doesn't address the root causes that bring people to engage in criminal behavior. In fact, studies consistently show that jail and prison exacerbate these underlying issues

and make people more likely to reoffend.

Treatment courts, as specialized court parts that allow judges to mandate alternatives to incarceration, are shown to work. They are better at healing those who are struggling with substance use and mental health issues. They are better at breaking the cycle of recidivism and promoting public safety. And finally, they're substantially more cost-effective.

Unfortunately, only a small fraction of those charged with crimes are eligible for these types of courts. The Treatment Not Jail Act subsequently expands access to courts by involving existing law, CPL 216, which in 2009 created drug courts in every county in New York.

TNJ extends eligibility to those with mental health concerns and moves away from arbitrary charge restrictions, instead allowing judges to accept those they determine would benefit from treatment and whose treatment would benefit the public.

The TNJ Act also makes significant

improvements to the model outlined in 2009, building on the research that we have learned over the last 13 years to implement a treatment court program rooted in harm reduction, due process, and procedural justice principles.

Please note that speaking today is the single most scariest thing I have done in my life. But I'm doing this to help others who will get in trouble due to their own genetic backgrounds.

I welcome questions.

CHAIRWOMAN KRUEGER: Thank you.

And our last testifier on this panel is Sebastian Doggart, from the Families Civil Liberties Union.

MR. DOGGART: Good evening. I am Sebastian Doggart, executive director of the Family Civil Liberties Union, an independent, nonpartisan, nonprofit group assisting families and kids across the U.S.

Four years ago, the FCLU testified before this same body. We presented extensive evidence to you to show why the

New York Unified Court System is causing untold harm to our children.

We called on you to deny Lawrence Marks' funding requests until independent, effective oversight of the judiciary was established. We warned you of specific judges and court officials, including Mr. Marks, and showed how they were all perpetrating fraud, waste, and abuse on the public. You ignored all those warnings.

Hoping we are not a 21st-century Cassandra, the FCLU is now here again to warn you of the harm being inflicted by this broken judiciary on millions of New York families. Our request is that you deny the funding requests in their entirety by both the UCS and Commission on Judicial Conduct.

We also ask that you fund cameras in courts; insist on a radical review of the corrupt Attorney for the Child program; enact a total overhaul of the procedures for appointing or electing judges; and work to end the toxic Title IV-D program that is tearing families apart.

Your task is to protect the public, and that means to ensure that there is effective oversight on expenditure. You have failed in this task dismally. For the last five years, the Center for Public Integrity has given the State of New York's judicial accountability a failing grade of F, ranking 48th out of 50 states in terms of judicial accountability.

The organization which you fund to oversee the judiciary is the Commission on Judicial Conduct, the CJC. It is a sham. Every complaint presented by private citizens is dismissed with a boilerplate letter. And guess who is on the CJC letterhead? Robert Tembeckjian, to whom you gave a plum position as a witness today. Robert Tembeckjian, who has ruled the CJC, unelected, for a Putin-style 17 years. Robert Tembeckjian, who you have rewarded with ever-rising wages, over $200,000 due to him the next year, not including add-ons.

Of the hundreds of criminal complaints filed by the FCLU, the CJC has investigated

precisely none. The CJC has shown it does not need reform, it needs to be shut down. Tembeckjian needs to be investigated and audited, and a new judicial oversight body set up that is truly independent and made up at least partly by non-attorneys. The foxes cannot be allowed to run the henhouse.

Now the consequences of Tembeckjian's negligence have been tragic. In the report we submitted to you four years ago, we warned you of the conduct of a rogue Suffolk County judge, Hope Zimmerman. It was Zimmerman who willfully ignored the pleas of a mother that her 7-year-old child Thomas Valva was in mortal danger.

Siding with the father, an NYPD cop, Zimmerman ignored ample evidence of imminent danger. The result? Tommy Valva was left in a freezing garage overnight and died of hypothermia. If Tembeckjian had recommended Judge Zimmerman's suspension earlier, Tommy Valva would still be alive today.

We also warned you and the CJC of the abusive practices of Douglas Hoffman, the

supervising judge for the New York Family Court since 2009. Hoffman is being sued for sexual harassment by his own court attorney, Alexis Marquez.

In an age of Me Too, when Governor Hochul and many in this Legislature have called on us to believe women, you'd have thought that Judge Hoffman would at least have been suspended until the outcome of a trial with independent investigation, right? Not at all. Hoffman, a friend of Mr. Tembeckjian, has continued to sit pretty on the bench and even had his wages increased.

The allegations here are strikingly similar to those which brought down Governor Cuomo.

Why does this Legislature apply double standards to the executive and judicial branches of government? This Legislature needs to do a line-by-line audit of Mr. Marks' application. That budget is a blatant attempt to defraud the public. Why are the salaries of judges not identified

anywhere there? Where in this budget are the generous fringe benefits they reward you to lavish upon them?

In Mr. Marks' budget, no reasons are given for renewed funding of the appalling Attorney for the Child program --

CHAIRWOMAN KRUEGER: Your time is up. Thank you very much.

MR. DOGGART: I'm wrapping up now.

We ask you to please read our detailed 2022 report on the New York court system, which provides evidence on why you need to deny the Judiciary's demand for funding, to shut down the CJC, and order Mr. Tembeckjian to fund cameras in court. To radically reform --

CHAIRWOMAN WEINSTEIN: Your time is up, sir.

CHAIRWOMAN KRUEGER: Your time is up. Thank you.

Zellnor Myrie for the first question.

MR. DOGGART: -- tearing families apart.

SENATOR MYRIE: Thank you.

CHAIRWOMAN KRUEGER: Thank you, Sebastian.

SENATOR MYRIE: Thank you, Madam Chair.

Thank you to all of our panelists, and a special thanks to Anthony for your testimony and for being vulnerable and sharing your story. That is very much appreciated.

This is really for anyone on the panel. You know, I empathize with the request that you have made regarding the lack of resources that you have to do your job. We've introduced a bill that has to deal with the Victim Compensation Fund and fair access to it. We know that many individuals who are unfortunately victims of crimes do not take advantage of the resources that are available to them because of the current structure and the requirements that they either interface with law enforcement or the short window in which they can apply after the crime, the reporting requirements, et cetera.

And I'm wondering if you can talk

about whether you are supportive of this effort or you can speak to the challenges that victims face in getting the resources that they need.

MS. GERHARDT: I would be happy to step in on that, Senator.

Yes, we're very supportive of the bill. We think the more resources that can go to all victims in New York State, the better. They just don't have enough resources.

And I think, you know, the very compensation reimbursements that you're talking about are the same VOCA grants that I was talking about in my testimony. The VOCA that comes into New York State is really split into two buckets of money: Assistance grants that go out to service providers, and compensation that goes out directly to victims. So I think, hand in hand, both of these buckets are so critical to New York State, and the compensation is working very well. I think people are getting their resources.

I think there's another proposal that the Governor has to bump some of the compensation reimbursement for private property, with which we also agree. So I think the more that we can get compensation reimbursement to victims of all types, that's great.

But I think right now our focus has to be on the grants to victim service providers, because we're talking about significant cuts to the very organizations that help those victims. Whether it's legal services, mental health, medical, domestic violence advocacy, it runs the gamut for all types of victims, and it's something the state really needs to address urgently.

CHAIRWOMAN KRUEGER: Assemblymembers?

CHAIRWOMAN WEINSTEIN: Yes, we do have -- we have Assemblyman Ra first, and then Assemblyman Walczyk, and then Assemblyman Epstein. Three minutes each for these members.

ASSEMBLYMAN RA: Thank you, Chair.

I just had a question for Ms. Gerhardt

regarding this training requirement proposal. I'm just wondering, you know, if you know of -- relative to something similar in other states, or whether there's any type of standard that may be something that should be advocated for as an alternative to this.

MS. GERHARDT: That's a great question, Assemblymember.

There are many states that have training and certification programs for advocates. We in New York State already have requirements in our regulations for domestic violence advocates, but all of those states rely on the coalitions or other domestic violence service providers for that training.

And the reasoning is New York State is the only state in the country that I'm aware of that has a state-level agency focused on domestic violence, which we really appreciate.

But what we don't want to see is, you know, with so much need out there with respect to survivors, and so much support that domestic violence service providers

need, we really don't need to be duplicating efforts.

And NYSCADV, as the state coalition, does a tremendous amount of training and TA, as coalitions do across the country, and as we are federally designated to do. So we'd rather see the state-level agency do a bunch of other things that are frankly already in their enabling statute -- updating policies for other state agencies and counties, employee awareness programs, training for court personnel and judges, which the Governor's Blue Ribbon Commission on Forensic Evaluators just called for.

So there is a critical need for a lot of support. We just don't think it's wise to have the state agency focus on training when it's already happening throughout other entities in New York State.

ASSEMBLYMAN RA: Great. Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to Assemblyman Walczyk.

ASSEMBLYMAN WALCZYK: Yeah, my first question -- thank you, Madam Chair -- my

first question is for Joan as well.

I was just looking at some crime statistics statewide, some of the reports from our cities showing over the last few years what direction -- and we know, we've seen large reports about crime waves, but something that really stuck out to me was, well, homicides are going up, shooting victims, burglaries, grand theft auto has doubled -- all of these things.

You have seen a decline in reports of rape across New York State. How do you square that? What's -- what do you think is responsible for that? And what should we be concerned about right now?

MS. GERHARDT: I'm not really familiar with the decline in reports of rape. That might be a question better posed to my sister coalition, the New York State Coalition Against Sexual Assault.

What I can tell you is throughout the pandemic, certainly, demand for domestic violence services increased. Because I think we have seen a lot of increases in reports of

violence in domestic settings, and that of course has to do with a lot of people working from home, not having the escape of working outside of the house or the potential to meet with advocates outside of the home.

So, you know, in the early days of the pandemic, with respect to domestic violence, we were actually referring to it as the pandemic within the pandemic because we saw such increases in the number of police reports, calls to hotlines -- really throughout the entire state.

So I can't quite square the data point you're suggesting about the decrease in rape, but I offer you the crime statistic increase in domestic violence.

ASSEMBLYMAN WALCZYK: Yeah, neither can I. I appreciate that perspective.

Is Mr. Doggart still with us?

MR. DOGGART: Yes, I am. Yes, I am. Hi.

ASSEMBLYMAN WALCZYK: I was just wondering -- right at the top of your report, Dr. Steven Baskerville said, "The family

courts are operating a kidnapping and extortion racket." What are you talking about, good sir?

I'll yield the rest of my time.

MR. DOGGART: Oh. Well, the family court had become a racket in which there is a huge amount of money going on, and the victims of this are the kids.

Let me give you one example of what's the -- part of the racket, which is where the Legislature is in fact a beneficiary of it. Your General Fund accepts millions of dollars a year in federal funds provided under the Title IV-D program of the Social Security Act. And this provides matching funds from all child support orders made by family judges -- family court judges.

Now, that in turn incentivizes those judges to always allocate a winner and a loser, with that loser almost always being the monied parent. This scheme tears families apart. And it's a racket because the Democrat -- or the judges, often Democrats, are helping their Democrat

colleagues to earn huge amounts of money through the Title IV-D money -- program.

So one of the -- and the consequences of that, as we've heard -- and if you don't pay the child support because of these orders -- and I have seen orders which are 300 percent of someone's salary -- these people go to jail. And many of them then commit suicide. It's a terrible cycle. But it's all there because of the money.

So that's why we call on the Legislature to voluntarily withdraw from the toxic Title IV-D program. There are many other ways that this corruption is going on, and it's a racket, and Dr. Baskerville is correct in saying that --

CHAIRWOMAN WEINSTEIN: Thank you. Your time is up.

CHAIRWOMAN KRUEGER: Time is up.

CHAIRWOMAN WEINSTEIN: I see that there is a Senator?

CHAIRWOMAN KRUEGER: Yes.

CHAIRWOMAN WEINSTEIN: Senator --

CHAIRWOMAN KRUEGER: Yes, I see that

Senator Bailey has joined us. Thank you.

Senator Bailey.

SENATOR BAILEY: Thank you, Madam Chair.

I just wanted to express my appreciation for the Legal Services of the Hudson Valley, being a representative of Westchester County.

Thank you for the work that you do, not just in your testimony but in ensuring that we continue to provide excellent legal services, specifically in the area of the City of Mount Vernon, around the housing that you do. It does not go unnoticed.

And Anthony, thank you for your courage and for being willing to tell your story today. It is very difficult to do that in such public forum, and I just wanted to say thank you for your bravery in doing so. It takes a lot to do that.

And look, I just wanted to, I guess, make a long statement in that I appreciate, you know, you all taking your time for this testimony.

But mostly, Rachel, I just want to say thank you. Especially in Mount Vernon, in the four square miles of Mount Vernon obviously we've had some concerns with the housing issues. And I just wanted to thank Legal Services of the Hudson Valley for really stepping up, and I figured this would be the optimal time.

Madam Chair, I yield the rest of my time.

CHAIRWOMAN KRUEGER: Thank you very much.

MS. HALPERIN: Thank you, Senator Bailey.

CHAIRWOMAN KRUEGER: I think we have Assemblymember Epstein.

CHAIRWOMAN WEINSTEIN: Epstein, yes. Mr. Epstein, who's the final Assemblymember.

ASSEMBLYMAN EPSTEIN: Thank you, Chairs.

Yes. I also -- Anthony, thank you for your testimony. I deeply appreciate it.

And Rachel, I just -- kind of on the civil legal services front, I'm just trying

to figure out where the holes are, you know. Because I know, you know, we've seen a lot more money for housing representation and -- on the ground and in your offices across the state. And, you know, obviously you talk to other legal service partners.

Where do you see the biggest need, and where do you see us not really having really stepped up to kind of meet those needs?

MS. HALPERIN: Thank you. That's a great question.

I mean, I think overall we have been very happy, the civil legal services community, with the Governor's budget. The additional funds for tenant defense were obviously much needed, she put money in there for our foreclosure -- our HOPP program -- as well as our Disability Advocacy Program, which is why we were just very surprised that with -- we know there is a focus and that people understand the value civil legal services brings to communities and the importance of the work that we do -- that this statewide network that was just built in

2018 of legal services attorneys supporting crime victims would be dismantled, you know, a couple of years after it was built.

And this is really essential work that we all do across the state. Victims of consumer fraud, of identity theft, victims of domestic violence, sexual assault, elder abuse, bankruptcy -- this is really, soup to nuts, supporting crime victims in our state. And so we are very concerned that this funding was just abruptly terminated with no plans to keep providers whole and enable us to keep services going.

Just additionally -- this is a bit off topic, but since you asked, the LSAF funds, which are always very needed, we are asking this year, the Legal Services Coalition, for funding to be added to the LSAF for civil legal services. So rather than money being transferred from that to general revenue, it's to keep it in LSAF to support civil legal services. It's $9.2 million, is the coalition's ask in that.

ASSEMBLYMAN EPSTEIN: And how would

that be distributed around the state? Do you guys have a formula?

Because I know the LSAF funding doesn't fund all the providers around the state.

MS. HALPERIN: Right. So we would be asking for that new money to then be RFP'd.

ASSEMBLYMAN EPSTEIN: Thank you.

MS. HALPERIN: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Just one more question from myself to Joan Gerhardt.

You were talking about a loss of some federal money that you're confident you're going to get back next year, so you're asking us to keep you whole in the absence of some federal dollars that will come back.

Can you just clarify what that story is?

MS. GERHARDT: Sure. We're talking about the Victims of Crime Act funding at the federal level, and those grants, that VOCA grant bucket, is funded out of the Crime Victims Fund, again at the federal level.

And that big, huge pot of money that fuelled grants to all the states has been depleted really since 2018. So in New York State, our grant now is $140 million less than it was in 2018.

Congress took steps to fix the Crime Victims Fund to essentially divert more money from general resources into the Crime Victims Fund, and the forecast is that the Crime Victims Fund will replenish itself in two to three years to a level enough to return the state grants to levels that we saw back in our 2018-2019 timeframe.

But for now most states are trying to, you know, take care of that shortfall for the short-term period of two years. And they're doing it by either using state general revenues or using pandemic relief. So we know states like California, Washington State, Iowa, Alaska, Maryland have all taken precautionary steps to ensure that the victim service providers remained whole as this fund at the federal level replenishes. That's what we're asking New York State to do in

this budget. And likely next year's as well --

CHAIRWOMAN KRUEGER: Okay.

MS. GERHARDT: -- until we know that that grant comes back up.

CHAIRWOMAN KRUEGER: Thank you for the clarification of that.

I want to thank everyone for joining us tonight -- yes? Sorry, Helene.

CHAIRWOMAN WEINSTEIN: Senator, we have Assemblyman Burdick who has a quick question.

CHAIRWOMAN KRUEGER: Oh. Sorry, Chris.

CHAIRWOMAN WEINSTEIN: He snuck in there.

ASSEMBLYMAN BURDICK: That's right, and I apologize because I was over on another meeting.

So -- and first of all, I want to thank you folks for doing the tremendous work that you do.

And Rachel, it's so good to see you and to represent you in the Assembly. We

have met, and you just -- you're doing an awesome job with the services that you provide.

And I'm wondering if you could explain a little bit more -- that 200 million that's obviously -- that you're looking for, it's obviously statewide. And can you tell me what the needs are? They would be distributed, as we were discussing a minute ago, throughout the state.

And can you give me an idea of what your agency is needing out of that 280?

MS. HALPERIN: Well, I can tell you in Westchester, for example, all of the agencies in Westchester receive about $8 million a year. And so that would be legal services, that would be domestic violence providers, My Sister's Place, Hope's Door, WestCOP, the Office for Women. So I know for Westchester it's a total of $8 million.

I think Joan can talk a little more precisely about the numbers.

Part of our issue is we really need information from OVS as to how much money

they currently contract and what their deficit is going to be. And it's that number, it's that difference of what programs are currently funded at and what the cuts they're anticipating for next year are -- it's that number that would close the funding gap so that programs can remain whole and continue providing the services they're providing.

ASSEMBLYMAN BURDICK: Okay. I think I'm trying to get -- what I think that we should do is to try to discuss this offline so that I have a better idea of what the needs are.

And I think you do -- you know, obviously 280 million is a fairly big number. And I think Helene would tell you that too. And so we have to get an idea of how we're going to approach this. But I certainly am very sympathetic to wanting to see this funded somehow.

You know, one concern that we in the Legislature have is that, you know, where we normally get funds from the federal

government, and we start funding it through state funds -- then guess what -- we no longer get funds from the federal government.

And so, you know, it's a little bit of a balancing act to make sure that we can continue to get the funding that we need from the federal government.

But let's -- if we could, I would really like to talk to you offline about it.

MS. HALPERIN: Thank you.

ASSEMBLYMAN BURDICK: Thank you.

CHAIRWOMAN KRUEGER: So I'm going to thank the panelists, and we're going to move on to Panel C.

And I will read off the groups and names first. Prisoners' Legal Services for New York, Karen Murtagh, executive director; Releasing Aging People in Prison Campaign, Theresa Grady, community leader; Center for Community Alternatives, Sirena Sharpe, community leader; and JPMorgan Chase PolicyCenter, Nan Gibson, executive director. Not familiar with that.

Anyway, welcome, everyone. You know

the rules. Three minutes, and we will go down the list starting with Karen Murtagh, Prisoners' Legal Services.

MS. MURTAGH: Thank you.

Good evening, Madam Chairs Krueger and Weinstein and esteemed members of the Legislature. It's so nice to see you all. Thank you for inviting PLS to testify before you today.

As you know, PLS was founded in 1976 in response to the uprising. This past fall we commemorated the 50th anniversary of the uprising. PLS provides legal representation and assistance to incarcerated New Yorkers to protect their civil and human rights and help them prepare for reintegration into society upon release.

PLS currently has six offices statewide located in Albany, the Bronx, Buffalo, Ithaca, Newburgh, and Plattsburgh. Our work focuses on addressing conditions of confinement in New York State prisons, including medical and mental healthcare, jail time and sentence calculations, illegal

disciplinary hearings involving solitary confinement and loss of good time, visitation rights of parents with their children, educational and vocational training for people with disabilities, and preparing people who are maxing out of prison for successful reintegration into their communities through our Pre-Release and Re-Entry Program -- we call it our PREP program.

For fiscal year 2022-'23, Governor Hochul has maintained PLS' prior executive funding by including PLS in her Executive Budget for $2.2 million. We are requesting both houses of the Legislature to jointly add an addition 2.4 million, 1.2 from the Assembly and 1.2 from the Senate, resulting in total funding for PLS of 4.6 million.

This funding will allow PLS to adequately staff our six offices across the state, continue providing critical legal services to incarcerated people in state prisons, and help address a significant portion of the unmet needs. And it will

expand PLS's Pre-Release and Re-Entry Program beyond the Bronx and Manhattan.

In my testimony I share in detail a number of the court decisions and settlements that we have entered into with DOCCS over this past year that demonstrates how PLS holds DOCCS accountable and ensures that the incarcerated population is treated justly and fairly. I also attached a very lengthy appendix that summarizes PLS's advocacy efforts over this past year on behalf of hundreds of incarcerated people.

This advocacy and our litigation highlights the need for PLS to be present -- because if left unchecked, our prisons could quickly return to pre-Attica conditions. A prime example of this is the recent release of the New York State Inspector General's investigation and findings where it found that DOCCS's drug testing program needed to be completely overhauled.

In her report, Inspector General Lang lays out PLS's role in bringing the false-positive issue to the attention of

DOCCS, a role that was critical in DOCCS's final decision to suspend the buprenorphine testing, reverse all of the sanctions that had been given over the past year for positive drug tests, and alert the Inspector General's office.

I have said in the past, you know, PLS saves the state money in thousands of disciplinary hearings that we are -- that are reversed over the years and seriously restoring thousands of years of jail time and sentencing time to people's sentences. But more important than that, than the monetary savings, is what PLS does for public and prison safety.

CHAIRWOMAN KRUEGER: Thank you. Karen, I have to cut you off; you have been past your time for a little while.

MS. MURTAGH: Okay. Thank you,

CHAIRWOMAN KRUEGER: But thank you. We will look at the testimony.

Next is Release Aging People in Prison Campaign, Theresa Grady.

MS. GRADY: Thank you, Chairperson.

My name is Theresa Grady, and I am a community leader for the Release Aging People in Prison Campaign. I'm speaking today on behalf of myself and three of my fellow RAPP community leaders: Nawanna Tucker, Lisette Nieves, and Jeannie Colon.

The crisis of mass incarceration is at a boiling point, with people dying in New York state prisons once every three days, on average. Academics have called long sentences and perpetual parole denials New York's new death penalty.

The path forward is clear. Give incarcerated people who have rehabilitated themselves a pathway to return home.

As of -- all of us -- me, Nawanna, Lisette, and Jeannie have a loved one in a New York State prison. My husband is 67 years old, 17 years into his 40-year sentence, and suffering from severe chronic illness. These men have grown into mature adults who bear no resemblance to the people who entered prison so long ago.

But under existing laws, the prison

system doesn't care about that. Even when they do become eligible for parole, research shows the Parole Board will likely ignore their rehabilitation and deny their release based solely on one thing that can never change: their original conviction.

Worse, data shows they are even more likely to get denied because they are all Black or brown. Every day we live in fear that our loved once will become, to the state, another death statistic. The average age of death in state prisons is only 58.

Governor Hochul included valuable policies and programs to serve currently formerly incarcerated people in her Executive Budget, but there is a glaring omission. The proposal falls into two categories of prison programs and reentry supports. What's missing is a bridge between them -- meaningful opportunities for those who have transformed to actually get released.

If the prison system remains addicted to endless punishment, much of the potential of Governor Hochul's reforms will perish

behind bars.

Parole reform will give community-driven and transformed people a chance at freedom on a case-by-case basis, and an opportunity to serve as mentors, nonprofit leaders, and drug counselors for young people in their home communities.

One report found a violence interrupter program led by formerly incarcerated people led to 20 percent less gun violence.

A Columbia University report found passage of elder parole, and fair and timely parole, would save $522 million annually -- money that could be invested in mentor programs, services for crime survivors, quality mental health care, education, and more. Together these bills would expand eligibility for case-by-case parole consideration and make the process more fair. And they may save our loved ones' lives.

The bills are also backed by some of the largest victim and survivor advocacy groups in the state, including the Crime

Victims Treatment Center and the New York State Coalition Against Sexual Assault, who prioritize rehabilitation over endless punishment.

It is time for lawmakers to act to give our loved ones and countless others who have transformed their lives a pathway to return home.

Thank you.

CHAIRWOMAN KRUEGER: Thank you very much. Perfect timing also. Thank you.

(Laughter.)

CHAIRWOMAN KRUEGER: Our next testifier is Sirena Sharpe, Center for Community Alternatives.

Good evening.

MS. SHARPE: Hi. Good evening.

My name is Sirena Sharpe, a leader with the Center for Community Alternatives and a resident of Syracuse. I'm testifying in support of including the Clean Slate Act in the Senate and Assembly one-house budgets.

I am one of more than 2 million New Yorkers who have experienced perpetual

punishment because of a conviction record, even though I finished serving my time over a decade ago.

When I was 16, I became homeless and struggled with drug use. A year later I was convicted of a drug charge and spent a year and a half incarcerated. I was released at the age of 19 and was eager rebuild my life.

I applied for dozens of jobs but was turned down repeatedly. More than 70 employers rejected me because of my record. Finally I got a job as a cashier. I thought I could finally move forward with my life, so I put all my energy into applying for college. But again, my conviction history came up and the college didn't want to admit me.

New York should not be systematically blocking college access to the people who need it most. A Brennan Center report estimates that people with conviction histories collectively lose hundreds of billions of dollars in earnings every year. This is particularly urgent in low-income

communities and communities of color, which have borne the brunt of mass incarceration and which are disproportionately affected by old conviction records.

And what about women across our state who are trying to overcome these barriers to build stable lives for our families and ourselves? As a survivor of domestic violence with a conviction history, I struggled to leave an abusive relationship because landlords hesitated to rent to me due to my record.

The mechanics of the bill are simple. Once someone like me has completed their sentence, is off of probation and parole, and after a three- or seven-year waiting period, our records would be automatically sealed. Those who have new convictions or pending charges would not be eligible.

For me and so many others, a clean slate is a real chance at redemption. Those of us who have served our time want the same thing everyone else does: A stable job, a roof over our heads, and the ability to

provide for our loved ones.

The Governor's inclusion of Clean Slate in the 2023 budget is a testament to the advocacy of directly impacted individuals and the broad coalition of supporters who have fought tirelessly for this vital relief. We appreciate Governor Hochul's support for the key principles that underpin Clean Slate, but the proposed language in her Executive Budget includes changes that significantly weaken the existing bill, including dramatically delaying when an individual becomes eligible for sealing and thereby limiting the legislation's effectiveness.

We ask you to include in your one-house budgets the full Clean Slate bill as is. Clean Slate is a jobs bill, a housing bill, and an anti-poverty bill. Automatically sealing past conviction records is also a matter of simple fairness. We urge you to include the Clean Slate Act in the budget without weakening amendments and bring real relief to all New Yorkers.

Thank you.

CHAIRWOMAN KRUEGER: Thank you very much.

And our last of the panel, Nan Gibson.

MS. GIBSON: Thank you, Senator Krueger, Assemblymember Weinstein, and committee members.

My name is Nan Gibson, and I'm executive director of the JPMorgan Chase PolicyCenter.

JPMorgan Chase is probably one of the largest employers and contributors to the economy of the State of New York. We appreciate the opportunity to provide testimony in support of the Clean Slate Act, which would implement automatic record expungement in New York State.

One in three Americans has an arrest or conviction record that can significantly impact their ability to get a job, housing, or an education. The petition-based expungement system is costly, complicated, and time-consuming.

In New York State, it's estimated that

more than 600,000 people are today eligible to have their records cleared, but very few pursue the complex process. This means that even after fulfilling their justice system obligations, people with criminal records often continue to be blocked from fully participating in the economy.

The drag on the earnings potential of tens of millions of Americans are costs not only borne by individuals, their families, and their communities, but they also have larger economic consequences for business and society.

This issue also disproportionately affects people of color. Three-quarters of New York State's formerly incarcerated population is either Black or Latinx. Clean Slate legislation can help change this.

As we continue to recover from the pandemic, businesses are adapting to economic conditions and resuming their search for skilled workers. By reducing barriers to employment for those with criminal records, we will be able get more people back to work

more quickly.

JPMorgan Chase is committed to giving people across the country a second chance. In 2020, JPMorgan Chase hired more than 2100 people with criminal backgrounds -- about 10 percent of our new hires in the U.S. -- whose history had no bearing on the requirements of the job they were seeking. And with a workforce of more than 30,000 in New York State, the firm is always in need of local talent to fill open positions.

Last year, JPMorgan Chase helped launch the Second Chance Business Coalition, co-chaired by our chairman and CEO, Jamie Dimon. The coalition has grown to more than 40 large companies, many based in New York, with the goal of expanding hiring and advancement practices for people with criminal records within these companies and beyond.

If implemented, Clean Slate legislation will help bolster the state's economy by more fully tapping the talents of thousands of people who are currently

unemployed or underemployed because of their criminal records. When someone cannot get their foot in the door to compete for a job, it hurts businesses and communities by limiting access to opportunity.

The benefits of automatic record expungement are clear. We urge the New York State Legislature and Governor Hochul to enact Clean Slate legislation.

Thank you very much for your consideration.

CHAIRWOMAN KRUEGER: Thank you very much, all four of you.

And I'm going to call up Senator Zellnor Myrie first.

SENATOR MYRIE: Thank you, Madam Chair.

And again, thank you to the panelists for your incredible patience and endurance. I'm not sure you anticipated having to testify so late in the day, so I just want to offer my thanks.

Thank you for sharing your stories as well. Ms. Gibson, it is good to see you.

I'm hoping that you can convey to any reticent business owner or businesses throughout the state who say that this is not a population that I can tap into -- if you can just -- and you already alluded to some of this in your testimony, but just sort of talk to the economic benefits and to the businesses across the state -- being that JP Morgan is one of the largest, as you have already communicated.

MS. GIBSON: Sure. And thanks for the question, and thanks for your leadership on this legislation.

Well, so as I said in the testimony, JPMorgan Chase is committed to giving people with criminal backgrounds an opportunity to succeed and be part of our inclusive workforce strategy.

We have gone and created community hiring models where we work with nonprofit partners in the communities, and legal services partners, to help get more people through what is a very complex process, the hiring process, in and of itself.

And given the regulatory framework that we operate in -- regulations through the FDIC that have to be met -- we have worked diligently to find a way to expand the number of people who we can bring on board who have a criminal background, as I said, but that criminal background has no bearing on the job that they're going to be performing.

So we have -- I think as evidence of the success of the work that we've been doing, our business leaders in markets across the country are interested in having this community hiring model in their markets, because it's a very committed workforce. We see very low turnover in the folks who we're bringing on and, you know -- and we see dedicated workers.

So I hope that answers your question.

SENATOR MYRIE: It does. Thank you, Ms. Gibson.

And again, thank you to rest of the panel for your time and your patience and for being vulnerable.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

And Assemblywoman Weinstein?

CHAIRWOMAN WEINSTEIN: Right. We have several Assemblymembers. Let's start with Assemblyman Lawler.

ASSEMBLYMAN LAWLER: Thank you, Chairwoman.

I guess my question is probably directed more towards Theresa, but certainly I would be interested in everybody else's opinions if they wish to opine.

It is really more of a -- just a -- one question, straightforward. You know, I know there is a push for elder parole. I'm just curious, is there any offense or crime that you believe would not warrant release for somebody who's over the age of 55?

(Phone interruption.)

MS. GRADY: Excuse me. I've got to get this -- one second.

ASSEMBLYMAN LAWLER: No problem.

MS. GRADY: I'm sorry, Senator (sic).

ASSEMBLYMAN LAWLER: That's okay.

MS. GRADY: No. No. My belief is

that everybody is due a chance at redemption. I mean, you know, it could be a police officer, it could be a doctor or nurse.

These people 55 and older, the recividism rate for them is like 1 percent, if that.

So I just believe that everybody is due that respect. You know, most of them are aged out. Ailed out. The recidivism for them is so low that no, I don't believe that, you know, there should be a limit to it.

And, you know, elder people today in prison age by two years on a daily basis. For instance, I'll say to you my husband, who is 67, who's ailing -- very much so -- when I see my husband today, he's shaking and trembling from what's ailing him. So he looks more to me like 72 years old instead of 67.

So what I'm trying to say is that no, I don't believe there's a limit. Can you understand that for me?

ASSEMBLYMAN LAWLER: I do. And I appreciate your sincerity in that, I do.

MS. GRADY: Okay.

ASSEMBLYMAN LAWLER: Okay.

Karen or Sirena, if either of you wanted to respond to that, you're welcome to. If not, that's fine.

Okay. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

MS. SHARPE: Oh, I'm sorry. I was going to answer. I was trying to find the --

ASSEMBLYMAN LAWLER: So sorry. Go ahead.

MS. SHARPE: For the Clean Slate bill, I know one of the things that makes -- you don't qualify if you have a sex crime. So that's all I wanted to add, if that answers your question.

ASSEMBLYMAN LAWLER: Okay. No, I appreciate that.

Okay. Thank you very much.

CHAIRWOMAN WEINSTEIN: We go to the Senate, then.

CHAIRWOMAN KRUEGER: Thank you. And I believe we have Senator Hoylman.

SENATOR HOYLMAN: Good evening.

And let me echo my colleagues in our gratitude for you staying so late and your heartfelt and insightful testimony.

I wanted to ask Karen from Prisoners' Legal Services of New York just to get down to brass tacks in terms of your funding and the gap that you are likely to experience in the coming year. What does it looks like?

And what do we need to do to make certain that your services are as widespread as possible throughout the state?

MS. MURTAGH: Well, you know, we really are very appreciative of Governor Hochul's including us in her first Executive Budget, but the problem is it was for 2.2 million -- which is the same amount that we have received from the Executive for the past six years.

And in the past the Legislature has always come through for us and has added to that amount. But we're always behind the eight ball.

We have never been funded at the level that we need to be funded to provide the

services that are required. So we triage. You know, we receive an average of 10,000 letters a year, and we can't take all of those cases. So we take the worst cases.

So our proposal this year is to ask for the Senate and the Assembly to both pitch in an equal amount of 1.2 million, which would get PLS to a final budget of 4.6. Currently this year our budget is 3.55. The 4.6 would allow us to finally adequately staff our existing offices.

And we just recently opened a very tiny office in the Bronx. We have one person working there, a social worker, who is setting up our entire Pre-Release and Re-Entry Project where we are working with people that are maxing out of prison.

So earlier we heard from Commissioner Annucci and a number of people about the different safety nets when people get out and parole is there. That isn't -- that doesn't exist for people that max out of prison. They're given $40 and a bus ticket and a pat on the back, "Hope you make it."

So our PREP program meets people in prison for the year before they're released, and then when they come home we work with them for three years upon release to help them reintegrate into the community. But right now we can only accept, you know, 20 or 30 clients.

We have a small foundation funding to do this, and if we could get the funding we're requesting, we could expand the whole PREP program to all five boroughs of New York City, which have the highest percentage of people maxing out of prison.

SENATOR HOYLMAN: Thank you. That was very clear, and I really appreciate it.

And a special hello to Ms. Grady from RAPP. I look forward to working with you on the elder parole legislation in the coming weeks and months.

Thank you, Madam Chair.

CHAIRWOMAN KRUEGER: Thank you.

And I think we're handing it back to the Assembly. I think we're done with Senators.

CHAIRWOMAN WEINSTEIN: Okay. We have a number of Assemblymembers.

We will start with Assemblyman Weprin.

ASSEMBLYMAN WEPRIN: Thank you, Madam Chair.

And thank you, panelists, for being -- coming this late in the day. And I know you've experienced it in the past, even in person. So again, thank you for coming.

My first year as chair of Corrections was 2017. And Karen Murtagh, you may remember that you were one of the first advocates to meet with me and explain how important the work that you have done -- that you do for those that really have no other alternative. And I found out firsthand, and I've referred you a number of cases during my tenure. And every dollar that you get is not enough. I mean, you do so much, such God-sent work for people that really have no other alternative, and I have seen it firsthand.

And anything I can do in my power to make you whole -- and I know it's always a

catch-up -- but a $4.6 million request, half from the Assembly, half from the Senate, plus the 2.2 from the Governor, seems very reasonable, and I know you will put that to good work.

And again, I want to thank RAPP for all of their advocacy, and I'm hoping that this year is going to be the year that we can get fair and timely parole done as well as elder parole. And I'm hoping to put elder parole on an upcoming agenda very soon.

Thank you for coming.

MS. MURTAGH: Thank you, Assemblyman.

CHAIRWOMAN WEINSTEIN: Assemblyman Burdick.

I'm sorry. I mean, Assemblyman -- Senator Bailey, have you --

SENATOR BAILEY: Yes. I just --

CHAIRWOMAN KRUEGER: He went.

SENATOR BAILEY: No, I didn't go yet, Liz.

CHAIRWOMAN KRUEGER: Oh, I'm sorry, Senator Bailey. I didn't realize -- for this panel. Excuse me.

SENATOR BAILEY: No, no problem. Sorry. Just really, really briefly.

Ms. Grady and Ms. Sharpe, thank you for your stories. Ms. Sharpe, especially speaking about the issues that many individuals who have the best of intentions in terms of making sure they procure employment and do everything that they, quote, unquote, are supposed do, and then they are effectively disregarded by society -- and I thank you for, you know, continuing to, you know, to fight and show that.

You know, everybody's life is valuable. And that the economic sustenance will be what eventually brings us to prosperity. So that brings me to Ms. Gibson. I didn't forget you, Karen, I'll get to you in a second.

But Ms. Gibson, I would just ask you that -- I guess from your experience, from your personal experience implementing something like Clean Slate, how quickly would we as a state be able to reap the benefits of

this expanded economic pool?

MS. GIBSON: Well, I would say that depends on how quickly you can implement it, right?

But I think what we have seen in other states is that by reducing the friction in the labor market, it allows people to take advantage of employment opportunities, you know, housing opportunities, and education opportunities. So it is, you know -- we have already seen in the work that we have done, you know, separately outside of the Clean Slate legislation, just in our work with the FDIC to encourage them to change some of the regulations around the types of, you know, crimes that someone might have in their past or record that they might have in their past, whether or not we would need to get a waiver to hire them -- and just with changes to FDIC regulations which all banks are able to take advantage of.

You know, anecdotally, we have seen that even those types of small changes have made a meaningful difference in our ability

to hire. So, you know, when we have seen it in a highly regulated environment, you could imagine that the benefits, you know, will also cascade in less-regulated settings.

SENATOR BAILEY: Again, I just imagine that, you know, especially for a successful organization like Chase to be able to see that and to be able to see the benefits that will be able to come from an economic perspective, I would imagine that, as Senator Myrie said, this would cascade, I think you mentioned, all the way up and down the state.

So I wanted to thank you, Senator Myrie and Assemblymember Cruz for their work on this piece of legislation.

And Karen, I just wanted to thank you for everything that you do with PLS in terms of being incredibly responsive and having conversations with the chair -- with Chair Hoylman in terms of, you know, that possible expansion. That would be excellent.

You have been nothing but excellent in terms of some of the serious -- and to the minute things that some -- or

apparently seemingly minute things that some folks face in correction facilities. And PLS has always been there every step of the way.

So I just wanted to show my appreciation for you what do and again, as many colleagues have said, thank you all for your incredible patience and your testimony.

MS. MURTAGH: Thank you, Senator.

CHAIRWOMAN KRUEGER: Okay. Now back to the Assembly. Thank you.

CHAIRWOMAN WEINSTEIN: Assemblyman Burdick.

ASSEMBLYMAN BURDICK: Thank you, and I join my colleagues in thanking you all for your perseverence and patience with us.

And Ms. Sharpe, thank you for sharing with us your personal story and account.

And I follow very closely the work of RAPP, and in fact a member of RAPP is on my own internal advisory committee on the work that I do on the Correction Committee.

And I appreciate your mentioning your concerns about the iteration of Clean Slate that's in the Executive Budget. And I have

not had a chance to read the Article VII yet, and I'm just wondering -- Ms. Gibson, I first want to commend JPMorgan for endorsing Clean Slate. And last year JPMorgan endorsed Clean Slate in the form that Ms. Sharpe had described.

And I'm wondering whether you have had a chance to review the Article VII iteration of it, and whether you're going to be urging the Legislature as well to take action on Clean Slate in its original form.

MS. GIBSON: Well, thank you for the question.

And our -- as we understand it, there are efforts underway to -- discussions underway to try to come to some type of agreement about moving forward. And we would just encourage the Legislature and the Governor to work together to, you know, move a meaningful Clean Slate piece of legislation.

ASSEMBLYMAN BURDICK: Fair enough. Thank you. I appreciate that.

And again, we really do appreciate

your advocacy. And keep up the good work that you all are doing.

MS. GIBSON: Thank you. Appreciate it.

CHAIRWOMAN WEINSTEIN: I -- let's see if we -- we have two Assemblymembers, Assemblywoman Kelles and then Assemblyman Epstein.

ASSEMBLYWOMAN KELLES: Wonderful. Thank you so much.

I want to shout out to both Theresa Grady and Sirena Sharpe. Thank you both for being here and the work that you do. I very much enjoyed working with your organizations.

And I do -- I want to follow up. Theresa, really quickly, one thing that you said -- just to add my support. I think there is lot of misrepresentation of the Elder Parole bill. First of all, people are eligible only after serving 15 years and being beyond the age of 55.

And I have been hearing people talk about today that it would allow people who committed a crime later on in life to be

eligible. That's why the 15 years is there. So that's a clarification.

The second clarification is that it gives them the opportunity to be eligible for parole. There is lot of manipulation of this, that it is an instantaneous allowing them out of prison if they're over 55 years old. That is a tremendous manipulation of the actual details of the bill.

So, Theresa, you have been a wonderful person in educating on the details of that. I highly appreciate the distinction that this creates the opportunity to enter back into the community, to prove the rehabilitation and transformation. So thank you for your work on that.

MS. GRADY: Thank you.

ASSEMBLYWOMAN KELLES: Absolutely.

And Karen -- there you are, Karen. Thank you so much for your work.

There are two things that I wanted to just bring up. One -- and it's good to see you again, I look forward to continuing to work with you -- with respect to staffing.

From conversations that I have had with PLS, the recommendation from the American Bar Association is for one representative to every 400.

We have 31,000 in our state, which means that even by the national recommendation, we are thousands, right -- we're hundreds of representives short. How many short of what we actually need?

MS. MURTAGH: I haven't done the numbers lately, but that -- that whole -- that math problem is on our website where we lay out the American Bar Association recommendations.

And we now have approximately 27 employees in core PLS. We have an immigration unit too, but the immigration unit does something completely separate from conditions of confinement.

So we are way over.

ASSEMBLYWOMAN KELLES: So it's 27 for those 31,000 -- which is way under the 400 recommendation rate. So that is what you're referring to when you're asking for

this additional funding.

With my last few seconds, if you could talk about what you're not able to provide. And specifically you mentioned issues with good time, and not -- for people not being given appropriate good time or being allowed. Can you talk briefly about that? Maybe I missed something.

CHAIRWOMAN WEINSTEIN: You know -- Assemblywoman, you know, the time is up. So perhaps you could send that information to us and we would share --

ASSEMBLYWOMAN KELLES: Yes, I'm good.

CHAIRWOMAN WEINSTEIN: -- that with all of the members who have been here.

So we're going to move on to Assemblyman Epstein to close this panel.

ASSEMBLYMAN EPSTEIN: Thank you, Chair. And I'll be quick.

I also want to appreciate Theresa for all you do, it really -- time and time again, you keep coming back and talking to us.

Sirena, thank you for your advocacy.

MS. GRADY: Thank you.

ASSEMBLYMAN EPSTEIN: These are critical conversations that we're having, and it's good to hear that you may get some movement on elder parole from Chair Weprin. That would be -- that's great.

And so, Karen, I heard the budget request. And I'm wondering, have you had conversations with the Executive about it? What are they saying about this increase in funding? And obviously it's, you know, having stable funding over a longer period of time and how critical that is for a legal services program because of hiring and retention issues. I'm wondering what they've said around kind of ongoing support.

MS. MURTAGH: Well, I did have a number of discussions with people in the Executive prior to the budget coming out, and there was extensive support for getting PLS up to the level where we should be.

But that didn't seem to come through in the budget when it was issued. Now, I don't know if that is because perhaps there's other money that was provided for -- our

pass-through agency is DCJS, and perhaps there's money in there that they're going to RFP down the road. But none of that was communicated to me yet.

So all I know is that we got what we have gotten, you know, for the past six years.

And I completely agree with you. I don't like coming to the Legislature to try to get an add for this, because PLS is much more like a state agency than a typical nonprofit. We have six offices across the state. We are tasked with providing civil legal services to all incarcerated people in New York State prisons.

So, you know, trying to piecemeal this and saying you add this and you add that, it really should be a complete Executive item. It was, under Hugh Carey and under Mario Cuomo, in its beginnings. But then slowly, when more prisons were built and more money was needed, then the Assembly pitched in and now the Senate has pitched in. And I -- I totally appreciate the support of the

Legislature, because we wouldn't exist if we didn't have your support.

But it really should be, in my opinion, my humble opinion, an Executive-funded item, because it is a state responsibility to provide civil legal services for people that are incarcerated.

ASSEMBLYMAN EPSTEIN: Thank you.

Thank you, Chair.

CHAIRWOMAN KRUEGER: Okay. So I think we have now completed this panel.

Thank you very much, all of you, for your work and your advocacy.

I'm going to shift to Panel D, for those of us still keeping track.

(Zoom interruption.)

CHAIRWOMAN KRUEGER: Okay, sorry. Everyone else mute, please.

Assigned Counsel Association of New York State, Brian Zimmerman, vice president, and New York State Defenders Association, Susan Bryant, executive director.

Good evening, both of you. Why don't

we start with Brian Zimmerman.

MR. ZIMMERMAN: Thank you for this opportunity to address you. My name is Brian Zimmerman. I'm the vice president of the Assigned Counsel Association, a group formed to advocate for assigned counsel, who provide legal representation for indigent adults and children in family, criminal, Supreme and Appellate courts.

Representing our most vulnerable citizens in these courts is a privilege we have chosen, and one we do not take for granted. I'm here because of a growing crisis in all these courts. There are too few attorneys to represent the numbers in need, whether a domestic violence victim, a parent or child separated by state action, a parent fighting to see their children, or a criminal defendant seeking to defend their innocence while languishing in jail or seeking appellate redress.

Statewide, there are approximately 30 to 50 percent less attorneys available to handle this ever-increasing number of cases.

Why the exodus? First and foremost, the legislatively set compensation rate has remained at $75 per hour since 2004, while the costs to practice have risen every year for 18 years. It is simply unaffordable for our attorneys to continue this work, and even harder to recruit new attorneys. No job in New York State has seen no raise in over 18 years.

As a voice for the underserved we represent, too many cases and too few attorneys equates to an inability to provide high-quality representation. Court proceedings are needlessly delayed, and decisions for these most vulnerable people -- the poor, the underserved, often in our Black and brown communities, do not get public protection. The lasting trauma inflicted on those indigent communities is immeasurable and repeats itself year after year.

In 2003, inadequate rates then resolved when a court imposed a rate of $90 per hour, admonishing the Legislature to act then and not repeat this crisis. Sadly,

the crisis has repeated. Chief Judge DiFiore, multiple state commissions, and the New York State Bar Association have urged action. You heard ILS today urge action. Nine major New York City bar associations have taken legal action, challenging New York's failure to provide constitutionally required access to justice.

We thank Senator Bailey, Assemblyman Magnarelli, and former Assemblyman Lentol for sponsoring legislation to increase those rates that's been introduced for the last three years under Senate 3527 and Assembly 6013. This is an upstate and downstate issue.

We are advocating for attorneys to be compensated at the federal defender hourly rate of $158 per hour, with a cost-of-living provision. We are asking that the costs above $75 per hour be a state, not a county expenditure.

We applaud the Senate and Assembly for introducing legislation, but this crisis will not end until the money to fund the

legislation is part of the final budget. We ask the Senate and Assembly to make ending this crisis a legislative priority and include appropriations in the budgets of each house to support the above legislation.

Our society is judged by what it does to meet its responsibility to the least fortunate, and never more importantly than when their liberty and equal access to justice is at stake. The time to act is now.

Thank you for your time and support.

CHAIRWOMAN KRUEGER: Thank you very much.

And our next speaker is Susan Bryant.

MS. BRYANT: Good evening, Chair Krueger and Chair Weinstein and members of the Public Protection budget committee.

My name is Susan Bryant. I'm the executive director of the New York State Defenders Association, also known as NYSDA. Thank you for the opportunity to testify this evening about funding for NYSDA's Public Defense Backup Center and Veterans Defense Program. Continued survival of both will

improve racial justice, public defense, and community safety.

For over 40 years NYSDA has received yearly grants from the state to operate the Public Defense Backup Center, which helps the state meet its constitutional obligation to provide quality public defense. Our staff provide essential legal and technical support services to public defenders around the state, from training programs to our case management system to our publications and legal hotline.

I'm here to ask both the Senate and the Assembly to ensure that this year's budget includes 2,989,000 for NYSDA's Public Defense Backup Center. This includes 2,089,000 -- which is the same amount we received last year and since 2012. We're also asking for an additional $900,000 in order to meet a critical need to establish the statewide Defender Discovery & Forensic Support Unit.

In the brief time I have left, I want to describe what we need for that unit. And

that unit comes out of the fabulous discovery laws that you passed several years ago, which removed the blindfold and have allowed defenders to receive the information that they so desperately need to advise their clients and to provide representation.

The state's invested $40 million each year to meet the needs of prosecutors, police and other law enforcement with regard to the discovery law, but no funding has been provided to help public defenders. Public defenders and their clients cannot continue be left behind.

The $900,000 we have requested would be a modest and cost-effective way to help public defenders throughout the state. As we have shown for the last four decades, our Public Defense Backup Center's centralized services have created efficiencies. The new unit would also improve statewide efficiency by centralizing resources, and staff with forensic science and discovery expertise can provide high-quality technical and legal support and training.

It would also help us enhance our public defense case management system, and it would provide assistance to family defenders as well who are significantly underresourced, as you heard from Patricia Warth from the Office of Indigent Legal Services a little while ago.

Our budget testimony includes much more details on the need for the unit and the funding for it.

I also want to mention our Veterans Defense Program, which we're asking for last year's funding level of $720,000, and we'll be submitting testimony with regard to VDP to the Human Services budget committee members as well.

Thank you for your support, and I appreciate your time and appreciate the support that we've received from the Legislature over the years.

CHAIRWOMAN KRUEGER: Thank you both for your time and your testimony.

And I see Jamaal Bailey, chair of Codes, with his hand up.

SENATOR BAILEY: Very brief.

Susan, thank you so much for what you do with the defenders and your constant communication and correspondence with us and our amazing staff. And so this is the portion where we make sure we shout out to our amazing staff here that does so much incredible work in helping us get those legislative accomplishments done. So I just wanted to make sure I thank you for that.

Brian, thank you for the shout out, but also the 18-B. These are definitely things that are critically important that we've heard about.

I think both of you have raised salient arguments as to why, you know, each of what you've spoken about should be accomplished. I just, again, want to thank you for your patience.

And we're at that point of the program where I yield my time. Thank you, Madam Chair.

CHAIRWOMAN KRUEGER: Thank you, Sir Chair.

Chairwoman Weinstein, do you have any Assemblymembers?

CHAIRWOMAN WEINSTEIN: We do not have any members waiting to ask a question. So it's all yours.

CHAIRWOMAN KRUEGER: Well, then thank you very much for having made your points so clearly, both of you. We will now release you for the evening.

And I will be calling up the next panel, which is Panel E: Police Benevolent Association of New York, Troy Caupain, PBA secretary; New York State Police Investigators Association, Timothy Dymond, president; New York State Correctional Officers & Police Benevolent Association, Michael Powers, president.

Good evening, gentlemen. I guess we'll take you in the order I just read your names, so the State PBA first.

DIRECTOR CAUPAIN: Good evening, Madam Chair and respected panel. I appreciate the opportunity to speak to you again this evening.

Two years ago I addressed the panel for the Park Police members after an executive memorandum was submitted, sent out by the former governor and state operations director, which basically gave operational control to the State Police of the Park Police as well as basically stopped all hiring, transfers and promotions for the Park Police within the agency.

And it's been two years of frustration, anxiety and just unanswered questions that we've received from the agency regarding our futures. Obviously my written testimony goes into more detail with that.

And I would just like to state that this past Friday, ironically, the agency put out a memorandum stating that they are now going to put on an academy class for the fall of 2022. Which is again ironic, because we sat down with the Commissioner on December 7th, which was supposedly a meeting about his conversations with the Executive Chamber, and there was no information passed on at all regarding hiring or anything to do

with the Park Police. Basically it was: We have nothing for you.

So again, it's very ironic that that came out. We appreciate that it came out. Obviously, according to the Commissioner, the same day that our memorandum was sent regarding the Park Police, he sent a memorandum to the executive staff which talked about the game-changing budget that Governor Kathy Hochul has now submitted on behalf of OPRHP, where in fact the agency is going to receive -- will have an operating budget of $199.3 million.

And in bold print he states on his Executive Budget summary that the agency will be in full hiring mode for 2022 and they're bringing their ETFs to the number 2,087, which is the highest level they've had since 2009.

So our questions today are -- obviously this is a budget hearing. So the first thing we would ask the panel and the legislative body is to please assist us in rescinding that executive memorandum that put

the Park Police basically in extinction, through the agency.

And secondly, we would ask for more transparency as it relates to the budget and the money that was appropriated to the Office of Parks and Recreation. If they're receiving almost $200 million, how much money is being allocated for the Park Police? Is it just one academy class? Is it going to be multiple academy classes?

And with that, we're going to need help from the Legislature to ask the Governor to pass the 20-year retirement bill that she vetoed several weeks ago, and make that part of the budget. And we also need additional funding where we can have a geographic package submitted on behalf of the Legislature to, again, address the retention problem. We've lost over 140 members since 2014, 79 in the last year and a half since this executive order came out, two years since this executive order came out.

So we would need those two things from the Legislature, along with that memorandum

being rescinded, in order for us to get some kind of real direction as it relates to the Park Police within OPRHP.

So I thank you for your time. Again, my testimony was submitted. And I look forward to any questions you have regarding our future and what we need from the Legislature moving forward. Thank you so much.

CHAIRWOMAN KRUEGER: Thank you.

And our next testifier -- sorry, it's not Michael Powers, it was the one, I'm sorry, just above. Excuse me. Sorry. Timothy Dymond, president of the New York State Police Investigators Association.

PRESIDENT DYMOND: Thank you.

Good evening, Senate and Assembly members. My name is Tim Dymond, and I am a Senior Investigator for the New York State Police. I am currently the elected president of the New York State Police Investigators Association.

I represent roughly 1100 Investigators and Senior Investigators across the State of

New York, and several thousand retirees. I am incredibly proud to represent this elite group of men and women in the State Police that handle the most serious of cases. Day in and day out, these folks go out and do their job at a high level, and without them, this state would certainly suffer.

Our members buy the illegal handguns undercover. Our members investigate and infiltrate street gangs that are committing many of the shootings that we're seeing today. Our members go out and work on the murders that these gangs commit. Those are our people, and I'm very proud.

We continue to deal with historic policy change and job expectations that seem to increase by the day. But there are a few topics I would like to touch on and have the Legislature consider for the pending budget.

Our highest priority, as it was last year, is replacement of retiring members in our ranks. We continue to lose members at an alarming pace. Last year I spoke of the shortage we were dealing with with Senior

Investigators. I'm pleased to report today that the Division has filled most of those open senior positions, and for that we are thankful. Now we need to backfill the Investigator positions.

Nearly every special detail and station is running on a reduced manpower level, while the workload continues to increase with the rise in violent crime. The Legislature can debate the causes for the increase in crime, but there's no debating the fact that these crimes need to be investigated to prevent future crimes from being committed.

As Superintendent Bruen explained earlier, it takes a while for us to get a good Trooper candidate out and into the field. It takes many, many more years to get an Investigator out into the field. So we need to get that process going this year. We ask that the Legislature provide a substantial new recruit class to help us replenish the ranks and keep New Yorkers safe.

We were pleased to hear this year the Governor is supporting increased funding to be used in the battle against gun violence that is occurring across the state. I think it's very important to note that we are seeing violent crime increases not only in New York City -- New York City gets the headlines -- we are seeing the same problems in Buffalo, Syracuse, Albany, Newburgh, Poughkeepsie.

The expansion of our Community Stabilization Units and Anti-Gun Task Force and different technologies will help reduce gun crime, but it's not enough. We must get the trigger-pullers off the street, period.

We ask the Legislature to support expanding these units and every other BCI unit that investigates gun crime.

Lastly, last year during the budget hearings we asked the Legislature to consider supporting a safer, more appropriate firearm for use by the 300 BCI members working undercover in the most dangerous conditions across New York. With your support, the

Division has explored this concept, and approval of the updated concept is imminent. For this we are thankful.

However, final approval for the undercover weapons is the first phase. We respectfully request that the Legislature conclude this process by providing to the Division the funding necessary to purchase the firearms and related equipment to complete the project. The estimated cost is approximately $150,000, and it will be a small investment in the safety of our undercover police officers.

Lastly, thank you for allowing me the opportunity to bring these important issues to your attention on behalf of my membership, and I appreciate it and I appreciate what you guys do.

CHAIRWOMAN KRUEGER: Thank you very much.

And next, Michael Powers.

Oops. I think your voice is not coming through. Try to unmute yourself. Okay, try again. I think he froze this time.

CHAIRWOMAN WEINSTEIN: We can't hear you. But we can see you, that nice smile.

CHAIRWOMAN KRUEGER: Yes, we do see the nice smile.

CHAIRWOMAN WEINSTEIN: Not frozen.

CHAIRWOMAN KRUEGER: Try one more time.

You know, I'm sorry, Mr. Powers, we cannot hear you speaking.

CHAIRWOMAN WEINSTEIN: Should we go to some members' questions and --

CHAIRWOMAN KRUEGER: What a good idea.

CHAIRWOMAN WEINSTEIN: And then you can come back.

CHAIRWOMAN KRUEGER: So let's go to questions. And maybe what you can do, Mr. Powers, is close yourself out of Zoom and reopen it. Sometimes just that works.

All right. And we'll start with, I guess, Assemblymembers. Helene Weinstein, who would you like?

CHAIRWOMAN WEINSTEIN: I do see that Senator Savino has her hand raised.

CHAIRWOMAN KRUEGER: Oh, okay. Hello,

Senator Savino. I thought you were off for the evening. What would you like to ask?

SENATOR SAVINO: I am here, Senator Krueger, ever-present, no matter where I am.

(Laughter.)

CHAIRWOMAN KRUEGER: Fair enough.

SENATOR SAVINO: Actually, I wanted to ask -- I'll start with Troy from the Parks Police, because he referenced a piece of legislation that the Governor recently vetoed, it was a 20-year pension bill that the Legislature passed last year, I think it was unanimously in both houses. And in her veto message she made some reference to the fact that it should be negotiated before it comes to her desk. But in fact, it should be negotiated at the bargaining table.

And I was just wondering if she had raised that issue, because quite honestly, you can't negotiate pensions, they are a prohibitive subject of collective bargaining.

But since she referenced it in her veto message, I was wondering if in fact that you had brought it up in discussions with the

Park Police.

DIRECTOR CAUPAIN: Thank you, Senator, for that question. I hope you can still hear me; I don't see myself.

SENATOR SAVINO: I can hear you.

DIRECTOR CAUPAIN: Yes, we did bring that to the attention of the executive chamber. It was -- obviously we cannot do that in contract negotiations. It's against the law. It's actually against several laws. And we did bring that to their attention.

Obviously we're hoping to have conversation with the second floor and the executive chamber to somehow clarify that, and hope that if there was -- if the Governor felt that we could do it in collective bargaining, even though we couldn't, then it seems to us that there was some type of appetite, if you will, or feeling that if we did get it done, that she would be okay in passing it or putting it through in the budget or through the Legislature.

So we're hoping that we can have some real conversation regarding that and hope

that we can get the 20-year bill included in this year's budget, because it is much needed, not only for the Park Police but for the other units within our PBA, because it will help us with our retention. And it helps us become, you know, competitive in today's market when we're being poached from every other municipality, and even the State Police, all across the State of New York.

SENATOR SAVINO: Thank you.

I'm happy to hear that hiring is going on with the Police Investigators as well. And I was hoping that Mike Powers would be able to testify. If we can get him through, the question I would ask him is we've heard Commissioner Annucci speak about the training has been put in place to help implement the HALT legislation that goes into effect, and I just wanted to hear from him if in fact that training is taking place and whether or not the union was consulted and other members involved in the training.

As always, I'm always concerned when

the workers, whether it's the Park Police, whether it's the New York State Police Investigators or NYSCOPBA, is not included as part of the implementation of policies that we adopt and the agencies are supposed to implement.

So hopefully Mike will be able to get on board and tell us a bit of what's happening at DOCCS and maybe share what's happening with respect to the implementation of HALT, and are his members being properly prepared and trained.

CHAIRWOMAN KRUEGER: Great. I believe that Michael Powers has rejoined us. And with any luck, we are now going to be able to hear him.

SENATOR SAVINO: Great. Thank you.

CHAIRWOMAN WEINSTEIN: So your presentation now.

CHAIRWOMAN KRUEGER: Hi, Michael. Are you ready to testify?

PRESIDENT POWERS: Yes. Yes, I am. Can you hear me?

CHAIRWOMAN KRUEGER: We can hear you.

Excellent.

PRESIDENT POWERS: Wonderful. Thank you for your patience.

Again, good evening, esteemed members of the Legislature. I'm Michael Powers, president of NYSCOPBA. On behalf of more than 30,000 active and retired members, thank you for the opportunity to appear in front of you.

For years the State of New York has touted itself as the progressive capital of the world. The process of decarcerating New York's prisons is viewed as a victory for social justice. Sadly, though, this effort has also drastically changed the state's rehabilitation model, which has resulted in significant human costs.

Over the last decade, the working environment inside correctional facilities has become increasingly more violent. Despite a prison population being at its lowest point in nearly 40 years, violent attacks on staff by incarcerated --

CHAIRWOMAN KRUEGER: Oh, we've lost

your voice again. Let's see. Try it one more time.

PRESIDENT POWERS: Can you hear me now?

CHAIRWOMAN KRUEGER: Yes, now I can.

PRESIDENT POWERS: Thank you.

So as I mentioned, we're at 1173 assaults recorded this past year. Every one of these assaults on staff has its own story. The one that sent a shiver down my spine was the story of Correction Officer Adrea Adamczyk out at Mid-State. Officer Adamczyk required 70 stitches to her forehead after she was viciously assaulted by a man she was charged to oversee, for simply directing him to take a shower.

This was an unprovoked, violent assault upon an employee of the state. But don't be fooled -- this terrible incident was inevitable. Today in New York State prison facilities, more than three correction officers like Adrea are injured at the hands of inmates. Three more will be hurt tomorrow, and three more will be hurt the

next day.

As a result of the overhaul of the disciplinary system within correctional facilities, there are very few deterrents in place to dissuade inmates from attacking staff. HALT is fully implemented, the ability to remove and separate violent individuals will be severely hampered. The incarcerated population is well aware of this. After an attack, the chants of 15 days, 15 days" echo the hallways and cell blocks.

Our prisons will soon be consequence-free environments, allowing dangerous individuals to thrive in chaos and hurt anyone who attempts to stand in their way.

We have promoted a bill pending in the Legislature that will bring stakeholders to the table and partake in a violence study. Until that legislation is passed and that violence study is complete, we demand that any changes in policies that alter the disciplinary system be put on hold, including

the implementation of HALT.

There are ways to protect everyone. The state just needs to implement them with the same urgency that they enacted polices to improve the well-being of the incarcerated community. The pandemic has only made staffing and morale issues worse. Correction officers are physically and mentally exhausted, mandated to work --

(Zoom audio dropped.)

CHAIRWOMAN KRUEGER: You're faded out again, sorry.

Try doing that trick you seem to know to come back.

(Pause.)

PRESIDENT POWERS: How's that?

CHAIRWOMAN KRUEGER: You're back.

PRESIDENT POWERS: We're back.

CHAIRWOMAN KRUEGER: Yes, you are.

PRESIDENT POWERS: Now the hardworking men and women of NYSCOPBA should be properly recognized and equally compensated as their healthcare counterparts, whom they escort around the blocks every day. Simply put, all

correction officers must be included in a financial incentive program to make up for the --

(Zoom audio dropped.)

CHAIRWOMAN KRUEGER: Sorry, Michael, we've lost you again.

ASSEMBLYMAN EPSTEIN: Can he not use that mic? Is there a way to take the mic off? Because there might be a short in the mic.

CHAIRWOMAN KRUEGER: It could be a short in the mic, but I don't know how he goes --

PRESIDENT POWERS: Can you hear me now?

CHAIRWOMAN KRUEGER: Yes.

PRESIDENT POWERS: Yes, we're back.

CHAIRWOMAN KRUEGER: Sometimes if you take your visual off, it improves the mic. So you could try that also.

PRESIDENT POWERS: We're just checking one thing here real quick. I apologize.

CHAIRWOMAN KRUEGER: Sure.

PRESIDENT POWERS: As I mentioned, we

demand that correction officers be included in the worker retention bonuses proposed in the Executive Budget.

For years we've talked about contraband in our facilities, and it's as prevalent as ever. Now is the time to fund our Secure Vendor Package Program, as well as utilize full-body scanners. There is no sugar-coating the current situation in our facilities. Conditions are abysmal, and these violence issues must be addressed immediately.

Thank you for the opportunity. I welcome any questions you may have.

CHAIRWOMAN KRUEGER: Thank you very much.

And now, looking for hands up, and I believe it's the Assembly's turn.

CHAIRWOMAN WEINSTEIN: We will go to Assemblyman Palmesano first.

ASSEMBLYMAN PALMESANO: Yes, thank you.

First I just want to say briefly thank you to all of you for -- you and your

members, for what you do for us in our communities and your jobs each and every day to keep us safe. So thank you.

My question is for Mr. Powers. Mr. Powers, I know you talked about the violence and assaults that are going on in our correctional facilities. I've mentioned that too. I know over the past six years it's an increase of 55 percent, inmate-on-staff assaults. You know, you mentioned about HALT and the restrictions on the special housing units. I think that's an issue that needs to be addressed. You know, obviously I don't think we're ready for it.

On that issue, you mentioned the violence study bill that NYSCOPBA and others are pushing. Earlier today Commissioner Annucci talked about a violence task force that DOCCS is forming to investigate violence in the prisons. I know, obviously, those two aren't the same. So is what DOCCS is promoting, the violence study bill, compared to -- like what's the differences? And this DOCCS task force, is it sufficient enough,

and how is the study bill better?

PRESIDENT POWERS: Well, the violence task force was presented to us a couple of weeks ago, a little over a month ago, and we haven't even scheduled -- we haven't even had our first meeting here.

As you're well aware, Assemblyman, we've had many issues -- you know, this is a subject matter that quite frankly for this last seven years as -- my tenure as president of NYSCOPBA, we've been dealing with this since Jump Street. A task force is between the administration, some superintendents and some --

(Zoom audio dropped.)

CHAIRWOMAN KRUEGER: We lost you, Michael.

PRESIDENT POWERS: Can you hear me?

ASSEMBLYMAN PALMESANO: Yes.

CHAIRWOMAN KRUEGER: Now, yes.

PRESIDENT POWERS: The violence study includes stakeholders such as members of the Legislature, policyholders, administrators, union officials and many others that we feel

is vital in addressing this violence study.

ASSEMBLYMAN PALMESANO: Mr. Powers, I know you mentioned the compensation package. I know, you know, from talking to correction officers in my district, that the morale is really down with the closures and everything else, the working conditions, the mandated overtimes.

And then when this came up earlier about the two and-a-half-times overtime pay being paid to nurses working in our correctional facilities, whereas the corrections officers working side by side with them are not getting that same compensation -- when your members see that, what does that do for the morale of those who are working a dangerous job?

PRESIDENT POWERS: Well, it's been very difficult for our staff, especially from a morale standpoint. In the height of the initial pandemic in 2020, it became a very difficult time. Many members got caught up in some of the quarantine issues, as the acting commissioner talked about earlier, you

know, and some of them unfortunately having to --

(Zoom audio dropped.)

CHAIRWOMAN KRUEGER: We lost you again.

PRESIDENT POWERS: The morale in our facilities has been very, very low since -- well, the last year and a half. And it's been very difficult to -- it's been very difficult to bring that morale around in any fashion with the department as of late. And we feel it's necessary, as you mentioned, to be categorized as the essential employees that they are and that they --

(Zoom audio dropped.)

CHAIRWOMAN KRUEGER: Sorry, Michael, you both ran out of time and you ran out of sound.

ASSEMBLYMAN PALMESANO: Madam Chair, I would just ask if I could just indulge -- maybe give him a chance, you know, because he got cut off a couple of times, you know, on an important issue.

CHAIRWOMAN KRUEGER: Sure.

ASSEMBLYMAN PALMESANO: I'd like to ask one more question, hopefully, if I could. I'd appreciate your indulgence in that, and my fellow committee members.

Mr. Powers, the other question I was going to ask you is -- I mean, the commissioner talked about regarding the Secure Vendor Program. He said he's waiting for the right time. I would argue the right time was several years ago.

How much is the drug contraband problem contributing to this rising violence that's going on in our prisons? You know, what do you say about the Secure Vendor Program, and what can we be doing right now for it?

PRESIDENT POWERS: It's significant. You know, a majority of the contraband is coming in through the packages and through the visit room. And, you know, to be able to -- to hinder that in any capacity I feel strongly would reduce the amount of contraband coming into the facility, which would ultimately reduce the amount of

violence that we're dealing with.

And, you know, the numbers don't lie, right? I mean, you know, we're dealing with a much smaller inmate population and more acts of violence.

(Zoom audio dropped.)

CHAIRWOMAN KRUEGER: Thank you.

I think we don't -- oh, we do have an additional Senator, excuse me.

Senator Sue Serino.

SENATOR SERRANO: Thank you, Chairwoman.

And thank you to the panel for coming here today and for everything that you do. I really appreciate it.

And Mike, you know, sometimes it's a little too easy for lawmakers to evaluate the issues that are discussed today from the comfort of our offices, but you did a really good job I think helping legislators understand the challenges that your members are facing every single day.

And having said that, can you talk a little bit about the prison closures and how

they've impacted your members? Because I'm sure that your members have shared some personal stories with you that really might help lawmakers understand that there are very real people and families at the other end of these decisions.

PRESIDENT POWERS: Yes, Senator, without question. You know, it's very -- it's a very difficult time when a facility closes regardless of where it is in the State of New York --

(Zoom audio dropped.)

CHAIRWOMAN KRUEGER: No --

PRESIDENT POWERS: Can you hear me?

CHAIRWOMAN KRUEGER: I have to say I think it's unfair to ask Mr. Powers questions when we can't really hear him answer. So maybe just -- if it's okay, perhaps Michael could reach out to Senator Serino, perhaps tomorrow during daytime, from a working phone. I just -- it's very -- it's unfair to him, and it's not his fault that his equipment isn't working correctly.

ASSEMBLYMAN PALMESANO: Yeah, but I

think, Madam Chair, that he's trying and I think we should, you know, keep giving him a little bit of indulgence. I mean, these individuals that he represents are going through a very difficult time with the violence that's going --

CHAIRWOMAN WEINSTEIN: I would make this suggestion. I would make this suggestion, that the member ask the question and if Mr. Powers has a problem with his mic, I'd like him to be able to give us, in writing, the answers to the question so we can circulate that. Because I think we'd all like to hear the answers.

CHAIRWOMAN KRUEGER: That's a good answer. Thank you.

SENATOR SERRANO: Chairwoman, I just had another part of that too that I was just -- my question, maybe they can answer it, is do you believe DOCCS needs to reevaluate its procedure for designating prisons for closure? Because I'd like to see what they have to say about that.

And then for just for Troy, you know,

Troy, your frustration is totally understandable, and we'll do what we can to ensure that your concerns are heard. Transparency is the least the state can do for members who do so much to protect such a key part of this state.

So thank you very much to the whole panel. And thank you, Chairwoman.

DIRECTOR CAUPAIN: Thank you, ma'am. Appreciate that.

CHAIRWOMAN KRUEGER: Thank you. So Troy thanks you. And let's see if Mr. Powers can speak to us again to answer your last question, Senator Serino.

(Pause.)

CHAIRWOMAN KRUEGER: I don't think so.

PRESIDENT POWERS: We tried switching to a new microphone.

CHAIRWOMAN WEINSTEIN: Oh, okay.

PRESIDENT POWERS: We tried.

CHAIRWOMAN KRUEGER: We tried? Is that better?

PRESIDENT POWERS: I hope so.

CHAIRWOMAN KRUEGER: Okay.

SENATOR SERINO: We can hear you now.

PRESIDENT POWERS: So to answer your question, Senator, yes, it's very difficult on our staff. And many have to uproot their families, uproot out of the communities in which they reside. It creates a burden.

And this round of closure was pretty significant in numbers as far as it affected across the State of New York. And, you know, obviously it has an impact on not only the community but, you know, in the state workforce as well. And it falls outside the lines of security as well, because it impacts civilian staff as well.

SENATOR SERINO: And the other part of that, Mike, was do you believe that DOCCS needs to reevaluate its procedure for designating prisons for closure?

PRESIDENT POWERS: Oh, yeah. You know, a good heads up would be, you know, a good idea, you know, because of the impact that it has. And unfortunately in the last two years, you know, we had to deal with that during the holiday season, you know, in

rounds of closures. So it's -- yeah, it became quite difficult for many of our staff.

And, you know, we've been assured that going forward there will be a better communication mechanism in place.

CHAIRWOMAN KRUEGER: Thank you. Thank you. I think we've gone far beyond the three minutes.

Assemblywoman?

CHAIRWOMAN WEINSTEIN: Yes, we have a number of members. So just so people know their order, Assemblyman Reilly, then Assemblyman Walczyk, Assemblyman Lawler, Assemblyman Ra and Assemblyman Weprin.

But we'll start with Assemblyman Reilly.

ASSEMBLYMAN REILLY: Thank you, Madam Chair.

Thank you to the panel.

I have a question directed at Mr. Diamond. With the investigations of the firearms and how many incidents are happening throughout the state, especially that the New York State Police Investigators are involved

in, I know that we talked about, during the day, firearm possession by those under 18 years old as it appears under Raise the Age.

How many -- do you know the number or how prevalent it is where those that are under 16 -- under 18 are arrested with a firearm, a loaded firearm.

PRESIDENT DYMOND: I don't have exact numbers to present to you today, but I can tell you that much like gangs did 10 or 15 years ago with drugs, where they had the younger crowd hold for them for the lesser penalty, we're seeing the same pattern in urban areas now where younger members of gangs are carrying the guns, holding the guns, because they are inevitably going to Family Court, which is just not really the solution for the problems we're having.

ASSEMBLYMAN REILLY: I know under Raise the Age now, currently, that if they're in possession of a firearm and they display it, there's a possibility they can go to Youth Part Criminal if there's extenuating

circumstances and the judge accepts it from the DA.

I actually introduced legislation that would require a loaded firearm, mere possession by a 16- or 17-year-old, make that qualification. I'm hoping that we'll be able to make that happen, because I think that's something you nailed there on the head with gangs using these underage kids to hold the firearms.

Do you think that's something that you guys could support? And hopefully we can get the DAs Association on board as well.

PRESIDENT DYMOND: Yes, we would absolutely support that. I think it's important that everyone listening tonight knows that, you know, there's a small number of shooters out there. And you -- I'm sure you know this from your career, there's a small number in these communities.

But that number can do a lot of damage if there's no consequences for their actions.

ASSEMBLYMAN REILLY: So in the unit that you talk about at the state level -- I

know from the NYPD, we have similar units -- we have those that follow shooters that have participated in multiple trigger-pulls.

Do you keep that record? And is it possible that we can expand -- if you have those records, and of course not publicly -- but to monitor how many are under age 18?

PRESIDENT DYMOND: We would have to work on that. Our community stabilization units, which are very similar to the teams that New York City is about to roll out, under Mayor Adams' plan yesterday, they target our violent areas, areas that are seeing a spike in shootings.

So we could track that, but that's something to definitely look into so we can take some of these more prevalent shooters off the street.

ASSEMBLYMAN REILLY: Thank you, sir.

PRESIDENT DYMOND: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Senator Jamaal Bailey.

SENATOR BAILEY: Thank you, Madam Chair.

I want to thank you all for your testimony and, most importantly, for your service and those that you represent, for what you do.

Let me say that the door is always open to discuss justice-related items. As the chair of the Codes Committee, I welcome further discussion on what your opinions may be on these important justice-related matters -- not necessarily in these three minutes that we have here, but you should feel free to reach out to me.

I would love to speak to you in furtherance of some of the discussions that Assemblymember Reilly had mentioned in relation to some of the conversations about Raise the Age. They can't be appropriately fleshed out here, but I would hope that we could have a more in-depth conversation at a later time.

To Mr. Dymond, I wanted to ask you a question. In your written testimony, you spoke about the need for more equipment. Could you like illuminate a little bit more

about what equipment is required? And it was said $150,000. How far would that go and how many investigators would that be able to assist?

PRESIDENT DYMOND: So the equipment we're specifying in that is not just the firearms we're looking to get, it's the holsters, concealed holsters, and ammunition. And that would be concealed for the 300, roughly, working undercovers we have throughout the state. And they're doing, you know, not just gang work, they're doing antiterrorism work. They're in pretty much every area of the state, from down on Long Island out to Buffalo and over to Plattsburgh.

SENATOR BAILEY: Okay. I was just reviewing the written testimony. I just wanted to illuminate that.

PRESIDENT DYMOND: Thank you.

SENATOR BAILEY: And to Troy Caupain, I understand about the inclusion and the desire be included, and I think that's a laudable goal that we should all continue to

have for the conversation.

Mr. Powers, we've heard you loud and clear in terms -- well, as loud as we can. I didn't mean that. But thank you for -- but seriously, thank you for sticking with this and thank you for the women and men that you represent and what you do. I truly appreciate you.

And with that being said, I yield the rest of my time.

DIRECTOR CAUPAIN: Appreciate you, Senator.

CHAIRWOMAN KRUEGER: Thank you very much, Senator.

Assemblywoman.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Walczyk.

ASSEMBLYMAN WALCZYK: Gentlemen, to you and your members, thanks for protecting and thanks for serving.

To Mr. Powers, do we have corrections officers in the State of New York who are still paying off student loans?

PRESIDENT POWERS: I would imagine.

ASSEMBLYMAN WALCZYK: What's that going to be like for morale in the facility if the Governor's TAP plan goes through in this budget?

PRESIDENT POWERS: It won't be -- it probably won't be received very well.

ASSEMBLYMAN WALCZYK: I'm just -- I mean, you represent -- I also represent and know personally a bunch of COs, some of them who are still paying for college, some of them who went to the State University of New York and are still paying for college, and they have a job as a correction officer to do so.

And it's just -- it's amazing to me -- I mean, I know the CO talk, right? And there's going to be free college for the -- some of them inmates who they're afraid that will assault them in our facilities. It just -- it blows my mind.

The Secure Vendor Program, what's stopping DOCCS from finally implementing this thing? What do we gotta do?

PRESIDENT POWERS: Pull the trigger.

You know, I mean, we've been talking about this for what, four or five years now. You know, they started a pilot program, it got pulled out from under them. They needed to make some amendments to it. And we haven't seen what that looks like yet.

ASSEMBLYMAN WALCZYK: Was there anything actually wrong with that pilot program?

PRESIDENT POWERS: In our opinion, no. You know. But, you know, there was a lot of politics involved in it and a lot of advocate concerns. And, you know, they shelved it. And I just -- I'm just as curious as you are as to where it is.

ASSEMBLYMAN WALCZYK: Yeah, me too.

If we were to implement the Secure Vendor Program and some of the other recommendations that you put forward -- and I know this has been a challenge in our facilities for a long time -- do you think by doing some of these things we could actually eliminate drugs or in large part eliminate drugs in our facilities?

PRESIDENT POWERS: I think it would significantly reduce the amount of drugs and contraband in our facilities, without question.

ASSEMBLYMAN WALCZYK: Thanks, Mr. Powers.

Mr. Dymond, I notice that vehicle theft has doubled. Nobody's really reported on this thing; it's probably not as interesting to talk about as gun violence every day. But vehicle theft has doubled in the State of New York. Is that something we should be concerned about?

PRESIDENT DYMOND: Yes. I think the vehicle theft in the State of New York, there's so many other violent, more serious crimes that are increasing across the state, that vehicle theft or any type of theft, which you're seeing everywhere, is kind of being pushed to the back.

As sad as that is, that's kind of the situation we're in with triaging the levels of importance by the crimes.

ASSEMBLYMAN WALCZYK: I hear you.

And Chairwoman, just with the remainder of my time, I want to just tell the membership that the Secure Vendor Program in our correctional facilities, this is going to help protect employees, this is going to help protect inmates or incarcerated individuals, those college students that we're concerned about their safety.

This will literally save lives and, for many, is the only way, if we're able to eliminate drugs coming into our facilities, the only way that they're actually going to beat addiction. If we continue to allow these drugs to get into our facilities, nobody is better off. Nobody is safe. The public isn't better off, the individuals aren't more rehabilitated.

The time has come and gone -- we need to put the Secure Vendor Program in now.

PRESIDENT POWERS: Thank you, Assemblyman.

CHAIRWOMAN KRUEGER: I think it's still yours, Assemblywoman.

CHAIRWOMAN WEINSTEIN: We go to

Assemblyman Lawler, followed by Assemblyman Ra.

ASSEMBLYMAN LAWLER: Thank you, Chairwoman.

Mr. Powers, I had the opportunity to tour Sing Sing over the summer, and I just want to commend NYSCOPBA, I toured it with them, along with the superintendent of Sing Sing. And I want to commend NYSCOPBA and your members. They do a professional job, they go to work every day under difficult circumstances. And one of my biggest takeaways from meeting with your members was the concern that they have for their own safety and the safety of their fellow corrections officers.

And I think it is our responsibility to ensure that your members have the resources and support that they need to, first and foremost, ensure the safety of those that are in their care, but themselves, to ensure that they go home at night.

I think the number of attacks and assaults that have occurred in the jails, in

our prisons across the state is outrageous. I had the chance to visit Rikers in the fall. And even though that's, you know, New York City, the concerns were the same, in many respects heightened, given what has gone on over in Rikers.

And I think, you know, punitive segregation is necessary when you're looking at what has occurred inside the prisons and the violent attacks that your officers have faced. And, you know, we will see, as HALT is fully implemented, the impact that will have on your members. But I can assure you that we will not be silent, you know, as that program is fully implemented and we see the consequence of it.

So I just want you to know we do support your efforts and those of your members. And I also want to just point something out for you as well as your colleagues on the panel. I've introduced legislation so that anyone who participates in the death of a law enforcement officer, first responder or corrections officer gets

life in prison without the possibility of parole. And I think there needs to be severe consequences for those who would commit such a crime. And your officers and that of Mr. Dymond and Troy, your officers all deserve our support. And so I just want you to know that. I appreciate your work. I don't really have a question for you, but I wanted you to know that we support you.

PRESIDENT POWERS: I appreciate the words, sir, and --

DIRECTOR CAUPAIN: Thank you.

PRESIDENT POWERS: -- I appreciate the fact that you've gone into the facility, as many legislators should.

And I'll be sure to convey that sentiment to our front line, and we thank you.

ASSEMBLYMAN LAWLER: Absolutely.

CHAIRWOMAN WEINSTEIN: We now go to Assemblyman Ra.

ASSEMBLYMAN RA: Thank you, Chair.

Just for the Police Benevolent Association of New York, Mr. -- I apologize,

Cow-pain, Ca-pain? I'm sorry.

DIRECTOR CAUPAIN: That's fine, sir, thank you.

ASSEMBLYMAN RA: Sorry, I have a two-letter last name, so anything longer than that I have trouble with.

(Laughter.)

ASSEMBLYMAN RA: It was great to hear that news about a class coming in and everything. But I'm wondering if you can just elaborate -- I know -- certainly I share your concern for transparency in terms of, you know, what portion of that budget will go towards officers. But A, you know, my understanding is that you're down like 50 percent. So what is the number of officers you need to really be at full strength?

And then also, you know, how do we make sure that -- having classes is great, but what do we need to do to make sure that those that are going through those academy classes stay within your ranks and don't -- and we're not just training people for other

departments?

DIRECTOR CAUPAIN: Great question, sir. I appreciate those.

DCJS recognizes our tour strength should be statewide, somewhere around 387. And that was several years ago when we submitted a staffing bill -- obviously, the PBA pushed that back in 2014 or '15. But 387 would be a huge number for us get to, you know, provide the police services across the state with the increased acreage and properties that we're given every year. I know in the Executive Budget the Governor talks about a new park in inner-city Rochester, and those things. So that number would be ideal for us.

Secondly, in order to stop the revolving door, if you will -- again, I'm 22 years on and I've watched 498 members graduate the academy, and our number is 192. Again, over the last seven years we've watched over 150 walk out the door.

So I'd say we need several things from the agency as well as the state. We need to

be competitive. Obviously we work in -- you know, I'm from Long Island, I work out of Jones Beach -- I see your Nassau County flag. you know, we have Suffolk and Nassau, you know, right beside us. We have a lot of our members throughout the state that work, you know, in -- around municipalities where their benefits are greater, their salaries are greater, they have opportunities for promotions and transfers and things like that. And we address all of those things within the Park Police.

So first would be the 20-year bill. That would be huge for our members in order to obviously give them something to look forward to after a year -- excuse me, a career in law enforcement.

We need to have, you know, a geographic put in place for -- obviously, to be competitive in the downstate areas. And I attached the agency's geographic plan that they submitted back in November of 2019 but never pushed for that to continue on.

And then thirdly, obviously, again, we

need to be able to increase our base salaries, honestly. I mean, we haven't had an upgrade since 2001. So again, we're not competitive in this world of law enforcement, and that's a problem for us.

And those academy classes are going to bring a lot of those members downstate, sir, and we need to be able to get them back home. Because if we don't then, again, they're going to walk out the door. So we need to have continued classes, we need to offer competitive salaries and pension and retirement packages, and that will enhance our staffing levels -- and it will keep people here.

ASSEMBLYMAN RA: Great. Well, thank you. Thank you for all you do, you know, not just with -- you know, people have -- seek outdoor recreation; you guys are keeping those facilities safe. And certainly we've taken advantage of so many facilities that you guys work in, you know, as testing sites and vaccine sites over the last couple of years. So thank you, sir.

DIRECTOR CAUPAIN: I appreciate you. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

I just have one quick question before I think I close this panel down, for Tim Dymond.

So we heard about shortages of new officers, the new class -- Troy is pointing out real concerns about whether any of them do end up going to and staying in the Park Police division of State Police.

And I asked the head of the State Police earlier today whether there was a real need to have 250 State Troopers in New York City at this time. Not that I don't like running into them in my city, but we also have, I think, 35,000 NYPD members. And I hear from my upstate colleagues that they're frustrated they don't have enough State Police and Park Police.

So I'm just curious, from your perspective, do you think 250 of you should be assigned to New York City at a time?

PRESIDENT DYMOND: I don't know what

the appropriate number is. That is not my skill set.

I can tell you that anywhere you can have New York State Troopers, you want to have them, with the level of professionalism and the way they carry themselves. I know our members do terrific work down there with the DEA, ATF, FBI task force. We offer a very dynamic skill set that's utilized daily down there. So that's where I'll go with that.

CHAIRWOMAN KRUEGER: Thank you very much. And then I want to thank --

DIRECTOR CAUPAIN: Senator, if I can --

CHAIRWOMAN KRUEGER: Yes, please.

DIRECTOR CAUPAIN: If I can address that question just for the Park Police members, we do obviously have state parks within the city -- Riverbank State Park and Roberto Clemente and Gantry and Clay Pits and so many others. And they're acquiring new property, you know, every year.

Unfortunately, our New York City

region, we are woefully down in membership because, again, the members that do sign up and are sent to New York City, most of them are from upstate and then they want to go home. And obviously not having the ability to go home, they leave us.

Another issue that we can -- the Legislature can help us with is the diversifying of our recruitment. Because again, I don't believe the agency is truly taking a really good look at how to recruit New York City and the downstate area, and that's obviously to their detriment and we're losing a lot of members out of the New York City zone.

So I would say we do have a footprint because of the environments that we work in. We just need to be able to recruit in and around those areas so we can keep those members downstate.

CHAIRWOMAN KRUEGER: Well, I want to thank all three of you again for joining us tonight, and we look forward to continuing to work with all of you and your members.

And I'm going to call up the next and last panel --

DIRECTOR CAUPAIN: Thank you, Madam Chair.

PRESIDENT DYMOND: Thank you.

PRESIDENT POWERS: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

DIRECTOR CAUPAIN: Thank you, Chairwoman Weinstein.

CHAIRWOMAN KRUEGER: We have the District Attorneys Association of New York, Anthony Jordan; We have the New York State Court Clerks Association, Imogene Jones; we have the Center for Judicial Accountability, Elena Sassower.

So in the order that I called you, Anthony Jordan.

DAASNY PRESIDENT JORDAN: Great. Thank you, Madam Chairwoman. And Chairwoman Weinstein, thank you, and the esteemed members who've persevered today. I saw you start at 9:30, so it's been a long day.

Thanks for the opportunity to speak to you briefly, and I think I would start with

saying that there are some things certainly in the Executive Budget that are encouraging, including ITAP and NIBIN. Those are certainly important initiatives and ones that we hope continue to be pushed forward.

What I want to touch on, though, is what this Executive Budget really is lacking. And I think most importantly, it's lacking adequate resources to bring about the stated goals that you all worked so hard and pushed, beginning really in 2019 and even before, in terms of criminal justice transformation, for lack of the better word, and what has occurred since.

And the budget -- this budget I think, for one, really grossly underfunds pretrial services. And that problem, that lack of funding continues to contribute to a significant resource gap throughout the state, and something that ought to be and we would encourage this body to consider.

But I think most importantly, this budget continues to ignore the funding needs and the costs of discovery. We've repeatedly

cautioned, beginning when these discussions were beginning in earnest in 2019, that there were going to be significant costs and significant burdens associated with honoring the spirit of that law and maintaining compliance.

Counties have certainly been advocating that they can't afford the significant costs. And the result of this, I think you're compromising victims, witnesses and ultimately really harming the very communities that you're charged with protecting.

I think I would close -- and then open for any questions, certainly. But if the goal of the changes to discovery was to improve the exchange of information, that is something that the state should step up and fund. And that is something that is lacking in this budget. And we would certainly ask and encourage that this body, both Senate and Assembly, look to add important funding to address those needs.

So thank you very much for giving us

this opportunity, and I'll answer any questions or let you move on to the next panelist.

CHAIRWOMAN KRUEGER: Thank you. We'll take all three of you and then we'll ask questions. So thank you.

DAASNY PRESIDENT JORDAN: Thank you, Senator.

CHAIRWOMAN KRUEGER: Thank you.

Imogene Jones.

NYSCCA PRESIDENT JONES: Good evening, everyone. My name is Imogene V. Jones, and I have the pleasure of being the president of the New York State Court Clerks Association. It's truly an honor to be before this august body.

The Court Clerks Association is composed of women and men working for the Unified Court System in one of 19 supervisory peace officer titles, including senior court clerk and going up to deputy chief clerk, located within the City of New York. With over 1300 active and well over 1,000 retired members, the Court Clerks Association is one

of the largest of the 11 employee associations within the Unified Court System of the State of New York. Our office is located in Tribeca, at the core of the Big Apple.

I've been employed by the New York State court system for 32 years, and a civil servant for 38. Today I urge you to look favorably on the budget bills affecting the court system. The system is suffering from years of a starvation budget. The COVID-19 pandemic has wreaked havoc on the entire court system.

As with many of our society's institutions, years of neglect, the failure to maintain infrastructure, and the failure to cohesively implement modern technology has made it very difficult for the courts to deliver service as expected and deserved.

Despite the circumstances throughout the pandemic, court clerks have done their jobs. Our foremost challenge has been the loss of employees. The courts are currently suffering from unacceptable backlogs because

no one is there to do the work. Please remember, as we prioritize cases involving life and death, justice delayed is justice denied.

In 2020 our membership was just under 1600 members, and as of today's date our active members total 1332. In recent years we've had over 1700 members. This incredible loss of personnel, coupled with the salary compression of our titles with those of lower civil service titles, has led to incredibly bad morale. It is long past time for the UCS to reallocate our titles and pay us accordingly.

The basic infrastructure, the courthouses and courtrooms in New York City, are in deplorable condition. The buildings are crumbling, the basements where records are often stored are dank, there is old and broken furniture needing to be replaced. The HVAC systems are wholly inadequate. These buildings are the responsibility of the City of New York. The State of New York should hold the city accountable for these failures

and, if necessary, make the improvements and charge-back the city, the same as the city would do to a homeowner for a dangerous sidewalk condition.

The court system's technology consists of outdated computers, printers, scanners and other equipment. The wifi service, which modern civilization takes for granted, is spotty, slow and inadequate. The video formats for remote hearings, although they are to be secure, are clunky compared to available freeware. Which leads me to comment on the software. Too many applications are incapable of cross-referencing and communicating with each other. An address updated in Family Court should automatically update a record in Criminal Court.

It is probably easy for you to listen to this and think, Well, this is government, what do you expect? I will tell you what I expect. I expect the equipment to do my job. I expect to work in a safe environment. And I expect to be paid for the full value of my

work.

Thank you very much for the opportunity to be heard.

CHAIRWOMAN KRUEGER: Thank you very much.

And then the last person on the panel, Elena Sassower, from Center for Judicial Accountability.

Hmm. Is Elena not with us? Or is she just not --

CJA DIRECTOR SASSOWER: Hi. I'm sorry --

CHAIRWOMAN KRUEGER: Ah, there you are. Okay.

CJA DIRECTOR SASSOWER: Yes. My statement is three minutes. I would ask your indulgence if I go over perhaps a couple of seconds so that I don't have to race through it. Thank you.

I am Elena Sassower, director and cofounder of the nonpartisan, nonprofit citizens' organization Center for Judicial Accountability.

By two citizen taxpayer actions we've

sued New York's three government branches for corrupting the state budget. Each was "thrown," by fraudulent decisions of self-interested judges of the Unified Court System, whose chief administrative judge, Lawrence Marks, was your first witness and was, with them, protected from accountability by the Commission on Judicial Conduct, whose administrator/counsel, Robert Tembeckjian, was your second witness.

Andrew Cuomo may be gone as governor, and Sheldon Silver long gone as Assembly speaker and now dead, but Governor Hochul's Executive Budget, with its included legislative and judiciary budgets, is just as flagrantly unconstitutional and rife with unlawfulness, fraud, and larceny.

Thus far, the Legislature's response has been of the same ilk. Look at how these legislative hearings are being conducted -- not as hearings for each of Governor Hochul's five appropriations bills, plus a revenue bill -- consistent with the constitutional scheme of a rolling budget, enacted bill by

bill. Rather, they are organized by so-called "programmatic areas," with testimony and questioning mostly not about numbers, but about non-fiscal policy, such as Governor Hochul has loaded into so-called Article VII legislation, not bills -- which the Legislature, by fraud, has converted into budget bills, in the Governor's name, including for "public protection."

And the 10 minutes that citizens used to have for their testimony, as recently as 2018, is now three minutes.

Suffice to bullet point that the unconstitutionality, fraud, and larceny of the state budget have been enabled and perpetuated by New York's corrupt "public protection" entities funded in the budget. The Commission on Judicial Conduct is a prime example. Others include the Judiciary's attorney grievance committees, the Judiciary's Inspector General, the Joint Commission on Public Ethics, the Legislative Ethics Commission, and the State Inspector General.

It is not a heavy lift to fix their corruption. Indeed, it does not necessarily require emendation of existing laws -- because, in many respects, the laws establishing them are perfectly fine, even exemplary. Rather, the laws are being violated by those appointed to operate them, such as Mr. Tembeckjian. In other words, the personnel needs to be investigated, prosecuted, and removed. And this is obvious from comparing the laws with how the "public protection" entities have handled complaints filed pursuant thereto.

I look forward to discussing with you the mountain of fully-documented complaints pertaining to the budget that I have filed with all the aforesaid "public protection" entities -- and others. When are you available?

Our website is www.judgewatch.org, and from its prominent center panel entitled "Comparing New York's Legislature Before & After its Fraudulent Pay Raise," you can find the evidentiary substantiation of this

testimony.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

All right, Senator Bailey, I saw your hand up.

SENATOR BAILEY: Thank you, Madam Chair. I thank you all for your indulgence in staying up to the final panel.

DA Jordan, you mentioned that the funding needs were not adequate. What would be a sufficient amount that you would believe would be adequate?

DAASNY PRESIDENT JORDAN: Thank you, Senator.

What we have looked at in terms of ongoing needs are -- you're probably looking statewide at $100 million, is what we're -- best estimates based on technology, human need, storage, training, and then additional staffing for the review, especially -- I think a very important initiative was the implementation of body cameras for State Police.

The consequence of that is they have a

very expansive policy for the length of time that the cameras are on, which is ultimately a very good positive, but that means significantly more visual time to be reviewing that.

So all of that comes with a benefit and a cost. So that's roughly the number we're probably looking at. Some of that could be trimmed down, I think, if there were some -- well, I know it could be reduced if we were able to provide some modification not in the ultimate delivery of documents, but the timing within which that had to happen.

So I think there is room to work for -- without ever compromising the intention and goal of the changes to discovery, but try to balance limited budgets, right, with accomplishing the goal of making sure defendants have everything they need to make a balanced and intelligent decision.

SENATOR BAILEY: Understood, DA Jordan.

So when you say $100 million, do you

mean $100 million per year, $100 million in totality, or phased over what period of time?

DAASNY PRESIDENT JORDAN: I think that is our initial estimate per year, based on all-in costs to do it right.

But again, I think because that can be -- you know, that is a number that we have been discussing and kicking around. I think until you actually look at where do we end and how do we balance it out -- I think as we've looked at addressing the need for discovery, one of the benefits, and I know it was a problem for the court administration, as they testified earlier, but the shutdown of courts gave us time to get caught up, and that is now gone.

So I think what we're looking at is a significant need for increasing bodies just to push through discovery.

SENATOR BAILEY: And I guess the last question related to -- and having prior conversations, I think that you were there physically at one of the hearings that we had and speaking about the regional differences

in county versus county. Some DA's offices have been updated more recently, for lack of a better term, and some unfortunately are still running on relatively antiquated equipment.

Does that also factor into the $100 million figure? Or is that just the global scale? And I think I've run out of time, sorry.

DAASNY PRESIDENT JORDAN: I think one of the resource gaps we see is the haves and the have-nots. And that's something we should always look to address.

But technology is definitely a gap where those that have current technology, it's a little bit easier, because they can be more dynamic in their ability to review things.

So yeah, that's definitely something that we see as a challenge.

SENATOR BAILEY: Okay. And we can follow up at a later time in relation to other things.

I just want to thank you for your

patience and everybody for your patience in this respect. And thank you --

DAASNY PRESIDENT JORDAN: Please do. I look forward to working with you, Senator.

SENATOR BAILEY: Thank you, DA Jordan, Mr. President.

Thank you, Madam Chair.

CHAIRWOMAN KRUEGER: Thank you.

Assemblywoman?

CHAIRWOMAN WEINSTEIN: Assemblyman Lawler.

ASSEMBLYMAN LAWLER: Thank you, Madam Chair.

Tony, I hope you're doing well. I'm sure when you left the Assembly you didn't envision being back on these budget hearings, but here you are.

So I just want to address really one, if you would, concern that I have. And it really comes down to this. I certainly believe that district attorneys should have discretion in the charges that they bring, based on evidence or lack thereof. But I do not believe that district attorneys should be

1 blanketly saying "I will not enforce this law
2 because I don't agree with it." If they
3 don't like the law, they should run for the
4 State Legislature.
5 I'd like to know what the official
6 position of the District Attorneys
7 Association is with respect to members openly
8 defying the State Legislature and deciding
9 that their judgment is better than that of
10 the members who are elected to set the laws
11 of the State of New York and to blanketly
12 say, We will not enforce laws or to downgrade
13 those laws across the board.
14 DAASNY PRESIDENT JORDAN: So much like
15 you all, the DAs Association consists of
16 62 independently elected district attorneys
17 who represent their particular counties. And
18 we're all tasked with delivering criminal
19 justice in the way that we feel best
20 represents our communities.
21 The association is not in a position
22 to criticize or condemn someone who is, in
23 their mind, reflecting the values and the
24 desires of their county. I'm assuming -- you

know, in this particular instance DA Bragg is new, DA Bragg is attempting to navigate challenging waters. And, you know, what I would suggest is that we all give him time to find where he has hit the right message and is addressing the right problems. And I think we already heard him looking to say, you know, there's things that we need to address.

And so much like in your chamber, you all have different constituents and different needs, and I think that's very similar with the 62 DAs.

ASSEMBLYMAN LAWLER: And there's no question there's different parts of the state. I just think it is deeply concerning when a district attorney who is sworn to uphold all of the laws of the State of New York openly defies those laws and says: I will not enforce them, I will not -- regardless of the evidence, regardless of the facts, regardless of the circumstances, I'm not going to enforce that.

I just think that's deeply troubling.

And I certainly hope within the DAs Association internally -- you don't have to share those discussions -- I do hope that there is some level of pushback against that, because it's a very dangerous precedent to set across our state.

CHAIRWOMAN KRUEGER: Thank you.

Senator Brad Hoylman.

SENATOR HOYLMAN: Thank you, Madam Chair. We've almost made it to the end, and I can see the finish line. So thank you to the two chairwomen for this really robust conversation that we've been having today.

I just wanted to note that DA Bragg is not the first district attorney to say that he won't prosecute certain crimes. There's a long history of that.

But I wanted to ask a question to our court clerk representative, Ms. Jones. Thank you for being here, really appreciate it. I don't know if you heard, but Judge Marks earlier today, the first person to testify, alluded to the fact that the Chief Judge is

1 going to seek, again, consideration of a
2 court consolidation proposal.
3 And I was wondering what your thoughts
4 about that were, if you've been consulted on
5 anything up to now, and if your members have
6 concerns you want to share with us.
7 NYSCCA PRESIDENT JONES: Thank you so
8 very much, Mr. Hoylman for your question.
9 No, we have not been consulted in
10 regards to the consolidation. We've had no
11 input whatsoever. We would like some.
12 The problem that we see -- one of the
13 problems we see is the lack of people to
14 implement these items.
15 I want to say -- to Mr. Jordan, I want
16 to say that you were incorrect to say that
17 the courts were shut down. Truly, let me say
18 that myself and my fellow coworkers were
19 there at the courthouse every day from the
20 beginning of this pandemic, especially when
21 you consider talking about criminal court
22 cases, where there's a time frame and people
23 must be processed. And so the courts were
24 open every day in regards to that.

And we have some concerns about the consolidation because of the fact of the lack of manpower that we have. And as I said in my statement, that we're down to 1300 members, and we need way more than that if you want to consolidate a court.

SENATOR HOYLMAN: Thank you very much. Thank you for your service.

And thank you, Chair Krueger.

CHAIRWOMAN KRUEGER: Thank you.

Assemblymember Weinstein.

CHAIRWOMAN WEINSTEIN: Assemblyman Palmesano.

ASSEMBLYMAN PALMESANO: Thank you.

Hey, Tony, it's good to see you. It's been a long time. Hope you're doing well.

My question is around the issue of discovery. When we talk about the bail -- a lot of time -- there's always talk about the bail laws, but the discovery laws come up a lot when we talk about it.

My first question on that issue is have you seen -- have our counties and our DAs had to dismiss cases due to the inability

to comply with the discovery laws and potentially releasing dangerous individuals back onto the street, and to what extent?

DAASNY PRESIDENT JORDAN: And if I could, Assemblyman -- Ms. Jones, I apologize. I meant not to have suggested that your staff wasn't coming in, but that the functioning of processing cases -- or not processing, but actually moving cases was delayed.

So I apologize, I certainly didn't mean to imply that you folks weren't coming in and working, because I certainly know that you were.

Relative to dismissing of cases -- sorry, Phil -- absolutely. I know there's been a significant number of cases around the state that have had to be dismissed because law enforcement couldn't get the material to the prosecutor's office timely in order to then be able to turn over, in compliance with the requirements of the statute.

And much of that has been well-covered and well-documented. But hundreds and hundreds of misdemeanor cases in our city

courts have had to be dismissed by DAs around the state. And that's unfortunate, because that's not justice, that's not being able to fit a widget through a particular-sized hole. And that's not the way -- I don't think that was the goal of the legislation when it was passed, and it's certainly not something that we want to see happen.

ASSEMBLYMAN PALMESANO: Great. Also on the issue on discovery is your timing and your releasing of that information -- you know, when it's released, how early compared to how it used to be.

Have these changes in the discovery laws impacted witness and victim cooperation? And if so, how?

DAASNY PRESIDENT JORDAN: It has. I certainly couldn't tell you percentages or the extent. But we do hear on a regular basis concerns from witnesses and victims when we can't assure them that their identities won't be disclosed. We used to be able to control that fact or that part of the process much easier, and now it is dependent

upon a motion in front of a court. And that's just a different conversation with the witness or a victim that, well, we'll do our best to protect your identity for as long as we can, but -- and once you say the "but," depending on the nature of the crime, what they witnessed, their own sensibilities or sense of self-confidence is going to dictate whether or not they cooperate at that point.

And we see it from simple vehicle and traffic matters to street shootings.

ASSEMBLYMAN PALMESANO: (Muted.)

CHAIRWOMAN WEINSTEIN: Phil, we can't hear, but the time is up. So I don't know if that was --

CHAIRWOMAN KRUEGER: Yes, I think that's -- the time is up.

Senator Tom O'Mara.

SENATOR O'MARA: Thank you. Palmesano got the hook, huh? For the end of the night. That's appropriate for Phil. Sorry, Phil.

DA Jordan, Assemblyman, it's great to see you, be with you. We still miss you in the Legislature.

I have a couple of follow-up questions on discovery. I think you maybe intimated a bit in some of your initial comments that some changes to some of the timing of the discovery requirements might be helpful in the flow, in the management of your offices, to be able to better handle the discovery.

Could you comment on that?

DAASNY PRESIDENT JORDAN: I think the objective of that would be to try to take the critical pieces of the discovery and get them out as quickly as possible.

But when it comes to the, you know, 13th memo book of the officer directing traffic and those types of items that don't go to the merits of the case, and all of the lab, the background of the lab work, all of the different material that goes with that, those would be the things, if we could find a way to create a staggering of what's due and when it's due.

Also, quite frankly, allow defendants to waive delivery of certain discovery in order to pursue a plea negotiation. Not

allow us to make plea negotiations contingent upon that -- but if they choose to want to move the case along, because there's a lot of value in that, and certainty and understanding, that would be the stuff that we're thinking about.

To give you a sense, when they estimated how much data we would use, the estimate -- what we ultimately did just in the first year, so 2020 -- and that was during -- when crime numbers were down, we were four and a half times the amount of storage that was anticipated based on historical use. Just so you can get a sense of how much is really out there but doesn't really go to the merits of the case in terms of plea discussions.

Certainly trial, all of that should be delivered. And delivered well before trial.

SENATOR O'MARA: I agree. And as a former prosecutor myself, I welcomed a lot of these discovery changes to move things up, just out of basic fairness, because some of stuff was so last-minute being provided.

Now, this is -- these changes have been in effect, you said, really starting in 2020, and we've pretty much been in COVID throughout that entire period, and courts have slowed down in handling cases in jury trials and things like that.

Do you have any sense yet at this point, because of the COVID situation, what the impacts of the discovery and the bail reforms have been on the general disposition of cases? And how much is this going to prolong cases? Or is it going to, you think, force more cases to trial or just have later plea bargain discussions on these?

You know, it's just too early to tell because of COVID and the whole situation that we've had for two years.

DAASNY PRESIDENT JORDAN: COVID -- I'll be quick, Chairwoman. COVID has made it difficult to say with any kind of degree of certainty. But what we are definitely seeing is a significant increase in litigation. Just look at the types of decisions that are being -- or issues that are being litigated.

And the more litigation you have, the longer the case will be delayed and the longer that justice is prolonged.

And it's not litigation over merits, over probable cause, over suppression. It's litigation over whether did the failure to provide this memo book constitute bad faith and the case should be dismissed? And when you get that type of distraction from judges being able to manage cases and make important decisions, that I think is where we would like to see some guidance.

And certainly when you read the decisions, that's what these judges are saying: You know, it would be nice to have better guidance or clarity as to what this all means.

SENATOR O'MARA: Thank you.

DAASNY PRESIDENT JORDAN: Thank you, Tom.

CHAIRWOMAN KRUEGER: Thank you.

Assemblywoman Weinstein.

CHAIRWOMAN WEINSTEIN: Yes, we go to Assemblyman Ra.

ASSEMBLYMAN RA: Thank you, Chair.

Tony, good to see you. But I have a question actually for Ms. Jones.

Earlier we discussed somewhat with Chief Administrative Judge Marks regarding the adequacy of funding within OCA for -- you know, we have the new judges that were added last year, and obviously funding for adequate staff is important. And you did talk about, you know, funding being needed to get rid of the backlogs that we now have.

I was wondering if you can address what you're seeing with regard to that.

NYSCCA PRESIDENT JONES: Well, we have mounds and mounds of work that is backing up and less equipment to do it. It seems that they want us to do more with less. And we have less staffing.

As I said, the equipments are outdated. You know, we don't -- the state does not buy top-of-the-line equipment on anything, as we all know. So it's already two years behind, usually, when they purchase it in the first place.

And so it's just difficult. And with lack of -- our members leaving, resigning or retiring because of whatever reasons, attrition, that it's just less people there to get the work done. Hiring more judges, but you don't have clerks to cover judges. You have judges who are sitting in chambers because there's no clerk to cover their parts.

So it's very difficult to correct backlog when you don't -- are not given all the efficient equipment and personnel that you need to get it done.

ASSEMBLYMAN RA: Thank you.

Just quickly with my remaining time, Tony, I wanted to bring up -- there was that decision back in the fall regarding the requirement of, you know, potentially turning over information about crime victims and the ability to visit the scene of a crime -- in particular, a person's home. And I know the DAs Association had kind of weighed in with regard to that.

I'm just wondering your thoughts as to

whether that provision, you know, has caused fear for crime victims in reporting crimes, especially when it's their home that's, you know, the setting of a crime.

DAASNY PRESIDENT JORDAN: Well, if it's -- I don't know whether it's caused fear about reporting a crime, because typically it's going to be in the instance of a violent crime, a home invasion, which is -- you know, causes lifetime damage. It's the anxiety and angst of the victim when they find out that that motion is pending. Right? That now this person wants to come back, and all of the uncertainty.

One of the challenges, what will be interesting is to see how the Appellate Divisions work all of this out in the coming years if that provision isn't stricken. Certainly that decision was a very powerful statement as to the damage that such a provision can cause, but that's something that we'll just have to continue to monitor.

ASSEMBLYMAN RA: Thanks.

CHAIRWOMAN KRUEGER: Thank you.

All right, to close us out for this hearing, Senator Sue Serino.

SENATOR SERINO: Thank you, Chairwoman. I know it's been a long day, and I appreciate both you and Assemblymember -- Chairman Weinstein.

First I just want to say to Imogene that I know that our court clerks play such a critical role, and I really appreciate everything that you do, so thank you so much.

And for DA Jordan, Senator O'Mara and Assemblyman Palmesano asked a few of the questions that I had, but I just have one more with regard to the discovery reforms that went into effect in 2020 had really increased the amount of materials that are required to be turned over while significantly decreasing the amount of time the prosecutors have to turn over those materials. Right?

So I hear from my DAs in my area about these challenges, and I know that the funding that you're seeking is not only reasonable but necessary to ensure that you can comply

and still effectively seek justice for the victims.

But can you describe some of the logistical challenges that these reforms have posed for the district attorneys' offices? Kind of to give folks an idea of the human impact that these changes have had.

DAASNY PRESIDENT JORDAN: It glitched. I think you said "technical challenges," Senator?

SENATOR SERINO: Some of the logistical challenges.

DAASNY PRESIDENT JORDAN: Logistical, okay. Sure.

Well, some of the things that Ms. Jones was saying about technology within the court clerks' offices are very real problems that we have to face. We have law enforcement agencies around the state that some are still using some version of DOS, I think, in terms of their computer system, and they have to find a way to get us the material.

And so what we've had to do is we've

taken hundreds of police agencies that all use different software programs, have different technology, and we have to find a way to have them get all of their information to us. And then once we have it, this is where -- you know, so some of it is technology, but then this information all has to be reviewed by human eyes because you want to make sure that confidential information isn't inadvertently disclosed. A grandmother's Social Security number. The phone number for -- you know, a home phone number for the victim of a crime.

So those are all things that have to be reviewed. And all of that within, you know, 20 days, has to come in, be reviewed and pushed out the door. And there was some lengthening of that, I think, to 35 days, 30 days. But we've always tried to stick with the shorter turn-around to get all of that in. And it's very difficult, especially with cases that are crimes in progress where the police have to make the arrest for public safety, but then the investigation is

ongoing. So you have that constant pull and tug.

And this is happening hundreds of times a day in larger counties and dozens of times a day in our office, which is a smaller office and with fewer people. So I think it's that -- trying to find that balance. Oh, by the way, we have to get the local court, we have to cover hearings, we have to cover trials, we have to meet with victims, et cetera. And I think that's where the staffing needs to really come in and -- to address that challenge.

CHAIRWOMAN KRUEGER: Thank you very much for your answers.

And with that, I am going to officially close the Public Protection hearing of 2022. I want to thank my friend and partner in government, Helene Weinstein, from the Assembly Ways and Means Committee.

And you'll be excited to know, in case you really don't know what else to do past a few hours from now, you can come right back for the Education hearing, starting at 9:30

in the morning.

I want to thank all of our panelists today throughout the day. I want to thank all my colleagues, from both houses, both parties, who sat through a 13-hour hearing. And this is just the first of 13 of them.

So with that, I wish everyone a safe home and we'll all -- many of us will be back here at 9:30 in the morning.

Thank you very much, everyone. Good night.

CHAIRWOMAN WEINSTEIN: Thank you, Liz. Ditto.

NYSCCA PRESIDENT JONES: Thank you, and good night, everyone.

(Whereupon, at 10:29 p.m., the budget hearing concluded.)