

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

2 -----

3 JOINT LEGISLATIVE HEARING

4 In the Matter of the
5 2023-2024 EXECUTIVE BUDGET ON
6 PUBLIC PROTECTION

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7 Hearing Room B
8 Legislative Office Building
9 Albany, New York

10 February 7, 2023
11 9:40 a.m.

12 PRESIDING:

13 Senator Liz Krueger
14 Chair, Senate Finance Committee

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

17 PRESENT:

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

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

22 Senator Brad Hoylman
23 Chair, Senate Committee on Judiciary

24 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

1 2023-2024 Executive Budget
2 Public Protection
3 2-7-23

4 PRESENT: (Continued)

5 Assemblyman Erik M. Dilan
6 Chair, Assembly Committee on Correction

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

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

13 Senator Kristen Gonzalez
14 Chair, Senate Committee on Internet and
15 Technology

16 Assemblyman Steven Otis
17 Chair, Assembly Committee on Science and
18 Technology

19 Senator Andrew Gounardes

20 Assemblywoman Jenifer Rajkumar

21 Senator Zellnor Myrie

22 Assemblywoman Dr. Anna R. Kelles

23 Assemblyman Joseph M. Giglio

24 Senator Shelley B. Mayer

Assemblyman Alex Bores

Assemblywoman Jo Anne Simon

Senator Michael Gianaris

Assemblyman Anil Beephan, Jr.

Assemblyman Tony Simone

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1 2023-2024 Executive Budget
Public Protection
2 2-7-23

3 PRESENT: (Continued)

4 Assemblywoman Karen McMahon

5 Senator Jessica Ramos

6 Assemblyman Philip A. Palmesano

7 Assemblywoman Catalina Cruz

8 Senator Kevin Thomas

9 Assemblyman Michael Tannousis

10 Assemblyman Harvey Epstein

11 Senator Anthony H. Palumbo

12 Assemblyman Charles D. Fall

13 Senator George M. Borrello

14 Assemblywoman Rebecca Seawright

15 Assemblyman Michael Reilly

16 Assemblywoman Alicia Hyndman

17 Senator Rob Rolison

18 Assemblyman William Colton

19 Senator Steven D. Rhoads

20 Assemblywoman Monica P. Wallace

21 Assemblyman Michael Durso

22 Assemblywoman Mary Beth Walsh

23 Senator Patricia Canzoneri-Fitzpatrick

24 Assemblyman Angelo J. Morinello

1 2023-2024 Executive Budget
Public Protection
2 2-7-2023

3 PRESENT: (Continued)

4 Assemblywoman Latrice Walker

5 Senator Jacob Ashby

6 Assemblyman Ed Flood

7 Assemblyman Jake Blumencranz

8 Senator Daniel G. Stec

9 Assemblyman Chris Burdick

10 Senator Patrick M. Gallivan

11 Assemblyman Kenny Burgos

12 Assemblyman Michael J. Norris

13 Senator Peter Oberacker

14 Assemblyman Demond Meeks

15 Senator Dean Murray

16 Assemblyman Ari Brown

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1 2023-2024 Executive Budget
 Public Protection
 2 2-7-23

3 LIST OF SPEAKERS

4	STATEMENT	QUESTIONS
5 Honorable Tamiko Amaker Chief Administrative Judge 6 NYS Office of Court Administration	16	27
7 Robert H. Tembeckjian 8 Administrator and Counsel New York State Commission on 9 Judicial Conduct -and-		
10 Patricia Warth Director 11 NYS of Indigent Legal Services	155	170
12 Jackie Bray 13 Commissioner NYS Division of Homeland Security 14 and Emergency Services -and-		
15 Jennifer Lorenz Deputy CIO 16 NYS Office of Information Technology Services	217	228
17 Rossana Rosado 18 Commissioner NYS Division of Criminal 19 Justice Services -and-		
20 Steven A. Nigrelli Acting Superintendent 21 NYS Division of State Police -and-		
22 Anthony J. Annucci Acting Commissioner 23 NYS Department of Corrections & Community Supervision	348	370
24		

1 2023-2024 Executive Budget
 Public Protection
 2 2-7-23

3 LIST OF SPEAKERS, Continued

4 STATEMENT QUESTIONS

5	Courtney Bryan Executive Director		
6	Center for Justice Innovation -and-		
7	Katie Schaffer Director, Advocacy and Organizing		
8	Center for Community Alternatives -and-		
9	Jose Saldana Director		
10	Release Aging People in Prison Campaign		
11	-and- Chaplain Dr. Victoria A. Phillips		
12	Community, Health & Justice Organizing		
13	Mental Health Project, Urban Justice Center	526	540
14	Edward Tase, Jr. President		
15	Firefighters Association of the State of New York		
16	-and- Frank McGarity		
17	Director NYS Park Police Sergeants Benevolent Association		
18	PBA of New York State -and-		
19	Timothy M. Dymond President		
20	NYS Police Investigators Association		
21	-and- Michael B. Powers		
22	President NYSCOPBA	551	565
23			
24			

1 2023-2024 Executive Budget
 Public Protection
 2 2-7-23

3 LIST OF SPEAKERS, Continued

4 STATEMENT QUESTIONS

5	Mary Pat Donnelly		
	Rensselaer County DA		
6	-on behalf of-		
	District Attorneys Association		
7	of the State of New York		
	-and-		
8	Shayna Kessler		
	Senior Planner		
9	Vera Institute of Justice		
	-and-		
10	Karla Kelechian		
	Manager of Organizing and		
11	Strategy, CNY		
	The New York Immigration		
12	Coalition	597	607
13	Yonah Zeitz		
	Katal Center for Equity,		
14	Health and Justice		
15	Susan C. Bryant		
	Executive Director		
16	NYS Defenders Association		
	-and-		
17	Lisa Schreibersdorf		
	Executive Director		
18	Brooklyn Defenders Services		
	-and-		
19	Katherine Haas		
	Staff Attorney		
20	Prisoners' Rights Project		
	of the Legal Aid Society		
21	-and-		
	Erica Smitka		
22	Deputy Director		
	League of Women Voters of		
23	New York State	623	637

24

1 CHAIRWOMAN KRUEGER: Good morning,
2 everyone.

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

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

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

24 Today is the second of 13 hearings

1 conducted by the joint fiscal committees of
2 the Legislature regarding the Governor's
3 proposed budget for state fiscal year
4 '23-'24. These hearings are conducted
5 pursuant to the New York State Constitution
6 and Legislative Law.

7 Today the Senate Finance Committee and
8 Assembly Ways and Means Committee will hear
9 testimony concerning the Governor's proposed
10 budget for the Judiciary, the State
11 Commission on Judicial Conduct, the Office of
12 Indigent Legal Services, New York State
13 Division of Homeland Security and Emergency
14 Services, New York State Office of
15 Information Technology, New York State
16 Division of Criminal Justice Services,
17 New York State Department of Corrections and
18 Community Supervision, and New York State
19 Division of State Police.

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

24 And for those of you who are

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

4 And by the way, because it's going to
5 be a very long hearing, the Senate and the
6 Assembly have attempted to establish some
7 very strict rules for these hearings this
8 year. One, government witnesses get
9 10 minutes to testify. If somebody has 12 or
10 15 pages of testimony, please don't try to
11 read it because there's no human way for you
12 to get through it. Just point out the key
13 bullet points. All of us and all of you in
14 the public can read the full testimony
15 online. So again, bullet points only,
16 10 minutes maximum.

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

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

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

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

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

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

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

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

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

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

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

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

1 SENATOR O'MARA: It's early.

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

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

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

11 CHAIRWOMAN WEINSTEIN: Thank you.

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

20 We also have Assemblymember Bores,
21 Assemblymember Burdick, Assemblymember
22 Burgos, Assemblyman Epstein, Assemblywoman
23 Kelles, Assemblyman Simone, Assemblywoman
24 Simon, and Assemblywoman Walker.

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

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

10 ASSEMBLYMAN RA: Thank you. Good
11 morning.

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

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

21 SENATOR O'MARA: Thank you,
22 Chairwoman.

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

1 Senator Dean Murray, and Senator Rob Rolison.

2 Thank you.

3 CHAIRWOMAN KRUEGER: Thank you.

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

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

24 With that, I would like to introduce

1 our first testifier today, the Honorable
2 Tamiko Amaker, Chief Administrative Judge of
3 the Office of Court Administration, with
4 10 minutes.

5 Good morning.

6 ACTING CHIEF ADMIN. JUDGE AMAKER:

7 Good morning. It's really my pleasure to be
8 here. So good morning, Chairperson Krueger,
9 Chairperson --

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

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

14 CHAIRWOMAN KRUEGER: Yes.

15 ACTING CHIEF ADMIN. JUDGE AMAKER:

16 Okay. All right. So good morning,
17 Chairperson Krueger, Chairperson Weinstein,
18 Chairperson Hoylman-Sigal and Chairperson
19 Lavine. It's really, as I said, my great
20 pleasure to be here. And good morning to all
21 other committee members participating today.

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

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

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

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

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

3 Finally, the increase includes a
4 3 percent cost-of-living adjustment for civil
5 legal service providers.

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

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

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

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

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

5 ACTING CHIEF ADMIN. JUDGE AMAKER:

6 Right.

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

11 ACTING CHIEF ADMIN. JUDGE AMAKER:

12 Okay. All right. Is this better?

13 CHAIRWOMAN KRUEGER: Yes, it is.

14 ACTING CHIEF ADMIN. JUDGE AMAKER:

15 Okay, excellent.

16 CHAIRWOMAN KRUEGER: Thank you.

17 ACTING CHIEF ADMIN. JUDGE AMAKER: Do

18 I get the time back?

19 (Laughter.)

20 ACTING CHIEF ADMIN. JUDGE AMAKER: All

21 right, I'll read quickly.

22 CHAIRWOMAN KRUEGER: Give her another

23 minute.

24 ACTING CHIEF ADMIN. JUDGE AMAKER: All

1 right, thank you. I'll read quickly.

2 So restoring full court operations.

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

13 Together, the loss of so many
14 employees and the inability to hire to
15 replace them seriously diminished our
16 workforce and produced real challenges to
17 maintaining necessary court operations. In
18 fact, at its low point at the end of 2021,
19 our nonjudicial staffing level dropped to
20 under 14,250 employees, a loss of almost
21 2900 employees, or around 17 percent of our
22 staffing over the preceding 13 years.

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

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

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

24 Civil legal services. I know that's a

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

11 Today the Judiciary's program supports
12 82 providers across the state. Their
13 caseload encompasses a broad spectrum of
14 services to meet the legal assistance needs
15 of persons of limited means, including
16 tenants, workers, immigrants, and refugees,
17 domestic violence victims, the physically
18 disabled, and families.

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

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

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

24 Through such use, we saw clearly that

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

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

24 We are expanding our Court

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

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

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

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

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

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

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

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

1 prioritizing and expediting the resolution of
2 gun cases.

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

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

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

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

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

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

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

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

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

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

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

17 ACTING CHIEF ADMIN. JUDGE AMAKER:
18 Absolutely.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 So I don't know that that information

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

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

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

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

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

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

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

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

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

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

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

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

1 ACTING CHIEF ADMIN. JUDGE AMAKER:

2 Yes. I think --

3 SENATOR HOYLMAN-SIGAL: -- discussed.

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

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

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

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

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

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

12 ACTING CHIEF ADMIN. JUDGE AMAKER:
13 Okay, yes.

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

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

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

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

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

8 SENATOR HOYLMAN-SIGAL: Thank you for
9 considering that.

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

12 ACTING CHIEF ADMIN. JUDGE AMAKER:
13 Absolutely.

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

23 How do you think the budget proposal
24 advances that goal?

1 ACTING CHIEF ADMIN. JUDGE AMAKER:

2 Well, the budget proposal will assist us in
3 many ways -- increased compensation for
4 attorneys. As I said, there's the 3 percent
5 increase. And the hope is that as attorneys
6 are compensated better, they will -- we will
7 be able to continue to attract capable,
8 efficient and effective attorneys to
9 represent these families.

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

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

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

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

1 about 81,000 cases. I can tell you in New
2 York City Criminal Court it's about 21,000
3 cases. I can tell you in New York City
4 Criminal Supreme it's somewhere around 12 --
5 11,000 to 12,000 cases. And we are
6 diligently working at reducing these backlogs
7 each and every day.

8 SENATOR HOYLMAN-SIGAL: Thank you.

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

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

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

24 ACTING CHIEF ADMIN. JUDGE AMAKER:

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

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

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

17 CHAIRWOMAN KRUEGER: Thank you.

18 SENATOR HOYLMAN-SIGAL: Thank you very
19 much.

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

22 CHAIRWOMAN KRUEGER: Thank you,
23 Senator.

24 Assembly.

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

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

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

9 SENATOR O'MARA: And Senator Steve
10 Rhoads.

11 ASSEMBLYMAN LAVINE: Thank you.

12 This is on, I take it?

13 ACTING CHIEF ADMIN. JUDGE AMAKER:

14 Yes. I can -- well, I can hear you.

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

17 ACTING CHIEF ADMIN. JUDGE AMAKER:

18 Good to see you as well.

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

21 ACTING CHIEF ADMIN. JUDGE AMAKER:

22 Yes.

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

1 the entire State of New York.

2 ACTING CHIEF ADMIN. JUDGE AMAKER:

3 Absolutely.

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

7 ACTING CHIEF ADMIN. JUDGE AMAKER:

8 Well, you know, there is a very complicated
9 process. You know, as you -- you probably
10 all have our budget, which I have here. It's
11 extremely detailed. It details the spending
12 for pretty much down to the penny of how each
13 and every dollar, every one of the state
14 residents' tax dollars are spent for the
15 Judiciary budget.

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

1 a great deal of oversight.

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

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

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

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

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

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

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

1 know, we are paying for that.

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

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

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

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

1 35 hours a week, which is not unusual for a
2 trial, they are then over the \$10,000 limit
3 that is anticipated to be the cap. How is
4 that going to be handled in a case where
5 someone's on trial for three weeks or six
6 weeks?

7 ACTING CHIEF ADMIN. JUDGE AMAKER:

8 That's going to be an issue.

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

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

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

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

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

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

21 And the level and the volume and the
22 number of judicial threats has been
23 escalating. From 2020 to 2022, it's gone up
24 40 percent. I get a report every week on

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

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

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

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

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

3 ASSEMBLYMAN LAVINE: Thank you so very
4 much.

5 ACTING CHIEF ADMIN. JUDGE AMAKER:
6 Thank you.

7 CHAIRWOMAN KRUEGER: Thank you very
8 much.

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

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

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

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

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

24 ACTING CHIEF ADMIN. JUDGE AMAKER:

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

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

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

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

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

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

1 approve or deny that recommendation.

2 ACTING CHIEF ADMIN. JUDGE AMAKER:

3 Yes. But we very often follow their

4 recommendation because --

5 SENATOR GIANARIS: I understand.

6 Thank you.

7 ACTING CHIEF ADMIN. JUDGE AMAKER: --

8 they are the experts in that area.

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

11 ACTING CHIEF ADMIN. JUDGE AMAKER:

12 Senator, I unfortunately can't answer that.

13 But what I can tell you is this --

14 SENATOR GIANARIS: Why not?

15 ACTING CHIEF ADMIN. JUDGE AMAKER:

16 Because I think that that would put the

17 former chief judge in grave danger.

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

22 ACTING CHIEF ADMIN. JUDGE AMAKER:

23 Well, let me give you a little bit of

24 background. I think this is something that

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

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

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

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

20 CHAIRWOMAN KRUEGER: (Mic off;
21 inaudible.)

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

1 I'm sorry, Judge, please.

2 ACTING CHIEF ADMIN. JUDGE AMAKER:

3 Okay. So in -- in -- in 2018 -- so -- so I
4 also should -- should indicate that there
5 have been over 50 either inappropriate
6 communications or judicial threats that have
7 been investigated by our Department of Public
8 safety against the former chief judge.

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

20 CHAIRWOMAN KRUEGER: (Mic off;
21 inaudible.)

22 ACTING CHIEF ADMIN. JUDGE AMAKER:

23 Okay, thank you.

24 SENATOR GIANARIS: So just -- if I

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 judge's detail.

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

5 And so when she retired in 2020 {sic},
6 at that point there was -- the threat hadn't
7 subsided. The threats continued. Because as
8 I said, I'm talking about the specific
9 threats but I'm not talking about the other
10 47 in --

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

13 CHAIRWOMAN KRUEGER: Senator, I'm
14 sorry --

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

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

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

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

24 SENATOR GIANARIS: She's filibustering

1 like a very effective legislator.

2 Okay, I'll move on from that one.

3 Give me one -- one more minute, if I may,

4 Madam Chair.

5 CHAIRWOMAN KRUEGER: No. I'm sorry,

6 Mike.

7 CHAIRWOMAN WEINSTEIN: No, no, no.

8 Sorry, Mike.

9 CHAIRWOMAN KRUEGER: Sorry, Mike.

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

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

21 ASSEMBLYMAN LAVINE: Time's up.

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

1 receiving public benefits and not reporting
2 them --

3 (Overtalk.)

4 ASSEMBLYMAN LAVINE: Your time is up.

5 CHAIRWOMAN KRUEGER: I'm sorry --

6 SENATOR GIANARIS: -- of \$2.5 billion.

7 I think there's a serious problem,

8 Judge.

9 CHAIRWOMAN KRUEGER: Thank you.

10 Sorry. He will be available in the hallway

11 for any press who would like to follow up

12 with him.

13 Assembly.

14 CHAIRWOMAN KRUEGER: We go to

15 Assemblyman Dinowitz for a real 10 minutes.

16 ASSEMBLYMAN DINOWITZ: Good morning,

17 Judge. How are you today?

18 ACTING CHIEF ADMIN. JUDGE AMAKER:

19 Good morning. Good to see you,

20 Assemblymember.

21 ASSEMBLYMAN DINOWITZ: So I'll try to

22 talk fast, because I want to get everything

23 in in the appropriate time.

24 So I guess it was pretty much at the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 ASSEMBLYMAN DINOWITZ: Sure. As long

1 as we're adding to my 10 minutes.

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

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

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

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

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

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

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

13 But yes, absolutely, we do keep that
14 data.

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

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

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

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

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

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

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

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

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

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

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

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

20 So thank you very much.

21 (Laughter.)

22 ACTING CHIEF ADMIN. JUDGE AMAKER:
23 Thank you.

24 CHAIRWOMAN WEINSTEIN: Thank you,

1 Chair Dinowitz.

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

5 Now to the Senate.

6 CHAIRWOMAN KRUEGER: Thank you.

7 Next is Chair Jamaal Bailey of Codes.

8 SENATOR BAILEY: Thank you very much.

9 Jeff, I'll take those two minutes and
10 30 seconds very kindly.

11 (Laughter.)

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

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

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

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

18 ACTING CHIEF ADMIN. JUDGE AMAKER: So
19 after each change -- you know, initially in
20 2019 we did have extensive summer
21 conferences, and we had hours and hours of
22 instruction. And that was prior to the
23 actual effective date in January.

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

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

10 So, you know -- and I'm just
11 summarizing. So all of this was done in
12 2019. And when the bail reform was reformed
13 in July of 2020, those additional changes
14 were made and they were added. There were
15 additional virtual sessions that were done.

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

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

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

12 ACTING CHIEF ADMIN. JUDGE AMAKER:
13 Yes.

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

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

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

5 ACTING CHIEF ADMIN. JUDGE AMAKER:

6 Yes, they were. So yes, they took effect on
7 May 9th. May 6th we had an extensive
8 training. But prior to that, back in April,
9 there were additional updates to all the bail
10 books. There were summaries that were
11 distributed to all the judges. So the judges
12 were aware.

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

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

24 A question about 18-B. You know, as

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

7 ACTING CHIEF ADMIN. JUDGE AMAKER:

8 Yes, our budget request will be sufficient,
9 because we're making a specific request but
10 then we're asking for an appropriation. So
11 if it should pass, that that rate increase
12 will -- if it does pass and if it is signed,
13 then we're asking for an appropriation for I
14 believe it's an additional \$43 million for
15 the Unified Court System so that we would be
16 able to cover that rate increase.

17 SENATOR BAILEY: Okay, excellent.

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

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

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

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

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

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

7 And below that title are
8 administrative judges. We are extremely
9 committed. There are a number of
10 administrative judges who are judges of
11 color, as well as supervising judges. And
12 not just judges of color, but judges who are
13 LGBTQ candidates, judges who are disabled.
14 We look for racial as well as ethnic and
15 gender diversity. And we're extremely
16 committed.

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

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

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

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

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

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

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

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

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

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

5 ACTING CHIEF ADMIN. JUDGE AMAKER:

6 Well, I mean, first and foremost, you know,
7 judges are not employees. You know, we can't
8 tell them what to do in terms of their
9 decision-making. We can tell them where to
10 be, their assignments. We can talk to them
11 if they're making decisions that are out of
12 step with the rest of their colleagues. But
13 we can't make them change their minds.

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

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

24 And I would just say, just to follow

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

15 Thank you, Your Honor.

16 ACTING CHIEF ADMIN. JUDGE AMAKER:

17 Thank you, Senator.

18 CHAIRWOMAN KRUEGER: Thank you.

19 Assembly.

20 CHAIRWOMAN WEINSTEIN: We go to

21 Assemblyman Tannousis, the ranker on

22 Judiciary, for five minutes.

23 ASSEMBLYMAN TANNOUSIS: Can you hear

24 me? Perfect.

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

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

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

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

5 But because of regulations requiring
6 social distancing, and prior to vaccines
7 being available, prior to Paxlovid being
8 available, we had to take certain
9 precautions. We had to have the 6-foot rule
10 once we were fully back in person, and then
11 that eventually went down to 3 feet and then
12 zero feet. But when it was at 6 feet and
13 3 feet, it limited the number of trials that
14 we could have.

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

24 So it did have a great effect. As a

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

6 And so we are working diligently to
7 try to resolve those backlogs in all of those
8 courts. And we've really increased our
9 ability to resolve cases. Last year we had
10 over 2 million filings, I think it was
11 2.1 million filings, and we resolved nearly
12 that many, 2.1 million cases. So we are
13 really pushing through, but certainly there
14 is more to do.

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

19 ASSEMBLYMAN TANNOUSIS: Thank you so
20 much for your answer.

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

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

5 ACTING CHIEF ADMIN. JUDGE AMAKER:

6 Well, I mean, listen, if we have -- if
7 there's an increase in crime and there's an
8 increase in cases, whether it's criminal
9 cases, whether it's civil cases, whether it's
10 Family Court cases -- any increase in cases,
11 you know, the more hands we have to work on
12 those cases the better, quite frankly.
13 Because if we can attack the backlogs and
14 hopefully if we can get those cases resolved
15 as they're being filed and they're coming in
16 the door, once we reduce the backlogs we
17 won't have additional backlogs.

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

24 ASSEMBLYMAN TANNOUSIS: Thank you very

1 much. Thank you for your time.

2 ACTING CHIEF ADMIN. JUDGE AMAKER:

3 Thank you, Assemblymember.

4 CHAIRWOMAN KRUEGER: Thank you.

5 Senator Fitzpatrick.

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

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

10 ACTING CHIEF ADMIN. JUDGE AMAKER:

11 Thank you for that question, Senator.

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

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

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

1 important.

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

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

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

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

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

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

24 I know that the Judiciary has asked

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

7 ACTING CHIEF ADMIN. JUDGE AMAKER:

8 Well, we have plans for each and every court.

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

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

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

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

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

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

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

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

20 SENATOR CANZONERI-FITZPATRICK: Thank
21 you.

22 CHAIRWOMAN KRUEGER: Thank you.
23 Assembly.

24 CHAIRWOMAN WEINSTEIN: We go to the

1 ranker on Codes, Assemblyman Morinello.

2 ASSEMBLYMAN MORINELLO: Hello. Thank
3 you.

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

7 ACTING CHIEF ADMIN. JUDGE AMAKER:

8 We -- I mean, we do have statistics on
9 judicial diversion programs, absolutely. I
10 mean, I think -- you know, we have a number
11 of treatment courts around the state. I
12 think we have like 342 treatment courts
13 around the state, the overwhelming majority
14 of which are drug treatment and opioid
15 courts. And they are very well used courts.

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

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

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

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

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

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

24 ACTING CHIEF ADMIN. JUDGE AMAKER:

1 Yeah.

2 ASSEMBLYMAN MORINELLO: -- whether
3 there was an increase or a decrease in those
4 adolescents that are now being put into the
5 16-, 17-year-old category.

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

18 Is that something you may have found?

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

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

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

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

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

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

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

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

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

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

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

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

24 ACTING CHIEF ADMIN. JUDGE AMAKER:

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

7 ASSEMBLYMAN MORINELLO: Would more
8 assist?

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

11 (Laughter.)

12 CHAIRWOMAN WEINSTEIN: Senate. Sorry.

13 CHAIRWOMAN KRUEGER: Senator Kevin
14 Thomas.

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

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

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

1 sorry, Senator.

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

4 I have been receiving a number of
5 complaints from advocates who have been
6 defending litigants in Housing Court that
7 although the law was changed back in 2011,
8 120 days to it being effective, judgment
9 interests are still being applied at
10 9 percent.

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

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

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

1 extremely important.

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

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

16 ACTING CHIEF ADMIN. JUDGE AMAKER:
17 Sure. Absolutely.

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

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

1 rules, judges --

2 SENATOR THOMAS: Yes or no?

3 ACTING CHIEF ADMIN. JUDGE AMAKER:

4 Well, I mean, I think it's a slightly more
5 nuanced answer than yes or no. I think
6 that --

7 SENATOR THOMAS: It should be yes.

8 All right?

9 ACTING CHIEF ADMIN. JUDGE AMAKER:

10 Okay, Senator.

11 SENATOR THOMAS: Third and last -- I
12 only have six seconds left -- in federal
13 court, jurors are given a number and their
14 real names are not used when they're in trial
15 or asking about the verdict. Right?

16 However, in New York State that isn't a case.

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

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

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

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

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

8 CHAIRWOMAN KRUEGER: Thank you.
9 Assembly.

10 CHAIRWOMAN WEINSTEIN: Assemblywoman
11 Simon.

12 ASSEMBLYWOMAN SIMON: Thank you. Good
13 morning, Judge.

14 ACTING CHIEF ADMIN. JUDGE AMAKER:
15 Good morning.

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

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

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

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

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

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

12 ASSEMBLYWOMAN SIMON: Thank you, I
13 appreciate it.

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

16 CHAIRWOMAN WEINSTEIN: Thank you.
17 Senate?

18 CHAIRWOMAN KRUEGER: Thank you very
19 much.

20 Senator Ramos.

21 SENATOR RAMOS: Thank you,
22 Senator Krueger.

23 Good morning, everybody. Good
24 morning, Judge.

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

3 ACTING CHIEF ADMIN. JUDGE AMAKER: For
4 diversion courts we have -- I think it's
5 about -- I think it's about a little over
6 \$2 million, if I recall correctly.

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

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

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

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

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

24 SENATOR RAMOS: Do you not think that

1 they work very well?

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

10 SENATOR RAMOS: Why is there a
11 decline?

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

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

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

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

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

1 make them do it.

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

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

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

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

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

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

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

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

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

17 Thank you, Judge.

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

20 CHAIRWOMAN KRUEGER: Thank you.
21 Assembly.

22 CHAIRWOMAN WEINSTEIN: Assemblyman
23 Bores.

24 ASSEMBLYMAN BORES: Thank you, Judge.

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

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

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

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

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

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

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

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

16 ASSEMBLYMAN BORES: If I may --

17 ACTING CHIEF ADMIN. JUDGE AMAKER:

18 Yes, absolutely.

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

1 done on paper.

2 Is that your experience as well?

3 ACTING CHIEF ADMIN. JUDGE AMAKER:

4 Arraignments -- you know, there's kind of a
5 divide. We do have a program called New York
6 Bench, and I think that some of our judges
7 are using New York Bench all the time, and
8 then there are other judges who may use it
9 some of the time.

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

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

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

24 ACTING CHIEF ADMIN. JUDGE AMAKER: No,

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

5 I mean, we -- you know, we have been
6 doing our best to retain programmers, and my
7 hope is that with this reduction, over
8 200,000 individuals who were in Silicon
9 Valley who no longer have jobs, my hope is
10 that that will spread over to the courts and
11 we'll be able to have more programmers and
12 more individuals in our IT department.

13 ASSEMBLYMAN BORES: Thank you.

14 ACTING CHIEF ADMIN. JUDGE AMAKER:
15 Thank you.

16 CHAIRWOMAN KRUEGER: Thank you.

17 Next is Senator Rolison.

18 SENATOR ROLISON: Good morning, Judge.

19 ACTING CHIEF ADMIN. JUDGE AMAKER:
20 Good morning.

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

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

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

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

17 ACTING CHIEF ADMIN. JUDGE AMAKER:

18 Yeah, I know that this has been an ongoing
19 problem, especially for the courts outside of
20 New York City. And it's something that we've
21 been extremely focused on.

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

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

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

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

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

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

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

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

19 SENATOR ROLISON: Thank you.

20 CHAIRWOMAN KRUEGER: Thank you.

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

1 And we go to Assemblyman Burgos.

2 CHAIRWOMAN KRUEGER: One more Senator
3 to be added.

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

6 ASSEMBLYMAN BURGOS: Thank you,
7 Madam Chair.

8 Thank you for your testimony, Judge.

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

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

24 The New York City Comptroller in 2017

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

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

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

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

1 also civil fees --

2 ASSEMBLYMAN BURGOS: Traffic charges.

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

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

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

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

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

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

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

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

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

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

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

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

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

4 ASSEMBLYMAN BURGOS: But some
5 jurisdictions may.

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

13 ASSEMBLYMAN BURGOS: Thank you.

14 CHAIRWOMAN WEINSTEIN: Thank you.

15 To the Senate.

16 CHAIRWOMAN KRUEGER: Thank you.

17 I believe I'm the next Senator.

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

23 ACTING CHIEF ADMIN. JUDGE AMAKER:

24 Right.

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

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

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

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

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

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

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

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

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

24 CHAIRWOMAN KRUEGER: And then

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

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

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

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

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

24 And, you know, as I said, the

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

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

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

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

24 I mean, I'm a big proponent of

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

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

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

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

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

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

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

1 think it's been very valuable that we are.

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

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

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

1 judiciary as well.

2 Do you have an opinion on that?

3 ACTING CHIEF ADMIN. JUDGE AMAKER:

4 Well, I mean, there are certainly
5 mandatory -- you know, we do have certain
6 mandatory trainings. We did make implicit
7 bias training mandatory for every judge --
8 and not just every judge, really every
9 employee around the state. We do actually,
10 as you indicated, have sexual harassment
11 training which is also mandatory.

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

24 And I think that this really does go

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

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

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

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

1 minutes.

2 ASSEMBLYWOMAN WALKER: Thank you.

3 Thank you, Judge. Good morning.

4 ACTING CHIEF ADMIN. JUDGE AMAKER:

5 Good morning.

6 ASSEMBLYWOMAN WALKER: A couple of
7 quick questions.

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

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

20 ASSEMBLYWOMAN WALKER: Thank you.

21 Additionally, the court in Salerno, in
22 1987 -- Justice Rehnquist said, in his
23 interpretation of the Bail Reform Act of
24 1984, he noted that, in his opinion, "In our

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

7 Are you aware of that, in the Salerno
8 case?

9 ACTING CHIEF ADMIN. JUDGE AMAKER:

10 Yes, I am.

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

17 ASSEMBLYWOMAN WALKER: Thank you.

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

21 ACTING CHIEF ADMIN. JUDGE AMAKER:

22 I -- I -- no, I wasn't aware. I mean, I
23 haven't practiced with Mental Hygiene Law in
24 the past.

1 ASSEMBLYWOMAN WALKER: Okay.

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

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

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

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

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

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

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

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

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

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

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

23 Thank you very much.

24 CHAIRWOMAN WEINSTEIN: Thank you.

1 issue?

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

12 But I can tell you that in
13 Housing Court right now there are a number of
14 programs that we're working on to try to
15 assist -- I know also back in the fall about
16 70 attorneys were hired to provide tenants
17 with much-needed representation in Housing
18 Court in New York City.

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

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

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

4 SENATOR HOYLMAN-SIGAL: I would love
5 for that.

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

9 SENATOR HOYLMAN-SIGAL: Yes.

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

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

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

18 ACTING CHIEF ADMIN. JUDGE AMAKER:
19 Yes.

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

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

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

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

14 SENATOR HOYLMAN-SIGAL: In my last
15 10 seconds, you said in your testimony that
16 the courts now have sufficient judicial
17 resources to meet their needs. But the
18 Williams Commission recently put out that the
19 court that -- it calls for new Family Court
20 judges statewide.

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

24 ACTING CHIEF ADMIN. JUDGE AMAKER:

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

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

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

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

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

6 CHAIRWOMAN WEINSTEIN: Thank you,
7 Judge.

8 We go to Assemblyman Epstein.

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

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

13 So we've seen the funding for civil
14 legal services really flat-line over the last
15 five years. I saw that it went from 115 to
16 116 million. I'm wondering why such a small
17 increase when we see that the needs of
18 low-income New Yorkers have really greatly
19 increased and the access to counsel is still
20 limited around the state.

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

1 You know --

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

9 So I'm wondering why you proposed a
10 3 percent increase instead of a substantial
11 increase when we've seen the rates of poverty
12 and legal services need really go through the
13 roof for low-income New Yorkers.

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

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

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

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

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

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

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

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

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

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

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

1 system and what we can do collectively to
2 change that.

3 Thank you.

4 CHAIRWOMAN WEINSTEIN: Thank you.

5 To the Senate.

6 CHAIRWOMAN KRUEGER: Thank you.

7 Chair Jamaal Bailey for three minutes,
8 second round.

9 SENATOR BAILEY: Thank you very much.

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

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

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

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

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

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

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

1 by them.

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

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

1 you.

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

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

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

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

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

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

9 Thank you.

10 CHAIRWOMAN KRUEGER: Thank you.
11 Assembly.

12 CHAIRWOMAN WEINSTEIN: Assemblywoman
13 Mary Beth Walsh.

14 ASSEMBLYWOMAN WALSH: Thank you.

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

18 So the proposed rate increase for
19 18-B, does that include attorneys for
20 children as well?

21 ACTING CHIEF ADMIN. JUDGE AMAKER:
22 Yes.

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

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

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

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

20 ASSEMBLYWOMAN WALSH: Thank you very
21 much.

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

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

6 ACTING CHIEF ADMIN. JUDGE AMAKER:

7 Absolutely. I mean, everyone's safety is of
8 concern to us. You know, I've heard all
9 types of stories -- I won't go into the
10 anecdotal information that I've received, but
11 I think it's incredibly important that
12 everyone in the court system remain safe, not
13 just judges.

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

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

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

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

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

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

19 Assemblywoman Kelles.

20 ASSEMBLYWOMAN KELLES: Thank you.

21 Hi. A few questions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 ASSEMBLYWOMAN KELLES: The cap, yes.

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

24 ASSEMBLYWOMAN KELLES: Great. Just

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

5 CHAIRWOMAN WEINSTEIN: Thank you.

6 You'll --

7 ASSEMBLYWOMAN KELLES: I'll follow up.

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

13 I wanted it acknowledged that
14 Assemblywoman McMahon is here.

15 And we go now for a question to
16 Assemblyman Reilly.

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

20 Thank you, Judge.

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

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

4 ACTING CHIEF ADMIN. JUDGE AMAKER:

5 Absolutely. It's already been expanded to
6 robberies. That was a recent expansion. So,
7 you know, we're still collecting the data on
8 that. But we certainly are looking to -- and
9 that's armed robbery. So we're certainly
10 looking to move those cases a little bit more
11 expeditiously through the system so that they
12 can resolve faster.

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

1 conferencing and hopefully have early
2 resolution.

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

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

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

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

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

8 ASSEMBLYMAN REILLY: Thank you, Judge.

9 ACTING CHIEF ADMIN. JUDGE AMAKER:

10 Absolutely. Thank you.

11 CHAIRWOMAN WEINSTEIN: There are no
12 further witnesses.

13 I want to thank the judge.

14 Senator Krueger, back to you.

15 CHAIRWOMAN KRUEGER: Thank you.

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

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

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

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

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

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

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

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

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

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

10 ADMINISTRATOR TEMBECKJIAN: Thank you,
11 Senator Krueger.

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

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

21 ADMINISTRATOR TEMBECKJIAN: How's
22 that, better?

23 CHAIRWOMAN KRUEGER: Yes, thank you.

24 ADMINISTRATOR TEMBECKJIAN: Oh, I can

1 even hear myself.

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

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

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

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

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

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

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

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

1 return. We have publicly reprimanded over
2 600 judges, either an admonition or the more
3 severe public censure, and we have issued
4 over 1900 cautionary or advisory letters to
5 judges, indicating to them that certain
6 activities which were violations of the rules
7 but were not egregious and not necessarily
8 suggestive of public discipline should
9 nevertheless be called to the judge's
10 attention so that they could ameliorate the
11 situation, modify their behavior, and not to
12 repeat in the wrongdoing.

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

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

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

6 CHAIRWOMAN KRUEGER: Great. Thank you
7 very much.

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

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

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

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

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

4 The first point is the progress that
5 is being made across the state in
6 implementing the Hurrell-Harring settlement
7 reforms across the state, which started in
8 2018. And because of your support and the
9 funding that we've received in our Aid to
10 Localities budget through your support, as
11 well as the Executive, there's been
12 tremendous progress made, which is outlined
13 in Attachment A of my written testimony.

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

23 Second, since April of 2018, over
24 624 attorneys and 362 non-attorney positions

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

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

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

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

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

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

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

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

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

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

1 that's because of you.

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

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

24 So my third point is the assigned

1 counsel rates, or 18-B. And I know there was
2 some discussion with Judge Amaker, and I want
3 to -- you, I think -- again, I think this is
4 one of those things that I don't need to
5 convince you of the dire need to increase the
6 assigned counsel rates, or the 18-B rates.
7 18-Bs in Article 18-B cases -- you know,
8 criminal defense and Family Court
9 representation -- they provide representation
10 in about a third of the cases. They are a
11 vitally important part of the system. And
12 they haven't received an increase in rates
13 since 2004.

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

1 components.

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

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

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

10 So the third component, necessary
11 component, is as currently proposed, the
12 Governor proposed a geographic distinction in
13 the rates, with downstate -- cases coming out
14 of downstate counties being reimbursed at
15 \$158 an hour and cases coming out of upstate
16 counties being reimbursed \$119 per hour.

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

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

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

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

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

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

4 CHAIRWOMAN KRUEGER: Thank you very
5 much.

6 The first questioner is Judiciary
7 Chair Brad Hoylman-Sigal.

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

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

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

1 until the point that a judge is publicly
2 disciplined.

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

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

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

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

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

1 discipline before leaving office.

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

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

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

18 ADMINISTRATOR TEMBECKJIAN: It does.

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

24 Now, we're not talking about, you

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

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

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

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

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

1 differently, is that what I heard you say?

2 ADMINISTRATOR TEMBECKJIAN: Right.

3 Thirty-eight other states would have made it
4 public at the point of formal charges. And
5 in the majority of states, notwithstanding a
6 resignation, the disciplinary entity could
7 still discipline the judge.

8 Some of the larger states --

9 California, Texas -- can discipline former
10 judges if they've left office before the
11 misconduct charges were resolved.

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

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

20 SENATOR HOYLMAN-SIGAL: Thank you.

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

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

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

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

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

1 that decision.

2 SENATOR HOYLMAN-SIGAL: Thank you.

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

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

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

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

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

9 SENATOR HOYLMAN-SIGAL: Thank you.

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

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

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

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

13 CHAIRWOMAN KRUEGER: Thank you.

14 SENATOR HOYLMAN-SIGAL: Thank you.

15 CHAIRWOMAN KRUEGER: Assembly.

16 CHAIRWOMAN WEINSTEIN: Assemblyman
17 Lavine, 10 minutes.

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

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

22 DIRECTOR WARTH: Yes.

23 ASSEMBLYMAN LAVINE: How do you
24 determine qualifications for assigned

1 counsel? And how are those individuals
2 monitored?

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

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

8 DIRECTOR WARTH: Oh, okay.

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

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

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

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

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

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

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

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

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

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

15 ASSEMBLYMAN LAVINE: Thank you very
16 much.

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

21 ADMINISTRATOR TEMBECKJIAN: Yes.
22 Generally speaking, yes.

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

1 often that has happened?

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

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

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

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

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

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

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

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

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

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

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

10 ADMINISTRATOR TEMBECKJIAN: Thank you.

11 CHAIRWOMAN WEINSTEIN: Senate.

12 CHAIRWOMAN KRUEGER: Thank you.

13 Our next questioner is Zellnor Myrie,
14 Senator Zellnor Myrie.

15 SENATOR MYRIE: Thank you,
16 Madam Chair.

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

1 Kings County public administrator's office.

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

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

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

1 and their generational wealth stolen from
2 them.

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

9 ADMINISTRATOR TEMBECKJIAN: Sure.

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

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

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

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

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

9 CHAIRWOMAN KRUEGER: Thank you.

10 CHAIRWOMAN WEINSTEIN: We go to
11 Assemblywoman Kelles.

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

16 UNIDENTIFIED SPEAKER: Try again.

17 ASSEMBLYWOMAN KELLES: How about now?

18 CHAIRWOMAN WEINSTEIN: Yes.

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

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

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

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

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

1 available to make sure that they happen.

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

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

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

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

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

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

24 DIRECTOR WARTH: Yeah, it would be.

1 ASSEMBLYWOMAN KELLES: I would love to
2 hear that.

3 DIRECTOR WARTH: It would be.

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

10 ASSEMBLYWOMAN KELLES: That would be
11 amazing.

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

16 Do you have any sense of what
17 percentage that is?

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

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

24 (Overtalk.)

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

4 ASSEMBLYWOMAN KELLES: Absolutely.
5 Absolutely. Thank you so much. Appreciate
6 it.

7 CHAIRWOMAN WEINSTEIN: Senate.

8 CHAIRWOMAN KRUEGER: Thank you very
9 much.

10 Senator Murray.

11 SENATOR MURRAY: Thank you very much.
12 Thank you.

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

20 Obviously that had an impact, but I
21 can't help but think that Raise the Age might
22 have also had an impact. Since passage of
23 Raise the Age, it did send many cases that
24 would have gone to criminal court to

1 Family Court. Has that an impact at all?

2 DIRECTOR WARTH: Not on 18-B. Because
3 Raise the Age would impact attorney for the
4 child, and that isn't our mandate, that isn't
5 under County Law Article 18-B. So no, the
6 Raise the Age wouldn't have affected that
7 information or that --

8 SENATOR MURRAY: Okay. Very good.
9 Thank you.

10 CHAIRWOMAN KRUEGER: Thank you.
11 Assembly.

12 CHAIRWOMAN WEINSTEIN: Assemblyman
13 Morinello.

14 ASSEMBLYMAN MORINELLO: Thank you.

15 Mr. Tembeckjian, I just had one
16 question. And this -- I was trying to
17 clarify your answer to Senator Zellnor Myrie.
18 And I -- did I understand that if a litigant
19 has a feeling of a judge who doesn't have
20 sufficient knowledge of either the facts, the
21 law or the judicial rules, that it is proper
22 to notify or send a letter to the commission?

23 ADMINISTRATOR TEMBECKJIAN: It
24 is an -- it is an option, because there is

1 a -- there is a -- there are promulgated
2 rules which say that a judge has to be
3 faithful to the law, respect and comply with
4 the law, professionally competent in the law.

5 Now, I will say that professional
6 competence is a very, very difficult standard
7 for us to determine. But we have had cases
8 in our history in which it was evident that
9 the judge did not understand, didn't get
10 the job -- this is more often typical in town
11 or village courts of the nonlawyer judges, of
12 whom there are, in a court system of 3500,
13 there are about 1400 of those. That's where
14 we tend to see it. Not quite so much,
15 obviously, in the full-time so-called
16 state-paid judiciary.

17 But we do on occasion see it there.
18 And if we were to determine that a judge was
19 essentially not competent, professionally
20 competent in the law, it would be the subject
21 of discipline. But it still wouldn't affect
22 the case.

23 ASSEMBLYMAN MORINELLO: Thank you very
24 much.

1 ADMINISTRATOR TEMBECKJIAN: Thank you.

2 CHAIRWOMAN KRUEGER: Thank you.

3 Senator Jamaal Bailey.

4 SENATOR BAILEY: Thank you.

5 So, Mr. Tembeckjian, this is going to
6 be -- this is going to break a streak of six
7 years of me not asking you a question, but I
8 do have a question of you today. This is in
9 relation to the question of -- related to --
10 about judicial conduct with OCA about in the
11 event, you know, that there is a judge that
12 seems to have a penchant for making decisions
13 that are outliers or decisions that are not
14 necessarily -- that don't necessarily comport
15 with what should be done, is that within your
16 jurisdiction?

17 ADMINISTRATOR TEMBECKJIAN: We would
18 walk a very, very fine line there to avoid
19 impinging on the independence of the
20 judiciary. If I or the commission happens to
21 disagree with the merits of a decision, that
22 is not cause for -- for discipline.

23 But if the judge demonstrates over a
24 period of time a lack of familiarity with the

1 law, that is a matter -- and I'll give you an
2 example on the outer edge of that. We have
3 removed judges over the years who, for
4 example, failed to advise litigants of
5 fundamental rights such as the right to
6 counsel. That typically happens among the
7 nonlawyer town and village court justices.

8 But we have also removed judges from
9 office -- and these decisions have been
10 upheld by the Court of Appeals -- for abusing
11 the discretionary imposition of bail. For
12 example, in a case in the Capital Region
13 involving a judge from the City of Troy, who
14 was obviously law-trained, who was setting
15 bail on individuals for violations that
16 had -- that were not bailable offenses, such
17 as riding your bicycle on the sidewalk or
18 riding your bicycle without a warning device
19 such as a bell.

20 Having done that repeatedly, the
21 commission concluded that this was a judge
22 who didn't understand the law and should be
23 removed, and the Court of Appeals upheld that
24 removal.

1 But that's a -- that's a pretty rare
2 circumstance. And we want to avoid examining
3 a judge for essentially making rulings that
4 we don't agree with, because that would
5 really infringe on the independence of the
6 judiciary.

7 SENATOR BAILEY: Completely
8 understood.

9 Director Warth, I want to -- the rest
10 of my time I'm going to spend on you.

11 2004 was a very long time ago. I was
12 an intern for the Speaker, who was in his
13 second term -- and he also had waves at that
14 period of time, so it was a very, very long
15 time ago.

16 I just want to make sure that the
17 increase in 18-B rates is not just something
18 that we speak about or pontificate about, it
19 actually affects real families on a
20 day-to-day basis. It affects recidivism, it
21 affects family violence, it affects all of
22 these conditions that people love to
23 pontificate about. When you don't have
24 representation, that affects everything.

1 And I just wanted to thank you for
2 your work and your commitment to not only the
3 funding, but making sure that there is no
4 disparity within the upstate and downstate
5 regions. I obviously carried the bill, and
6 it is an important thing for me. We agree on
7 that.

8 But my question for you is that do you
9 have any -- it's about the proposed changes
10 to the bail laws. We're going to shift
11 topics briefly. Are there any thoughts or
12 comments on the Governor's proposed changes
13 to the bail laws?

14 DIRECTOR WARTH: The only thing I can
15 say -- and again, my answer is wedded to our
16 mission of improved-quality representation.

17 And, you know, I think it's worth
18 saying that a reduction in pretrial detention
19 is a significant factor in improving -- or a
20 significant component in improving the
21 quality of representation. Because if your
22 client is out, you have better access to your
23 client, your client's not stressed about
24 being incarcerated. And we also know that

1 pretrial detention is a thumb on pleading
2 guilty, often to charges you shouldn't plead
3 guilty to.

4 So, you know, I would urge the
5 Legislature to hold firm to the efforts that
6 have been made to reduce pretrial detention,
7 because I think they're very important.

8 SENATOR BAILEY: And would it be fair
9 to say that there's been a relatively
10 positive impact of discovery reform and bail
11 reform on these -- on the system, on the
12 mandated defense providers and their clients?

13 DIRECTOR WARTH: We were able to dig
14 in deep on some of the data on the
15 Hurrell-Harring counties where we keep more
16 robust data.

17 And, you know, the data shows that
18 there's been a significant reduction in
19 pretrial detention in those low-level
20 nonviolent offenses. Because in upstate
21 communities, bail is often used in low-level
22 nonviolent offenses, bail that people
23 couldn't pay.

24 And so there's been a significant

1 reduction in pretrial detention in those
2 cases, which, you know, has helped defense
3 attorneys actually now do their job in those
4 cases to provide better representation.

5 SENATOR BAILEY: I'm greatly
6 appreciative of that, and as my time goes, I
7 just want to thank you again for all of your
8 work for representing those who can ill
9 afford to represent themselves.

10 Thank you.

11 DIRECTOR WARTH: Thank you.

12 CHAIRWOMAN KRUEGER: Thank you.
13 Assembly.

14 CHAIRWOMAN WEINSTEIN: We go to
15 Assemblyman Flood.

16 ASSEMBLYMAN FLOOD: Good afternoon.

17 This question is geared towards
18 Ms. Warth. You spoke before about the need
19 to increase the cap on this funding, which I
20 agree -- you know, as a private-pay attorney
21 I've taken retainers that exceed the cap.

22 And to adequately do a job, like you
23 said, from -- you know, from arraignment up
24 until potentially trial, it does oftentimes

1 lead to -- you would actually have to exceed
2 that cap to quality -- you know, to
3 adequately provide for the defense attorney.

4 Is there, however, a number out there
5 that you would be comfortable figuring out
6 that you would take the case, you know, from
7 inception up and through trial that could
8 also, you know, alleviate some of the fears
9 of the taxpayer of, you know, overpaying or
10 some type of fraud that could be involved in
11 that? Is there a number that you'd be
12 comfortable with?

13 DIRECTOR WARTH: I mean, our position
14 is that the cap should be eliminated
15 altogether and that the work that we're doing
16 in creating robust ACP infrastructures is the
17 necessary check on attorneys charging too
18 much.

19 At the very least, there should be a
20 mechanism for going above the cap. And
21 that's part of the problem with the
22 Governor's proposal, is that mechanism, which
23 currently exists -- you can go above the cap
24 in extraordinary circumstances -- that's

1 eliminated. So under the current proposal of
2 the Governor, there's no way to go above the
3 cap. And that's just going to make the
4 problem even worse.

5 I would argue that if there has to be
6 a cap in there, that they be significantly
7 raised, they be tiered by misdemeanors,
8 felonies, and appeals -- because appeals
9 should be much higher -- and that the
10 mechanism for going above the cap be a much
11 lower bar than extraordinary circumstances.

12 But again, our first position is that
13 you don't need the caps and that the work
14 we're doing should -- should solve that
15 problem.

16 ASSEMBLYMAN FLOOD: Okay. So if there
17 was -- say that there was no cap. Who would
18 be in charge of maintaining that? Would that
19 still be on the county level to ensure that
20 the -- to ensure that the defense attorneys
21 aren't exceeding the necessary -- you know,
22 they're basically not overbilling?

23 DIRECTOR WARTH: So currently under
24 the law both the judge and the ACP

1 administrator in most counties sign off on
2 vouchers. So it would be on the ACP
3 administration and the judges to make sure
4 that the money's being spent as it should.

5 ASSEMBLYMAN FLOOD: Okay. Thank you.

6 CHAIRWOMAN KRUEGER: Thank you.

7 Senator Palumbo, five minutes.

8 SENATOR PALUMBO: Thank you,

9 Madam Chair.

10 How are you, Mr. Tembeckjian? Good to
11 see you again.

12 ADMINISTRATOR TEMBECKJIAN: Likewise.

13 SENATOR PALUMBO: And Director Warth,
14 I just had a little follow-up regarding you
15 discussed the reforms, how they have been
16 very helpful to have better access to your
17 clients.

18 Can you tell us how that has affected
19 caseloads? Because we had some data that
20 the -- a number of complaints have increased,
21 that those statistics are up as far as people
22 being charged. And I was just curious just
23 to see how that's affected caseloads on the
24 public defender side and what you've seen as

1 far as that. And as well, I guess, to
2 complete the thought, we also had data that
3 cases were significantly longer to resolution
4 even though a large majority of those cases
5 were being dismissed for other reasons, not
6 only for 30.30 reasons.

7 So can you just tell us a little bit
8 more about that?

9 DIRECTOR WARTH: So, you know, we do
10 keep data on aggregate new case assignments
11 every year. And so I'd urge you to go to our
12 website, we have a caseload report there that
13 tracks new case assignments or caseloads over
14 the years.

15 There was a significant decrease in
16 2020 into 2021 of new cases, and we
17 speculate -- and I think everybody here would
18 agree with us -- it was largely because of
19 the COVID-19 pandemic. And then the new case
20 assignments have started to go up in mid-2021
21 into 2022, you know, I think because of what
22 is happening with the pandemic.

23 I think in terms of assessing bail
24 reform on top of case assignments or new

1 cases, it's impossible to do that without
2 taking into account the dramatic impact the
3 pandemic has had on our criminal justice
4 system, because it did. I mean, basically,
5 you know, fewer people were being arrested at
6 one point, and then it went up. You know,
7 it's had a dramatic impact on court
8 functionings. I really applaud the courts
9 for trying to stay open during the pandemic,
10 but it created all sorts of issues with
11 scheduling and things like that.

12 And so, you know, I think that it
13 would be impossible to make a prediction or
14 to make an assessment right now without doing
15 a really deep dive and thorough analysis both
16 on bail reform and the pandemic. And I don't
17 know that it's possible to separate that out.

18 SENATOR PALUMBO: Sure. Sure. And
19 regardless of cause, though, have you seen
20 any sort of a change as far as caseloads are
21 concerned? Regardless of the cause, without
22 pontificating on the --

23 DIRECTOR WARTH: Well, like I said, we
24 saw, in 2020, a dramatic decrease in

1 caseloads and new cases assignments, and it
2 was historically unprecedented, I should say,
3 as well. And then we saw it start to creep
4 up in 2021. And then again in 2022 it
5 continues to creep up. And the numbers, the
6 specific numbers are in our report.

7 SENATOR PALUMBO: Sure. And I guess I
8 was a little too general. So to be more
9 specific, excluding maybe 2020 and even 2021,
10 from 2018-'19 to today -- and just maybe if
11 you can do it generally for '22 versus
12 pre-pandemic --

13 DIRECTOR WARTH: As of 2022, the new
14 case assignments were still not as high as
15 they were in 2019 and 2018, prior to the
16 pandemic. So they haven't reached the
17 pre-pandemic levels, new case assignments.
18 And that's in aggregate across the state.

19 Now, you know, within counties there
20 maybe some difference. So -- but, you know,
21 the information I'm telling you about is
22 statewide aggregate.

23 SENATOR PALUMBO: Okay, very good.
24 Thank you.

1 CHAIRWOMAN KRUEGER: Thank you.

2 Assembly.

3 CHAIRWOMAN WEINSTEIN: Assemblywoman

4 Walker.

5 ASSEMBLYWOMAN WALKER: Awesome. Thank

6 you so much for your testimony today,

7 Ms. Warth.

8 I'd like to know, sort of in your

9 assessment of the least restrictive measure

10 standard, sort of what does that standard

11 mean to you?

12 DIRECTOR WARTH: I used to be a

13 special education teacher, so -- I mean, I

14 was dealing with least restrictive since, you

15 know, before I was a lawyer.

16 You know, I think -- me personally, it

17 means making a decision based on, you know,

18 the criteria that you're permitted to make a

19 decision on. And with regard to pretrial

20 detention, you know, the goal is -- in

21 New York, the goal is to ensure the person's

22 return to court, so what are the least

23 restrictive means of ensuring the person's

24 return to court.

1 Is there a way that we can do that
2 without relying on pretrial detention? Which
3 I think is the ultimate goal of everybody
4 here, to reduce the amount of incarceration,
5 whether it's, you know, pretrial or after
6 conviction.

7 ASSEMBLYWOMAN WALKER: So one of the
8 statements that you made earlier was that
9 since bail reform we've been seeing --
10 particularly upstate -- more incarceration
11 than not pretrial.

12 And then also the Division of Criminal
13 Justice Services in their testimony recently
14 noted that since 2019, since bail reform
15 passed, that bail has been set -- the average
16 amount of bail set was \$5,000. But since
17 2019, it has doubled to nearly \$10,000.

18 Sort of what is your perception of --
19 about, you know, judges applying this least
20 restrictive means test?

21 DIRECTOR WARTH: So I just want to
22 clarify what I said. I said that we had some
23 sort of more robust data from the five
24 Hurrell-Harring counties about bail and about

1 pretrial detention. And what we found is
2 that pretrial detention had significantly
3 reduced post bail reform.

4 You know, so after bail reform, there
5 was a significant reduction in the
6 utilization of pretrial detention in all five
7 of the Hurrell-Harring counties. And that we
8 saw that reduction the most significantly in
9 the lower-level offenses -- misdemeanors and
10 nonviolent offenses.

11 We don't get good -- you know, we
12 don't get data -- I don't know that anybody
13 actually does -- on specific reasons for
14 judges' decisions and hence, you know, how
15 they're utilizing the least restrictive. You
16 know, I think that's a very interesting
17 research question --

18 ASSEMBLYWOMAN WALKER: Right.

19 DIRECTOR WARTH: So we're not -- we
20 haven't been able to explore that.

21 ASSEMBLYWOMAN WALKER: I'm just going
22 to note, in my last second, that the judges,
23 in accordance with the law, they have to
24 indicate their reasoning behind the

1 methodology of bail that's set. And that's
2 one of the proposed changes.

3 So I'd love to discuss both of your
4 thoughts on restricting the explanations that
5 judges have to give with respect to their
6 determination of bail.

7 DIRECTOR WARTH: Yeah. Yeah. Well, I
8 mean, you know, we always support more
9 information, so --

10 CHAIRWOMAN WEINSTEIN: You'll be
11 having that conversation offline. But feel
12 free to share with colleagues.

13 To the Senate.

14 CHAIRWOMAN KRUEGER: Thank you.

15 I'm not taking my 10 minutes; don't
16 even bother with the clock. One question for
17 both of you.

18 I have been making the argument that
19 we should have mandatory training, like
20 continuing legal education, for judges.
21 Given the role that you each play, which are
22 very different, do you think that would help
23 address problems that you see and need to
24 deal with?

1 ADMINISTRATOR TEMBECKJIAN: From my
2 point of view, unquestionably it would help.

3 I believe that the chief
4 administrative judge can mandate it. And if
5 it is a mandate, then it is something that
6 the commission can enforce if a judge doesn't
7 do it.

8 So that, for example, mandatory
9 financial disclosure is something that is
10 incumbent upon all of us in our public roles,
11 including the judges. And if a judge doesn't
12 file an annual financial disclosure
13 statement, we can examine it and we have
14 disciplined judges for it, typically
15 privately for a first offense with an excuse,
16 but -- or without excuse. With a valid
17 excuse we might give them a little more time.
18 But we have also publicly disciplined judges
19 for it.

20 Education and training is an essential
21 part of understanding the job. Being a judge
22 is like no other role in public office. It's
23 enormously powerful. You have -- you're
24 deciding issues of custody, freedom, huge

1 amounts of money that is at stake. And it is
2 essential, I think, for the public to have
3 confidence in the quality of justice, to be
4 reassured that the judges are properly
5 trained.

6 And if it is mandated -- and I believe
7 it can be -- then we can take action when
8 those judges fail to meet the mandate.

9 CHAIRWOMAN KRUEGER: Thank you.

10 DIRECTOR WARTH: ILS would certainly
11 support efforts to ensure that judges are
12 well trained.

13 CHAIRWOMAN KRUEGER: Thank you both.

14 Thank you for your work.

15 Assembly.

16 CHAIRWOMAN WEINSTEIN: I also have one
17 quick question, just for Ms. Warth.

18 You mentioned attorney for child
19 increase in assigned counsel fees is
20 included -- would be included in the
21 Judiciary Budget but the 18-B is not, as far
22 as you can see. And we've been having some
23 question about that also.

24 Do you have an approximate cost of --

1 based on a prior year's cases, what kind of
2 an annual cost we're talking about?

3 DIRECTOR WARTH: Yes. We've done
4 estimates based on 2019 and number of cases
5 in 2019. And we used 2019 because it's
6 pre-pandemic and that's when there's the most
7 number of cases. So we're using the largest
8 number to do our estimates.

9 And we've estimated anywhere between
10 150 million and 180 million for increasing
11 assigned counsel rates under 18-B, which is,
12 you know, criminal defense and the
13 representation of parents in Family Court
14 matters. And that depends on the specific
15 particular increase in rates.

16 And I'm happy to share that
17 information with anybody who reaches out and
18 asks for it. You can see our analysis and
19 how we came up with these numbers.

20 CHAIRWOMAN WEINSTEIN: Sure, we'd like
21 to see it. I was -- I chaired Judiciary at
22 the time that, way back when, we raised the
23 counsel rates. And at that time we did have
24 some other additional fees that were raised

1 to help pay that cost. So we probably will
2 have some further discussions on that.

3 But yes, I would like to have that
4 information and we'd be sure to share with
5 all of our committee members.

6 DIRECTOR WARTH: We will send that
7 along.

8 CHAIRWOMAN WEINSTEIN: Thank you.

9 Back to the Senate.

10 CHAIRWOMAN KRUEGER: Thank you.

11 Chair Brad Hoylman-Sigal for a second
12 round, three minutes.

13 SENATOR HOYLMAN-SIGAL: Thank you,
14 Madam Chair.

15 Mr. Tembeckjian, I had another
16 question for you. I saw, during the lead-up
17 to the Senate's hearing for the nominee for
18 the chief judge of the Court of Appeals,
19 another judge, a sitting judge, wrote an
20 op-ed where he opined on the issue at hand
21 and said that -- basically urged for a fair
22 hearing and that the State Senate should hold
23 a confirmation hearing and vote up or down on
24 the nominee. He said op-eds and letters to

1 the editor are no substitute.

2 I wanted to ask you, are there ethical
3 rules for judges proactively weighing in on
4 political matters when there isn't a case
5 before them?

6 ADMINISTRATOR TEMBECKJIAN: Well,
7 judges are allowed to comment on the law, the
8 legal system, the administration of justice.
9 And given our reverence for the First
10 Amendment, we tend to go -- we tend to be
11 very cautious about inhibiting public comment
12 on the law, the legal system, and the
13 administration of justice, you know, by a
14 judge. It is permissible and some would say
15 it's even encouraged.

16 If there were a case, they couldn't
17 comment, because there's a -- there's a
18 corollary rule that says that a judge should
19 not comment on a pending case in -- anywhere
20 in the United States.

21 So what balancing those two -- if the
22 subject matter is the law, the legal system
23 and the administration of justice, I think
24 that there is broad permissibility to make

1 public comment. If it were about a pending
2 case, it would not be permissible and we
3 would look into it because it would be a
4 potential violation of the rule.

5 SENATOR HOYLMAN-SIGAL: Thank you.

6 And in my remaining minutes,
7 Ms. Warth, can you just reiterate again why
8 it's important that the state pay for the
9 18-B rate increase?

10 DIRECTOR WARTH: We know from history
11 that it's important that the state pay. When
12 the state didn't pay for the increase in
13 2004, the counties cut public defense
14 services in other ways to fund that increase.

15 There's a direct line between that and
16 the Kaye Commission report in 2006 and a
17 direct line between that and the
18 Hurrell-Harring settlement.

19 And I can honestly say my first couple
20 of years when I started at ILS as the
21 Hurrell-Harring settlement implementation
22 chief, I felt like I was undoing the work
23 that had been done -- you know, the damage
24 that had been done from the state's failure

1 to pay for the increase in 2004.

2 You know, at the end of the day,
3 funding public defense is a state obligation,
4 and the state needs to pick up the tab for
5 that obligation.

6 CHAIRWOMAN KRUEGER: The Senate has
7 completed the questioning. The Assembly has
8 also finished the questioning. So I'd like
9 to thank you both very much --

10 DIRECTOR WARTH: Thank you.

11 CHAIRWOMAN KRUEGER: -- invite you to
12 leave. Anyone who wants to speak to you,
13 take it to the hallways.

14 And we're going to ask our next panel
15 to come up, which is Jackie Bray, New York
16 State Division of Homeland Security and
17 Emergency Services, and Jennifer Lorenz,
18 New York State Office of Information
19 Technology Services.

20 Feel free to take a stretch, quietly.
21 It's always good for everyone.

22 (Brief recess.)

23 CHAIRWOMAN KRUEGER: Good afternoon,
24 not morning. Nice to see you both.

1 And we're going to start with
2 Jackie Bray.

3 DHSES COMMISSIONER BRAY: Okay. Are
4 these on? They are, right? All right.

5 CHAIRWOMAN KRUEGER: One of them works
6 better than the other. I think you have --

7 DHSES COMMISSIONER BRAY: Let's try
8 it. Better?

9 CHAIRWOMAN KRUEGER: Yes.

10 DHSES COMMISSIONER BRAY: Oh, there
11 you go. All right.

12 Good morning. Thank you,
13 Chair Krueger and Chair Weinstein and the
14 distinguished members of the joint committee.
15 My name is Jackie Bray. I'm the commissioner
16 of the Division of Homeland Security and
17 Emergency Services. It's my honor to share
18 with you the vision and goals of our agency
19 as well as provide an overview of the
20 Executive Budget as it relates to our
21 mission.

22 The hazards and risks the people of
23 New York face are accelerating and
24 intensifying due to climate change, domestic

1 and international extremism, cyberattacks,
2 and even the threat of other and future
3 pandemics.

4 In Western New York alone, we have
5 seen all of these come to fruition -- some in
6 the most dire of ways -- this year. Within
7 the past 10 months we responded to multiple
8 cyberattacks, a domestic terror attack that
9 took the lives of 10 New Yorkers, an attack
10 from a homegrown violent extremist, a
11 record-setting snowfall, and a devastating
12 once-in-a-generation blizzard. And of course
13 I wrote this testimony before yesterday's
14 earthquake.

15 Regardless of the threat, we at the
16 division are the coordinators, the trainers,
17 the facilitators, the ones who ensure that
18 our local partners have the resources they
19 need to keep their communities safe. It's
20 our job to have everyone else's back, and
21 that job is very important right now.

22 Thanks to the leadership of
23 Governor Hochul, the Executive Budget does
24 provide the resources necessary for us to

1 carry out our mission. Our total agency
2 appropriation in the Executive Budget is
3 \$9 billion, which includes an additional
4 \$4 billion in authority for the division to
5 administer federal funding for the expected
6 reimbursements from the COVID-19 federal
7 disaster.

8 It also includes \$63 million in new
9 appropriations to strengthen the volunteer
10 fire service and support the continued
11 expansion of cybersecurity and critical
12 infrastructure protection.

13 Of New York's over 1700 fire
14 departments, more than 1600 are volunteer
15 departments. Many of these departments have
16 struggled in recent years to recruit and
17 retain the volunteers they need to keep the
18 rest of us safe. In fact, in a survey,
19 76 percent of all volunteer fire departments
20 in New York State reported a drop in
21 volunteer service in recent years.

22 We're going to make the investments
23 and changes necessary to put the volunteer
24 fire service on a path to stability.

1 The Governor's Executive Budget
2 includes two measures to help us get there.
3 The budget proposes \$10 million to create a
4 volunteer firefighter training stipend to
5 assist firefighters in obtaining the training
6 they need. And the proposal seeks to amend
7 the law to enable municipalities to provide
8 nominal stipends of their own to volunteer
9 firefighters for emergency response.

10 These investments build upon the work
11 we've been doing to prioritize first
12 responders. Last year we rolled out new
13 workshops to support the emotional resilience
14 amongst first responders, and we rolled out
15 new investments targeted to help lower the
16 cancer risk for firefighters.

17 This budget also invests \$20 million
18 to strengthen 911 operations, and it begins
19 to provide what will be required for our
20 communities and localities to join the
21 transition to Next Gen 911.

22 We must also continue to pivot our
23 homeland security strategies from a post-9/11
24 mindset to one that recognizes and responds

1 to the diversified threat environment of
2 today.

3 We've already started by adding the
4 new Domestic Terrorism Prevention Unit to the
5 Office of Counter Terrorism and expanding our
6 Cyber Incident Response Team to provide
7 cybersecurity as a service to counties and
8 localities. This budget includes additional
9 resources to continue and strengthen that
10 work.

11 I'm particularly proud to have
12 launched the Domestic Terrorism Prevention
13 Unit this past year. This team is working to
14 provide the training, resources, and
15 technical assistance communities need to
16 confront the threat of domestic violent
17 extremism. White supremacist and antisemitic
18 violent extremism remain the greatest
19 terrorist threats to New York State this
20 year, as they were last year. Governor
21 Hochul has focused on combating the hate that
22 leads to this extremist violence, and we are
23 proud to do the work under her leadership.

24 It's impossible to draft all of the

1 good -- the fantastic work of our division
2 during this testimony. As you know, there's
3 been a lot going on in emergency management
4 this year, whether it's managing weather
5 events, hazmat incidents, terrorist threats,
6 cyberattacks, or digging into the
7 preparedness, the public safety, the
8 mitigation, the recovery work that is so
9 essential before and after an emergency.

10 It's been a long, busy year for those
11 of us at the agency. And I'm proud of the
12 work that we've done, all of our teams, to
13 keep New Yorkers safe.

14 I appreciate the opportunity to be
15 here, and I'm happy to take your questions.
16 Thank you.

17 OITS DEPUTY CIO LORENZ: Thank you,
18 Chairs Krueger and Weinstein, for the
19 invitation, and a warm welcome to the
20 distinguished members of the Legislature who
21 have joined us today.

22 Regretfully, our chief information
23 officer, Angelo "Tony" Riddick was unable to
24 be here due to a personal commitment, so I'm

1 taking his place in my capacity as deputy CIO
2 at ITS.

3 Once again, I'm Jennifer Lorenz, and I
4 have been with this agency since its
5 inception. It is an honor to partner with
6 you in service to our fellow New Yorkers.

7 I can confidently say that technology
8 has never been more important to the state
9 than it is right now, and ITS is at the
10 forefront of efforts to leverage this
11 technology to create a better, stronger and
12 more responsive state government.

13 Technology has allowed us to deliver
14 taxpayer savings and freed up our hardworking
15 employees to do even more impactful work. It
16 is helping the state ensure a more seamless
17 delivery of services. It is changing the way
18 our employees work and allowing agencies to
19 respond more effectively to an event, an
20 emergency or a crisis.

21 We also know that technology is
22 bringing state government closer to the
23 people because we made it happen together.

24 Since we met last year, ITS has

1 successfully deployed language translation
2 services to state agency websites, allowing
3 them to provide services in the 12 most
4 commonly spoken non-English languages. We
5 began by translating the COVID pages first,
6 and now 84 public-facing sites have been
7 identified and translated for the public.

8 The concept, which originated here in
9 the Legislature, is making government more
10 accessible to many more New Yorkers.

11 In addition, ITS has been assisting
12 with the work needed to allow name and gender
13 changes in state databases under the Gender
14 Recognition Act. This is an important step
15 forward.

16 We also provided the tools to stand up
17 a new and vital agency, the Office of
18 Cannabis Management, on a very expedited
19 timeline this year.

20 And we recently partnered with the
21 Public Service Commission to enhance the
22 broadband mapping website, which is a crucial
23 step in obtaining federal funding for
24 New York.

1 In the ongoing fight against
2 cyber threats, technology has been a key
3 component in keeping New York secure. Over
4 much of the last year, ITS been working with
5 our partners to establish the Joint Security
6 Operations Center, or JSOC. The vision of
7 Governor Hochul, JSOC is a first-of-its-kind
8 central hub for threat monitoring and
9 intelligence sharing. And I am proud to
10 report that the JSOC is now fully operational
11 and staffed 24 hours a day, seven days a
12 week, with New York State employees.

13 JSOC has accelerated our transition to
14 a whole-of-state approach to cybersecurity,
15 where the state and local governments are
16 collaborating in new and meaningful ways.
17 Many local governments have already joined
18 the JSOC, and New York State has provided
19 these local partners with endpoint detection
20 technology at no cost.

21 There is more work to do, but JSOC is
22 quickly becoming a national model for
23 enhancing cybersecurity across all levels of
24 government. Meanwhile, we will soon be

1 providing advanced cybersecurity training to
2 all ITS employees so they can function as an
3 army of cyber warriors and better protect the
4 state's systems and resident data.

5 And we recently hired the state's
6 first-ever chief privacy officer for the
7 state, who is building a statewide program to
8 include new policies and processes on how we
9 collect, use and secure New Yorkers'
10 information.

11 And most importantly, we are
12 increasing transparency so New Yorkers better
13 understand how their personal data will be
14 used and protected.

15 Funding advanced as part of the
16 Governor's budget will allow us to continue
17 to focus on a number of key state
18 initiatives:

19 Digitizing state services and
20 expanding the methods by which residents
21 access those services;

22 Taking the next steps in the ongoing
23 Tax Systems Modernization;

24 Creating a "One ID" system to better

1 prevent fraud and streamline the state's
2 delivery model;

3 And further enhancing our
4 cybersecurity posture.

5 Thirty-three million dollars in new
6 funding is a powerful statement from Governor
7 Hochul about where cybersecurity ranks on our
8 list of priorities.

9 It is an honor and privilege to help
10 lead this agency, along with CIO Riddick and
11 so many talented IT professionals. Once
12 again, I thank you for your service and look
13 forward to any questions you may have.

14 CHAIRWOMAN KRUEGER: Thank you both
15 very much; appreciate it.

16 Our first questioner will be our chair
17 of Technology, and you'll have to -- it's
18 Senator Gonzalez, and she'll say the name of
19 her committee.

20 SENATOR GONZALEZ: Hi. Thank you so
21 much, Madam Chair.

22 I am Senator Gonzalez, from
23 District 59, and chair of Internet and
24 Technology.

1 So, very excited to see you both
2 today. And to start, you know, so many
3 things that you mentioned -- I wish I had
4 more than 10 minutes, but want to delve into
5 a little bit more understanding of your
6 budget requests and the shared
7 responsibilities.

8 So currently, you know, the budget's
9 at almost \$1 billion, making it the largest
10 IT entity in the state. And I know that
11 other entities share cyber-preparedness
12 responsibilities with ITS, including the
13 Division of Homeland Security and -- in
14 addition to the chief cybersecurity officer,
15 Colin Ahern. I was wondering how these are
16 now shared responsibilities going to be
17 playing into JSOC, which you just mentioned
18 is one of our ambitious new cybersecurity
19 efforts.

20 DHSES COMMISSIONER BRAY: Yeah, thank
21 you for that.

22 So here's the way I describe the sort
23 of division of responsibility here. ITS is
24 responsible for state systems, state data.

1 DHSES, our division, is responsible for the
2 support, the preparedness and helping to
3 respond for any local government or critical
4 infrastructure partner.

5 So if it's an incursion or something
6 happens on a state system, that's ITS. If
7 it's a local school board, if it's, you know,
8 a water system somewhere, that's reported to
9 the Division of Homeland Security and we
10 deploy our cyber resources.

11 Now, obviously we work across the
12 entire government, whether that's --
13 sometimes we call ITS and we say, Hey, we
14 need your help, or we call the National
15 Guard. But that's the division of
16 responsibility.

17 Colin Ahern, the chief cyber officer
18 for the Governor's team, has policy and
19 strategic direction, control and leadership
20 across both of the portfolios.

21 SENATOR GONZALEZ: Great. Okay.

22 And so just curious, considering now
23 JSOC will cover local, state and federal, and
24 considering that ITS's workforce it seems is

1 decentralized, actually, right -- where you
2 have different members of your staff at
3 different agencies -- how are, you know, how
4 will new cybersecurity efforts be
5 communicated from JSOC across our state
6 agencies? Essentially is this a move towards
7 a more centralized approach, or are we going
8 to continue a decentralized?

9 OITS DEPUTY CIO LORENZ: So I'm not
10 sure if I heard entirely correctly, but the
11 IT for the state executive agencies is
12 consolidated. So we do support a
13 consolidated vision and we do have a
14 communications channel across all of the
15 agencies as we're changing policies or
16 introducing guidelines.

17 When it comes to JSOC, obviously we're
18 partnered like Commissioner Bray just
19 mentioned, with DHSES and Colin Ahern, our
20 cybersecurity officer for the state. But we
21 work together when planning and addressing
22 issues that occur, and we communicate
23 cohesively across the agencies.

24 SENATOR GONZALEZ: Okay. So then for

1 the recommended 30 million for the office to
2 partner with the Division of Homeland
3 Security and Emergency Services to offer
4 shared cybersecurity and data technology
5 services to local governments, can you give
6 me a little bit more detail on what new or
7 expanded services these are funding?

8 DHSES COMMISSIONER BRAY: Yes. So
9 that program is a program that we already
10 rolled out this year that provides endpoint
11 protection, provides EDR to counties and to
12 localities. We've got five of our major
13 cities signed up, and then 43 of our
14 counties. The funding in the next budget
15 will help us continue to provide endpoint
16 protection to the counties and to localities,
17 and we'll likely add additional services.

18 So, you know, there's a handful of
19 cybersecurity -- there's a handful of things
20 you can do to increase your cyber posture
21 that we want all the counties to do. So
22 endpoint protection we did last year. This
23 year we're going to do -- continue endpoint
24 protection, build that, and likely look at

1 something like attack surface management,
2 which will help take our counties to the next
3 level.

4 So that all of those resources are
5 about providing a service to the counties.

6 SENATOR GONZALEZ: Yeah, I was curious
7 about more of the specifics, because I wanted
8 to talk about the budget and people and
9 processes, but then also move, as you --
10 perfect segue -- into cybersecurity.

11 So, you know, last year attackers
12 effectively shut down Suffolk County's
13 government and stole nearly 4 terabytes of
14 data. In response, Suffolk County instated
15 multifactor authentication. That's one of
16 the specifics, right --

17 DHSES COMMISSIONER BRAY: Yeah.

18 SENATOR GONZALEZ: -- of new processes
19 that you might be funding with the additional
20 budget that you're requesting.

21 So I am curious, one, if you can speak
22 more to the scope of this problem, if you've
23 seen -- you know, on what scale are we seeing
24 ransomware attacks, how often, at what level

1 of government -- because then that speaks to
2 JSOC. And then, two, with these new measures
3 and new technology -- for example,
4 multifactor authentication -- what percentage
5 of state agencies are already using this, and
6 really how -- like how far along do you
7 believe we are in actually achieving a more
8 secure response to the ransomware attacks
9 that we've been experiencing this year?

10 DHSES COMMISSIONER BRAY: So I'll
11 start with the counties and then pass it to
12 Jen for the state agencies.

13 So in terms of what happened in
14 Suffolk, that was the exploitation of a piece
15 of software called VMware, sort of well
16 promulgated throughout many, many different
17 systems. The type of services we are now
18 providing the counties and localities would
19 have interrupted that attack. I can't tell
20 you for sure it would have stopped that
21 attack, but it certainly would have
22 interrupted that attack. And it is the type
23 of software designed to stop attacks like
24 that.

1 We expect over the next couple of
2 months to have added about 64,000 endpoints
3 from our localities and our county partners
4 to this type of protection. And again, you
5 know, we've got about 43 counties lined up.
6 They will all be rolled out in the next few
7 months, and the five major cities outside of
8 New York City. And New York City has their
9 own program here.

10 So it is exactly the type of attacks
11 like Suffolk found -- or Suffolk suffered
12 that we are trying to prevent. We certainly
13 have seen an increase in ransomware attacks.
14 This year, DHSES responded to about 54
15 cyberattacks for localities, school boards,
16 other critical infrastructure partners. That
17 is relatively typical of the last couple of
18 years, but it is definitely accelerating.

19 OITS DEPUTY CIO LORENZ: And as far as
20 the state agencies and multifactor
21 authentication, we have completed the MFA
22 rollout for public-facing sites that we
23 started out with last year; that was one of
24 our objectives. Now we're looking at other

1 internal applications that we could have MFA
2 assigned to.

3 But as part of the overall effort, we
4 don't want to just lean into MFA as the only
5 solution for security. We want multiple ways
6 to defend against cyberattacks.

7 SENATOR GONZALEZ: And do you think
8 that we're on track of like implementing
9 those multiple ways? Or like what is the --

10 OITS DEPUTY CIO LORENZ: Yes. Yes.

11 SENATOR GONZALEZ: Or more
12 specifically, more concretely.

13 OITS DEPUTY CIO LORENZ: Yes, we have
14 many --

15 SENATOR GONZALEZ: How are you
16 measuring?

17 OITS DEPUTY CIO LORENZ: -- ways
18 underway. Identity access management is one
19 of them. You know, you'll hear us probably
20 talk more about the One ID. You know,
21 getting to where individuals have a verified
22 account that can be trusted to do business
23 with the state. That's one way that we're
24 securing it.

1 We talk about MFA. There's various
2 levels of multifactor authentication. It's
3 not just, you know, a token. How else can we
4 verify the individual is who they say they
5 are. So different types of MFA.

6 We're going to be exploring what else
7 can we do on the network, you know, front.
8 You know, how do we stop externally people,
9 you know, trying to get in and attack us.

10 So there's a multilayered defense
11 approach to cybersecurity.

12 SENATOR GONZALEZ: Okay. And then --
13 well, another question for ITS. You know,
14 meeting with your office, we talked a lot
15 about how not only state agencies but ITS as
16 well have third-party contractors. So for
17 establishing clear cybersecurity standards
18 across all levels of government, through
19 efforts like JSOC. I am curious, what are
20 some of the vulnerabilities that those third
21 parties currently may leave us or expose the
22 state to, and then anticipated in the future?

23 OITS DEPUTY CIO LORENZ: To be in
24 front of third parties, you know, utilizing

1 or working on our state network on behalf of
2 our state agencies, we really try to do a
3 review of most third-party applications
4 before they're even put on our network.

5 So they do -- I mean, they do present
6 a vulnerability, as you said, but we
7 actively, you know, hunt for threats. We're
8 trying to protect and defend as much as
9 possible.

10 SENATOR GONZALEZ: Great. And so
11 would then investigating the vulnerabilities
12 further be within your office, or is that a
13 joint effort within -- with DHS, any other
14 members of JSOC?

15 OITS DEPUTY CIO LORENZ: Are you
16 saying when there's an actual event? Or are
17 you --

18 SENATOR GONZALEZ: No, like as you
19 continue to hire third parties as they're
20 existing.

21 OITS DEPUTY CIO LORENZ: We're
22 actually trying to review it up-front. So
23 ITS up-front is reviewing. We don't hire all
24 of the third parties, so we try to work with

1 the agencies and incorporate cybersecurity
2 reviews up-front. And that's how we're
3 catching it.

4 SENATOR GONZALEZ: Yeah, I'm
5 definitely curious, and we can talk more in
6 the future about retroactively understanding
7 of the third parties that you do know of or
8 that are being hired, what their security
9 practices are and then creating clear
10 standards as we bring new third parties on
11 for government contracts, if we are going to
12 accidentally expose ourselves to any -- you
13 know, any threat.

14 OITS DEPUTY CIO LORENZ: Agreed.
15 Yeah, agreed.

16 SENATOR GONZALEZ: Okay, thank you.

17 CHAIRWOMAN KRUEGER: Okay, thank you.

18 Thank you very much.

19 The Assembly.

20 CHAIRWOMAN WEINSTEIN: We go to
21 Assemblyman Otis, chair of our Science and
22 Tech Committee.

23 ASSEMBLYMAN OTIS: Thank you for your
24 testimony. Thank you for your good work and

1 for the real aggressive stance that the
2 Governor and your team is taking towards
3 dealing with the cybersecurity issues.

4 So I have a few questions, really
5 follow-up on my Senate counterpart over there
6 with some of the same lines of questioning.

7 In terms of endpoint security
8 availability and prevention, really, what is
9 the game plan for making that fully
10 accessible to all local governments and
11 school districts -- I guess counties,
12 theoretically all counties could sign up now
13 and 45, I think, have so far. But what's the
14 game plan for especially the smaller
15 municipalities that are really even more
16 vulnerable than bigger institutions?

17 DHSES COMMISSIONER BRAY: Yeah,
18 absolutely. So let me first say that many
19 municipalities already have endpoint
20 protection, and it is something we have been
21 encouraging municipalities and school
22 districts to have for several years now. And
23 most have it.

24 What we have done with the counties is

1 we have brought everyone up to the highest
2 standard that is sort of commercially
3 available out there, and then used state
4 purchasing power to offset the costs. We are
5 over the next, I would say, four to six
6 months going to be in a position to have
7 conversations about where to go next, who is
8 the most vulnerable, after the counties,
9 next.

10 And we're going to look particularly
11 at who has systems that from the perspective
12 of the state have to be protected. So for
13 example, in Suffolk, that attack had real
14 ripple effects, right? That was not a single
15 school district coming down. That we got
16 worried about 911 dispatch, we got worried
17 about public safety systems. We're going to
18 look across the entities, see where they are
19 from a posture perspective, and then start
20 having those conversations about where we go
21 next after the counties.

22 ASSEMBLYMAN OTIS: So have you done a
23 survey of the villages and towns and cities
24 asking them what they're doing right now in

1 terms of cybersecurity?

2 DHSES COMMISSIONER BRAY: We rely on
3 the counties to provide us information about
4 what their villages and their townships are
5 currently doing, and to engage with them on
6 what type of protection they need.

7 ASSEMBLYMAN OTIS: Okay. Well, I
8 certainly look forward to working with you
9 and trying to expand that work. I mean,
10 there's a lot of --

11 DHSES COMMISSIONER BRAY: Absolutely.

12 ASSEMBLYMAN OTIS: -- vulnerability
13 out there, and I think this is an area where
14 the state can play a more significant role
15 with the expertise that both of your agencies
16 have, to help our local players.

17 Now, interested in -- there is the
18 State and Local Cybersecurity Grant program,
19 the federal program that we can get some
20 money for. And so do you have a plan, or
21 you're in the process of updating the plan
22 for the next application round? Could you
23 update us on where that stands?

24 DHSES COMMISSIONER BRAY: Yeah,

1 absolutely. We were very excited to see
2 the -- really, it's the first state and local
3 grant program coming out of the federal
4 government on cybersecurity. So we applaud
5 our federal partners for that.

6 It is nowhere near sufficient.

7 ASSEMBLYMAN OTIS: Absolutely.

8 Totally agree.

9 DHSES COMMISSIONER BRAY: We expect
10 nothing more than \$20 million over five years
11 for the State of New York for localities and
12 counties.

13 We are working across a committee that
14 includes representatives from critical
15 infrastructure from the counties, urban,
16 suburban and rural, and should have a plan
17 for those dollars this spring that we'll
18 share.

19 ASSEMBLYMAN OTIS: Okay. And did we
20 get for last year -- have we gotten like the
21 first 5 million, or no?

22 DHSES COMMISSIONER BRAY: No, that
23 would come this year in terms of the federal
24 grant cycle.

1 ASSEMBLYMAN OTIS: I see. Okay.
2 Yeah, and totally it's not enough money, I
3 agree with you there.

4 In terms of device security
5 methodology, maybe this is more an ITS
6 question in terms of what is your methodology
7 for analyzing new acquisitions and giving
8 advice in terms of device security? What are
9 the tools that you go through as an agency
10 with state agencies, OGS primarily, in terms
11 of their decisions on purchasing?

12 OITS DEPUTY CIO LORENZ: We can
13 discuss maybe the tools that we -- the actual
14 tools that we use separately.

15 ASSEMBLYMAN OTIS: Sure.

16 OITS DEPUTY CIO LORENZ: What we do as
17 part of our intake process, have our CISO
18 team get engaged, and they are part of the
19 POC process where they, you know, use it and
20 use their penetration, you know, tools to see
21 what vulnerabilities that they can find.

22 But the specifics about the tools we
23 could probably talk about outside of this.

24 ASSEMBLYMAN OTIS: Sure.

1 So then back to the local government
2 issue -- and either of you can tackle this
3 one -- when you're dealing with local
4 governments do you sense a need that we
5 should be looking at providing a funding
6 stream to help them do some of this work?
7 Would that be an additional way that we could
8 provide assistance? Because I do think that
9 they're -- I'm hearing there are some
10 resource issues as well. And appreciate your
11 thoughts on that.

12 DHSES COMMISSIONER BRAY: I would say
13 that the federal government should provide a
14 funding stream here. The federal government
15 has a long history over the last 20 years of
16 providing homeland security dollars. And
17 given where security is heading and the type
18 of threats we're facing, I would like to see
19 the feds come in with some serious dollars
20 for our localities, as they have in other
21 arenas when people are under attack.

22 ASSEMBLYMAN OTIS: Well, fair enough.
23 And I think, you know, you're here at a
24 Ways and Means/Finance budget hearing; we'd

1 all like the federal government to pay --

2 DHSES COMMISSIONER BRAY: Fair point.

3 ASSEMBLYMAN OTIS: -- for everything
4 that we're talking about.

5 But I think maybe we should listen to
6 the local governments a little in terms of
7 some of their needs and see if there are ways
8 that we can fill in there, because one of the
9 problems is lack of expertise, they're
10 getting advice sometimes from their insurance
11 carriers, and that necessarily isn't the full
12 advice.

13 Different question. Since I mentioned
14 insurance, what are you hearing in terms of
15 the ability of local governments, school
16 districts to get insurance? And are there
17 things that we as a state can be doing to
18 improve that market and the availability of
19 coverage to protect against these kinds of
20 incidents?

21 DHSES COMMISSIONER BRAY: Yeah, I
22 think that the ransomware insurance market is
23 going to rapidly evolve. I think that we're
24 in a new era of ransomware, and we're in an

1 era where both the folks getting attacked do
2 have better and more robust access to
3 technical assistance. We've all now been
4 through this a few years of so many attacks,
5 one.

6 Two, I think that there is a larger
7 acceptance of, frankly, not paying the ransom
8 unless you've really got life and safety
9 concerns with whatever system is down. I
10 think that by and large what we're seeing is
11 relatively good backup so that data recovery
12 can happen even if it takes a long time. And
13 that's good news, right?

14 But I do think that we're going to see
15 a rapidly evolving insurance market in which
16 insurers require that certain steps are taken
17 before they will -- you know, will cover you,
18 so that they'll require you to have endpoint
19 protection, they'll require you to have
20 backup before they will offer you products.
21 I don't think that's a rapid change, I don't
22 think it's going to happen overnight, but I
23 think that's where the market will go.

24 ASSEMBLYMAN OTIS: Well, I think

1 that's it for now. I may come back for a
2 second round. But look forward to working
3 with both of you outside of the budget
4 process on some of these issues, and thank
5 you for your good work.

6 OITS DEPUTY CIO LORENZ: Thank you.

7 DHSES COMMISSIONER BRAY: Thank you.

8 CHAIRWOMAN WEINSTEIN: To the Senate.

9 CHAIRWOMAN KRUEGER: Thank you.

10 Senator Borrello for three.

11 SENATOR BORRELLO: Okay, can you hear
12 me? Okay.

13 Thank you both for being here.

14 Commissioner Bray, good to see you again.

15 Thank you for all both of you are doing and
16 the great interaction here.

17 I want to speak specifically -- I'm a
18 Western New Yorker, and I want to speak
19 specifically about the Christmas storm.

20 DHSES COMMISSIONER BRAY: Yeah.

21 SENATOR BORRELLO: I will just say
22 specifically how would you rate New York
23 State's response to that storm in particular?

24 DHSES COMMISSIONER BRAY: I have to

1 say I think obviously that was a devastating
2 storm. And, you know, I have a weather
3 background, I think you know that. And that
4 storm was the -- this is not -- literally,
5 this is not hyperbole, it was the longest
6 blizzard in the continental United States
7 history below 5,000 feet of elevation. We --
8 when I say we've never seen anything like
9 that, it's because we have actually never
10 seen anything like that.

11 I think that -- I wish I could tell
12 you that the challenge with the storm was one
13 of equipment and personnel. We had hundreds
14 of people and hundreds of pieces of equipment
15 deployed -- we got up over a thousand during
16 the course of the event. And if it was a
17 challenge of equipment and personnel, there
18 would be really concrete things I could
19 say -- that man, I wish we had had 10 more of
20 this or 20 more of that.

21 This storm was a challenge of access
22 and mobility. And so what I have to do in my
23 job is ask myself is there anything we could
24 have done to change the dynamic of access and

1 mobility, change the fact that for 12 hours
2 the Buffalo Fire Department couldn't --
3 suspended -- they suspended emergency
4 response. For 12 to 18 hours, depending on
5 where you were, first responders couldn't go
6 out.

7 We have an after-action that we'll
8 launch in the next couple of weeks. We will
9 make that after-action public when it's
10 complete. I expect it to take several
11 months. I expect that they will identify
12 areas for improvement.

13 One of the things I'm most interested
14 in looking at is what was the communication
15 prior to the storm -- and what was not just
16 in the week prior to the storm, but a year
17 ago, two years ago, three years ago. How do
18 people -- how do we get better at helping
19 people understand that the weather of today
20 is actually not -- it's substantively
21 different than the weather of yesterday.
22 These storms are more powerful.

23 So I think the state did a good job.
24 But I'm really clear-eyed and conscious of

1 the fact that anytime that many people die
2 from a natural disaster, you have to look
3 seriously at what can be done better.

4 SENATOR BORRELLO: Yeah, and I think
5 that's the point. And certainly this is not
6 going to be the last time we're going to see
7 this.

8 But, you know, I think one of the
9 things -- the criticisms I hear -- and again,
10 this is, you know, armchair quarterback -- is
11 that, you know, the driving ban was too late.
12 People had already left for work, and that
13 was really -- you know, we knew this was
14 going to be a powerful storm. They talked
15 about it for at least a week, if not longer.
16 And I think that that certainly hamstrung
17 people's ability to safely get to home or
18 back. And --

19 DHSES COMMISSIONER BRAY: You know, I
20 don't want to Monday-morning quarterback a
21 decision like that. Those decisions are
22 brutally tough decisions, and obviously in
23 this state they're delegated to the counties
24 and the localities. So the state isn't -- we

1 don't have decisional authority there.

2 But, you know, the county executive
3 has been I think really quite stand-up about
4 this, saying that it's obviously something we
5 need to look at. And certainly hindsight is
6 20/20.

7 SENATOR BORRELLO: Yes. All right,
8 thank you very much.

9 DHSES COMMISSIONER BRAY: Thank you.

10 CHAIRWOMAN KRUEGER: Thank you.
11 Assembly.

12 CHAIRWOMAN WEINSTEIN: We go to
13 John McDonald, chair of our Government Ops
14 Committee, for 10 minutes.

15 ASSEMBLYMAN McDONALD: Thank you,
16 Madam Chair.

17 And good morning. Thank you both for
18 your service. And Commissioner, I have a
19 couple of questions for you.

20 The Executive's budget is at
21 565 million, which is actually a decrease of
22 \$35 million from in the past. And we're just
23 trying to -- not that we should be
24 complaining, but we're kind of curious what

1 the reasoning is for the reduction, of the
2 6 percent reduction.

3 DHSES COMMISSIONER BRAY: It's just a
4 shift in where those dollars show up. It's
5 not an actual decrease. So it's just a shift
6 in how we are showing the difference between
7 state and federal funding. We can -- we can
8 send you documents offline.

9 But there is no operational impact.
10 And that funding will -- will be there for
11 the division for those programs.

12 ASSEMBLYMAN McDONALD: Thank you.

13 In last year's budget, 4.3 million in
14 funding was provided to expand the Cyber
15 Incident Response Team to better protect
16 security infrastructure in New York. How
17 does the state plan to further expand the
18 Cyber Incident Response Team? And how have
19 the previous increases in funding been used
20 in the past?

21 DHSES COMMISSIONER BRAY: Yeah,
22 thanks. So the monies we got last year were
23 used to hire staff who can now look to help
24 localities, counties and critical

1 infrastructure partners be proactive.

2 That team, for as long as it's
3 existed, has been a reactive response team --
4 something bad happens, they get called, they
5 go. Now what we can do is host phishing
6 exercises, do additional cyber-risk
7 assessments, do tabletop exercises in a
8 proactive fashion. So that was last year's
9 dollars.

10 This year we're really going to work
11 in partnership with ITS to expand the county
12 services we can provide. So endpoint
13 protection, we're looking at attack service
14 management to come next. And we've added,
15 not in cyber, but inside our Critical
16 Infrastructure Team, additional people to
17 focus on industrial control systems, so to
18 focus on operating technology, which I know
19 is a concern we all share.

20 ASSEMBLYMAN McDONALD: You might know
21 both Mr. Otis and myself were former mayors,
22 so we're kind of partial to local
23 governments.

24 DHSES COMMISSIONER BRAY: Yes.

1 ASSEMBLYMAN McDONALD: You know,
2 earlier to one of his questions you responded
3 about the fact that with regards to doing
4 these surveys you're kind of relying on the
5 counties, which as one who's worked with
6 counties, cities, towns, villages, they
7 usually work well together -- but sometimes
8 they don't.

9 So I just share a point of caution to
10 make sure that those counties are truly
11 communicating with the local governments. In
12 this day and age no government, no matter how
13 small or large, is immune from any kind of
14 attack. So I just want to build upon that.

15 I also noticed in your comments today,
16 which is very good to see, volunteer
17 firefighters, a lot of support there.
18 Appreciate that. But it talks about the
19 ability of municipalities to provide nominal
20 stipends to their own volunteer departments.
21 So that's something that they'll make their
22 own decision --

23 DHSES COMMISSIONER BRAY: That's
24 right.

1 ASSEMBLYMAN McDONALD: What does
2 "nominal" mean? Because that sometimes can
3 be a vast discussion.

4 DHSES COMMISSIONER BRAY: This is --
5 I -- you know, my lawyer's in the back, she's
6 hoping I get this question right.

7 So to maintain volunteer status, it's
8 important that we don't allow for
9 compensation. Where this has been done in
10 other states -- and it has been done in other
11 states -- they use a standard of 20 percent
12 of what a career firefighter makes within
13 that region. This would get done in reg
14 making, in partnership with the Department of
15 Labor.

16 But what we'd be looking at are
17 stipends, fees, not to exceed 20 percent of
18 what a career firefighter within a regional
19 setting makes for that specific action. So
20 if it's for an emergency response run, if
21 it's for training, it has to sort of be
22 benchmarked to that, to stay on the right
23 side of maintaining volunteer status.

24 ASSEMBLYMAN McDONALD: Okay, thank

1 you.

2 And the other thing I'll add, and this
3 is more just to thank you, the Hazard
4 Mitigation State Revolving Loan Fund -- as a
5 former mayor, I've dealt with these projects;
6 when they usually get to that proportion,
7 they aren't usually \$50,000, they're usually
8 quite expensive. Is there any -- I didn't
9 see it in the language, but terms and
10 conditions of those loans, is that something
11 based on the current market conditions? Is
12 there a set interest rate? Or how has that
13 been?

14 DHSES COMMISSIONER BRAY: It's
15 actually a federal program. I'd have to get
16 back to you on the specific terms that the
17 feds are setting for those loans. But this
18 will allow us, from a statutory perspective,
19 to participate in that program.

20 ASSEMBLYMAN McDONALD: Which is great,
21 and we thank you.

22 DHSES COMMISSIONER BRAY: Yeah.

23 ASSEMBLYMAN McDONALD: Okay. All
24 done, Madam Chair.

1 CHAIRWOMAN WEINSTEIN: Okay.

2 Yeah, Senate.

3 CHAIRWOMAN KRUEGER: Okay, thank you.

4 Our next is our new chair of Homeland
5 Security, Jessica Scarcella-Spanton.

6 SENATOR SCARCELLA-SPANTON: Hi. Good
7 afternoon. Thank you so much.

8 I guess my first question would be if
9 you could walk us through the preparations
10 from the Buffalo storm. We knew that this
11 was coming. Could you just give us some
12 insight as to the steps that were taken
13 beforehand and how we can prepare better for
14 next time.

15 DHSES COMMISSIONER BRAY: Yeah,
16 absolutely. I really would welcome the
17 opportunity to talk about this storm.

18 So we began concretely preparing the
19 Monday prior to the event. And for Monday,
20 Tuesday, Wednesday, those days were really
21 about four things. Number one, they were
22 about spreading a message, getting a message
23 out, making sure that we were ready to
24 communicate with the public. Number two,

1 they were about engaging with our county
2 emergency managers to make sure that our
3 counties understood what was coming. Number
4 three was about pre-positioning state assets.

5 And then the fourth thing was about
6 understanding the forecast, right? This was
7 a statewide event. Even as late as Thursday
8 morning, Thursday afternoon, we were looking
9 at serious and significant -- we were worried
10 about serious and significant statewide
11 impacts. We saw significant flooding
12 downstate, some of the worst coastal flooding
13 since Sandy. We were very worried about
14 flash flooding potential in the Hudson Valley
15 and the Capital Region -- it didn't end up
16 developing -- and very worried about flash
17 freezing in the Finger Lakes and Central
18 New York.

19 And so we were doing those four things
20 Monday, Tuesday, Wednesday. And formally, we
21 run formal coordination calls, sort of
22 implement formal processes there.

23 On Thursday our attention really
24 turned to making sure that we had sufficient

1 personnel and equipment in the regions that
2 we were worried about. It turned to making
3 sure that we were amping up our
4 communication, both on television and radio
5 and social media. And then on Friday,
6 obviously, as the storm came, there were
7 decisions that had to be made in a sort of
8 hour-by-hour, minute-by-minute basis.

9 As I said earlier, the gut-wrenching
10 part of this storm was the fact that for such
11 an extended period of time our first
12 responders were frozen in place, literally
13 could not deploy. There was a long stretch
14 from midday Friday till 12 a.m. on Sunday in
15 which about two-thirds of all of the response
16 personnel and equipment we sent out got stuck
17 themselves. Nearly every fire truck in the
18 City of Buffalo got stuck. We ended up
19 rescuing rescuers.

20 And so this was really a challenge of
21 not being able to access areas and people
22 despite the pre-deployment, despite the
23 pre-positioning of equipment. Search and
24 rescue operations ran as they could Friday,

1 Saturday, and then robustly around midnight
2 Sunday when the blizzard conditions got
3 better. This was about 30, 37 hours in which
4 if you put your hand in front of you, you
5 could not see your hand. That lifted Sunday
6 at 12 a.m., so search-and-rescue then sort of
7 went full force, clearing backlogs of 911
8 calls, clearing stranded vehicles. State
9 personnel ended up making 650 saves over the
10 course of the response effort.

11 That work continued Sunday-Monday.
12 Tuesday-Wednesday was really about food
13 delivery, making sure that we were
14 resupplying areas, you know, having gotten
15 now into all the areas, making sure that
16 power was back on. And then Thursday,
17 Friday, Saturday really about snow removal
18 and snow cleanup.

19 SENATOR SCARCELLA-SPANTON: Is there
20 enough funding appropriated in the fiscal
21 year '23-'24 budget to meet the demands of
22 emergency disaster preparedness and response
23 statewide?

24 DHSES COMMISSIONER BRAY: Yes, there

1 is. I will say one of the things I'm proud
2 of is how seriously this administration and
3 the Governor takes emergency response and
4 deployment. And obviously as climate change
5 increases the ferocity of these storms, we
6 are demanding more and more of our emergency
7 managers not only at the state level but also
8 at the local level. We do have sufficient
9 funding in this budget to do our jobs.

10 SENATOR SCARCELLA-SPANTON: Do you
11 feel that the division prepared to respond to
12 the snowstorm in which 27 people from
13 Erie County died? Did you do everything you
14 could have, and are there any changes that
15 you would make in the future?

16 DHSES COMMISSIONER BRAY: So there's
17 not a person in the world that would have my
18 job that would say 47 people dying, we're not
19 going to do anything differently, right? It
20 is crushing and frankly devastating to first
21 responders when we get there and we can't
22 deploy.

23 We're doing a formal after-action that
24 should begin in the next week or two. It

1 will take several months. I don't want to
2 prejudice, from that after-action,
3 recommendations they make. I will tell you
4 whatever recommendations they make, we will
5 take with the utmost seriousness. And, you
6 know, we'll look at all of that information.

7 I think, my gut, is that the most
8 important recommendations are going to be
9 made about what happens prior to a storm.
10 And also what happens, what are the
11 socioeconomic factors. We know that people
12 who are struggling economically or struggling
13 with access to information in every single
14 disaster experience worse outcomes. We need
15 to address those things at that level in
16 order to see better outcomes.

17 SENATOR SCARCELLA-SPANTON: The
18 Executive Budget for fiscal year '23-'24
19 recommends 3.3 million in funding for
20 Red Cross emergency response preparedness, a
21 decrease of 1 million compared to '22-'23.
22 Why was the funding for Red Cross emergency
23 response cut from that budget?

24 DHSES COMMISSIONER BRAY: It is equal

1 to the Executive Budget last year.

2 SENATOR SCARCELLA-SPANTON: Okay.

3 And how will the 3.3 million be
4 allocated in the next fiscal year to help our
5 local communities prepare for emergencies
6 during what is still a global pandemic?

7 DHSES COMMISSIONER BRAY: Yes. So
8 that is monies that go directly to the
9 Red Cross. DHSES does not weigh in on how
10 the Red Cross spends those. They're
11 obviously an incredibly important partner of
12 ours, and we trust them with that funding.

13 SENATOR SCARCELLA-SPANTON:

14 Absolutely.

15 How will the 8 billion appropriation
16 for federal disaster assistance be disbursed
17 to local governments throughout the state?

18 DHSES COMMISSIONER BRAY: That is to
19 allow us to make the payments under the COVID
20 federal disaster. So that is, you know,
21 direct reimbursement, response to the
22 projects that have already been submitted for
23 the COVID disaster.

24 SENATOR SCARCELLA-SPANTON: And would

1 the localities have to apply to access the
2 fund?

3 DHSES COMMISSIONER BRAY: Right. So
4 localities -- any eligible applicant --
5 hospitals, you know, localities, nursing
6 homes, universities -- have already applied.
7 And what this will allow us to do is actually
8 have the appropriation authority to
9 administer those funds.

10 SENATOR SCARCELLA-SPANTON: How
11 equipped is the state currently to handle an
12 unforeseen natural or manmade disaster?

13 DHSES COMMISSIONER BRAY: I believe we
14 are prepared. I am humbled in this job every
15 day. And so I never want to say, you know,
16 we know everything that's going to happen.
17 We don't. If you'd asked me four years ago
18 if I'd spend the next three years of my life
19 working on a pandemic, I would look at you
20 like you had horns growing out of your head.

21 But we are prepared. And we take
22 preparedness and response incredibly
23 seriously. But it's important to stay humble
24 in these jobs.

1 SENATOR SCARCELLA-SPANTON: And why
2 was the appropriation split between State
3 Operations and the Aid to Localities budgets?

4 DHSES COMMISSIONER BRAY: Which
5 appropriation?

6 SENATOR SCARCELLA-SPANTON: It says
7 the split between the State Operations and
8 the Aid to Localities budget split.

9 DHSES COMMISSIONER BRAY: Our budget
10 is always split between State Operations and
11 Aid to Localities. I really -- we at DHSES
12 really believe that our job is to help
13 localities be ready and to have the backs of
14 our first-line responders. So a lot of our
15 budget is always in Aid to Localities. The
16 State Operations is obviously how we are able
17 to fund ourselves.

18 SENATOR SCARCELLA-SPANTON: Okay. And
19 that appropriation is specifically for the
20 counterterrorism program?

21 DHSES COMMISSIONER BRAY: Our
22 counterterrorism program -- what we have, we
23 have a number of counterterrorism programs.
24 Our counterterrorism program both funds our

1 counterterrorism staff, so that would be in
2 State Operations. And in the grants, they're
3 largely federal grants that we make to
4 counties and localities. That would be in
5 Aid to Localities.

6 SENATOR SCARCELLA-SPANTON: And with
7 regard to counterterrorism, is there
8 sufficient funding to address concerns
9 regarding domestic terrorism?

10 DHSES COMMISSIONER BRAY: Yes, there
11 is. Governor Hochul made a \$10 million
12 recurring appropriation last year; that
13 continues this year. And we are digging in
14 and focused head-on on taking on that threat.

15 SENATOR SCARCELLA-SPANTON: And what
16 are some of the efforts that this program has
17 done to combat domestic terrorism?

18 DHSES COMMISSIONER BRAY: That program
19 in its first year is primarily focused on
20 setting up threat assessment and management
21 teams across the state. Those are teams that
22 focus on targeted violence prevention.
23 That's the type of violence we see most often
24 in mass shootings.

1 So that money and that team right now
2 are mostly focused on setting up those teams.

3 SENATOR SCARCELLA-SPANTON: Okay. And
4 with regard to cybersecurity, how much of the
5 2.1 million increase in State Operations is
6 directly going to the Cyber Incident Response
7 program?

8 DHSES COMMISSIONER BRAY: All of it.

9 SENATOR SCARCELLA-SPANTON: Okay. So
10 are all 28 recommended FTEs being placed in
11 the cyber incident response team?

12 DHSES COMMISSIONER BRAY: The 28
13 increase this year, different from the CIRT
14 increase last year, is split between
15 State Fire and between our Critical
16 Infrastructure Team.

17 SENATOR SCARCELLA-SPANTON: Okay,
18 excellent. Thank you.

19 CHAIRWOMAN KRUEGER: Thank you very
20 much.

21 Assembly.

22 CHAIRWOMAN WEINSTEIN: Assemblyman
23 Dinowitz for three minutes.

24 ASSEMBLYMAN DINOWITZ: (Mic off.)

1 Thank you both. My question is directed to
2 Commissioner Bray.

3 (Off the record.)

4 ASSEMBLYMAN DINOWITZ: Well, maybe we
5 should get a new sound system.

6 So I wanted to talk a little bit about
7 the Domestic Terrorism Prevention Unit. I
8 think as you know, antisemitic crimes and all
9 kinds of hate crimes have risen dramatically
10 in the United States, especially since the
11 election of 2016. But of all the hate
12 crimes, crimes against Jewish people --
13 Jewish people comprise 2 percent of the
14 general population, maybe 3 percent -- a
15 greater amount in New York, of course -- but
16 close to two-thirds of the religious-based
17 hate crimes are directed against Jewish
18 people.

19 So I see in your testimony you talked
20 about providing training, resources,
21 technical assistance to communities dealing
22 with domestic violent extremism, particularly
23 white supremacists, antisemitic. Could you
24 be a little more specific about what this

1 administration has done to deal with this
2 epidemic of hate crimes directed especially
3 against Jewish people?

4 DHSES COMMISSIONER BRAY: Yeah,
5 absolutely, thank you for the question. I
6 think it's the greatest threat we face right
7 now.

8 The -- three things. Number one, we
9 administer the federal not-for-profit
10 security grant program. That grant program
11 goes to not-for-profit organizations that are
12 targets of this type of violence to improve
13 their physical security. It can also go to
14 pay for security guards, cameras, that type
15 of thing. So we administer that program.
16 We're very proud that New York State gets the
17 plurality of that funding nationally, more
18 than any other state. We expect to continue
19 that.

20 Number two, we are focused on setting
21 up threat assessment and management teams.
22 These are teams that are interdisciplinary
23 teams that are working what we call left of
24 boom. So law enforcement responds to the

1 actual event, they're very good right of
2 boom, but we need more focus left of boom on
3 prevention. And so we're doing that work by
4 setting up these threat assessment and
5 management teams.

6 And then number three, we are spinning
7 up training programs to educate people on how
8 to spot radicalization. We need our school
9 staff, we need our mental health
10 professionals, we need parents to know how to
11 spot radicalization and know how to intervene
12 to knock that off course before things
13 happen.

14 ASSEMBLYMAN DINOWITZ: Mm-hmm. Okay,
15 thank you.

16 DHSES COMMISSIONER BRAY: Thank you.

17 CHAIRWOMAN WEINSTEIN: We go to the
18 Senate.

19 CHAIRWOMAN KRUEGER: We do go to the
20 Senate, and we go to Senator Ashby.

21 SENATOR ASHBY: Thank you,
22 Madam Chair. Can you hear me all right?

23 Commissioner Bray, good to see you --

24 CHAIRWOMAN KRUEGER: Five minutes

1 because he's a ranker. Sorry. Excuse me,
2 Senator.

3 SENATOR ASHBY: Good to see you,
4 Commissioner Bray. Good to see you,
5 Deputy Chief --

6 CHAIRWOMAN KRUEGER: Is your
7 microphone on, Senator?

8 SENATOR ASHBY: The light is on.

9 CHAIRWOMAN KRUEGER: Just move it a
10 little closer so we can all hear you.

11 SENATOR ASHBY: All right. Better?
12 All right.

13 The first question I have is in regard
14 to the 10 million to create the volunteer
15 firefighter training stipend. Is that going
16 to be reoccurring?

17 DHSES COMMISSIONER BRAY: Yes.

18 SENATOR ASHBY: And is that going to
19 be in conjunction with the nominal stipend
20 that Assemblyman McDonald referred to
21 earlier?

22 DHSES COMMISSIONER BRAY: Yes. So our
23 intent with the stipend, the state-sponsored
24 stipend, is to be able to help offset the

1 costs of taking the training required. A
2 basic firefighter, an exterior firefighter,
3 that training requires about 80 hours of
4 training. Interior is an additional 40 on
5 top of that. Those used to have to take that
6 without any offsetting of your expenses of
7 that time, and our goal is to help offset
8 that.

9 SENATOR ASHBY: So how would that be
10 distributed among the 1600 volunteer
11 firefighters?

12 DHSES COMMISSIONER BRAY: What we
13 would do is that any person, upon completion
14 of certain courses, we're going to start with
15 what we call BEFO and IFO, basic exterior and
16 interior firefighter. Anyone, on the
17 completion of that, could ask their fire
18 department to request this stipend, and then
19 we would pay directly to that firefighter
20 that's completed that training, in an effort
21 to assist in recruitment.

22 SENATOR ASHBY: How much does that
23 cost per firefighter?

24 DHSES COMMISSIONER BRAY: We're

1 suggesting -- we have not -- we are
2 suggesting about \$750 per firefighter who
3 completes basic, and about 1250 for every
4 firefighter that completes interior.

5 SENATOR ASHBY: Okay. Because with
6 the math, that's roughly \$6,000 per
7 department if there's 1600. I mean, I know
8 that there's a nominal effort in here for the
9 municipalities to seek it, but it seems
10 underfunded.

11 DHSES COMMISSIONER BRAY: We believe
12 that this funding will cover everyone that
13 takes BEFO and IFO each year.

14 So we're not -- we're not doing this
15 where, you know, you take it in January, you
16 get the stipend, you take it by December,
17 we're out. We're doing this explicitly after
18 looking back and how many people take these
19 courses each year and giving ourselves some
20 cushion for this to help with recruitment so
21 that everyone that took those courses each
22 year would get it.

23 SENATOR ASHBY: Okay. I appreciate
24 the effort. You know, 10 million to go

1 towards the recruiting -- I know that there's
2 other funding in there. But with 76 percent
3 telling us that, you know, there's a real
4 issue here, I would hope we're going to get
5 more.

6 DHSES COMMISSIONER BRAY: There's no
7 question that there is a crisis in the
8 volunteer fire service.

9 SENATOR ASHBY: In regards to that, in
10 terms of the emotional resilience workshops
11 that you rolled out last year, are those
12 going to be continuing this year?

13 DHSES COMMISSIONER BRAY: Yes.

14 SENATOR ASHBY: And what -- how
15 effective were they?

16 DHSES COMMISSIONER BRAY: Well, I
17 think it's hard to judge effectiveness after
18 a single year or, say, six months. We rolled
19 them out in the middle of the year.

20 SENATOR ASHBY: Did you get positive
21 feedback?

22 DHSES COMMISSIONER BRAY: We do get
23 very positive feedback from our emotional
24 resiliency workshops, yes. I think that the

1 first responder community understands that
2 they are experiencing trauma and crisis and
3 need to seek opportunities for help.

4 SENATOR ASHBY: Right. You know, one
5 of the ways that I would measure the efficacy
6 is if we see less burnout, if we see
7 higher --

8 DHSES COMMISSIONER BRAY: Right. A
9 reduction in burnout, a reduction in
10 suicides. That's the type of stuff we should
11 look at.

12 SENATOR ASHBY: And, you know, one of
13 the things that we've seen on the veterans
14 side is peer-to-peer support.

15 DHSES COMMISSIONER BRAY: Yeah.

16 SENATOR ASHBY: And this may be
17 helpful and something to consider with our
18 first responders as well.

19 DHSES COMMISSIONER BRAY: I absolutely
20 agree. We just hired a new deputy state fire
21 administrator, Luci Labriola-Cuffe, who has
22 specific expertise in the peer-to-peer
23 networks of firefighters. And one of the
24 reasons we hired her is for her to focus on

1 things like this.

2 SENATOR ASHBY: All right. Appreciate
3 your time. Thank you.

4 DHSES COMMISSIONER BRAY: Thank you so
5 much, Senator.

6 CHAIRWOMAN KRUEGER: Thank you.
7 Assembly.

8 CHAIRWOMAN WEINSTEIN: Assemblyman
9 Bores.

10 ASSEMBLYMAN BORES: Hi. Thanks for
11 being here.

12 I am thrilled to hear you mention
13 future pandemics as a threat we need to take
14 seriously. What -- in this budget, what
15 investments are we making to keep New Yorkers
16 safe there?

17 DHSES COMMISSIONER BRAY: There are
18 investments in the Department of Health
19 budget, so I would encourage you also to ask
20 his team.

21 The investments that we make in future
22 pandemics are really the investments that we
23 are making -- twofold: One, in our emergency
24 management, sustaining and improving our

1 emergency management capabilities, and then,
2 two, in the resources that we pass on to
3 localities and counties. They are able to
4 use those grant monies if they choose for
5 health emergency preparedness.

6 ASSEMBLYMAN BORES: Wonderful, thank
7 you.

8 I want to move on to cyber. I really
9 think New York and this administration has
10 been a leader among states, but obviously
11 there's always more to do here. So there's
12 expensive things to do with cyber, and
13 there's cheaper things we can do with cyber.

14 Do you have a sense -- and we can
15 follow up if we need to -- like what
16 percentage of logins in state agencies are
17 done currently with multifactor
18 authentication?

19 OITS DEPUTY CIO LORENZ: I don't have
20 that specific number on what percentage.

21 We do, from the state perspective,
22 support 150,000 --

23 CHAIRWOMAN KRUEGER: Mic.

24 OITS DEPUTY CIO LORENZ: -- state

1 employees --

2 CHAIRWOMAN KRUEGER: Can you speak a
3 little louder? Sorry.

4 OITS DEPUTY CIO LORENZ: Can you hear
5 me now?

6 CHAIRWOMAN KRUEGER: Thank you.

7 ASSEMBLYMAN BORES: It's okay, we can
8 follow-up later on the specifics of that.

9 OITS DEPUTY CIO LORENZ: Okay.

10 ASSEMBLYMAN BORES: Do you have a
11 sense of phishing campaign assessments, if
12 we've rolled those out?

13 OITS DEPUTY CIO LORENZ: We don't have
14 a specific number on those, but we do take
15 every threat seriously. So we actually are
16 similar to the emergency services, where
17 we're constantly prepared. So it's kind of
18 the approach that we take, we're just always
19 expecting there to be something, so how do we
20 get in front of it.

21 ASSEMBLYMAN BORES: Well, and I think
22 that's the value of the phishing campaign
23 assessments, is people always end up clicking
24 up on them, and sort of the ongoing education

1 there.

2 Do you know of any state agencies
3 currently using DMARC on its emails that go
4 out, or like protection for spoofing?

5 OITS DEPUTY CIO LORENZ: I can get you
6 that information after this, sure.

7 ASSEMBLYMAN BORES: Okay, cool. Let
8 me actually ask -- maybe I'll move on to
9 state contractors and requirements there. A
10 lot of these things I just named are
11 requirements of any federal contractor. Do
12 you know if we provide any of these sorts of
13 requirements on any of our state contractors
14 using multifactor authentication or DMARC or
15 SBOMs?

16 OITS DEPUTY CIO LORENZ: We require of
17 our state contractors that they go through
18 our background checks. Is that what you're
19 referring to? Or are you referring to
20 technically?

21 ASSEMBLYMAN BORES: I think these
22 specific tools. But I'll follow up with
23 that, apologies. Please.

24 DHSES COMMISSIONER BRAY: Let me just

1 say that the federal -- obviously the Biden
2 administration has led on baking into their
3 procurements really high levels of
4 cybersecurity. It's something that the ITS
5 team, our team and Colin Ahern are looking at
6 seriously for the state.

7 ASSEMBLYMAN BORES: Awesome. And
8 there are certainly tradeoffs at different
9 levels, so understood. Just kind of want to
10 get the raw facts for where we are currently.

11 Last thing is I think there's a call
12 for 15 UFTs in ITS. Tech just laid off a
13 bunch of talent. What can we do to make that
14 easier for you to hire and get more of that
15 talent into government?

16 OITS DEPUTY CIO LORENZ: We are doing
17 everything we can. We appreciate the support
18 to hire. We've been doing outreach to many
19 various entities. We've had over 50 job
20 fairs this year. We've got a SUNY/CUNY
21 partnership underway. So we continue to do
22 outreach.

23 ASSEMBLYMAN BORES: Thank you.

24 CHAIRWOMAN WEINSTEIN: Thank you.

1 To the Senate.

2 CHAIRWOMAN KRUEGER: Thank you.

3 Senator Zellnor Myrie.

4 SENATOR MYRIE: Thank you,

5 Madam Chair.

6 I represent the One Brooklyn Health
7 System, and I know that Suffolk County has
8 gotten the lion's share of attention for the
9 cyberattacks, but we were victims of a
10 cyberattack as well.

11 DHSES COMMISSIONER BRAY: Yes, you
12 were.

13 SENATOR MYRIE: And we have had great
14 consternation in the community, as you might
15 imagine. There has been worries about
16 patient privacy, what the implications are
17 for patient service going forward, the
18 medical providers, the healthcare workers,
19 all of whom have had to effectively operate
20 as if they were in the 1990s because of this
21 attack.

22 So I'd like to know, one, whether we
23 have enough resources in this budget to help
24 prevent future such attacks.

1 Two, one of the complications in
2 responding to this was we didn't have the
3 information, and when we asked the Brooklyn
4 Health System, they could not or would not
5 give it to us. So my hope is that there is a
6 strategy going forward for collaboration on
7 how we respond to the community but also work
8 to prevent these type of attacks from
9 happening in the future. So I'm hoping I can
10 get your thoughts on that.

11 DHSES COMMISSIONER BRAY: Yeah, so let
12 me talk about resources.

13 Obviously the state is tremendously
14 involved in funding hospitals, period.
15 Right? And it would be a DOH question about
16 whether or not the funds that the state is
17 already putting into hospitals can be used
18 for cybersecurity. I think they can. But
19 there isn't specific hospital security
20 funding in our current budget. The hospitals
21 are called out very specifically in the
22 federal cybersecurity plan that the way we
23 spend those federal dollars will need to
24 include the healthcare sector. So I'd be

1 looking for that this spring from us.

2 Most cyber incursions are left to be
3 reported on a voluntary basis. That isn't
4 true in some places that are federally
5 regulated. So there are some sectors -- the
6 financial sector -- in which there are
7 requirements for reporting. You all passed,
8 and we thank you, a bill to increase
9 reporting in the energy sector. I think that
10 it is -- I think we're at the place where we
11 need to look across all of our critical
12 infrastructure partners and ask seriously
13 whether or not we need mandatory reporting.

14 SENATOR MYRIE: Thank you.

15 DHSES COMMISSIONER BRAY: Thank you.

16 CHAIRWOMAN KRUEGER: Thank you.

17 Assembly.

18 CHAIRWOMAN WEINSTEIN: Assemblyman

19 Norris, three minutes.

20 ASSEMBLYMAN NORRIS: Thank you.

21 My question is for you,

22 Commissioner Bray.

23 First, I want to just mention that the
24 report that we've done on the volunteer --

1 Task Force for Volunteer Firefighters was
2 very important, that it was overdone by your
3 department. I actually sponsored the bill in
4 the Assembly; it was carried by the chair of
5 Local Governments.

6 And what I really want to say to you
7 is this report is great, has been very well
8 done, is not just put on the shelf -- and I
9 saw that in terms of what's being put forth
10 in the Governor's proposed budget. And it's
11 very important going forward.

12 Now, my question for you -- you
13 answered the one on the nominal fees. But in
14 terms of the actual stipends for the
15 training, \$750 per firefighter, how is that
16 going to be done in terms of their time off
17 from work and also potentially a credit for
18 the businesses?

19 I did a conversation with local
20 volunteer firefighters and some people, you
21 know, can't take those two weeks paid
22 vacation to go there. Was that addressed by
23 the commission, or can you provide some
24 insight on that?

1 DHSES COMMISSIONER BRAY: So let me
2 just say I'm glad the volunteer fire service
3 is getting attention at this hearing. They
4 are in crisis, they need our help, and we're
5 focused on it.

6 So we made the decision that the
7 cleanest way to do this was direct payment to
8 the individual firefighters. If you take
9 interior firefighting, you actually would end
10 up getting that 750 for basic plus the 1250
11 for interior. So those would be additive.

12 One of the ways we have to also
13 address these challenges is that we've got to
14 offer our classes in more flexible ways.
15 Some people want to come and do three weeks
16 intensive in the summer. Some people want to
17 come three nights a week for three months.
18 Some people are going to want to come, you
19 know, one Saturday for six months. Right?
20 We're going to have to be flexible as a state
21 in how we offer this so that we can get as
22 many people as possible.

23 They're demanding it of us, the
24 firefighters, and they should get that from

1 us. This budget does provide an increase of
2 18 FPSs in order to increase the type of
3 training we can provide.

4 ASSEMBLYMAN NORRIS: Thank you,
5 Commissioner.

6 I also just want to mention the
7 importance of the reimbursement for our
8 volunteer firefighters in terms of a stipend
9 for gas and going to the scenes. Whether
10 that be through gas cards or actually a tax
11 credit, even compared to a deduction on their
12 income tax, that would be very important.

13 Everything is up in terms of inflation
14 and our gas and wear and tear on our
15 vehicles. That is something I've heard from
16 my volunteer fire departments, and I would
17 encourage the administration to take a look
18 at that.

19 And finally -- I know my time is
20 coming to an end -- I want to mention the
21 crisis within our rural areas as well in
22 terms of the ambulance service. Now, what is
23 being done by the administration to focus
24 more on making sure that we provide adequate

1 services to our rural areas in terms of
2 ambulance services?

3 DHSES COMMISSIONER BRAY: I have to
4 direct you to the Department of Health on
5 that one. We do have State Fire at DHSES; we
6 don't have State EMS.

7 ASSEMBLYMAN NORRIS: Very good, I will
8 direct my questions there. And thank you
9 very much, Commissioner, for your time.

10 DHSES COMMISSIONER BRAY: Thank you.

11 CHAIRWOMAN KRUEGER: Thank you.

12 Senator Gallivan.

13 SENATOR GALLIVAN: Thank you,

14 Madam Chair.

15 Good afternoon, Commissioners. Thanks
16 for your testimony. My questions will be
17 directed to Commissioner Bray, if I may.

18 I also wanted to ask you about the
19 response in Western New York. I'm trying not
20 to go where others have gone, so -- and I
21 know that you've addressed the after-action
22 report, so I'll be anxious to see that.

23 A specific question that I have,
24 though, is what role can the state or your

1 agency play to ensure that there's
2 coordination in response between everybody --
3 city, county, town, village? In the
4 application, of course. So of course we saw
5 this in Western New York, and the question
6 raised. But really it's an application
7 beyond just responding to a snowstorm, and
8 the application of course is statewide.

9 I mean, should -- what role should
10 your agency play on that?

11 DHSES COMMISSIONER BRAY: I think we
12 should play an essential and central role in
13 ensuring that there is communications and
14 coordinations in a regional response, full
15 stop. I think that this -- Governor Hochul
16 is very clear that we have to be good
17 communicators, good coordinators, and that we
18 have to frankly reset the culture of the way
19 that the state interacted with localities and
20 counties so that we can build the trust that
21 we need to be the coordinators and be the
22 facilitators.

23 Throughout this response I was in near
24 constant touch with both County Executive

1 Poloncarz and Mayor Brown, and I stayed in
2 touch with both of them to discuss what their
3 priorities were and what they needed
4 throughout the response. And I would expect
5 that of me or anyone in my job in any major
6 event.

7 SENATOR GALLIVAN: Does your budget
8 address this in any way?

9 DHSES COMMISSIONER BRAY: Well, we
10 don't need additional funding to make sure
11 that myself, my executive team, our senior
12 leadership at OEM stay in direct contact with
13 people in that way. So the budget doesn't
14 provide increases there, but it certainly
15 funds the Office of Emergency Management, and
16 that's where we do this work.

17 SENATOR GALLIVAN: Going back to the
18 overall budget, if I'm not mistaken it
19 provides for 28 additional employees.

20 DHSES COMMISSIONER BRAY: Yes, sir.

21 SENATOR GALLIVAN: Where and what do
22 they do?

23 DHSES COMMISSIONER BRAY: Six will be
24 in our critical infrastructure unit, and

1 they'll be focused on industrial control
2 systems so the operating technology of our
3 critical infrastructure partners and its
4 security.

5 And then 22, spread out, will be
6 focused on the volunteer fire service: 18
7 additional actual fire protection specialists
8 to provide additional training that we hope
9 is spurred, three to administer stipends, and
10 an additional legal counsel.

11 SENATOR GALLIVAN: All right, thank
12 you. My time is up.

13 I don't have a question, but I'd be
14 remiss if I didn't state how much I think
15 it's time that we are addressing the
16 volunteer firefighter crisis in a much more
17 meaningful way, so I'm glad to see that
18 you've started.

19 DHSES COMMISSIONER BRAY: Thank you,
20 sir.

21 SENATOR GALLIVAN: Thank you.

22 CHAIRWOMAN KRUEGER: Thank you.

23 Assembly.

24 CHAIRWOMAN WEINSTEIN: Assemblyman

1 Lavine.

2 ASSEMBLYMAN LAVINE: Thank you both
3 for watching out for all of us. And please
4 thank the good people you work with as well.

5 One of the things we learned on
6 September 11th was that our firefighters
7 could not electronically communicate
8 effectively with our law enforcement, our
9 police officers. And I suspect that that may
10 very well have been true even before that,
11 within different divisions in the New York
12 City Police Department, and certainly
13 throughout the state.

14 So we established then a State Office
15 of Interoperable and Emergency Communications
16 and a separate board of experts who advise.
17 Can you tell us how we are doing now in terms
18 of the ability of all of our essential first
19 responders to be able to actually communicate
20 with each other?

21 DHSES COMMISSIONER BRAY: Yes. And my
22 team at OIEC will be so happy that I got an
23 interoperable communications question.

24 We are light-years ahead of where we

1 were. We have good, strong interoperable
2 networks across the vast, vast majority of
3 the state. Where we lack some of those
4 networks is also where we lack connectivity.
5 You know, there are places in the Adirondacks
6 where we really struggle. There are places
7 where the network isn't as strong. We are
8 about to announce another round of targeted
9 grants to increase the radio infrastructure.
10 Those often go to our more rural areas to
11 help us.

12 But we are light-years ahead of where
13 we were. I'd be happy to get you a technical
14 briefing on it. I'm confident that our local
15 first responders can talk to each other.

16 ASSEMBLYMAN LAVINE: Super.

17 DHSES COMMISSIONER BRAY: All right!
18 The radio guys will be thrilled.

19 CHAIRWOMAN WEINSTEIN: Senate?

20 CHAIRWOMAN KRUEGER: Senator Jamaal
21 Bailey.

22 SENATOR BAILEY: Thank you.

23 Really quickly, there's \$20 -- \$20? I
24 wish it was \$20 -- \$20 million in funding for

1 the 911 system upgrades. I represent the
2 City of Mount Vernon, and the City of
3 Mount Vernon has had some challenges with the
4 911 system and trying to revitalize it. Not
5 to make it overly district-specific, but I'm
6 getting to my point, I promise.

7 How is this \$20 million going to be
8 allocated throughout the state for upgrades?
9 Are we going to -- are you in a search and
10 looking for antiquated systems? Is there a
11 list? How would cities and municipalities
12 like Mount Vernon be eligible for funding
13 like this?

14 DHSES COMMISSIONER BRAY: Right. So
15 let me just -- so everyone knows, right, what
16 we're doing with Next Gen 911 all across the
17 country is we're literally going from copper
18 wire -- yes, our 911 centers have copper wire
19 still -- to fiber. We have to do that,
20 right? First responders should be able to
21 get not just word files, but they should be
22 able to get videos, they should be able to
23 get audio files, so that they know what's
24 going on out there.

1 This is the first of what will have to
2 be additional investment in this transition.
3 We are going to work with the state 911
4 coordinators to make sure that there is a
5 coordinated statewide plan so that we don't
6 have a patchwork system, and then we'll begin
7 the investment at the local level using that
8 statewide plan.

9 SENATOR BAILEY: Great. I would just
10 implore you to take a look at municipalities,
11 specifically in Mount Vernon, I would say, as
12 personal interest, as representing, but also
13 municipalities like it that may be having
14 struggles that there are certain -- in
15 certain places, certain spots in the City of
16 Mount Vernon that, depending on where you
17 are, 911 may not work. And those are things
18 that you certainly cannot -- you know, we
19 certainly cannot have.

20 DHSES COMMISSIONER BRAY: Absolutely.

21 SENATOR BAILEY: So from a
22 representation perspective, but also as the
23 perspective as related to this budgetary
24 item, which I'm pleased to see, I would

1 implore you to take a look at municipalities
2 on a need-based basis.

3 And thank you.

4 DHSES COMMISSIONER BRAY: Absolutely.
5 And we have grant programs now that do that,
6 so I will look at Mount Vernon.

7 And I would just say I know I'm out of
8 time. I would just say that any 911 system
9 that is struggling in a substantial way,
10 reach out. We want to hear from you, we want
11 to know.

12 SENATOR BAILEY: Thank you.

13 So in my 40 seconds left, really
14 quick, Red Cross emergency funding -- there
15 was a big fire in the Bronx portion of my
16 district. And one of the concerns that was
17 Red Cross about there wasn't enough temporary
18 housing within the borough, and folks that
19 lived in the Bronx had to be shuttled to
20 Brooklyn and Queens. While they may be fine
21 and excellent places, it is easier to have
22 them in the borough.

23 With the funding, is there an emphasis
24 on trying to look at housing for individuals

1 that are displaced in the results of
2 disasters or emergencies?

3 DHSES COMMISSIONER BRAY: So this
4 funding makes up actually a pretty small
5 percentage of the overall Red Cross budget in
6 the region; it's less than 5 percent. I
7 can't tell you if it's this 3 million that
8 goes to what in their budget.

9 But we obviously need to work to make
10 sure that disaster housing is available for
11 people near their communities.

12 SENATOR BAILEY: It would be my hope,
13 because based upon this panel and the fact
14 that there is an approach in this
15 administration not to have agencies siloed,
16 and I see that you work together well, I
17 would hope that you would be able to work in
18 a non-siloed way with Red Cross in order to
19 ensure that folks that need temporary housing
20 receive it.

21 Thank you for your time.

22 DHSES COMMISSIONER BRAY: Thank you.

23 CHAIRWOMAN KRUEGER: We all do. Thank
24 you very much.

1 Assembly.

2 CHAIRWOMAN WEINSTEIN: Assemblyman
3 Reilly.

4 ASSEMBLYMAN REILLY: Thank you,
5 Madam Chair.

6 I have a question about funding for
7 training and equipment for fire and EMS when
8 responding to active shooter incidents. And,
9 you know, the idea is to get there to render
10 aid, but it's also about having the right
11 training and coordination with local PD.

12 DHSES COMMISSIONER BRAY: Yeah. So we
13 have the State Preparedness Training Center,
14 which is a really gem of a facility out in
15 Oriskany, New York. If anyone hasn't been,
16 you should come. We specifically train this
17 exact thing. We train EMS, fire, police
18 departments from a single locality to work
19 together to go in during an active shooter
20 event, so that you don't have to secure a
21 scene fully before you get EMS in there to
22 stop the dying. Right? Law enforcement's
23 got to stop the killing; EMS/fire's got to
24 stop the dying.

1 So there are certainly dollars in this
2 budget to continue that training. And if
3 there was demand, we would increase that
4 training. And, you know, we provide for the
5 type of technical assistance and
6 facilitation. We don't provide specific
7 dollars direct to fire and EMS for what we
8 would consider their day-to-day activities.
9 And I would consider this part of day-to-day.

10 ASSEMBLYMAN REILLY: Okay, thank you.

11 And just to comment on the radio
12 communications, the disconnect, sometimes, in
13 the interoperability. I remember firsthand
14 working the police department, when I was in
15 the NYPD, and we had communication with
16 transit police. They were on a different
17 frequency. And I can tell you how terrifying
18 that is when something's happening and you
19 can't connect. So I thank you for your
20 efforts on that and making sure that that
21 doesn't -- that we have that communication
22 piece in all our localities.

23 One thing that I actually wanted to
24 talk about too is the 911 system. And my

1 colleague just spoke about it a little bit.
2 We had a few incidents in Staten Island, in
3 Richmond County on the South Shore, where a
4 911 call was going to New Jersey instead of
5 to New York City 911.

6 Has this happened in other regions?
7 And is there an active study so we can
8 hopefully eliminate that from happening in
9 other areas?

10 DHSES COMMISSIONER BRAY:
11 Unfortunately, the type of GPS systems we
12 have in like our food delivery apps are more
13 advanced than the type of GPS systems that
14 many of our 911 centers have.

15 We have to change that. That is part
16 of what Next Gen 911 is -- has to do, must
17 do. And this is the first investment in that
18 from the state to get us there.

19 ASSEMBLYMAN REILLY: Do you think you
20 have somewhat of a timeline for when that
21 could be accomplished statewide?

22 DHSES COMMISSIONER BRAY: I'd be happy
23 to come back over the next, you know, four to
24 six months to talk more robustly about

1 Next Gen 911. It's going to be a
2 several-year project -- you know, three, five
3 years -- to really build the backbone of a
4 fiber-enabled system that does exactly this.

5 ASSEMBLYMAN REILLY: Thank you so
6 much.

7 DHSES COMMISSIONER BRAY: Thank you.

8 CHAIRWOMAN WEINSTEIN: Senate?

9 CHAIRWOMAN KRUEGER: Thank you.

10 Our next Senator is Senator Murray.

11 SENATOR MURRAY: Thank you very much.

12 And thank you for being here.

13 Seeing that I live in and represent
14 Suffolk County, I'm going to bring you back
15 to the Suffolk County ransom attack. You
16 said something earlier that got my radar up a
17 bit. You had mentioned that you make
18 recommendations about the latest protections
19 that are available and also you're available
20 to kind of use the purchasing power of the
21 state to keep costs down.

22 Was that available to counties about a
23 year ago?

24 DHSES COMMISSIONER BRAY: Man, I wish.

1 SENATOR MURRAY: Okay, so this is new.

2 DHSES COMMISSIONER BRAY: This is --
3 so this was an investment all of you
4 supported in the Governor's budget last year
5 that we were in the process of rolling out
6 when the Suffolk attack happened.

7 I believe -- although my technical
8 advisors will say you can never say you're
9 certain -- but I believe that had we rolled
10 this out the year prior or two years prior,
11 we would have seen a very different scenario
12 in Suffolk County.

13 SENATOR MURRAY: Right, because
14 they -- it was reported that cost might have
15 been a factor in them not upgrading the
16 system. And so with those concerns, if it
17 was available cheaper, that would have been
18 very frustrating if they didn't take
19 advantage of it.

20 DHSES COMMISSIONER BRAY: Yeah, I
21 can't speak to that decision making.

22 I will say I think the county
23 executive did a phenomenal job in the
24 response. He really stepped in and did not

1 miss a beat in both making sure that we were
2 bringing systems -- he was bringing systems
3 back on safely and making sure that essential
4 services never were interrupted.

5 SENATOR MURRAY: We're still not
6 completely there, but I mean it -- at one
7 point when it did happen, 911 was literally
8 scraps of paper being handed back and forth.
9 That's how bad it got.

10 DHSES COMMISSIONER BRAY: I am aware.

11 SENATOR MURRAY: Real estate basically
12 stopped, because no title searches. It
13 was -- it was very bad.

14 DHSES COMMISSIONER BRAY: Yes, it was
15 bad. And the state did actually step in and
16 help provide mutual aid for additional 911
17 operators during that period.

18 SENATOR MURRAY: Yes, you did, and
19 thank you.

20 Now, are we using that experience,
21 though?

22 DHSES COMMISSIONER BRAY: Yes.

23 SENATOR MURRAY: I want to make
24 sure -- you had mentioned how we're working

1 with counties and local governments. Are we
2 using that as a learning experience? How
3 are -- are we providing training or is the
4 state acting as a clearinghouse to share
5 information?

6 DHSES COMMISSIONER BRAY: Yes. So we
7 are actually in the middle of a Suffolk
8 County cyber attack after-action report.
9 It's not ready yet, but we are writing one
10 specifically because of this.

11 I think it serves -- we have already
12 used it to change some of what we do in the
13 day or, you know, 36 hours after an attack in
14 terms of how fast we deploy, where we deploy,
15 what levers we know we need to pull. I do
16 think we're going to learn a ton, over the
17 next couple of months as we write up this
18 attack as a case study, that we can share.

19 SENATOR MURRAY: That's great.

20 Thirty seconds left. When this
21 happened, obviously then my phone starts
22 ringing -- school districts, very, very
23 concerned. How do they get help as well?

24 DHSES COMMISSIONER BRAY: Yes. So

1 anytime a school has a cyber incident, they
2 can call our Cyber Incident Response Team, we
3 will respond. We are not going to refuse to
4 go help a school district.

5 And so we are currently helping on the
6 responsive side of that. I think what your
7 colleagues have also indicated today is that
8 it's time to think also about the proactive
9 side for our school districts.

10 SENATOR MURRAY: Okay, thank you very
11 much.

12 DHSES COMMISSIONER BRAY: Thank you.

13 CHAIRWOMAN KRUEGER: Thank you.

14 CHAIRWOMAN WEINSTEIN: Assemblyman
15 Palmesano.

16 ASSEMBLYMAN PALMESANO: Yes,
17 Commissioner Bray, thank you for being here.

18 Okay, I know there's fire academies in
19 Oriskany. In my district and in
20 Senator O'Mara's district, we have the
21 Montour Falls Fire Academy. It's something
22 we've been proud to have in our district for
23 a long time. They do a lot of valuable
24 training there.

1 I just wanted to ask you as far as the
2 future for that facility, because there's
3 questions -- you know, I always -- we get
4 some concerns, we get questions, we hear
5 training classes being pulled from the
6 Montour Falls Academy and being shifted to
7 the Oriskany facility. And we heard like
8 regional administrators of -- the conference
9 they've had there for 20 years was pulled and
10 brought up to Albany. But we also hear
11 there's, you know, capital investments being
12 made at the facility, which we know is
13 important.

14 From your perspective, would you agree
15 that the Montour Falls Fire Academy plays a
16 vital role in the training of our emergency
17 personnel and is --

18 DHSES COMMISSIONER BRAY: Oh, yeah.

19 ASSEMBLYMAN PALMESANO: -- going to be
20 for the future?

21 DHSES COMMISSIONER BRAY: Oh, yeah.

22 We're in Montour Falls, we're staying in
23 Montour Falls. The academy is essential to
24 the training of volunteer -- not volunteer,

1 it's essential to the training of recruit
2 firefighters. So those are our career
3 firefighters whose departments aren't large
4 enough or resourced well enough to have their
5 own academies. And it's essential for the
6 hazmat rescue, that type of work, for
7 volunteer and career.

8 ASSEMBLYMAN PALMESANO: Okay. That's
9 really good to hear.

10 So as far as some of these classes
11 being moved and shifted --

12 DHSES COMMISSIONER BRAY: No, I
13 wouldn't -- I wouldn't read too much into
14 that. My instinct there is that it's about
15 us. We are trying to do more trainings in
16 the field so that they're more accessible to
17 people. That does not mean we're not fully
18 booked at Montour Falls and using that
19 facility.

20 ASSEMBLYMAN PALMESANO: Okay. Thank
21 you very much, Commissioner. Appreciate
22 that.

23 DHSES COMMISSIONER BRAY: Thank you.

24 CHAIRWOMAN KRUEGER: Thank you very

1 much. Next, Assembly?

2 CHAIRWOMAN WEINSTEIN: We go to
3 Assemblyman Otis, three minutes.

4 (Overtalk.)

5 SENATOR O'MARA: The Assembly just
6 went.

7 CHAIRWOMAN KRUEGER: You just went.

8 CHAIRWOMAN WEINSTEIN: Yeah.

9 CHAIRWOMAN KRUEGER: I'm so sorry.
10 Senator Gounardes, three minutes.

11 SENATOR GOUNARDES: Thank you very
12 much.

13 Good afternoon. I want to ask, in the
14 vein of the questions on cybersecurity,
15 there's been increasing bipartisan concern, I
16 guess is the word to say, specifically about
17 the use of TikTok on government devices. I
18 know one of our colleagues has a bill
19 regulating this. I'm curious whether either
20 of your offices, either jointly or
21 independently, have done any type of security
22 review or analysis or study reflective of a
23 lot of concerns we're seeing across the
24 country at both the state government level

1 and also the national level, on both sides of
2 the aisle, about the use of TikTok on
3 government devices.

4 OITS DEPUTY CIO LORENZ: We have not
5 conducted an actual study on the use of
6 TikTok across, you know, agencies. However,
7 we did decide, I believe it was in 2020, to
8 block the ability for the majority of state
9 agencies to use TikTok. It's only in very
10 exceptional, you know, instances that we
11 allow it.

12 So we do a security review if someone
13 is requesting that they use TikTok; it has to
14 go through a pretty thorough security review
15 before they can use it. So we've blocked the
16 website as well as the application on state
17 devices. Where we can reach. Obviously not
18 everywhere.

19 SENATOR GOUNARDES: Of course. I
20 think that's where the concern is, though.
21 And there's different opinions as to what
22 level of concern should exist on this.

23 But so no state-issued devices,
24 computers or phones, unless for some

1 extraordinary circumstance, can access the
2 site at this point. Is that correct?

3 OITS DEPUTY CIO LORENZ: Correct.

4 SENATOR GOUNARDES: Okay. Thank you.

5 CHAIRWOMAN WEINSTEIN: Now to
6 Assemblyman Otis for three minutes.

7 ASSEMBLYMAN OTIS: Here we go.

8 I have an ITS question, just very
9 simple. In terms of within the budget, and
10 in terms of the ability to pivot in
11 situations of crisis, we had the -- through
12 COVID, we had the huge surge in technology
13 needs at the Department of Labor; then we had
14 the big surge with the ERAP applications.
15 And so there will be other surges and other
16 technology needs at different state agencies.

17 How does ITS budget for dealing with
18 the next crisis? Are there adequate funds in
19 the budget for our state to be prepared to
20 deal with those situations?

21 OITS DEPUTY CIO LORENZ: Yes. Between
22 last year's funding -- I'm sorry. Between
23 last year's funding and this year's funding,
24 we are adequately funded to continue to

1 expand those services. As you well know, as
2 you mentioned, we had to do a lot to change
3 systems rapidly. And we are continuing to
4 bolster that with this funding.

5 So I do have to say that in years
6 prior, you know, it was very difficult; we
7 would have to make those tradeoffs between a
8 security decision or a tactical
9 keep-a-system-up-and-running decision.
10 between the Governor's funding last year and
11 this year, we've really made strides. And we
12 have, in addition to innovation and emerging
13 technologies -- you know, looking into what
14 we can do in the future, we're also really
15 expanding our modernization programs. We
16 have a cyber remediation effort that we began
17 last year, which is why you're not hearing us
18 say legacy system -- we used to come here
19 year after year and be like legacy system,
20 legacy system.

21 Well, we're a little bit past that.
22 We were able to plan last year, with the
23 funding we were given. It isn't
24 multiple-year efforts to improve, but we

1 actually have a strategy now which is huge in
2 our maturity as an agency, right? We're only
3 10 years old as an agency. So we really have
4 been able to take that funding and make use
5 of it.

6 ASSEMBLYMAN OTIS: So but at times
7 you've had to go to outside contractors to
8 help solve some of these problems.

9 OITS DEPUTY CIO LORENZ: Did you say
10 how many times? I'm sorry.

11 ASSEMBLYMAN OTIS: No, not how many.
12 At times you've had to go --

13 OITS DEPUTY CIO LORENZ: At times,
14 yes.

15 ASSEMBLYMAN OTIS: -- to outside
16 vendors to deal --

17 OITS DEPUTY CIO LORENZ: Yes.

18 ASSEMBLYMAN OTIS: -- with some of
19 these problems. Do you see less of that in
20 the future, or is that always going to be
21 part of the mix because of their skill set?

22 OITS DEPUTY CIO LORENZ: Yeah, I
23 think, you know, we obviously want a state
24 workforce. The state workforce is most

1 knowledgeable, most stable, most engaged,
2 most interested. Right?

3 I mean, the -- when we do -- when we
4 deal with vendors they are also engaged, very
5 supportive. We've had a ton of support on
6 that level. But obviously they come on a
7 project basis. So we do see them more as
8 our -- I would say like a crisis or
9 rapid-deployment type of a solution, when you
10 need that quick skill, they're not busy with
11 anything else -- quick come in, hit it, and
12 move on.

13 ASSEMBLYMAN OTIS: Thank you very
14 much. Appreciate the answer.

15 CHAIRWOMAN WEINSTEIN: Senator Stec.

16 SENATOR STEC: (Mic off.) Thank you,
17 Madam Chair.

18 Good morning. Thank you for being
19 here both. Commissioner Bray, I've got a
20 question --

21 UNIDENTIFIED MEMBER: Mic. Senator,
22 your mic, your mic.

23 SENATOR STEC: Thanks very much.

24 All right. Thank you for being here

1 both.

2 Commissioner Bray, I've got a
3 question. You answered a question earlier
4 today, a little bit ago, about the radio
5 communication. You were excited to answer
6 about radio communication between fire and
7 EMS and police, which is great. And my dad
8 was a Forest Ranger, so I know that those
9 radio communications weren't always on the
10 spec in the day. Technology has leapt
11 forward, we're doing a lot better in that
12 department. And we're always playing
13 catch-up.

14 My concern is my district is in the
15 North Country, the Adirondacks. Right? I
16 represent a lot of the North Country. We get
17 things like snowstorms and ice storms quite
18 frequently. And of course most of your
19 emergency incidents originate not from these
20 communications between emergency first
21 responders, but from civilians, our
22 residents, our constituents, with a
23 cellphone.

24 I reached out to my sheriffs, and some

1 sheriffs said about half the calls to their
2 911 center are cellphones. Some of my
3 sheriffs said the vast majority are
4 originating from cellphones. And as you know
5 where I'm going, we have significant problems
6 with cell service in the North Country and in
7 the Adirondacks.

8 In fact, one of the things that
9 disturbed me is for the World University
10 Games, which just concluded in Lake Placid,
11 the world was coming, the spotlight was on
12 us, and the solution, the temporary solution
13 to lack of cell service was emergency
14 cell-on-wheels cabs from Verizon were
15 prepositioned around the Adirondacks. Which
16 for visitors was great and gave the
17 appearance that we had cell service. But for
18 the rest of the residents and travelers like
19 myself, we don't have good cell service the
20 rest of the year when the World University
21 Games aren't in town.

22 What is the state doing to address
23 this critical public safety issue? We are
24 lagging behind. We've done a lot of work in

1 broadband, but the other half of this is cell
2 service. And again, the residents statewide
3 deserve to have good coverage.

4 DHSES COMMISSIONER BRAY: I couldn't
5 agree with you more. It is a real challenge
6 that we don't have appropriate cell coverage
7 in the Adirondacks for our emergency first
8 responders. I've spent a lot of time with
9 the emergency managers in Hamilton and Essex,
10 thinking -- you know, working on this.

11 We have funding available. We have
12 distributed funding to these counties to
13 increase access to cellular. Unfortunately,
14 that -- the attempts to do that get blocked
15 locally out of, I believe, concern for the
16 Park. And so we have to keep working on new
17 ways and new options --

18 SENATOR STEC: Let me -- if I could
19 interrupt you, because I've got limited time.

20 The APA -- that I have regular
21 communication with -- says that they've been
22 approving things faster than ever. I have
23 not heard from local government that local
24 government is holding up cell service. I

1 think it might be an economic issue for these
2 private providers, but it is not local
3 government, it's not county government, it is
4 not the APA that is saying no. There are
5 some environmental groups that like to slow
6 the roll on cell service, but it isn't -- it
7 isn't the APA, it isn't local government.

8 Is there a plan to provide some sort
9 of funding mechanism from the state to
10 partner, like we did with broadband, to
11 partner to increase and incentivize
12 collocation and all these things? This is a
13 real issue in the North Country.

14 DHSES COMMISSIONER BRAY: Yeah, I'm
15 happy to follow up on that --

16 SENATOR STEC: I wish you would. You
17 know, talk to the APA and the second floor.
18 This is a -- this is a critical issue. And
19 it is not local government and it is not the
20 APA that is saying no to applications.

21 DHSES COMMISSIONER BRAY: Okay.

22 SENATOR STEC: I think my time is --
23 oh, I've got another --

24 DHSES COMMISSIONER BRAY: You've got

1 another minute-twenty --

2 SENATOR STEC: I'm going to shift
3 gears, then, if that's all right. Thank you
4 very much.

5 For the Office of Information
6 Technology, can you briefly describe the
7 e-procurement system that we're trying to
8 migrate to and briefly just how is this going
9 to become more efficient, and how long is it
10 going to take to launch and get this off the
11 ground? I see there's I believe \$15 million
12 that's been put in the Executive's budget.
13 What is the timeline of the overall benefit?

14 OITS DEPUTY CIO LORENZ: I don't have
15 the timeline available right now. We believe
16 that this will help reduce a lot of the --
17 I'm going to say paperwork, but there's a lot
18 of files that are transferred back and forth.

19 So what we're trying to do with this
20 new system is really leverage the use of
21 electronic signatures. And then also we
22 believe with the new roll-out of e-notary, we
23 think that will also help. So those two
24 electronic mechanisms should really help

1 create efficiencies within the e-procurement
2 system.

3 SENATOR STEC: All right, I appreciate
4 that. Thanks for (inaudible).

5 OITS DEPUTY CIO LORENZ: Thank you.

6 SENATOR STEC: Thank you, Madam Chair.

7 CHAIRWOMAN KRUEGER: Thank you.

8 Okay, the Assembly is done, so we're
9 going to continue with the Senate.

10 Senator Rolison.

11 SENATOR ROLISON: Thank you, Chair.
12 And thank you, Commissioner.

13 So starting in 1976, just a little
14 evolution of me, I became a volunteer
15 firefighter, 14 years, cop for 26. I know
16 we've spoken a lot about -- today about the
17 gaps and the challenges within the volunteer
18 fire service. I've seen the evolution of EMS
19 starting back then, and now seeing EMS having
20 its challenges as well.

21 I just wanted -- if you could just
22 briefly update us, especially I've had people
23 in the district, both from the voluntary, on
24 one side, to the paid provider side, talking

1 about this as an impending crisis, if it
2 isn't already. What's your thoughts on that?

3 DHSES COMMISSIONER BRAY: I think yes,
4 both the volunteer fire service and EMS are
5 in crisis. I don't think that there's any
6 denying that.

7 We've seen mutual aid requests in the
8 fire service go up 160 percent over the last
9 decade, which means that many times it's --
10 there's not even a question of whether or not
11 the local department can handle it; they're
12 having to call in mutual aid. That's
13 stressing other, larger departments and
14 stressing our career departments.

15 So I think that there is a crisis in
16 the volunteer fire service. You know, I'm
17 less familiar with EMS, it's managed by the
18 Department of Health, but I know --

19 (Overtalk.)

20 SENATOR ROLISON: That was probably
21 the question I wanted to --

22 DHSES COMMISSIONER BRAY: But
23 absolutely, no, when I'm out there talking to
24 folks -- and lots of folks do both -- there's

1 a crisis in both of these areas.

2 SENATOR ROLISON: And just -- and
3 thank you for clarifying that, because I'll
4 ask that question when DOH gets here.

5 But all those things that you just
6 said absolutely are happening, on a daily
7 basis we're seeing it. One of the things,
8 and then I will -- I will stop with my time,
9 is that my understanding is -- and my
10 colleague Senator Oberacker, who is behind
11 me, has been talking about this prior to me
12 coming into this legislative body, with EMS.
13 And my understanding is it is not deemed a
14 critical service under some guidelines within
15 the state, as police and fire is.

16 But I appreciate all that you're
17 doing. And just real quickly, since I've got
18 55 seconds, kudos to Task Force 2, who came
19 to Poughkeepsie in 2018 when I was mayor, and
20 helped save a woman in a building collapse.
21 I will tell I never saw anything like that in
22 my life. The equipment that they brought
23 down, I think from Watervliet, I think is
24 where they are, or someplace here in the

1 Capital Region --

2 DHSES COMMISSIONER BRAY: Yeah, here.

3 SENATOR ROLISON: -- was absolutely
4 very reassuring to anybody who lives in this
5 state to know that those individuals are
6 ready to go with everything that you can
7 imagine, and she was successfully extricated
8 from the building with the help of everybody.

9 So thank you.

10 DHSES COMMISSIONER BRAY: I will pass
11 it along to them. Thank you, Senator.

12 SENATOR ROLISON: Please do.

13 CHAIRWOMAN KRUEGER: Thank you.

14 Assembly.

15 CHAIRWOMAN WEINSTEIN: Assemblyman
16 Blumencranz, a ranker, for five minutes.

17 ASSEMBLYMAN BLUMENCRANZ: How are you?
18 Thank you for coming, Commissioner.
19 Appreciate your time today.

20 I just want to briefly discuss the
21 cyberattacks we've experienced on Long Island
22 and Suffolk County specifically. I'm sure
23 you're very aware and very active in the
24 efforts to sort of strengthen -- and our

1 goals to strengthen cybersecurity on a county
2 level and a state level. I know that they've
3 provided 42 million in funding in order to
4 help that strengthening effort. I just was
5 curious to hear more about ITS's
6 collaborative efforts with DHSES and the
7 State Police and even county and local police
8 in order to strengthen our ability to fight
9 these attacks on a local level.

10 DHSES COMMISSIONER BRAY: Absolutely.

11 So three things we're doing. Right?
12 Number one is directly providing service, or
13 taking cybersecurity and treating it like a
14 service we can provide, rolled out and point
15 protection this year. We'll roll out, we
16 think, attack service management next year.
17 But we'll continue to roll out cybersecurity
18 as a service.

19 Number two, stood up the JSOC with
20 ITS. What the JSOC is going to allow us to
21 do is merge all of the metadata, the logs,
22 into a single what we call SIM, which will
23 allow realtime communication about threats.
24 Oftentimes you'll see an attempt of an

1 incursion somewhere, and that's really a
2 precursor to trying it other places. Right?
3 And so we want realtime information sharing
4 and merged logs into a single SIM.

5 And then third, increasing the
6 Division of Homeland Security Cyber Incident
7 Response Team's head count has allowed us to
8 be more proactive. So we're not only
9 responding to incursions, but we're now doing
10 phishing exercises, tabletop exercises,
11 complete cyber risk assessments, for our
12 municipal and local government partners.

13 ASSEMBLYMAN BLUMENCRANZ: And has
14 there been any collaborative efforts between
15 yourself and your department and the cyber
16 insurance space as far as, you know, counties
17 that are self-insured versus counties that do
18 have insurance? And how does that
19 partnership look, if you have one?

20 DHSES COMMISSIONER BRAY: Yeah, so we
21 don't -- our team is not directly engaged
22 with the cyber insurers or with the
23 ransomware insurers. I think the -- I think
24 we're going to have to pay attention to that

1 space from a policy perspective and a
2 requirements perspective, but we don't engage
3 directly with the insurers.

4 ASSEMBLYMAN BLUMENCRANZ: I cede the
5 rest of my time. Thank you.

6 DHSES COMMISSIONER BRAY: Thank you.

7 CHAIRWOMAN KRUEGER: Thank you.

8 CHAIRWOMAN WEINSTEIN: Senate?

9 CHAIRWOMAN KRUEGER: Senator O'Mara.

10 SENATOR O'MARA: Thank you.

11 Commissioner Bray, thank you for your
12 testimony.

13 Thank you for your comments on the
14 New York State Fire Academy at Montour Falls.
15 It's critically important to our region and
16 to the support of our fire companies
17 throughout the state. So I'm happy to hear
18 what you had to say about the
19 administration's commitment to that facility.

20 In regards to cybersecurity and
21 probably ransomware as well, do you feel that
22 at Homeland Security you have enough
23 resources devoted to protecting our
24 electrical -- our energy grid, electricity

1 grid in the state, whether it's the
2 Independent Systems Operator or the utilities
3 themselves?

4 If you could just comment on where we
5 stand in regards to our preparedness for
6 that, and do you feel you have enough
7 resources for that?

8 DHSES COMMISSIONER BRAY: Appreciate
9 that question.

10 So let me say that the threats to our
11 electric grid are both physical and cyber in
12 nature. We're seeing -- and actually there
13 was an arrest yesterday made about a threat
14 to the Baltimore grid. We're seeing both
15 physical security and cybersecurity attacks
16 on our grid. In this country we all need to
17 be paying attention to what we're seeing in
18 the Pacific Northwest and the Carolinas and
19 South.

20 So the primary responsibility for
21 security for the grid is really of the
22 operators. Right? Most of the power is
23 provided at the transmission level by private
24 operators, and they are responsible for

1 investment in their security.

2 NYPA obviously is a public operator.
3 They have probably the best cyber program in
4 the state. It's a cyber program that we look
5 to to build out for our other critical
6 infrastructure partners, so I feel confident
7 in what they're doing there.

8 Our role is to do the risk assessments
9 with these critical infrastructure partners
10 so that we can feed back to them where we
11 believe they need to be targeting their
12 investment, number one.

13 Number two, we're adding head count to
14 do industrial control systems this year in
15 this budget, and that head count will be
16 focused first and foremost on our grid
17 because of the attacks that we're seeing.
18 And we are focused on helping them understand
19 what we expect they're doing with the private
20 industry dollars that they have.

21 SENATOR O'MARA: Are you comfortable
22 with where they're at with your guidance and
23 involvement with them? Are there better
24 actors than others, more prepared than

1 others? And where should we be looking to
2 bolster that protection?

3 DHSES COMMISSIONER BRAY: So there is
4 not a person in my job who should ever say
5 that they're comfortable. My job is built to
6 be uncomfortable. I worry so other people
7 don't have to worry as much. So I'm never
8 comfortable.

9 But I am confident that our
10 private-sector energy providers do take
11 cybersecurity extremely seriously. I'm
12 absolutely knowledgeable to the fact that
13 they have adjusted their security in light of
14 the recent attacks and incursions. DPS is
15 also watching this very closely and working
16 with them to increase their security posture
17 in light of the recent attacks.

18 And NYPA provides cybersecurity
19 services for the municipal power providers,
20 and I think that that relationship is
21 essential so that our smaller public
22 providers have a sort of -- I mean this in
23 the best way -- a big brother/big sister
24 looking out for them in this arena.

1 SENATOR O'MARA: Thank you.

2 Nobody has brought up last week's
3 issue of the Chinese balloon floating over
4 the country, but it certainly raised an issue
5 for some of the -- of how that type of system
6 could be -- could deploy an EMP attack on us.

7 Where as a state do we stand in
8 regards to the threat of EMPs? Not
9 specifically from the balloon, but that
10 raised that issue, at least in my mind, last
11 week in some of the things I read about it.

12 DHSES COMMISSIONER BRAY: Right. Of
13 course. When I think of EMPs, I really also
14 think of the threat of space weather, which
15 is sort of the naturally occurring potential
16 for that type of event.

17 I'm happy to brief you offline about
18 the way we think about EMPs and our critical
19 infrastructure sectors. I'd rather do that
20 in a more private setting.

21 SENATOR O'MARA: Okay. I'd be happy
22 to do that, and it does interest me, so thank
23 you.

24 Thank you both very much.

1 DHSES COMMISSIONER BRAY: Thank you.

2 CHAIRWOMAN KRUEGER: (Mic off.) Thank
3 you very much.

4 So I think it's just me and then a
5 second round for Senator Scarcella.

6 Hi, everybody. So many questions have
7 been asked, so thank you both for your work.
8 I want to -- oh, sorry. Microphones. You'd
9 think I would remember that. Thank you both
10 for your work and your testimony here today.

11 For the IT side of things, there's a
12 lot of discussion about the newer issues
13 facing cybersecurity, technology. It might
14 sound like an old-fashioned question. There
15 are state agencies that promised me they
16 would be computerized, running from 12 years
17 to five years ago. They're never done. We
18 never seem to get our basic agencies the
19 basic systems they need. I almost don't want
20 to name them, but I will.

21 When Governor Cuomo -- you remember
22 him -- when he first came to be governor, the
23 first question I asked him at his
24 inauguration was, "When are you going to

1 finish computerization of the housing
2 agency?" And he said it was his first
3 priority. Well, he's come and gone, and
4 there's a new governor, so I'm not blaming
5 her. But when are we going to get the
6 housing agency completely computerized?

7 OITS DEPUTY CIO LORENZ: So when you
8 say the housing agency, you're talking about
9 HCR? Just so I'm clear, I apologize.

10 So we continue to work with that
11 agency to develop their rollout plan for
12 modernization. As you know, Rent Connect was
13 a portion of what they needed to be
14 delivered.

15 So there are pieces that we are
16 delivering for that agency, but it is not
17 holistic to your point of being modernized,
18 right? They still have -- some of their
19 systems are still being reviewed from a
20 business process perspective because
21 initiatives began so many years ago. There's
22 so much more technology now. So they've
23 taken I'd say a step back, just to look at
24 maybe you don't even need that paper anymore,

1 right? Maybe we're past having a wet
2 signature on a file. You know, how do we
3 introduce e-signatures?

4 So I can't speak holistically on what
5 housing's doing, or specifically on what
6 they're doing. We definitely have to get
7 that from the agency. But we are partnered
8 with them to talk about what's possible. And
9 they are looking into how to improve their
10 processes.

11 CHAIRWOMAN KRUEGER: So I'll pick out
12 another -- but I'm not picking on the
13 agencies or the people who are running them.

14 OITS DEPUTY CIO LORENZ: Of course.

15 CHAIRWOMAN KRUEGER: So in 1988, I was
16 an advocate who sued the state over a really
17 bad system they implemented called WMS. It's
18 still operating to run all social services.
19 When I asked recently if I would actually
20 live long enough to see a replacement for
21 WMS, I was assured it was just another five
22 years. That's actually humanly impossible
23 that it -- well, I think I could live five
24 more years, by the way. That's not humanly

1 impossible. Pick a day, pick an hour.

2 But it's almost humanly impossible
3 that the State of New York has not been able
4 to replace a system that was actually out of
5 date when it bought it in the late '80s.

6 Where are we there?

7 OITS DEPUTY CIO LORENZ: So progress
8 has been made. I believe last time
9 CEO Riddick was here he talked about a new
10 program director. So they've, you know,
11 taken the project and really have focused on
12 drilling down to each milestone. You know,
13 really getting into the work and making sure
14 progress is in fact being made. It is not
15 happening as fast as everyone would like.

16 You may be happy to hear that part of
17 the -- there was a NYDocSubmit application
18 that did go up. That's a portion of it. So
19 there's, you know, pieces within this
20 behemoth of Integrated Eligibility System
21 that will replace WMS. That program,
22 NYDocSubmit, does allow for individuals to
23 upload documentation so they don't have to
24 mail things in, they don't have to go to an

1 actual office to get things done.

2 So there are small -- you know, small
3 wins within this overall effort. I believe
4 the latest timeline is 2026 to really have
5 the program developed. And then there will
6 continue to be that outreach to the local
7 districts to ensure they're on-board. And
8 there's also this huge change-management
9 piece to get those counties on.

10 So there is progress being made. It's
11 not as visible. And it's not, you know, at
12 the point where you can shut down WMS yet.

13 CHAIRWOMAN KRUEGER: So granted, this
14 is a new administration, lots of new people.
15 Would you agree with me we're just good at
16 this and we need to get a lot better at it?

17 OITS DEPUTY CIO LORENZ: We are
18 working to get better at it. I would say in
19 the previous years there was a lot -- you
20 know, funding, a lot of workforce reduction
21 at play here. You know, we're seeing the WMS
22 support, you know, holistically also, you
23 know, using resources so when that knowledge
24 leaves, we do lose some of that.

1 So we are really -- the centralized
2 approach to fixing these things and really
3 bringing those technology individuals
4 together and have us work in a partnership, I
5 think that really is helping.

6 So looking forward, we do have the
7 funding and we're building up the resources
8 to really put that concentrated effort on
9 projects like this and move it forward. But
10 I agree, in some cases we have not done this
11 well.

12 CHAIRWOMAN KRUEGER: Yes. I think
13 that countries have seen governments rise and
14 fall faster than New York State's been able
15 to figure out how to computerize its state
16 agencies.

17 So I'm going to wish you well, or wish
18 you better than your predecessors in that
19 department, because it's very hard to explain
20 to people why we don't have functioning
21 systems on core agencies that people need to
22 get their information from. They need to get
23 their benefits turned on, they need to get
24 their records as a tenant in housing, both

1 landlords and tenants. We need the ability
2 to track what's going on with systemic issues
3 that we can evaluate and figure out how to
4 improve on.

5 So I'm just -- I guess I'm mostly
6 talking to whoever on the second floor might
7 be listening. We really need to make sure
8 that this administration is going to have a
9 much better record on technology and
10 improvements in our computer systems than our
11 predecessors. So --

12 OITS DEPUTY CIO LORENZ: There is a
13 big focus -- I'm sorry, may I speak?

14 CHAIRWOMAN KRUEGER: Yes.

15 OITS DEPUTY CIO LORENZ: There is a
16 big focus from the Governor's office on
17 improving the customer experience, so I'm not
18 sure if you had seen that they did recently
19 put out a chief experience officer
20 appointment, so we're trying to hire someone
21 who's really focused, to your point, on maybe
22 looking at this differently too. So looking
23 at the pain points from end to end when
24 someone does visit us with the state, or they

1 have to transact with the state, how do you
2 make that better.

3 And then on the ITS side, we're having
4 a team dedicated to that user journey, what
5 does that look like, so we can partner up,
6 again, with each agency and say where -- what
7 are the most visible, how can we really be
8 impactful and make the right improvements for
9 the citizens or the residents of New York.
10 So it's a collaborative effort.

11 So this Governor's budget this year is
12 really focused on that, and it's adding
13 another layer to the services that we all
14 provide. So I think it really is helping us
15 move to that next level of maturity. We've
16 been very tactical these past few years, so
17 it's to your point of these projects taking
18 so long. You know, we've also been very --
19 just trying to keep the lights on in many
20 cases due to funding what have you, right?

21 So now we're in that next layer of
22 maturity where we can say how do we improve,
23 how do we really look at things differently
24 and innovate, change behavior, take advantage

1 of what our residents want to do, and how do
2 we operate, how do we change the way we
3 behave to help enable better service with the
4 government.

5 CHAIRWOMAN KRUEGER: Thank you.

6 I'm going to turn it over to
7 Senator Gonzalez for her three month --
8 three-minute follow-up. Three month? No,
9 she's not even three months old as a Senator.

10 SENATOR GONZALEZ: We could be here
11 for three months if we -- there's enough
12 questions to ask.

13 (Laughter.)

14 SENATOR GONZALEZ: Thank you so much,
15 Madam Chair.

16 And thank you both so much for
17 answering all of our questions today. I just
18 have a few quick follow-ups.

19 One, really excited to hear about the
20 chief experience officer. I know you've been
21 expanding to 12 languages. Would love to
22 hear, you know, plans to expand past those
23 12 -- I represent Queens; that's, you know,
24 the language capital of the world -- in

1 addition to how you're dealing with
2 accessibility issues, so an eye for ability
3 as well as digital literacy, right? So
4 making it based on -- you know, if you're
5 older, our older residents, making something
6 as user-friendly as possible.

7 Quick question and follow-up on
8 ransomware. Have we had to, in any of the
9 previous attacks, pay cyber ransom in
10 New York State? That was a quick -- I know
11 that was a jarring transition, but that was
12 my number one follow-up.

13 DHSES COMMISSIONER BRAY: Since I have
14 been commissioner, New York State has not
15 paid ransom. I can't speak to prior to that.

16 It is the strong belief of -- from a
17 policy perspective that we recommend that
18 people do not pay ransom. We encourage
19 people not to pay ransom. The only instance
20 in which we might deviate from that is if
21 there is an imminent risk to life.

22 SENATOR GONZALEZ: Got it, okay. Just
23 wanted to know.

24 And then transitioning over for DHS as

1 well, the Governor announced in June that she
2 was expanding the state's Cyber Red Team to
3 provide penetration testing, perform phishing
4 exercises, vulnerability scanning and
5 additional cyber incident response services.

6 Can you provide more detail on these
7 Red Team cyber tests? What are the goal --
8 you know, the team's engaged in suspicious
9 activity. How do you gauge what is
10 suspicious activity, and can you give us more
11 information about what they've been
12 conducting?

13 DHSES COMMISSIONER BRAY: Yeah, so the
14 current Red Team program -- I'll explain the
15 current one and then talk cyber.

16 The current Red Team program goes --
17 for example, we would organize with local law
18 enforcement, we might go to Home Depot and
19 buy everything you need to make a pipe bomb
20 and check out. And what you are testing is
21 whether or not at checkout Home Depot calls
22 the right terrorist tip line and says, there
23 was someone behaving in a way that concerns
24 us.

1 For Cyber Red Team testing, what
2 you're doing is you are attempting to make an
3 incursion into someone's system without their
4 knowledge that you're going to do it that
5 day -- they know that a Red Team's coming --
6 and you are seeing how far you can basically
7 get into their system, and then you're giving
8 them feedback of whether or not you were
9 successful.

10 SENATOR GONZALEZ: Got it.

11 And then last follow-up to actually
12 one of Senator Krueger's points, ITS has been
13 phasing out hardware and software that poses
14 cybersecurity risks to the state's technology
15 environment. Can you provide a status update
16 on that process? How are we --

17 OITS DEPUTY CIO LORENZ: Can you say
18 that -- I didn't hear the first part, I'm
19 sorry.

20 SENATOR GONZALEZ: ITS has been
21 phasing out hardware and software -- so
22 getting off legacy, for example.

23 OITS DEPUTY CIO LORENZ: Oh, getting
24 off. I'm sorry, getting off, I didn't hear

1 you.

2 SENATOR GONZALEZ: And so just where
3 we are. Can you provide like a status
4 update?

5 OITS DEPUTY CIO LORENZ: Yes. We went
6 through last year and did a -- oh, sorry. We
7 did a very deep dive into how we need to plan
8 the future from a remediation perspective.
9 We have 25 workstreams, so we'll probably
10 want to talk to you outside of this --

11 SENATOR GONZALEZ: Yeah. Yeah.

12 OITS DEPUTY CIO LORENZ: -- on how
13 we're really going to approach getting off
14 many legacy systems.

15 There are some modernizations
16 underway, some big ones -- DTF has one going
17 on. So you may hear about those that are
18 pretty big. But this is a holistic view that
19 you might want to touch base with us on after
20 this.

21 SENATOR GONZALEZ: Great. Absolutely.
22 Thank you so much.

23 CHAIRWOMAN KRUEGER: (Mic off.) Thank
24 you.

1 We have one more chair who asked for a
2 three-minute follow-up, Senator
3 Scarcella-Spanton. Also only less than three
4 months old as a -- (inaudible).

5 (Laughter.)

6 SENATOR SCARCELLA-SPANTON: We're all
7 newbies up here.

8 I just had a couple of questions
9 regarding the nominal fee for the volunteer
10 fire service.

11 DHSES COMMISSIONER BRAY: Sure.

12 SENATOR SCARCELLA-SPANTON: Has there
13 been a decrease in volunteer firefighters in
14 New York State?

15 DHSES COMMISSIONER BRAY: Yes. About
16 20,000 over the last decade or so.

17 SENATOR SCARCELLA-SPANTON: Okay. Has
18 New York State taken any other action to
19 remedy the decrease in volunteer
20 firefighters, besides the nominal fee?

21 DHSES COMMISSIONER BRAY: So the state
22 has grant programs available for recruitment
23 and retention activities like tabling or
24 leaflets or flyers. And obviously

1 firefighting is primarily a local
2 responsibility. So this is really the state
3 taking the next step on our front.

4 SENATOR SCARCELLA-SPANTON: Okay. If
5 the goal is to increase recruitment and
6 retention, why are the nominal fees under
7 this proposal an option instead of a
8 requirement for the governing board of a
9 city, town, village or fire district?

10 DHSES COMMISSIONER BRAY: I think that
11 it's -- we're not going to save or stabilize
12 the volunteer fire service with a
13 cookie-cutter approach. We see really
14 different problems depending on where you are
15 in this state.

16 What we are trying to do is open up
17 options for local governments and for local
18 fire departments to choose how they want to
19 approach their challenge.

20 SENATOR SCARCELLA-SPANTON: So then
21 the cities, towns, villages and fire
22 districts will set their own nominal fees, in
23 that case?

24 DHSES COMMISSIONER BRAY: So it

1 will -- we will regulate the max. They will
2 max out at 20 percent in order to maintain
3 their volunteer benefits or their volunteer
4 status for their benefits. But they will
5 choose within that.

6 SENATOR SCARCELLA-SPANTON: Okay.

7 And under this proposal, what current
8 trainings published by the Office of Fire
9 Prevention and Control, if completed, would
10 allow a volunteer firefighter to receive the
11 nominal fee?

12 DHSES COMMISSIONER BRAY: So that's
13 the stipend program, not the nominal fee.
14 That stipend program will be paid for with
15 this budget through State Fire, through OFPC.

16 Right now it's basic firefighting,
17 interior firefighting, and Officer 1. So ...

18 SENATOR SCARCELLA-SPANTON: Okay.

19 And I just actually have one more
20 follow-up question regarding my colleague
21 Assemblyman Mike Reilly regarding the
22 technology that the 911 calls are going
23 through right now.

24 DHSES COMMISSIONER BRAY: Sure.

1 SENATOR SCARCELLA-SPANTON: Of course
2 that's a huge safety concern if a
3 Staten Islander is calling and is being
4 referred to New Jersey.

5 DHSES COMMISSIONER BRAY: Yes.

6 SENATOR SCARCELLA-SPANTON: What would
7 the costs be for that technology, to upgrade
8 the services to where we should be?

9 DHSES COMMISSIONER BRAY: This is
10 going to be a process over many years. But
11 it will require an updated statewide network.
12 You're talking well north of \$100 million for
13 something like that.

14 But the cost will be borne over
15 several years between localities and the
16 state. It won't be fully state-funded.

17 SENATOR SCARCELLA-SPANTON: Okay. So
18 I guess my last part of that was has there
19 been some request, has there been buy-in at
20 all from the federal government for an
21 upgrade in programs for something of that
22 magnitude?

23 DHSES COMMISSIONER BRAY: Wouldn't it
24 be nice.

1 (Laughter.)

2 DHSES COMMISSIONER BRAY: So there was
3 a House bill passed in the last Congress that
4 did provide significant funding for a
5 national upgrade to Next Gen 911. It did not
6 pass the Senate.

7 SENATOR SCARCELLA-SPANTON: Thank you
8 so much. And thank you for your time today.

9 DHSES COMMISSIONER BRAY: Thank you.

10 CHAIRWOMAN KRUEGER: And now we are
11 done and we will let you go. Thank you very
12 much. Appreciate your being here.

13 OITS DEPUTY CIO LORENZ: Thank you.

14 DHSES COMMISSIONER BRAY: Thank you.

15 CHAIRWOMAN KRUEGER: And our next
16 panel to come up: New York State Division of
17 Criminal Justice Services, New York State
18 Department of Corrections and Community
19 Supervision, New York State Division of State
20 Police.

21 And I'm just going to remind Senators
22 and Assemblymembers, if you're going to ask
23 questions of this panel, we need you in this
24 room now to listen to the panelists.

1 (Off the record.)

2 CHAIRWOMAN KRUEGER: A good time to
3 stretch, everyone. (Pause.)

4 Good afternoon, everyone. Hi. We've
5 been having a little trouble with the mics on
6 your table, so hopefully for the three to
7 five of you there's hopefully one that works
8 best that you can each take turns with. Oh,
9 Rossana's is we think the one that works?

10 DCJS COMMISSIONER ROSADO: Yes.

11 CHAIRWOMAN KRUEGER: And you're the
12 first person to testify, so let's see if we
13 can hear you. Hi.

14 DCJS COMMISSIONER ROSADO: Testing,
15 one, two, three.

16 CHAIRWOMAN KRUEGER: Great.

17 DCJS COMMISSIONER ROSADO: Ready?

18 CHAIRWOMAN KRUEGER: Thank you.
19 Please.

20 Again, you each have 10 minutes. It's
21 not 10 minutes to be split between the three
22 of you, so don't panic.

23 DCJS COMMISSIONER ROSADO: Thank you.

24 Good afternoon, Chairs Krueger and

1 Weinstein -- good to see you again --
2 legislative fiscal committee members and
3 other distinguished members of the
4 Legislature. I am Rossana Rosado,
5 commissioner of the Division of
6 Criminal Justice Services.

7 Thank you for the opportunity to be
8 with you today to discuss Governor Kathy
9 Hochul's fiscal year '23-'24 budget for DCJS.
10 If you think you saw me last week, you did.

11 Last year DCJS marked its
12 50th anniversary. Our multifunction support
13 agency continues to evolve with the changes
14 and meet the challenges in New York's
15 criminal justice system. We work with all
16 the stakeholders to bring the resources,
17 expertise, and information needed for a more
18 fair, equitable, and efficient justice
19 system. Our work is both collective and
20 reflective of the depth and breadth of the
21 public safety profession. To me, that is
22 both the power and the privilege of DCJS.

23 We get to work every day with our
24 local partners to help keep New Yorkers safe.

1 However, we also recognize that we need to
2 make our communities not just safer, but
3 stronger and whole. In too many communities,
4 the persistence of poverty and crime has
5 fractured neighborhoods, placing
6 opportunities out of reach. In its most
7 devastating form, we saw Buffalo's East Side
8 torn apart last May when a hate-fueled gunman
9 targeted a Black neighborhood, killing 10 and
10 injuring three.

11 The Governor's proposed budget
12 provides DCJS with the ability to positively
13 impact both the criminal justice system and
14 communities across New York State.
15 Specifically, the budget provides
16 \$100 million to support our law enforcement
17 agencies and community-based organizations
18 with evidence-informed programs to better
19 address crime, its causes, and its
20 consequences. These programs, among others,
21 include the SNUG Street Outreach; the Gun
22 Involved Violence Elimination, which we call
23 GIVE; and the Crime Analysis Center network
24 that we call CAC. And these programs are

1 making a difference.

2 As I shared at last week's hearing,
3 reported shootings dropped 17 percent in
4 New York City and 15 percent in the GIVE
5 jurisdictions in 2022. This reflects
6 453 fewer shootings than in 2021. While
7 there are still more shootings than before
8 the pandemic, this is the first sustained
9 decrease in gun violence since 2020.

10 For communities most affected by
11 violence, DCJS launched Project RISE in 2022,
12 dedicating \$28 million to seven cities. Our
13 team traveled and built relationships with
14 stakeholders in each of these cities to
15 implement and improve programs and services.

16 Project RISE works by listening to,
17 learning from, and lifting up communities.
18 We bring local agencies, organizations, and
19 residents together to identify and support
20 the grassroots solutions that tackle the
21 underlying causes of violence.

22 This effort works in parallel with our
23 SNUG street outreach program, which now
24 serves 14 communities. The expanding SNUG

1 program sites deploy outreach, social, and
2 hospital-based workers to disrupt the cycle
3 of violence. These programs also connect
4 community members and, importantly, victims
5 of crime with the resources they need, such
6 as employment, education, and access to
7 health and mental health care.

8 Last year, the Governor invested
9 \$18.2 million in the GIVE initiative and
10 \$15 million in the CAC network for our
11 law enforcement partners. The CAC network
12 now collects and shares information and
13 investigative support among more than 350 law
14 enforcement agencies across 43 counties.
15 This network has become the backbone of the
16 state's efforts to prevent, investigate, and
17 solve crimes, responding to more than
18 60,000 requests for assistance each year.

19 DCJS also delivered \$10 million for
20 body-worn cameras in municipal police
21 agencies and dedicated \$20 million for local
22 law enforcement technology.

23 To further reduce gun violence and
24 curb the recent rise in crime, our job now is

1 to double down on the programs that work.
2 With your support for the Executive Budget,
3 DCJS will be able to double funding for
4 ATI programs to \$31.4 million, and provide
5 \$20 million for pretrial services to close
6 the system's "revolving door" and better
7 connect people with the resources that they
8 need.

9 We will double funding for GIVE
10 initiatives to \$36.4 million, and expand the
11 CAC network to New York City to help local
12 law enforcement deploy evidence-based
13 strategies informed by the best available
14 data to prevent, identify, and solve crimes.

15 We will quadruple funding for Aid to
16 Prosecution to \$52.5 million and provide
17 \$40 million for discovery implementation to
18 ensure prosecutors have the tools to hold
19 people accountable for crimes committed.

20 We will fund local law enforcement
21 efforts to prevent the flow of illegal
22 fentanyl and other opioids and investigate
23 overdose deaths with \$9 million. And we will
24 triple funding for the County Re-Entry Task

1 Forces to \$11.5 million, to provide case
2 management, care coordination, and
3 stabilization services for people returning
4 to the community after incarceration. And
5 this is the first increase in over a decade.

6 And we will also continue the Securing
7 Communities Against Hate Crimes grant
8 program, with \$25 million, and the Securing
9 Reproductive Health Centers grant program
10 with \$10 million, protecting our nonprofits
11 and other organizations that could be at risk
12 of hate crimes or attack.

13 I also want to thank the Governor for
14 her unwavering leadership on public safety.
15 In this year's budget she delivers another
16 year of unprecedented resources with a
17 renewed focus on the front end of the system.
18 Her investments in mental health
19 infrastructure, the ATI network, and pretrial
20 service capacity will help people access the
21 care they need and keep New Yorkers safe.

22 Our data show that failure to appear
23 and rearrest rates have remained stable at
24 roughly 2 out of every 10 people with pending

1 cases. While relatively few, they present a
2 chronic concern, and the Governor recognizes
3 that judges in some of these cases have
4 inconsistently applied the pretrial reforms.
5 She is proposing to remove the
6 least-restrictive standard for ensuring
7 people charged with serious offenses return
8 to court.

9 Finally, I want to thank the team at
10 DCJS who work to advance and achieve these
11 efforts. For 15 months, I have been
12 fortunate to lead a workforce of
13 professionals who are among the best in
14 government and who increasingly reflect the
15 diversity of our great state. I am proud
16 that DCJS continues to be recognized as a top
17 workplace and provides an environment for our
18 employees to feel engaged and included.

19 In 2023, we look forward to building
20 upon our solutions to keep our neighborhoods
21 safe and strong, working together with our
22 local partners, and -- very importantly --
23 promoting public trust in our criminal
24 justice system.

1 Thank you for your support and time
2 today. I look forward to answering any
3 questions you may have.

4 CHAIRWOMAN KRUEGER: Thank you.

5 Next, whichever of you -- let's just
6 go down the row. Thank you.

7 ACTING SUPERINTENDENT NIGRELLI: Thank
8 you. Good afternoon, Chairs Krueger and
9 Weinstein and distinguished members of this
10 joint committee.

11 Thank you. Thank you for the
12 opportunity to come and talk with you today
13 about the critical work that is done by the
14 members of the New York State Police and some
15 of the proposals that are contained in
16 Governor Hochul's Executive Budget.

17 The Governor has been steadfast in her
18 leadership at this time, as have you, and I
19 want to thank you for your continued support
20 of our efforts. Collaboration and
21 communication are the key to solving the
22 problems we face as a society.

23 My name is Steven Nigrelli, and I am
24 the acting superintendent of the New York

1 State Police. And for over 105 years, the
2 men and women of this agency have preserved
3 the values of service, integrity, and
4 leadership. That's what the New York State
5 Police was built upon. I am proud to lead
6 this agency in carrying out our mission of
7 protecting and defending all New Yorkers and
8 safeguarding the rights that we all hold
9 dear.

10 This past year has been a very
11 challenging one for all society as we
12 continue to navigate the hurdles caused by
13 the unprecedented pandemic. However, the men
14 and women of the New York State Police
15 continue to go above and beyond to assist
16 their fellow New Yorkers in their time of
17 need, and remain dedicated to the critical
18 work that we do to protect all New Yorkers.

19 Therefore, the adequate staffing of
20 the New York State Police, of our sworn
21 members and our non-sworn employees, is our
22 top priority. We continue to recover from
23 the historic staffing lows that were brought
24 on by the pandemic. With the hiring freeze,

1 we did not graduate a new class of troopers
2 for two years.

3 Significant efforts have been made to
4 start rebuilding our agency. For instance,
5 in 2022, for the first time in our history,
6 we gave the exam by computer -- not only here
7 in New York, but across our country and
8 around the globe at U.S. military
9 installations. This change greatly increased
10 the exam's accessibility and outreach.

11 In 2022, we were focused on recruiting
12 the brightest, best, and most diverse
13 applicant pool, and with your assistance, we
14 saw significant gains in the number of
15 minorities and women who signed up for the
16 test.

17 Our continued commitment to diversity,
18 equity, and inclusion in recruitment and
19 advancement is unwavering and has never been
20 stronger.

21 Our work to rebuild the staffing
22 numbers of the State Police is not done, as
23 we look to launch another recruitment effort
24 with the goal of holding an exam later this

1 year.

2 The Governor has proposed that we
3 increase our ranks by holding concurrent
4 academy classes to return to adequate and
5 needed staffing levels. Once these classes
6 graduate, we will be able to commit
7 additional and necessary resources to combat
8 emerging public safety challenges, including
9 removing illegal guns, curbing gun violence,
10 and fighting that opiate crisis here in
11 New York.

12 To highlight our work, the New York
13 State Police seized 2,026 illegal guns
14 between August 2021 and December 2022 --
15 2,026 illegal guns. That's a 138 percent
16 increase. With earmarked funding in the
17 Governor's proposed budget, we can elevate
18 our efforts in identifying the sources of
19 illegal guns and stop the trafficking of
20 these weapons into our state.

21 Additionally, through our ongoing
22 community engagement efforts, we have been
23 extremely effective in building critical
24 relationships with community members and

1 business owners, which has led to valuable
2 collaboration with the public in communities
3 across the state. This type of
4 community-oriented policing is crucial in
5 reducing crimes and building trust with our
6 communities.

7 By increasing staffing levels, which
8 the Governor's proposed budget provides for,
9 we would improve upon our work by providing
10 immediate assistance to those communities,
11 and focus greater attention on violence and
12 quality-of-life issues within our
13 neighborhoods.

14 As a result of our work across all
15 arenas, our federal partners have requested
16 additional State Police personnel for various
17 task forces that are at the forefront of
18 combating gun and narcotics trafficking and
19 violent crimes across New York State.
20 Maintaining a presence on these task forces
21 illustrates our commitment to the crucial
22 goal of taking illegal guns and drugs off our
23 streets and reducing violent crime. We are
24 thankful that the Governor and the members of

1 this committee recognize the importance of
2 increasing our staffing so we can do this
3 essential work.

4 The Governor's proposal also provides
5 for a significant and essential increase in
6 our budget to create a satellite laboratory
7 within the New York State Police crime
8 laboratory system. Our forensic
9 investigation system is an indispensable part
10 of the New York State Police and local law
11 enforcement's mission, by aiding in the
12 investigation and prosecution of shootings
13 and other serious crimes such as rape and
14 murder. This much-needed budget increase
15 will allow us to relocate disciplines and
16 create additional space for our lab firearms,
17 NIBIN and DNA analysts and scientists to
18 continue to do the work behind the scenes
19 ensuring that the most dangerous offenders --
20 the most dangerous offenders -- are brought
21 to justice.

22 As acting superintendent and a proud
23 32-year veteran of the New York State Police,
24 I have dedicated my life to serving and

1 protecting the people of the State of
2 New York. I have done this while holding
3 nearly every rank within our agency, giving
4 me a firsthand understanding and insight into
5 the challenges that the 6,000 men and women
6 of the New York State Police face every day,
7 and the sacrifices they make to carry out our
8 mission. I am truly honored and humbled to
9 represent them and to call myself a New York
10 State Trooper.

11 Every day our members commit
12 themselves to making a difference and
13 improving the quality of life for
14 New Yorkers. As such, the New York State
15 Police has earned the respect and reputation
16 as the premier law enforcement agency in this
17 country. We certainly could not provide the
18 high-quality services that we do without the
19 support of Governor Hochul and you, our
20 legislators. The Executive Budget provides
21 the resources needed for us to continue the
22 level of service that all New Yorkers demand,
23 expect, and deserve of the New York State
24 Police. With renewed focus and vigor, we are

1 committed to preserving public safety and
2 making a safer New York.

3 So as I started, I'll finish. Thank
4 you. Thank you for your continued investment
5 in not only the State Police but our members.
6 Thank you.

7 CHAIRWOMAN KRUEGER: Thank you.

8 Commissioner? And as soon as you
9 finish, we're going to get an extra new mic
10 there so when you're answering questions it
11 won't be as confusing.

12 ACTING COMMISSIONER ANNUCCI: Good
13 afternoon, Chairwoman Krueger, Chairwoman
14 Weinstein, and other distinguished chairs and
15 members of the Legislature.

16 I am Anthony J. Annucci, acting
17 commissioner for the Department of
18 Corrections and Community Supervision, and I
19 am joined by Executive Deputy Commissioner
20 Dan Martuscello. It is my honor to discuss
21 some of the highlights of Governor Hochul's
22 Executive Budget plan and various key
23 initiatives.

24 Last year, the Department experienced

1 a multitude of structural changes as a result
2 of shifting demographics and legislative
3 initiatives. The number of incarcerated
4 people has decreased over the last decade and
5 resulted in the closure of six facilities
6 last March. Our population has now
7 stabilized at approximately 31,300, and the
8 proposed budget does not contemplate further
9 closures.

10 The department continues to implement
11 several programs included in the Governor's
12 Jails to Jobs initiative from last year. In
13 October, we held a ribbon-cutting event at
14 Edgecombe Transitional Housing, a program for
15 undomiciled individuals returning to New York
16 City to receive transitional housing, as they
17 seek a permanent residence and employment.

18 We have hired employment parole
19 officers for each of our community
20 supervision regions, who will receive
21 workforce development specialist training to
22 assist releasees with obtaining employment.

23 The department has also partnered with
24 DMV to issue non-driver IDs to incarcerated

1 individuals.

2 The safety of staff and the population
3 continues to be an issue of overriding
4 concern. There were 1,469 assaults on staff
5 in 2022, a 25 percent increase from 2021.
6 Similarly, in 2022, there were 1,486
7 incarcerated-on-incarcerated assaults, a
8 34 percent increase from 2021. The rates for
9 both categories of assault were the highest
10 ever recorded.

11 In response to this increase in
12 violence, in December of 2021 I created a
13 Prison Violence Task Force to study the root
14 causes of violence and institute measures to
15 enhance overall safety. The ongoing work of
16 the task force has resulted in positive
17 changes that we believe, over time, will help
18 to reduce violence.

19 To limit the introduction of drugs,
20 weapons, and other dangerous contraband
21 fueling violence within our facilities, we
22 have instituted a Vendor Package Program and
23 increased our utilization of canine teams,
24 both of which have led to reductions in drugs

1 and other contraband, as well as reductions
2 in overdose deaths and Narcan use.

3 We will continue to leverage new
4 technology such as body scanners to enhance
5 our ability to discover contraband that
6 cannot be identified by metal detectors, such
7 as ceramic blades. Additional actions
8 recommended by the task force include
9 enhanced deescalation training for staff, and
10 the launch of a new Moderate Aggression
11 Program to provide the appropriate level of
12 treatment based on an individual's risks,
13 needs, and underlying propensity for
14 violence.

15 We will continue to work with our
16 unions, interested stakeholders, and members
17 of the Legislature to explore policy
18 solutions to reduce violence and increase
19 overall safety.

20 In the coming year we will expand our
21 existing Auto Tech and Commercial Truck
22 Drivers programs, as well as launch a new
23 Computer Coding Program, which will better
24 align the skill sets of our releasing

1 population with the demands of today's job
2 market.

3 Under the recently enacted Medication
4 Assisted Treatment law, the department is
5 offering all forms of MAT to the population.
6 The department consulted with OASAS in the
7 development of this program and now partners
8 with opioid treatment providers to administer
9 MAT medications. As of February 2nd, 1,730
10 incarcerated individuals were receiving MAT
11 services.

12 For many years the department has
13 focused on the prevention of all forms of
14 sexual victimization in prison. The National
15 PREA Standards established minimum
16 requirements for the prevention, detection
17 and response to sexual abuse and harassment.
18 The department has achieved full compliance
19 with PREA and has enacted robust policies
20 that exceed the national standards.

21 Among our Community Supervision
22 operations, the implementation of the Less is
23 More Act required many fundamental changes,
24 including the earned time credit provision,

1 which resulted in the discharge of over
2 17,000 parolees from supervision. We will
3 continue to work with the Board of Parole,
4 Office of Court Administration, and our
5 workforce to identify additional ways to
6 streamline operations and further safety in
7 the community.

8 The Governor has also advanced a bold
9 agenda to reduce gun violence and violent
10 crime. To support these efforts, DOCCS will
11 provide a full-time senior parole officer to
12 serve as a data coordinator for each of the
13 DCJS GIVE jurisdictions; deploy a full-time
14 senior investigator to work with the
15 State Police on their gun violence task
16 forces; and launch a new initiative called
17 SAVE, Supervision Against Violent Engagement,
18 in Buffalo, Syracuse, and Albany.

19 SAVE will identify individuals under
20 parole supervision who are at the highest
21 risk of recidivating in a violent manner.
22 The department will utilize advanced
23 supervision tactics, electronic monitoring,
24 and intelligence sharing with local partners

1 to enhance public safety, similar to what is
2 done for the highest-level sex offenders.

3 It will also be crucial for us to
4 focus on our recruitment efforts for both
5 civilian and security staff. These efforts
6 will be greatly assisted by the Governor's
7 proposals to lower the age for new correction
8 officer hires to 19 and the Expanding Nurses
9 for our Future scholarship program. Staff
10 wellness and staff retention initiatives will
11 also be prioritized, as we are only as good
12 as the workforce we are able to recruit and
13 retain.

14 In conclusion, although many
15 challenges lie ahead for the department, as
16 has been the case throughout my entire
17 career, the department will successfully meet
18 these challenges because of its greatest
19 resource, which is the dedicated men and
20 women who heroically perform their
21 responsibilities with pride, dedication, and
22 professionalism.

23 Thank you again for the opportunity to
24 appear before you here today. I would be

1 happy to address any questions you may have.

2 CHAIRWOMAN KRUEGER: Thank you,
3 everyone.

4 So I'm now going to ask Mike, who's
5 somewhere with the mic -- I think it's
6 Michael with a mic -- to come replace the mic
7 on your table before we start questions. So
8 just give us a second.

9 (Off the record.)

10 CHAIRWOMAN KRUEGER: All right. Thank
11 you. Okay, so now three of you get to share
12 two, but it's not quite as complicated.
13 Thank you so much for the patience.

14 And now we are going to start with
15 Chair Jamaal Bailey for 10 minutes.

16 SENATOR BAILEY: Thank you,
17 Madam Chair.

18 Good afternoon, everyone. Good to see
19 you, Commissioners, Acting Commissioner.
20 Commissioner Rosado, thank you again for
21 twice in two weeks; the pleasure's all mine.

22 So the Executive Budget proposes
23 removing the least-restrictive-means
24 standard. And I understand that this is an

1 Executive proposal and not that of DCJS, so I
2 frame my question in that manner. Removing
3 the least-restrictive-means standard for
4 qualifying offenses when the court is making
5 the bail determination provides a list of
6 factors that the court must consider in
7 making those determinations.

8 We spoke about data last week. Does
9 the current data show that people who are
10 charged with qualifying offenses are more
11 likely to fail to appear in court versus
12 those with non-qualifying offenses?

13 DCJS COMMISSIONER ROSADO: I think as
14 we discussed last week, the data shows that
15 it's basically flat, right, it's steady and
16 flat.

17 SENATOR BAILEY: So what evidence do
18 we have, then, that these -- and again, I
19 understand the Governor's overarching thought
20 process. It is the same thought process that
21 we all share -- public safety -- regardless
22 of 63 districts in the Senate, 150 in the
23 Assembly. Public safety is important to all
24 of us. Right? It's not a partisan issue.

1 What evidence is going to show that
2 these changes will result in a reduction in
3 crime?

4 DCJS COMMISSIONER ROSADO: Well, I
5 think as the Governor expressed both in her
6 State of the State and in her budget
7 presentation last week, so there is the data
8 that we collect -- and as you stated, we
9 don't have a role, we basically help to --
10 you know, we collate that data with OCA and
11 we report on the pretrial release decisions.
12 We're not a party to or directly involved in
13 the court proceedings where the release data
14 is considered.

15 But as the Governor has stated, you
16 know, we get feedback in different ways. And
17 so one is data, which we presented, we did a
18 deep dive on last week. And then, you know,
19 she's one of the hardest-working elected
20 officials I know. She's on -- out in
21 communities and she's hearing feedback and
22 she's hearing and she expresses as she's
23 hearing from both judges and other
24 practitioners that there is confusion. And

1 she said, let's have a conversation about
2 that.

3 SENATOR BAILEY: Well, my conversation
4 and my discussion is certainly not a
5 referendum on the Governor's work ethic. I
6 believe that she is incredibly hardworking.

7 But again, I'm just asking if we're
8 looking to make what could be a major change
9 in the way that we are -- in the way that
10 we're, you know, we're dealing with pretrial
11 offenses, I'm just looking for the evidence
12 that we spoke about. And it seems as if the
13 evidence that's necessarily the empirical
14 data doesn't necessarily match with the
15 specific requested changes at present time.

16 And that's my statement. I don't even
17 know -- I don't know if you're in a position
18 to answer that.

19 But the question was about -- another
20 question about data. DCJS is responsible for
21 collecting criminal and arrest reports from
22 law enforcement agencies across the state,
23 from State Police as well. What plans do you
24 anticipate putting in place to make sure that

1 there's more of a symbiotic relationship
2 between DCJS and the Division of State Police
3 for the collection of that data?

4 DCJS COMMISSIONER ROSADO:

5 (Conferring.) Thank you. Sorry, I couldn't
6 hear.

7 I mean, we work very closely with
8 State Police now, and the -- as well as, you
9 know, with all the agencies in our portfolio,
10 and we have -- you know, we're also on
11 several of the task forces together. So I
12 expect to continue working collaboratively
13 with State Police and all the other agencies.

14 SENATOR BAILEY: Excellent.

15 So we spoke last week about gun
16 violence prevention. One of the scourges of
17 the -- the scourges in our communities is gun
18 violence. The SNUG program, the Executive
19 Budget proposes \$21 million in SNUG funding.
20 It's unchanged from last year's budget. But
21 we speak about a rise in gun violence
22 prevention. Do we think that \$21 million is
23 sufficient?

24 DCJS COMMISSIONER ROSADO: So as you

1 know, we announced our SNUG program in
2 Mount Vernon last year, so -- and you were
3 there with us, so I know you know this
4 program well.

5 The funding for SNUG is going to help
6 us address some of the needs of the actual
7 SNUG workers as well as the communities. And
8 we have social workers working with each of
9 these teams now. And this will be the first
10 year that we're in a post-pandemic mode. I
11 mean, we've been in an emergency mode for the
12 last two years, and last summer especially,
13 trying to bring those shootings down. You
14 know, we were able to see that in many of the
15 jurisdictions. And this year we want to --
16 you know, we want to also try to make those
17 teams more whole in their preventive work.

18 We're hoping, right -- this is my wish
19 for '23, is that we have time to do more
20 preventive and proactive work both with the
21 SNUG teams in those jurisdictions and with
22 the extended community in those jurisdictions
23 as well.

24 SENATOR BAILEY: Okay, so I have a

1 bill that would codify the SNUG program that
2 moved through the Committee on Codes. Does
3 DCJS take a specific position or not on that
4 specific bill, or are you aware of that
5 specific bill, to codify the SNUG program?

6 DCJS COMMISSIONER ROSADO: We don't
7 take a position, but we welcome your support.

8 SENATOR BAILEY: Certainly.

9 In their conversation about I guess
10 violence interruption services in addition to
11 SNUG, can some of the funding that we're
12 supposed to be using for that, can it be used
13 for mobile trauma units, you know, that
14 respond to crises in our communities? Can
15 that money be used for that purpose as well?

16 DCJS COMMISSIONER ROSADO: It can. I
17 mean, again, we're looking to do more
18 proactive and innovative stuff in this third
19 year. The last two years have been full
20 crisis.

21 I just wanted to mention that the SNUG
22 site shootings are down 32 percent and the
23 GIVE site shootings are down 15 percent.

24 SENATOR BAILEY: Mount Vernon SNUG

1 you know, track the cases. And they are also
2 -- I think that was it. It was staffing,
3 right, that they were investing in? I'm
4 sorry. My team has worked really hard to
5 prepare me, but, you know ...

6 SENATOR BAILEY: This is the second
7 hearing in two weeks, Commissioner. I fully
8 understand.

9 I'm just trying to figure out like how
10 will the money become available. Is it going
11 to be grant-based, is it application-based?
12 How does -- how does this \$40 million get
13 to --

14 DCJS COMMISSIONER ROSADO: Wait, wait
15 a second. For the DAs?

16 SENATOR BAILEY: For the DAs or
17 anybody that needs help with discovery.
18 Because it's not just district attorneys that
19 need help with discovery.

20 DCJS COMMISSIONER ROSADO: Yes, I'm
21 sorry. I'm sorry. So that money is
22 distributed to the counties and it's based on
23 the number of arraignments.

24 SENATOR BAILEY: Okay. So would that

1 be available to public defenders' offices
2 within specific counties as well?

3 DCJS COMMISSIONER ROSADO: Mm-hmm.

4 SENATOR BAILEY: Okay. And again, I
5 think the justice system being holistic and
6 all-encompassing, we should make sure that
7 prosecutors certainly need funding but
8 district -- excuse me, defense attorneys and
9 wraparound services certainly need funding.
10 Because I just spoke about the determinants
11 of violence and safety -- excuse me, the
12 social determinants of health kind of
13 indicate that we should be doing more
14 preventative measures.

15 DCJS COMMISSIONER ROSADO: Yes.

16 SENATOR BAILEY: To the Division of
17 State Police, just really quickly with my
18 couple of minutes left, Acting
19 Superintendent, good to see you. Diversity
20 is important. You mentioned diversity in
21 your testimony. What concrete steps are you
22 taking to have conversations with fraternal
23 organizations like the Guardians and things
24 of that nature, in terms of how to improve

1 the diversity in the State Police?

2 ACTING SUPERINTENDENT NIGRELLI: Thank
3 you, Senator, for your question. I have to
4 tell you -- can you hear?

5 SENATOR BAILEY: Yes, I can hear you.

6 ACTING SUPERINTENDENT NIGRELLI: --
7 that when I mentioned that our diversity,
8 equity, inclusion has never been stronger, I
9 couldn't underscore that enough. And we are
10 working for the recruitment aspect. We are
11 working with our community partners through
12 community engagement, through colleges,
13 through the Black and Latino Caucus, through
14 Black sororities and fraternities, through
15 our Guardians -- and if you didn't know, the
16 Guardians is an organization within the
17 New York State Police comprised of State
18 Police members -- partnership with the
19 Guardians.

20 It's critically important, critically
21 important for people in the brown and Black
22 community -- they can only be what they see.
23 So if we have more representation in the
24 State Police that truly represents the

1 population we serve, our recruitment will be
2 self-generated. Because if they can see it,
3 they can be it.

4 SENATOR BAILEY: Well, I certainly
5 appreciate that. And I think, you know, many
6 of us are the embodiment and living proof of
7 you can't be what you can't see.

8 I guess in my last 20 seconds,
9 Commissioner, I know that the State Police
10 fills in the gaps a lot with local law
11 enforcement. Is this budget sufficient for
12 you to continue that work where you're
13 assisting local areas of law enforcement, and
14 is it enough to help you continue the data
15 collection that you have to provide to DCJS?

16 DCJS COMMISSIONER ROSADO: Yes.

17 ACTING SUPERINTENDENT NIGRELLI: And
18 from the State Police perspective, Senator,
19 yes, this budget does account for all the
20 needs that we have currently.

21 SENATOR BAILEY: Acting Commissioner
22 Annucci, I will be back for you in my second
23 round. Thank you.

24 CHAIRWOMAN KRUEGER: Thank you.

1 Assembly.

2 CHAIRWOMAN WEINSTEIN: Assemblyman
3 Dinowitz, 10 minutes.

4 ASSEMBLYMAN DINOWITZ: Commissioner
5 Rosado (mic off, inaudible).

6 -- but you also said, as you did last
7 time, that there's been no difference in the
8 percentage of people returning before and
9 since the laws were changed. So I'm not
10 clear on what's trying to be accomplished
11 here if it doesn't appear that changing that
12 is going to have an impact on the return
13 rate. But you did say -- you did raise the
14 concern of the judges I guess inconsistently
15 applying the reforms.

16 Wouldn't the better solution to that
17 concern be to train the judges to
18 consistently apply the reforms rather than
19 change it when there's no suggestion that the
20 change has had any negative impact?

21 DCJS COMMISSIONER ROSADO: I mean, I
22 don't think it's an either/or. You know,
23 it's an "and." The Governor has proposed to
24 have this conversation based on the feedback

1 that she got. I -- you know, I watched the
2 testimony this morning and I see that, you
3 know, judges are doing Lunch and Learns, and
4 I think that, you know, there could be more
5 done to, you know, to do training of judges
6 to make sure that they're not confused.

7 But I also think that, you know,
8 there's been enough feedback directly to the
9 Governor that warrants this conversation that
10 she wants to have.

11 ASSEMBLYMAN DINOWITZ: I guess I would
12 think that -- and we have a lot of great
13 judges, I'm not criticizing the judges. But
14 maybe the first step would be to ensure that
15 every judge is completely trained on this and
16 that in fact they do consistently apply the
17 reforms before we, you know, make such a
18 change, because we haven't really had an
19 opportunity to see if something good would
20 come out of the judges actually being
21 consistent and total understanding of all
22 that.

23 But let me move on. So last year
24 \$40 million was appropriated for discovery.

1 Do you know how much of that has been spent
2 and how and where, like regionally?

3 DCJS COMMISSIONER ROSADO: Do you
4 know, Joe? Sorry.

5 My executive deputy, Joe Popcun, who
6 you met last week.

7 So 29 million is what has been
8 distributed so far. And as I said earlier,
9 it's 40 to counties based on the arraignment
10 volume.

11 ASSEMBLYMAN DINOWITZ: Has the money
12 been spent throughout more or less evenly?
13 Or is it sort of skewed in certain areas?

14 DCJS COMMISSIONER ROSADO: We could
15 give you a list. It's based on -- obviously
16 on need and how quickly -- I know some
17 counties have struggled with disbursement.
18 We've given the money out, and we work
19 closely with them to make sure they get the
20 money as soon as possible.

21 ASSEMBLYMAN DINOWITZ: Okay. Also
22 last year there was a \$20 million
23 appropriation for aftermath of gun violence
24 to support regions that have been impacted by

1 the spike in gun violence. Do you know how
2 that's been disbursed and where, generally
3 speaking? Pretty much the same question on
4 that issue.

5 DCJS COMMISSIONER ROSADO: So that's
6 the Project RISE money that I spoke of in my
7 testimony. That's about 28 million.

8 And that was -- we used the
9 opportunity to get the money beyond the
10 programs that we already offered to the
11 community folks. So we brought folks in
12 those SNUG communities together and said, Who
13 do you want us to give the money to? How
14 should be the money be spent?

15 And we were looking for creative
16 ways -- again, looking at the proactive and
17 preventive work, especially before last
18 summer, and that's when you have time to do
19 that. As I said, for the -- you know, the
20 last two years have been crisis years as we
21 tried to bring the numbers down from the
22 pandemic.

23 You know, last summer we did some of
24 this work with the community, and now

1 we're -- it's my view that we're working
2 right now on preventing the crimes of next
3 summer, right? And so we're working with the
4 community folks to say -- to ask them, you
5 know, where should we spend the money, how
6 should we spend the money. There's a huge
7 concern with summer jobs and keeping youth
8 engaged in the spring and summer months.

9 And so we're working on that with
10 them.

11 ASSEMBLYMAN DINOWITZ: Okay, thank
12 you.

13 I just have a couple of questions for
14 Acting Superintendent Nigrelli. So the
15 concealed carry law changes were passed at
16 the beginning of July. How is implementation
17 going on that?

18 ACTING SUPERINTENDENT NIGRELLI: Well,
19 Assemblyman, thank you for the question.

20 And as you know, there are some court
21 cases that are pending right now.

22 I will say that the New York State
23 Police, as the law is written, will enforce
24 the law. We haven't had any complaints,

1 therefore no arrests in enforcement of the
2 CCIA law at this point.

3 ASSEMBLYMAN DINOWITZ: I'm sorry, the
4 last sentence was there was no what of the --

5 ACTING SUPERINTENDENT NIGRELLI:
6 Complaints nor arrests of the Concealed Carry
7 Law.

8 ASSEMBLYMAN DINOWITZ: Okay. So the
9 State Police is supposed to maintain a
10 database of all criminal offenses involving
11 discharge of firearms, guns, rifles,
12 et cetera. Under the proposal, that is.

13 So you don't already do that?

14 ACTING SUPERINTENDENT NIGRELLI: So
15 this is done in silos across the state. This
16 would allow us to have a central repository
17 in New York State to pull all that data
18 together. It will allow us to link bad
19 actors, who may be doing stuff in multiple
20 jurisdictions. It will also allow us to
21 deploy resources quicker to the areas where
22 there's spikes.

23 So the question was do we do -- is the
24 State Police doing this. Well, this would

1 allow one repository for all of New York
2 State. That way it would be centrally
3 located, one, and we'd be able to share data
4 and get data from all jurisdictions. Which
5 we currently are not doing. Actually, that
6 would have been a quicker answer for you.

7 ASSEMBLYMAN DINOWITZ: Will there be
8 additional resources necessary for you, or is
9 this just going to be a very smooth change to
10 this?

11 ACTING SUPERINTENDENT NIGRELLI: There
12 are some -- there will be additional duties
13 placed on the State Police, and there should
14 be made possible some small funding in this
15 proposal. But it's just filling the
16 vacancies that currently exist in the
17 New York State Intelligence Center.

18 ASSEMBLYMAN DINOWITZ: I see.

19 ACTING SUPERINTENDENT NIGRELLI: There
20 will also be assumed duties.

21 ASSEMBLYMAN DINOWITZ: So you won't
22 need to hire additional people for this
23 repository, then.

24 ACTING SUPERINTENDENT NIGRELLI:

1 Utilizing the funding that is in the proposed
2 budget would fill vacancies that currently
3 exist in the New York State Intelligence
4 Center. These duties would be assumed among
5 other duties that are there.

6 So no specific titlement for the --
7 payment for these type of duties. It would
8 be a lot of duties that would be fulfilled.
9 They're full-time equivalents.

10 ASSEMBLYMAN DINOWITZ: Okay, thank you
11 very much.

12 ACTING SUPERINTENDENT NIGRELLI: Thank
13 you, sir.

14 CHAIRWOMAN WEINSTEIN: Senate?

15 CHAIRWOMAN KRUEGER: Thank you.

16 Next is Senator Gallivan, ranker, for
17 five minutes.

18 SENATOR GALLIVAN: Thank you,
19 Madam Chair. (Mic off; inaudible.)

20 CHAIRWOMAN KRUEGER: Pat, is your
21 microphone on?

22 SENATOR GALLIVAN: There we go.

23 If I could very briefly go back to the
24 testimony about the data that you talked

1 about, about the two out of every 10 people
2 with pending cases appears to be -- well, the
3 data shows that the failure to appear in
4 rearrest rates is about that, two out of 10,
5 right? You testified today and last week at
6 the data hearing to that effect.

7 At the same hearing last week, and I
8 don't know if you were there for it, the
9 New York City Police Department also
10 presented some data for a very small period
11 of time, post the change in law but prior to
12 the -- before COVID started, that suggested
13 that the change in the laws, specifically the
14 bail laws, had something directly to do with
15 the increase in crimes in New York City.

16 The question I have really for
17 everybody is, is it okay for anybody to not
18 appear in court or to commit an additional
19 crime when they're out pending another case?
20 Is any level acceptable?

21 DCJS COMMISSIONER ROSADO: I don't
22 think anyone at this table thinks any level
23 of crime is acceptable.

24 SENATOR GALLIVAN: Thank you, and

1 neither do I.

2 And so doesn't it follow that when we
3 have a various set of laws and other things
4 that might come into play -- levels and types
5 of enforcement and so on -- don't we have an
6 obligation to discuss anything that might
7 take this rearrest number, failure to appear
8 number, down to zero? Obviously it's a goal
9 we're not going to get to, but shouldn't that
10 always be our goal?

11 DCJS COMMISSIONER ROSADO: Well, I
12 would say that the data doesn't bear that out
13 so far. And we have -- every six months we
14 have a new data set that OCA and DCJS works
15 together to post, so we have the ability to
16 look at this every six months.

17 This is the first time we had kind of
18 an apples-to-apples. But as I said, the
19 first two years of that implementation were
20 pure pandemic, and so those numbers are --
21 you know, they were --

22 SENATOR GALLIVAN: Kind of difficult
23 to measure.

24 DCJS COMMISSIONER ROSADO: But I want

1 to say this. Bail has never been a
2 crime-prevention tool, right? Bail is a tool
3 for the courts to make sure that people come
4 back to court.

5 The expectation that we turn bail into
6 a crime-prevention tool I think is very
7 confusing, because that's not the intention
8 of bail and it's hard for you to just look
9 into a crystal ball and determine whether
10 someone could recommit a crime or someone
11 could do this or that. I think that we also
12 want to look at new -- you know, other tools
13 or innovative tools for crime prevention --

14 SENATOR GALLIVAN: No question about
15 it.

16 The last point on this is 49 other
17 states do think the ability of a judge to
18 utilize discretion in looking at the person's
19 dangerousness to the community is indeed a
20 factor. We're the only state that doesn't.

21 If I could move on. Very quickly,
22 Commissioner Annucci, I want to reaffirm, no
23 prison closings planned for this year?

24 ACTING COMMISSIONER ANNUCCI: That is

1 correct.

2 SENATOR GALLIVAN: Different area.

3 The proposal from -- going from age 21
4 to age 19 for correction officers, do you
5 know if this applies to local correctional
6 officers as well, at the county level?

7 ACTING COMMISSIONER ANNUCCI: To
8 local, is that your question, Senator? No --

9 SENATOR GALLIVAN: This proposal is
10 only at the state level.

11 ACTING COMMISSIONER ANNUCCI: This is
12 for state correction officers only. The
13 statute currently says 21. We think we can
14 effectively amplify our workforce with 19 and
15 older.

16 SENATOR GALLIVAN: Okay. Thank you.

17 Superintendent Nigrelli, you testified
18 to concurrent classes. How will you handle
19 this? Certainly the State Police Academy
20 can't accommodate all these classes through
21 in one particular year.

22 ACTING SUPERINTENDENT NIGRELLI: Thank
23 you, Senator Gallivan, for the question. And
24 it's a great problem to have.

1 But you're right, we started this
2 current academy of 275. That's actual --
3 that's capacity. So we're going to
4 auxiliarize our current academies. We are
5 looking for an off-site venue, an auxiliary
6 academy, and we are doing our due diligence
7 right now working with SUNY, OGS, DASNY,
8 National Guard. We're looking at any
9 possible facility that can house an academy,
10 some possibly in the Central New York region.

11 So that is going on currently, and we
12 would hope to have that academy, if approved,
13 if the funding was approved, up and running
14 in early fall.

15 SENATOR GALLIVAN: All right. Thank
16 you all.

17 CHAIRWOMAN KRUEGER: Thank you.

18 Excuse me, Assemblymember Dilan,
19 10 minutes, chair of Corrections.

20 ASSEMBLYMAN DILAN: Thank you,
21 Senator.

22 And Commissioner, it was great to meet
23 with you last week and get the opportunity to
24 just go over your vision for your agency.

1 I have a few direct questions as it
2 relates to your budget and some of the
3 Article 7 language that is being proposed in
4 this budget. So basically it's an \$8 million
5 increase in your budget over the last fiscal
6 year. How do you intend to use those funds?

7 ACTING COMMISSIONER ANNUCCI: Well,
8 primarily, Assemblyman, it's for the new
9 initiatives targeted to gun violence. I
10 think there are 66 positions associated with
11 what we call the SAVE initiative, which will
12 build on a very successful initiative that
13 has worked in Rochester targeting those
14 individuals being released from prison whom
15 we identify as posing the highest risk to
16 recidivate committing a violent crime.

17 So we will put them on caseloads of
18 20-to-1, we will outfit them with GPS, we
19 will work with the locals -- because in
20 addition to the traditional law enforcement,
21 we also realize you need to have services for
22 these individuals. You need to refer to them
23 for appropriate services that will convince
24 them not to pick up that gun. Their lives

1 matter, their lives are important, we want
2 everybody safe.

3 So the successful initiative in
4 Rochester will be replicated in Buffalo and
5 Syracuse and Albany.

6 And then the other initiative, of
7 course, we're going to leverage all of the
8 intelligence that we have -- our agency
9 really is involved -- at the federal level,
10 at the local level, with our partners in
11 state criminal law enforcement. So we have a
12 lot of intelligence to share, and when we
13 coordinate that, it really works.

14 One quick example. In New York City
15 we work with our partners there, and one
16 initiative is called the GRIP. The President
17 of the United States came to see that in
18 action. He brought his attorney general, the
19 U.S. Attorney General, to see it, and it's a
20 coalition of law enforcement, federal, state
21 and local, who bring together intelligence on
22 individuals who were involved in recent
23 shootings. That's the kind of thing we're
24 going to continue to do with GIVE and all the

1 other initiatives that we have coming
2 forward.

3 ASSEMBLYMAN DILAN: Okay, so I'll move
4 now to the Article 7 language. There's two
5 proposals. I'll start with the body scanners
6 first.

7 How does your agency propose to pay
8 for these body scanners, and in how many
9 facilities are they in use, if at all,
10 currently?

11 ACTING COMMISSIONER ANNUCCI: So we
12 have an appropriation for that, and we
13 believe we're going to acquire about 80 of
14 them for our facilities, two per facility.

15 We want to point out that not only is
16 it a better enhancement to identify
17 contraband, but it would actually be
18 uplifting in terms of avoiding what's now
19 used, a strip-frisk procedure, which is
20 intrusive, understandably so, for the
21 individual subjected to the strip frisk and
22 for the staff that are doing it. So --

23 ASSEMBLYMAN DILAN: That's your
24 current screening process? What you just

1 mentioned, is that your current screening
2 process?

3 ACTING COMMISSIONER ANNUCCI: Strip
4 frisks are currently what we use right now.
5 After every visit, for example. So if we had
6 body scanners -- and at least 14
7 jurisdictions, and Rikers Island, currently
8 have them -- we believe it will save people's
9 dignities and it will be more accurate to
10 identify contraband, especially things like
11 ceramic blades, enhance safety, and probably
12 be a time-saver as well. A strip frisk does
13 require a lot of time.

14 ASSEMBLYMAN DILAN: So if I got this
15 correct -- I just want to be quick -- you
16 said eight facilities?

17 ACTING COMMISSIONER ANNUCCI: No, I
18 said we're going to acquire 80.

19 ASSEMBLYMAN DILAN: Eighty,
20 eight-zero. Okay.

21 ACTING COMMISSIONER ANNUCCI: Yes.
22 Two per facility.

23 ASSEMBLYMAN DILAN: Two per facility.
24 So that should cover every facility

1 statewide?

2 ACTING COMMISSIONER ANNUCCI: Yes.

3 ASSEMBLYMAN DILAN: Okay, and what
4 is -- you did mention the cost to do this.
5 Could you state that?

6 ACTING COMMISSIONER ANNUCCI: Yeah.
7 We estimate about \$13 million, and it's
8 within our existing resources that we'll be
9 able to fund that.

10 ASSEMBLYMAN DILAN: Okay, great.

11 And then just a question on how and if
12 it will be used on visitors.

13 ACTING COMMISSIONER ANNUCCI: That
14 potential is there. And -- but right now
15 we're concentrating on our population,
16 really, if they're in the visiting room.

17 Similar to the existing law, there
18 will be appropriate rules and regulations,
19 reportings that will have to go through to
20 DOH, I believe the State Commission of
21 Corrections. So ultimately they will decide
22 the parameters of permissible uses and the
23 safety precautions that have to be followed.

24 ASSEMBLYMAN DILAN: So no intention at

1 this moment to use on visitors.

2 ACTING COMMISSIONER ANNUCCI: No, I
3 think it's definitely within the realm of
4 possibilities. It depends, of course, upon
5 the final law that is passed.

6 But right now our immediate priority's
7 on the incarcerated individuals leaving
8 visits.

9 ASSEMBLYMAN DILAN: Okay. Now I want
10 to shift to the Article 7 language around
11 reducing the age of your corrections
12 officers. And I think you -- do you have
13 trouble hearing me, is that it?

14 So I want to -- I think your rationale
15 is to try to encourage more people to apply
16 to become corrections officers, and it's a
17 recruiting measure. Just want your opinion
18 on, you know, how you think a 19-year-old can
19 handle this and do this job safely.

20 ACTING COMMISSIONER ANNUCCI: Well,
21 it's -- thank you for that question,
22 Assemblyman.

23 First of all, we are a paramilitary
24 organization, so we compare ourselves to the

1 military. And as you know, you can be 18 and
2 you can enlist and fight to defend your
3 country.

4 We also have rigorous screening
5 procedures. We have a psychological
6 screening test that everybody has to pass in
7 order to become a correction officer. We
8 have a background examination. And we have a
9 very thorough training academy. So to get
10 through that whole entire process, we feel 19
11 and above will be suitable.

12 And we have a real challenge right
13 now. We have serious vacancies throughout
14 our system. So this will help us to have
15 additional bodies. There's on-the-job
16 training that they will learn under
17 experienced officers. We think this makes
18 sense, will help us in at least one important
19 way to continue to fill the ranks of our
20 correctional facilities.

21 ASSEMBLYMAN DILAN: So I'm running out
22 of time, but could you quickly state the
23 amount of vacancies that you currently have?

24 ACTING COMMISSIONER ANNUCCI: Right

1 now for corrections officers the vacancies
2 are 867 and for -- we're projecting 1150 by
3 year-end, which is a lot.

4 ASSEMBLYMAN DILAN: Okay.

5 ACTING COMMISSIONER ANNUCCI:
6 Twenty-nine hundred under -- in all programs.

7 ASSEMBLYMAN DILAN: Okay. And
8 currently the age to become a corrections
9 officer is 21.

10 ACTING COMMISSIONER ANNUCCI: Yes.

11 ASSEMBLYMAN DILAN: Would you happen
12 to know how many 21-year-olds are currently
13 serving as a correction officer right now?

14 ACTING COMMISSIONER ANNUCCI: I think
15 we're going to have to get back to you,
16 Assemblyman --

17 ASSEMBLYMAN DILAN: Get back to me on
18 that? That's fine.

19 ACTING COMMISSIONER ANNUCCI: -- I
20 don't have it off the top of my head.

21 ASSEMBLYMAN DILAN: And, you know, I
22 will have, you know, further questions for
23 you offline about this as they come, but I
24 believe you've covered the basics of what I

1 was looking for.

2 ACTING COMMISSIONER ANNUCCI: Anytime,
3 Assemblyman.

4 ASSEMBLYMAN DILAN: I do want to take
5 some time, with the little bit of time that I
6 have left, to talk about your educational
7 programs.

8 I guess -- how many incarcerated
9 individuals in DOCCS custody are enrolled in
10 the college degree-granting program?

11 ACTING COMMISSIONER ANNUCCI: In the
12 college programs?

13 ASSEMBLYMAN DILAN: Yeah.

14 ACTING COMMISSIONER ANNUCCI: Sixteen
15 hundred, I believe, is what we currently have
16 enrolled.

17 We're continuing to build on that. As
18 you know, the Governor allows TAP funding
19 now. We just opened up another -- I think
20 it's Jamestown College, out west, will be
21 opening their program at Collins Correctional
22 Facility, and we're continuing to build on
23 all our relationships. I think it's about
24 28 different --

1 ASSEMBLYMAN DILAN: So I'm running out
2 of time, but my final and follow-up question
3 would be, in how many facilities do you have
4 these programs? And would you support an
5 expansion?

6 ACTING COMMISSIONER ANNUCCI:
7 Currently we have it present in 36 different
8 correctional facilities.

9 ASSEMBLYMAN DILAN: Say it again?

10 ACTING COMMISSIONER ANNUCCI: And we
11 also have connected with Chancellor King. We
12 had a very nice Webex call with him. He
13 reiterated his commitment to absolutely
14 building on our existing relationships and
15 making them stronger. He believes in
16 education for the incarcerated population.
17 We welcome his partnership with SUNY.

18 ASSEMBLYMAN DILAN: Okay, thank you,
19 Commissioner.

20 Thank you, Madam Chair.

21 CHAIRWOMAN WEINSTEIN: Back to the
22 Senate.

23 CHAIRWOMAN KRUEGER: Thank you very
24 much.

1 Our next questioner will be Senator
2 Hoylman-Sigal.

3 SENATOR HOYLMAN-SIGAL: Thank you,
4 Madam Chair.

5 Good to see you, everyone here, and
6 thank you for your service.

7 I wanted to ask Ms. Rosado about the
8 Securing Communities Against Hate Crimes
9 grants. What entities are eligible for those
10 grants?

11 DCJS COMMISSIONER ROSADO: Say that
12 again?

13 SENATOR HOYLMAN-SIGAL: The Securing
14 Communities Against Hate Crimes grants. What
15 entities are eligible for those grants?

16 DCJS COMMISSIONER ROSADO: So
17 organizations, community organizations and
18 others that are -- that could be subject to
19 hate crimes or that have been subject in the
20 past.

21 DCJS will provide funding to boost
22 safety and security for mostly nonprofit
23 organizations. But there are some private
24 and public reproductive centers at risk of

1 hate crimes, and we've worked to help them
2 too.

3 SENATOR HOYLMAN-SIGAL: That's good
4 news. Because I want to see in this year's
5 budget an expansion to include, if possible,
6 LGBTQ bars and night clubs, which are
7 targeted, as our local police precincts can
8 tell you. Many of the patrons who visit
9 there are afraid, even though these places
10 were meant to be sanctuaries for LGBTQ
11 people. A lot of them live in fear of being
12 attacked at one of these bars or night clubs,
13 as we've seen across the country. So I just
14 wanted to plug that.

15 And then for the acting commissioner,
16 I wanted to ask you about -- Mr. Annucci, I
17 wanted to ask you about the implementation of
18 HALT. And as you know, HALT violations are
19 limited to no more than 15 consecutive days
20 in special housing units. But your own
21 statistics show as of October 1st that
22 52 percent of individuals in the SHU have
23 been there for more than 15 days. Can you
24 explain this?

1 ACTING COMMISSIONER ANNUCCI: Sure,
2 Senator.

3 First of all, we established a
4 comprehensive approach to implement HALT as
5 best we can. We started way in advance, we
6 had four subcommittees that looked at all the
7 different things that we would have to do,
8 from training to infrastructure and class of
9 movement, transfers, et cetera.

10 We tried to hit the ground running,
11 and when we did, we quickly got overwhelmed
12 by the number of assaults that were
13 happening. And so we didn't have sufficient
14 immediately -- immediate capacity in our
15 RRUs, which backed us up in our SHU capacity.

16 So we worked very hard to rapidly
17 increase our RRU capacity, which we've done.
18 We've also, for the time being, increased for
19 people that were in SHU the amount of
20 out-of-cell time to seven hours. As you
21 know, they now are required to get four hours
22 of out-of-cell time, which includes three
23 hours of programming --

24 SENATOR HOYLMAN-SIGAL: So can we

1 expect to see those percentages drop further?
2 Because as of December 1st, it's still
3 42 percent.

4 ACTING COMMISSIONER ANNUCCI: I didn't
5 quite hear that, Senator.

6 SENATOR HOYLMAN-SIGAL: So can we
7 expect to see those percentages drop further
8 in compliance of HALT?

9 ACTING COMMISSIONER ANNUCCI: Yes. We
10 believe, if we're not in compliance today,
11 we're very, very close. We worked very hard,
12 we're moving the people out of traditional
13 SHU, which again is four hours, to our RRUs
14 as quickly as possible because we added a lot
15 more capacity. And to the extent, if there
16 are a few people left behind, they'll get
17 seven hours a day until we move them to the
18 RRUs.

19 SENATOR HOYLMAN-SIGAL: Thank you.
20 Because you -- currently HALT does prohibit
21 this, and I just want to make that clear.

22 Thank you.

23 ACTING COMMISSIONER ANNUCCI: Sure.

24 CHAIRWOMAN KRUEGER: Thank you.

1 Assembly.

2 CHAIRWOMAN WEINSTEIN: We go to
3 Assemblyman McDonald, 10 minutes.

4 (Pause.)

5 ASSEMBLYMAN McDONALD: Shouldn't be
6 that difficult.

7 Thank you all for your testimony and
8 service today.

9 My questions are for the acting
10 superintendent, two quick ones.

11 Number one, there's \$100 million in
12 there for the forensic labs. So what is
13 happening? Where is this? Is it being
14 built, is it being rebuilt, is it investing?
15 Currently what is the plan?

16 ACTING SUPERINTENDENT NIGRELLI: Well,
17 thank you, Assemblyman, for the question.

18 Our current forensic lab in Albany was
19 constructed in 1994 with an RFP that went out
20 in 1992. And as you can imagine, science and
21 technology has changed since then, as has the
22 laws.

23 The proposed funding will go to build
24 a satellite lab, it's the retrofit of a

1 facility in Albany, an existing building that
2 we'd retrofit, to be able to move our DNA,
3 our NIBIN and gun analysts and scientists
4 there.

5 We literally are busting at the seams.
6 Just to give you an example, we are using
7 storage closets now as offices. And a common
8 area that used to be for lunches is cubicle
9 space. It was a great facility in 1994, but
10 technology has made it obsolete, almost.

11 ASSEMBLYMAN McDONALD: Time and
12 technology does change. But it is going to
13 be in Albany, correct?

14 ACTING SUPERINTENDENT NIGRELLI:
15 That's correct, sir.

16 ASSEMBLYMAN McDONALD: Just want to
17 make sure.

18 The second question actually is a
19 diversion, I guess, it's moving to the
20 conversation about the Park Police. I think
21 currently the Park Police are under your
22 operations, under the State Police.

23 ACTING SUPERINTENDENT NIGRELLI: That
24 is correct.

1 ASSEMBLYMAN McDONALD: And I think
2 that was a transfer that happened a couple of
3 years ago, if I recall correctly.

4 And, you know, when you talk to people
5 sometimes it doesn't seem to be going as
6 smoothly as they would like. I believe the
7 latter part of last year there was supposed
8 to be some kind of meeting to kind of figure
9 out the future of what's going to happen.

10 Has there been any discussion or any
11 decisions made on is the Park Police staying
12 underneath the State Police, or is it moving
13 back to Parks, or what is going on?

14 ACTING SUPERINTENDENT NIGRELLI:
15 Assemblyman, I can bring you up to speed.

16 So in December of '19, under a
17 previous administration, the State Police
18 assumed operational control over the Park
19 Police. And that memo that was issued at
20 that point was only replaced in June of this
21 past year. Starting in June of '22, moving
22 forward to December 2nd, the New York State
23 Police and OPRHP got together, and we created
24 a working group to come up with a joint

1 operational plan for the future of the
2 Park Police.

3 I'm happy to report that as we speak,
4 39 Park Police candidates are in their
5 academy, and another academy is planned for
6 this fall. The process is going on.

7 I will say this, that for the last
8 three years, we've had the opportunity of
9 operational control over an outstanding
10 agency that's filled with truly dedicated
11 public servants, both men and women, of the
12 Park Police. And they've been serving this
13 state proudly since 1885. And it's been a
14 great opportunity for us to have operational
15 control but, more importantly, to work along
16 with our brothers and sisters in the
17 Park Police.

18 ASSEMBLYMAN McDONALD: I thank you for
19 the update. You know, as we all know, our
20 parks continue to be overwhelmed, in a great
21 way, that the public is truly using them. By
22 the same token we need to make sure that
23 there's proper resources to make sure
24 everybody has a safe experience.

1 Thank you.

2 ACTING SUPERINTENDENT NIGRELLI: You
3 know, just for the committee's perspective,
4 there's 77 -- 77 million visitors to the
5 parks system. Seventy-seven. So we have a
6 great parks system in New York State, and we
7 should be very proud of it. And policing it
8 is an honor for us.

9 ASSEMBLYMAN McDONALD: Thank you.

10 Thank you, Madam Chair.

11 CHAIRWOMAN WEINSTEIN: Senate?

12 CHAIRWOMAN KRUEGER: Thank you very
13 much.

14 Next we have Senator Stec for five
15 minutes.

16 SENATOR STEC: All right, good
17 afternoon. Thanks for being here.

18 I've got a question first for the
19 State Police superintendent, and then for
20 DOCCS.

21 First, Superintendent Nigrelli,
22 changes were made last year to the state's
23 concealed carry laws. There's some
24 confusion, argument down here in Albany about

1 or legislative proposals, but I will say,
2 since this is a technical amendment to an
3 existing legislation, I feel I'm able to
4 answer this question. This is a technical
5 amendment to help clarify the intention of
6 the law. As we mentioned earlier with
7 Assemblyman Dinowitz, there is a lot of legal
8 holes on enforcement in some of these areas.
9 And one of them is what you have mentioned.

10 I could tell you that the New York
11 State Police has not done any enforcement
12 because of these -- there's been no
13 complaints as well of reenactments. And
14 that's one of your points you brought up.

15 As the law is written, like all laws,
16 we're obligated to enforce them. This law, I
17 believe the clarification of this law and the
18 true intent, we support that, to help clarify
19 not only for law enforcement, but for the
20 public.

21 SENATOR STEC: Well, I agree. I'm
22 pleased to hear that. Like I said, I
23 apologize that this is part of the budget,
24 except it's in fact included in the budget.

1 Commissioner Annucci, you and I have
2 discussed the HALT Act many times. As you
3 know, I've got seven correctional facilities
4 in my district; I visit all of them
5 frequently. And I've visited with COs and
6 civilian staff and Honor Block incarcerated
7 individuals. Late last year Assemblywoman
8 Carrie Woerner and I visited Great Meadow,
9 and just two weeks ago -- I'll highlight that
10 just two weeks ago, so it hasn't been a lot
11 of time to ask for your response yet -- we
12 sent you a joint letter, and I'll just read
13 some of the highlighted portions of it
14 regarding our visit.

15 "We are writing to bring to your
16 attention and ask that you review
17 implementations of Regulations 304.1(a) and
18 315.2(a)(3), and they're regarding RRUs and
19 the PIMS system use within them.

20 "As part of our tour, we learned that
21 incarcerated individuals in the RRU are given
22 unlimited access to tablets and phone calls,
23 privileges not afforded to individuals in the
24 general population or on the Honor Block.

1 "There appears to be a general sense
2 among incarcerated individuals as well as
3 corrections officers that incarcerated
4 individuals value being in RRU over being in
5 the general population, and as a result, the
6 RRU does not serve its primary purpose, which
7 is to rehabilitate the behavior of the
8 incarcerated individual such that they are
9 better equipped to live peacefully and
10 productively in the correctional facility.

11 "We spoke to an individual who has
12 earned the privilege of residing in the
13 Honor Block, and he highlighted to us this
14 inequity.

15 "What is the embedded incentive to
16 successful and permanently address behavioral
17 issues if the privileges one receives on RRU
18 exceed what would be provided in the general
19 population or on the Honor Block?"

20 And the letter goes on, but the gist
21 is is that you're giving it away and you're
22 not letting them earn it, and you're sending
23 a message to the rest of the inmates and even
24 those on Honor Block that it's a better deal

1 to be in RRU. So how is this going to
2 improve behavior in the correctional
3 facilities? And behavior, to me, equates to
4 safety to the inmate, safety to civilian
5 staff and our corrections officers.

6 ACTING COMMISSIONER ANNUCCI: So thank
7 you for that, Senator. You made some very
8 good points, both of you, in that letter.

9 By way of history, when we settled a
10 lawsuit with NYCLU, going back a few years,
11 part of that settlement did require, as a
12 pilot, that we bring in tablets for the
13 then-SHU. So this goes back.

14 Now, two years ago, one year before we
15 implemented HALT, under the then-agreement
16 between the Legislature and the Governor,
17 which would have taken three years, we knew
18 that there would still be concerns about
19 individuals being housed in traditional SHU
20 until we could get to where we needed to get
21 to. So to help us get there, we decided to
22 mitigate the isolationary effects if we were
23 to bring in tablets that had phone
24 connectivity. We would have individuals

1 connected to their family, which would allay
2 some of the concerns that it was going to
3 take us three years.

4 Last year, in 2022, incarcerated
5 individuals in RRU and SHU spent 254 million
6 minutes on the phone with friends and
7 families. So we did mitigate the isolation.
8 But it is a privilege. My long-term
9 intention is to have tablets for the entire
10 population with phone connectivity, which
11 will alleviate a lot of problems. That's
12 down the road; we're going to start to work
13 on it this July.

14 CHAIRWOMAN KRUEGER: Thank you. I
15 need to cut off this questioner.

16 ACTING COMMISSIONER ANNUCCI: Okay,
17 I'm sorry.

18 SENATOR STEC: Thanks, Commissioner.

19 CHAIRWOMAN KRUEGER: Thank you.

20 Next, Assembly.

21 CHAIRWOMAN WEINSTEIN: Assemblyman
22 Giglio, the ranker, five minutes.

23 ASSEMBLYMAN GIGLIO: Thank you.

24 Good afternoon, all of you.

1 My questions will be going to
2 Commissioner Annucci, for the most part.

3 You started out saying there's 31,000
4 people in jail right now?

5 ACTING COMMISSIONER ANNUCCI: Yes.
6 today it's I think 31,000 just over 500.

7 ASSEMBLYMAN GIGLIO: And so you think
8 that population's going to stay stable or do
9 you believe that when the courts now are back
10 up to full force that you'll be getting more
11 individuals sentenced to state facilities?

12 ACTING COMMISSIONER ANNUCCI: We are
13 seeing an increase. There was an increase
14 last year of about 700 between the close of
15 2022 and 2021.

16 Clearly the courts are getting more
17 active, we're seeing more new commitments.
18 It's very hard to predict exactly when
19 they're going to hit their stride and when
20 we're going to know exactly, you know, how
21 many new commitments are going to be coming
22 our way.

23 ASSEMBLYMAN GIGLIO: And you started
24 saying there will be no more closures to any

1 of the --

2 (Overtalk.)

3 ACTING COMMISSIONER ANNUCCI: Not this
4 fiscal year.

5 ASSEMBLYMAN GIGLIO: So you do have
6 enough capacity to handle whatever comes your
7 way?

8 ACTING COMMISSIONER ANNUCCI:
9 Thousands and thousands of vacancies in the
10 system.

11 ASSEMBLYMAN GIGLIO: Okay. Secondly,
12 you started out with some unbelievable
13 figures about violence within the facilities.
14 You talked about a bunch of different things,
15 and you mentioned a task force that would
16 help COs deescalate the problem.

17 But just a couple of years ago you had
18 a very savage attack -- and that was your
19 words -- within one of your facilities and
20 one of your COs was almost killed and had to
21 be saved by the inmates before your teams
22 could get there and help.

23 Since that time, what has changed?

24 ACTING COMMISSIONER ANNUCCI: Well,

1 we're working very hard and we're doing a lot
2 of different things, Assemblyman, to really
3 deal with this.

4 First and foremost, we're listening.
5 Right? We're listening to everybody that's
6 up front in dealing with the problem in our
7 facilities. That includes both incarcerated
8 individuals and the rank and file. My
9 executive deputy commissioner and my deputy
10 commissioner for correctional facilities,
11 they are literally going around the state
12 having town hall meetings, meeting with the
13 staff, listening to their concern, hearing
14 firsthand.

15 We're also getting feedback from an
16 inmate liaison committee, incarcerated
17 individuals, what their perspectives are.
18 There's no one single, easy answer to
19 everything. Certainly the recommendations
20 that we have implemented today -- the
21 screening, the copying of mail, the vendor
22 package program. And being concerned with
23 the advocates, we make sure that we have the
24 fresh fruits and vegetables, packages with

1 fresh fruits and vegetables can come from
2 vendors. That's been a big help. We're
3 looking at a lot of different things.

4 I'm going to send two people to the
5 State of Washington, where they just have an
6 outside organization that has a contract with
7 the Norwegian correctional services entity,
8 and they have ways of providing deescalation
9 training. So we're going to see if that
10 works.

11 We have violence interrupters. I've
12 had an individual who is a notorious
13 individual in the Massachusetts system; he's
14 turned his life around, he's offering
15 programs. We'll have him come in and talk to
16 the population.

17 We will try everything to reduce
18 violence, my number-one concern right now.

19 ASSEMBLYMAN GIGLIO: I believe that.
20 Thank you.

21 My next question has to do with
22 staffing. And the State Police had mentioned
23 how much they're recruiting all over the
24 place. And I looked at your staffing, and

1 open enrollment system right now that is a
2 big change. We got how many this month that
3 signed up?

4 EX. DEP. CMMR. MARTUSCELLO: Seven
5 hundred fifty just in January alone.

6 In addition, just in terms of the
7 overtime, it is capped at 16 hours. They
8 can't work past the 16 hours, with the
9 exception --

10 ASSEMBLYMAN GIGLIO: In one week?

11 EX. DEP. CMMR. MARTUSCELLO: No, in a
12 day.

13 ASSEMBLYMAN GIGLIO: In a day. I
14 understand that --

15 EX. DEP. CMMR. MARTUSCELLO: There's
16 no limit in the number of weeks.

17 But we're also going through and we've
18 been consolidating dormitories in order to
19 minimize the staffing need on a given shift,
20 as well as we are --

21 ASSEMBLYMAN GIGLIO: What about
22 consecutive days? My next question --

23 EX. DEP. CMMR. MARTUSCELLO: They can
24 work consecutive days.

1 ASSEMBLYMAN GIGLIO: Consecutive days.

2 EX. DEP. CMMR. MARTUSCELLO: They can
3 work consecutive days.

4 ASSEMBLYMAN GIGLIO: So they can work
5 16 four days, five days? How many days in a
6 row?

7 EX. DEP. CMMR. MARTUSCELLO: Yeah,
8 there's no limit on consecutive days.
9 Typically, obviously, we have had to
10 mandatory overtime people on their RDO, but
11 not both RDOs.

12 We're also going through and we're
13 doing a deconstruction of all of our plot
14 plans to make sure that we're running as
15 efficiently as possible to make sure that the
16 men and women that are working in our
17 institutions get that relief that they so
18 deserve.

19 ASSEMBLYMAN GIGLIO: Thank you very
20 much.

21 CHAIRWOMAN WEINSTEIN: Thank you.
22 Senate.

23 CHAIRWOMAN KRUEGER: Thank you very
24 much.

1 Next is Senator Zellnor Myrie.

2 SENATOR MYRIE: Thank you,
3 Madam Chair.

4 My questions are directed at
5 Commissioner Annucci.

6 So you mentioned in your testimony
7 that you created a Prison Violence Task Force
8 to study the root causes of violence. Do we
9 have the results of that task force?

10 ACTING COMMISSIONER ANNUCCI: We have
11 their ongoing work and their ongoing
12 feedback, and we're continuing to meet.

13 I meet every two weeks to look at how
14 we're dealing with HALT. We get feedback
15 from the system. I talk to my
16 superintendents to see how things are going.
17 It's a very, very important process that will
18 continue to work, and hopefully we'll bring
19 the level of violence down.

20 We do have some success stories. We
21 have individuals that wrote an absolutely
22 wonderful letter, he was in RRU, he thanked
23 the staff for working with him, he's had his
24 eyes opened, he has changed. I mean, there

1 are a lot of positives out there. But --

2 SENATOR MYRIE: I'm sorry, I don't
3 mean to -- excuse me, I don't mean to cut you
4 off, I just have a short amount of time.

5 So have you identified any of those
6 root causes of violence?

7 ACTING COMMISSIONER ANNUCCI: One of
8 the ways that we're trying to get at the root
9 causes of violence is all the different
10 programs that we have. We'll be rolling out
11 a moderate aggression program, we have an
12 advanced aggression program, we have our
13 traditional ART. We have our volunteers that
14 come in.

15 It's now officially the season of
16 nonviolence, the 64 days between the
17 assassination of Martin Luther King and
18 Mahatma Gandhi. His workgroup comes in, and
19 individuals sign contracts that they're going
20 to refrain from violence --

21 SENATOR MYRIE: Again, forgive me,
22 Acting Commissioner, I just don't have that
23 much time.

24 ACTING COMMISSIONER ANNUCCI: Okay,

1 Senator.

2 SENATOR MYRIE: I did not hear
3 particulars on the root causes of violence
4 that this task force is ostensibly supposed
5 to identify, so I'm hoping that at some
6 future point we can get that.

7 I want to shift very quickly to the
8 SAVE initiative. In that, you state that you
9 identify individuals under supervision who
10 are at the highest risk of recidivating. How
11 do you identify those individuals?

12 ACTING COMMISSIONER ANNUCCI: There's
13 an algorithm that our research unit looks at
14 and identifies the individuals. So when
15 they're coming out, they're identified and
16 we'll now put them into GPS and the high-risk
17 reporting standards.

18 SENATOR MYRIE: And just on that
19 point, as you know, we here in the Majority
20 at least have supported several pieces of
21 legislation to have individuals who do not
22 pose a risk of violence, have them have the
23 opportunity to go before the board. And I'm
24 wondering why that same level of care and

1 attention can't be given to that subset of
2 individuals to identify whether they would
3 pose a risk.

4 ACTING COMMISSIONER ANNUCCI: I'm
5 sorry, Senator, we don't comment on pending
6 legislation.

7 SENATOR MYRIE: So I'm not asking you
8 about the legislation, I'm asking if you use
9 the algorithm to determine the alleged risk
10 of a parolee, why that can't be used for an
11 individual in DOCCS's custody.

12 ACTING COMMISSIONER ANNUCCI: I'd have
13 to sit down with my research team and see if
14 there's a way to predict risk coming before
15 the Parole Board as well.

16 SENATOR MYRIE: Thank you.

17 CHAIRWOMAN WEINSTEIN: We go to
18 Assemblyman Morinello for five minutes,
19 ranker.

20 ASSEMBLYMAN MORINELLO: Good
21 afternoon. And thank you for your testimony.

22 This is for Commissioner Rosado. On
23 June 6, 2022, there was a law passed
24 regarding microstamping ammunition, and you

1 much.

2 The Governor's Executive Budget
3 doubles funding for local alternatives to
4 incarceration programs, from 15.7 to
5 31.4 million. How does DCJS determine which
6 organizations this funding goes to?

7 DCJS COMMISSIONER ROSADO: So we use
8 RFP -- the procurement process, so people
9 apply to those. We have a -- we also have a
10 large group of nonprofits who presently apply
11 for those funds, so we know who the folks are
12 in the space.

13 And this is an area where, you know,
14 we have had many requests -- and again, in
15 dealing with the crisis of the last three
16 years, we weren't able to invest beyond what
17 was urgent. But in this -- with this funding
18 we're also going to work on diverting New
19 Yorkers who have challenging mental health
20 needs, and to be able to connect them with
21 the case.

22 According to our folks who do this,
23 between 63 and 83 percent of justice-involved
24 individuals reportedly have either substance

1 abuse disorders or requirements for health
2 services. So with this money we'll be able
3 to direct them, through our partners, to the
4 organizations that are doing this work. And
5 it goes a long way, you know, to reduce
6 recidivism in the end.

7 ASSEMBLYMAN MORINELLO: Thank you.

8 One of the concerns that I've had, and
9 some of my colleagues, is whether or not
10 these programs are audited regularly, to make
11 sure that they are performing the functions
12 that the money is going to -- so that, if
13 not, that money can be directed to other
14 organizations that are actually performing
15 the duties.

16 So how often are regular evaluations
17 done on various organizations?

18 DCJS COMMISSIONER ROSADO: Yes. So I
19 would say, first of all, we believe strongly
20 in evidence-based practices and we have built
21 in capacity at DCJS in different departments
22 to be able to measure that and to measure
23 performance.

24 We have folks on contracts from our

1 two offices in OPDF and OPCA, and they are
2 monitor -- they're in constant communication
3 with the contractors, but we also have
4 measures. We can tell and -- we can tell if
5 some -- you know, if money -- not money, but,
6 you know, if the programs are not going well,
7 we can intervene, we can redirect. And in
8 extreme cases, you know, we can, you know,
9 reallocate those funds.

10 But most of the time we're able to
11 work with these community groups to get them,
12 you know, on the right track.

13 ASSEMBLYMAN MORINELLO: Wonderful.

14 I have one more question.

15 DCJS COMMISSIONER ROSADO: And we do
16 also have an audit function.

17 ASSEMBLYMAN MORINELLO: The
18 Executive Budget includes 40 million in
19 funding for counties to hire new prosecutors.
20 How do you determine which counties would get
21 that money?

22 DCJS COMMISSIONER ROSADO: It goes to
23 all the counties.

24 ASSEMBLYMAN MORINELLO: So every

1 county can expect some on a pro rata basis,
2 possibly?

3 DCJS COMMISSIONER ROSADO: Yes, it's
4 based on the number of arraignments and
5 traffic.

6 And also I wanted to add, when
7 Assemblyman Dinowitz asked earlier, one of
8 the things the DAs expressed they wanted to
9 invest in are these anti-fentanyl innovation
10 grants. So that, you know, folks can have a
11 task force that's focused not just on
12 bringing those cases in, but then prosecuting
13 them.

14 ASSEMBLYMAN MORINELLO: Very good.
15 Thank you. Appreciate your testimony, and I
16 appreciate your patience in the timing. Have
17 a good day.

18 CHAIRWOMAN WEINSTEIN: Senate.

19 CHAIRWOMAN KRUEGER: Thank you very
20 much.

21 Next, we have Senator Murray.

22 SENATOR MURRAY: Thank you very much.
23 First let me, first and foremost, say how
24 much I appreciate what you do, respect what

1 you do. And thank you. And for everyone
2 that you represent, what you do.

3 But Commissioner Rosado, I have to
4 take exception to some of your operating
5 testimony when you were quoting the data. So
6 we held hearings last week, and in direct
7 testimony, when they talked about the failure
8 to appear numbers, I directly asked, Does
9 this include desk appearance tickets? No,
10 not at all. Which is basically every
11 misdemeanor.

12 So how can we accurately say that the
13 data shows that the numbers are stable when
14 we're not even counting the desk appearance
15 tickets?

16 DCJS COMMISSIONER ROSADO: So I do
17 have a clarification on that from last week,
18 since we went back and looked at it.

19 So DATs can be issued for certain
20 felonies and misdemeanor charges that require
21 fingerprinting at the time of arrest.
22 However, there is no data that would support
23 the belief that the overwhelming majority of
24 law enforcement agencies are not securing

1 fingerprints for individuals arrested --
2 there may be a delay, in some cases -- but on
3 a felony or misdemeanor charge.

4 It's my understanding that the common
5 practice in New York City is to ensure the
6 fingerprint response from DCJS is received by
7 NYPD prior to releasing an individual with a
8 DAT that involved fingerprintable arrest
9 charges.

10 SENATOR MURRAY: But we're saying it
11 doesn't happen all the time, everywhere in
12 the state.

13 DCJS COMMISSIONER ROSADO: It doesn't
14 happen all the time, everywhere in the state.

15 SENATOR MURRAY: Okay. So again --

16 DCJS COMMISSIONER ROSADO: Well, what
17 doesn't happen is -- it's about the timing
18 between the DAT and the fingerprinting.

19 And what -- you know, Lee was here
20 last week with us, our research person, was
21 saying we start to get the information at the
22 moment of fingerprinting.

23 SENATOR MURRAY: Okay. And then one
24 quick -- I'm running short of time, and I

1 have a question for Commissioner Annucci.

2 So real quick on the rearrest numbers
3 too, it was -- the testimony was that if
4 someone were rearrested, released, rearrested
5 again, released -- and this happened 16
6 times, they're counted as one rearrest. Is
7 that accurate?

8 DCJS COMMISSIONER ROSADO: In our
9 data, yes.

10 SENATOR MURRAY: So again, I can't see
11 how we can use that data and say it's
12 completely accurate when we do that.

13 Commissioner Annucci, real quick. I'm
14 from Suffolk County. Lou Viscusi, the head
15 of the corrections unit down there, we've had
16 many conversations about how hard it is to
17 recruit and to retain. Can you explain --
18 what are some of the problems you're facing?

19 ACTING COMMISSIONER ANNUCCI: I think
20 it's a generation issue that everybody's
21 having -- I think every corrections
22 department in the country, because we belong
23 to an association.

24 The challenges are there. I think in

1 general there's been a lot of negative
2 blowback against law enforcement for the
3 problems that a small number cause. Which is
4 unfortunate, because it's a profession that
5 deserves a lot of respect. And corrections
6 officers don't just provide security, by the
7 way. They can be changers of lives. They
8 can be the individuals that convince somebody
9 to change the course of their life.

10 So it's a rewarding career if we can
11 convince people. We have to aggressively go
12 out and sell ourselves to a lot more people,
13 including the high schools. They get them
14 out of high school, we may get more into it.

15 SENATOR MURRAY: Agree. And they do
16 great work. Thank you very much.

17 CHAIRWOMAN KRUEGER: Thank you.

18 Assembly.

19 CHAIRWOMAN WEINSTEIN: Assemblyman
20 Lavine.

21 ASSEMBLYMAN LAVINE: Thank you. Thank
22 you, Commissioner Rosado, for clarifying the
23 issue about fingerprints and desk appearance
24 tickets.

1 So in New York City, before people are
2 released on a desk appearance ticket, they're
3 fingerprinted.

4 DCJS COMMISSIONER ROSADO: Yes, 99
5 percent --

6 ASSEMBLYMAN LAVINE: No question.
7 Thank you.

8 DCJS COMMISSIONER ROSADO: Ninety-nine
9 percent in New York City and 87 percent in
10 the --

11 ASSEMBLYMAN LAVINE: Very good. Thank
12 you very much.

13 Can you tell me have either Nassau or
14 Suffolk drawn down on the money available for
15 assistance with respect to the discovery law
16 changes?

17 DCJS COMMISSIONER ROSADO: We'll have
18 to check.

19 ASSEMBLYMAN LAVINE: If you can
20 advise, that would be great. Thank you very,
21 very much. And I look forward to having the
22 continuing conversation with Governor Hochul
23 about steps we can take to make sure that
24 New Yorkers feel safe as well. Thank you.

1 Commissioner Annucci, as someone who
2 spent, as a public defender and as a
3 probation officer, plenty of time in
4 correctional facilities -- and as a defense
5 lawyer as well -- I have great respect for
6 what you and your folks do.

7 Can you describe in one minute, if you
8 can, what is the vendor package program?

9 ACTING COMMISSIONER ANNUCCI: Sure.
10 That is a change where entities, individuals
11 can no longer send packages from home. We
12 found a lot of contraband hidden in things
13 that look like Campbell's soup cans,
14 et cetera --

15 ASSEMBLYMAN LAVINE: I'm sorry, when
16 you say vendor package program, we're talking
17 about --

18 ACTING COMMISSIONER ANNUCCI: So
19 families can send their own packages, they
20 have to get them from a vendor. Any vendor.
21 They can get them from Walmart's or any
22 number of companies, they can send packages
23 in.

24 And they can send two packages a year

1 themselves. We still allow that, just
2 non-food items.

3 ASSEMBLYMAN LAVINE: All right. And
4 that doesn't mean that that packaging is safe
5 or free from contraband. The fact that it
6 comes from a vendor.

7 ACTING COMMISSIONER ANNUCCI: No, it
8 doesn't absolutely ensure that there's no way
9 for them to beat us, but it makes it a lot
10 harder.

11 ASSEMBLYMAN LAVINE: Thank you.

12 And Superintendent Nigrelli, so 138
13 percent increase in recovery of illegal
14 weapons from August '21 to December '22.
15 Now, I know we're only -- and that includes
16 ghost guns, do-it-yourself guns, does it not?

17 ACTING SUPERINTENDENT NIGRELLI: Yes,
18 it does.

19 ASSEMBLYMAN LAVINE: Yes, it does.

20 And I know we're only a month into
21 2023, but are there any projections about how
22 that statistic is working out so far?

23 ACTING SUPERINTENDENT NIGRELLI: I'm
24 not sure if I'm supposed to say sadly, or

1 that I'm happy, but the number's tracking
2 towards increased amount of gun seizures. So
3 it shows that what we're doing is effective,
4 but it's a sad statement on our society.

5 ASSEMBLYMAN LAVINE: Yes. So let me
6 just end on this editorial note. After
7 January 6th there were reports that other
8 insurrectionists were going to attack the
9 State Capitol, and the State Police were out
10 in force. That gave me great peace of mind.

11 Thank you.

12 ACTING SUPERINTENDENT NIGRELLI:
13 You're welcome, sir.

14 CHAIRWOMAN WEINSTEIN: Senate.

15 CHAIRWOMAN KRUEGER: Thank you.

16 The next is Senator Oberacker.

17 SENATOR OBERACKER: Thank you. And
18 thank you all for your testimony today, and
19 you have my undying respect and gratitude for
20 all you do for my folks in the 51st Senate
21 District.

22 My question is for Commissioner
23 Annucci. And in 2021 you sent a memo about
24 the increased violence in our prisons, and I

1 heard you say in your testimony today that
2 assaults on staff in 2022 were up 25 percent
3 and incarcerated on incarcerated up
4 34 percent. Is this a trend that we're
5 continuing to see here in the first part of
6 the new year?

7 ACTING COMMISSIONER ANNUCCI:
8 Unfortunately it seems to be a trend that is
9 continuing, Senator.

10 SENATOR OBERACKER: Okay. And I've
11 also heard a lot of questions concerning the
12 difficulties in getting retention and
13 recruitment going. Do you feel that this is
14 a continuing or a possible factor in the
15 challenges that we're having getting
16 retention?

17 ACTING COMMISSIONER ANNUCCI:
18 Unquestionably it is a factor. And we worry
19 about staff wellness. We have a lot of
20 initiatives that are targeted just for staff
21 wellness. We have all kinds of training
22 that's coming on -- Desert Waters, the
23 VALOR training for de-escalation.

24 And, you know, we care about our

1 staff. We will -- we brought in televisions
2 to play DVDs so that we can record messages
3 on health. I have wellness committees. We
4 get ideas from other correctional systems.
5 We're trying everything we can to improve the
6 quality of life for our staff. They're very
7 stressed. The assaults really add to that
8 stress, and we're trying to mitigate that as
9 best we can.

10 SENATOR OBERACKER: Thank you for
11 that.

12 And, you know, representing parts of
13 Ulster and Sullivan County where I have four
14 facilities in there, I want to say -- and if
15 you could communicate this too to our COs --
16 I don't know how they get motivated to go to
17 work; I'm just glad that they do every day.

18 Thank you all for the jobs that you're
19 doing. Appreciate that.

20 ACTING COMMISSIONER ANNUCCI: Thank
21 you, Senator.

22 CHAIRWOMAN WEINSTEIN: Assemblyman
23 Tannousis.

24 ASSEMBLYMAN TANNOUSIS: Thank you.

1 Can you hear me?

2 Okay, my question is for the police
3 superintendent. Superintendent, two years
4 ago this body passed the recreational
5 marijuana bill, okay? And during the budget
6 hearings, the Public Protection budget
7 hearings two years ago, I believe your
8 predecessor who was the police superintendent
9 at the time, came to these hearings and he
10 heard from myself and my colleagues that were
11 concerned at the time about people operating
12 a motor vehicle while they were under the
13 influence of marijuana.

14 And your predecessor sat in the chair
15 and basically assured us that -- not to
16 worry, that there was going to be some kind
17 of mechanism similar to a portable breath
18 test that State Troopers and State Police and
19 local police as well were going to have
20 access to, that they were going to be able to
21 test people on the roadside to determine
22 their level of intoxication in regards to
23 marijuana.

24 I ask you today, two years later, I

1 haven't heard anything or any update in
2 regards to this mechanism, and I'm asking
3 you, sir, do you have any update on this?
4 What is the status of this? It's been two
5 years since this law has passed, as people
6 continue to drive on our streets under the
7 influence of marijuana.

8 ACTING SUPERINTENDENT NIGRELLI: Well,
9 thank you, Assemblyman, for the question.

10 And as far as I think you're
11 referencing oral fluids testing, which will
12 give you someone's THC level. As any
13 emerging technology, it takes time for
14 scientific peer review and validation. That
15 study, that device, that test is still being
16 worked on. It is not ready to be put into
17 the field. It's going to have to withstand
18 legal challenges but, more importantly,
19 validation in the scientific community.

20 So to answer your question, it has not
21 progressed to that level at this time.

22 ASSEMBLYMAN TANNOUSIS: I appreciate
23 your honesty. But with all due respect,
24 Superintendent, we had your predecessor here,

1 under a different governor, and he testified
2 in regards to this mechanism, basically
3 assuring myself and other colleagues, or
4 attempting to assure us, that this mechanism
5 was somehow going to be ready for use.

6 Because as -- myself and my
7 colleagues, we were worried about this
8 potential problem.

9 He didn't say that in his testimony
10 two years ago. While I understand, as a
11 former prosecutor, that perhaps a
12 Frye hearing was not conducted on this
13 mechanism, correct, he made it appear to us
14 that it was in the final stages of
15 development.

16 So as you sit here today,
17 Superintendent, are you saying to us, to my
18 colleagues, that this mechanism is not in
19 those final stages and is not near completion
20 for use by the State Police?

21 ACTING SUPERINTENDENT NIGRELLI:
22 Assemblyman, I can tell you on this date and
23 this time, that device, that test, is not
24 ready for use in the field.

1 I cannot predict how long it will
2 take, but I can assure you that it's not in
3 the field today.

4 ASSEMBLYMAN TANNOUSIS: Thank you for
5 your honesty.

6 CHAIRWOMAN KRUEGER: Senator Borrello.

7 SENATOR BORRELLO: Thank you. Thank
8 you, Madam Chair.

9 And thank you all for being here
10 today. Thank you for your service to our
11 state.

12 My time is short, so I'm going to
13 focus my questions with Acting Commissioner
14 Annucci.

15 We've seen a spike in violence since
16 the implementation of HALT. We've seen most
17 recently Collins; Attica, in my district;
18 Elmira -- the list goes on. You know, I've
19 heard the rhetoric that we have solitary
20 confinement and that there are torturous
21 conditions. Can you please describe to me
22 solitary confinement in New York State?

23 ACTING COMMISSIONER ANNUCCI: Well,
24 having spent 24 hours in SHU several years

1 ago, as well as my executive deputy
2 commissioner here, it is not extreme
3 isolation. At that time we were locked in
4 for 23 hours, we got one hour of outdoor rec.
5 We did get a tablet.

6 The current conditions of SHU do
7 require four hours of out-of-cell time, three
8 programming, one recreation. And it does
9 include a tablet that has phone capabilities
10 so you can make the calls.

11 I may have misspoke earlier when I
12 said it was 254, I meant to say 54 million
13 minutes they spent on the phone in 2022.

14 But in addition there are also regular
15 contacts by staff while you're incarcerated
16 in a cell. You get approached by the
17 officer: Do you want hot water? You get
18 your meals brought to you, you get medical
19 staff that check on you. So there's a lot of
20 interaction that is not extreme isolation.

21 SENATOR BORRELLO: So working
22 technology, outdoor spaces, food brought to
23 you -- it sounds nicer than most of the hotel
24 rooms in Albany that I've been in, actually.

1 So -- but let me also say what do you
2 do after 15 days, that 15-day limit on the
3 SHU? You have gang violence, you have fights
4 between gangs within the prisons. How do you
5 deal with that after that 15-day limit?

6 ACTING COMMISSIONER ANNUCCI: Well, it
7 is a challenge. And right now I've had to
8 suspend the provision of HALT that requires
9 us to basically allow individuals to move
10 from their cell to the program unrestrained
11 and be in the program unrestrained.

12 Given the amount of violence and the
13 attacks, I've temporarily put a halt on that
14 for two reasons. Number one, I'd be
15 violating the 8th Amendment rights of
16 individuals were they to get attacked again
17 because they have -- there would be a failure
18 to protect. That's an 8th Amendment
19 violation.

20 And then for staff there's a PESH
21 violation, the Public Employee Safety and
22 Health Act.

23 So I meet every two weeks, we look at
24 what's going on, we look at the numbers, and

1 we are very surgically, slowly, making some
2 changes where we feel that we can do so
3 safely, like at Adirondack and at Hudson.
4 We'll look at a couple of other facilities.
5 But we have to proceed very slowly.

6 In a nutshell, things are a little bit
7 out of balance right now in the whole system.
8 I need to balance everything, bring the
9 temperature down. Because basically -- I
10 learned this many years ago -- 95 percent of
11 the problems that are caused by the
12 population are caused by 5 percent of the
13 population.

14 SENATOR BORRELLO: Absolutely. And we
15 need to protect our employees and certainly
16 the fellow inmates. That's job number one.

17 Thank you.

18 ACTING COMMISSIONER ANNUCCI: Sure.

19 CHAIRWOMAN KRUEGER: Thank you.

20 Assembly.

21 CHAIRWOMAN WEINSTEIN: We've been
22 joined by Assemblyman Meeks.

23 And we go to Assemblywoman Rajkumar,
24 three minutes.

1 ASSEMBLYMAN MEEKS: Thank you.

2 Assemblyman Meeks --

3 CHAIRWOMAN WEINSTEIN: Oh, no, no.

4 Nope. You're -- there's a lot of people

5 ahead of you, Demond.

6 (Discussion off the record.)

7 ASSEMBLYWOMAN RAJKUMAR: Thank you,

8 Acting Commissioner Annucci, Superintendent

9 Nigrelli, and Commissioner Rosado, always a

10 pleasure to see you.

11 So limited time, so I'm going to put

12 out three questions and then go at it.

13 So first I want to ask about extreme

14 risk protection orders. How do we stop a

15 repeat of the Buffalo shooter, Payton

16 Gendron? About a year before the shooting he

17 said to a teacher, "I want to murder and

18 commit suicide." The police were alerted,

19 and they took him to a psychiatric hospital,

20 but they did not file an ERPO because it was

21 a non-specific threat to murder.

22 As a result, there was no blemish on

23 his record and he passed a background check

24 to purchase an assault rifle and commit a

1 mass shooting.

2 So how do we assure that we don't
3 ignore such red flags again? I know that
4 DCJS released a model ERPO policy. Is that
5 enough, and what do we do?

6 DCJS COMMISSIONER ROSADO: I'll take
7 first crack and then pass it to the
8 superintendent.

9 I can tell you that since the Buffalo
10 shooting, with the Governor's EO and then the
11 law, 4,000 ERPOs have been filed and we've
12 done repeated training, you know, of everyone
13 in law enforcement who wants it. We've done
14 by Webex, by Zoom, training of how to do
15 that. It's a lot of work, but it's being
16 done.

17 I'll turn it over to you.

18 ACTING SUPERINTENDENT NIGRELLI: Thank
19 you, Assemblywoman.

20 Since the legislation that went into
21 effect after the Tops shooting in Buffalo --
22 where I'm from, and I used to be a
23 Tops employee in the city of Buffalo, so it's
24 home -- the State Police have done over

1 600 ERPO -- and that doesn't include TERPO,
2 the temporary part of it, but 600 ERPOs.

3 The law that was enacted after the
4 Tops massacre will address that gap, that
5 little technical gap that existed. It will
6 make sure that people like that shooter and
7 other potential shooters are flagged and will
8 be prohibited from purchasing weapons in this
9 state.

10 ASSEMBLYWOMAN RAJKUMAR: Okay, thank
11 you so much.

12 With my limited time I want to ask you
13 about human trafficking. New York State
14 sadly ranks fourth in reported cases of
15 sexual exploitation and labor trafficking,
16 and just last month in my home bureau of
17 Queens, a man was sentenced for sex
18 trafficking a 14-year-old girl. And there's
19 a hotbed of sex trafficking of Chinese women,
20 mainly undocumented immigrants.

21 So I would like to ask you, because I
22 know DCJS has made progress through their
23 task force on human trafficking, and our
24 legislative body has attempted to pass new

1 laws. But what more can we do to solve this
2 epidemic?

3 DCJS COMMISSIONER ROSADO: That's a
4 good question. And I'm not sure I have the
5 answer to -- it's not strictly DCJS, but we
6 participate with OCFS, I think State Police
7 is there with a large group across the state
8 agencies that are working on human
9 trafficking.

10 And we do two big things. One is to
11 train law enforcement to detect it and to
12 report it, and two is provide information for
13 communities to help victims seek help.

14 ASSEMBLYWOMAN RAJKUMAR: Thank you.
15 My time is up, but I'll ask you about
16 anti-Sikh data after the hearing.

17 CHAIRWOMAN WEINSTEIN: Thank you.

18 We go back to the Senate.

19 CHAIRWOMAN KRUEGER: Thank you.

20 We're going to be joined by
21 Senator Mayer, borrowing a seat.

22 SENATOR MAYER: Thank you.

23 And I apologize for being late, but I
24 rushed back. And I did have some questions

1 for the commissioner with respect to DOCCS.

2 I have had, for the last several
3 years, both Bedford and Taconic in my
4 district and have visited them both, and I
5 have some concerns about Taconic which I
6 don't think are addressed in your budget
7 proposal. Which is that, as you know, to go
8 into it you still have to go through
9 basically a temporary structure that's been
10 there for at least 10 years, for visitors and
11 for staff.

12 So one is, are there any capital
13 expenditures to improve the facility?

14 And secondly, with respect to
15 in-person education at Taconic -- which, as
16 you know, many of those women are getting out
17 quite soon -- I wondered if you can speak to
18 specific proposals to increase in-person, not
19 virtual, education for those that are
20 incarcerated there.

21 ACTING COMMISSIONER ANNUCCI: Well,
22 let me take that question first, because we
23 do have in-person college programming at
24 Taconic. It's delivered by Bard. And I've

1 something that needs immediate attention or
2 is more long-range. Thank you for that.

3 SENATOR MAYER: I'd appreciate it if
4 you could look at that.

5 And also this education situation
6 post-COVID. I understand what was pre-COVID.

7 ACTING COMMISSIONER ANNUCCI: Yeah,
8 it's in-person now. They're coming back.

9 SENATOR MAYER: The second thing is,
10 could you just address the process by which
11 those who are incarcerated from downstate and
12 are in facilities upstate can get on the list
13 to be moved closer to their home?

14 ACTING COMMISSIONER ANNUCCI: Sure.
15 And we just submitted the report to the
16 Legislature on proximity to minor child. We
17 did a very elaborate program, had staff from
18 all the different disciplines come together,
19 we consulted with OCFS to determine what does
20 it mean for the best interests of the child.

21 And we moved -- I forget the number --
22 1500 individuals received transfers to be
23 close to their minor child.

24 So that is something that has

1 happened. That's one way that we -- and then
2 we have, in addition to that area preference,
3 where people who have been in the system,
4 have demonstrated good behavior, can transfer
5 to facilities closer to home.

6 SENATOR MAYER: I'd just ask that you
7 continue to give attention to the need for
8 those that can be closer to their home, and
9 that we work together on making sure
10 transfers can occur.

11 ACTING COMMISSIONER ANNUCCI: Sure.

12 SENATOR MAYER: Thank you.

13 CHAIRWOMAN KRUEGER: Thank you.

14 CHAIRWOMAN WEINSTEIN: Assemblywoman
15 Walker.

16 ASSEMBLYWOMAN WALKER: Thank you.

17 So I just wanted to clarify,
18 Commissioner Rosada, that we had the Acting
19 Chief Administrative Judge here. And when
20 asked about whether or not judges were
21 confused about well-settled law that has
22 existed as early as the Bail Reform Act of
23 1966; again, the Bail Reform Act of 1984;
24 again, in United States v. Salerno in 1987.

1 The least restrictive means test is a
2 standard in Family Court dating back to the
3 1960s. It occurs in the mental hygiene law,
4 juvenile justice law, special education law.

5 And we asked whether or not judges are
6 confused, and she indicated that they were
7 not.

8 However, the Governor's bail proposal
9 will not only eliminate the constitutional
10 "least restrictive condition" standard from
11 the bail statute, but it would also leave it
12 to every trial judge in arraignments to
13 decide what purposes bail, in any particular
14 case, is supposed to serve.

15 Experience has shown us that when
16 judges have unfettered discretion and no
17 guidelines, implicit bias will fill the
18 vacuum. Are you concerned that if the
19 Governor's bail proposal becomes law, already
20 existing racial disparities, based on data
21 that we've found with DCJS and OCA in our
22 jails, will be exacerbated?

23 DCJS COMMISSIONER ROSADO: I think we
24 have the tools, through the measurement and

1 through the data set, the files that we're
2 reporting on, to measure that and to take
3 action if needed. So I am not concerned that
4 that would be the cause.

5 I think that -- I heard the testimony
6 this morning, and I don't know if, you know,
7 judges say one thing to the courts and
8 another thing to the Governor. I think she's
9 trying to respond to the complaints that
10 she's hearing, and she wants to have a
11 conversation about it.

12 ASSEMBLYWOMAN WALKER: Well, I also
13 heard you indicate that you provide training
14 to police officers. Do you likewise provide
15 training on the least restrictive means
16 standard to judges as well?

17 DCJS COMMISSIONER ROSADO: No. That
18 is OCA. We have no -- the only thing we --
19 our responsibility, we work with OCA to post
20 the file. So it's a research -- it's a
21 function of our research and data.

22 But we have no role in the courts.

23 ASSEMBLYWOMAN WALKER: Okay, thank
24 you.

1 DCJS COMMISSIONER ROSADO: We don't
2 have any oversight in the --

3 ASSEMBLYWOMAN WALKER: So however,
4 multiple studies, as you've mentioned so
5 eloquently each and every time we have an
6 interaction, that bail did not result in an
7 increase in violent crime or rearrest rates
8 across the state.

9 Do you think that DCJS has an
10 affirmative obligation to correct
11 misinformation about its own data?

12 DCJS COMMISSIONER ROSADO: Yes. And
13 we do.

14 ASSEMBLYWOMAN WALKER: Thank you.

15 CHAIRWOMAN KRUEGER: Thank you.

16 Assembly. Oh, excuse me, that was the
17 Assembly.

18 CHAIRWOMAN WEINSTEIN: No, that was
19 the Assembly. We go back to the Senate.

20 CHAIRWOMAN KRUEGER: Back to the
21 Senate. I knew that. Excuse me.

22 Senator Jamaal Bailey, three minutes,
23 second round.

24 SENATOR BAILEY: Thank you.

1 Commissioner Annucci, so HALT, there's
2 been a lot of conversation about HALT. How
3 has DOCCS spent the over \$50 million
4 allocated that was specifically for the HALT
5 implementation in previous budgets?

6 (Discussion off the record.)

7 EX. DEP. CMMR. MARTUSCELLO: Senator,
8 so the money previously allocated, the
9 48 million that you referenced, was for
10 personal services. So it was to augment
11 staff for the out-of-cell programming as well
12 as to support positions within the Office of
13 Mental Health as well as the Justice Center.

14 SENATOR BAILEY: Anything on capital
15 projects at all, in addition to that?

16 EX. DEP. CMMR. MARTUSCELLO: That was
17 a separate funding source that we received a
18 few years prior to, 69 million, which we
19 exceeded those funding and spent over 110.

20 In this budget we'll continue to
21 implement recreational areas that will allow
22 us to fully facilitate the law. And that's
23 included in this year's budget.

24 SENATOR BAILEY: And in conversations

1 with Chair Salazar, who is unfortunately
2 unable to be with us today, she's indicated
3 that she has met -- excuse me, visited a
4 number of prisons and she hasn't seen
5 evidence of DOCCS' ability to comply with
6 HALT. Can you speak to that?

7 EX. DEP. CMMR. MARTUSCELLO: I'm
8 sorry, can you just repeat the last part of
9 that?

10 SENATOR BAILEY: Given that there are
11 certain facilities that have still not
12 complied with HALT, like what -- what would
13 be the commentary related to that?

14 EX. DEP. CMMR. MARTUSCELLO: Again,
15 other than what the commissioner spoke to
16 earlier in terms of the restraints, people
17 are going to SHU for 15 days. If they
18 receive a disciplinary sanction in excess,
19 they are transferred to an RRU.

20 We did have some capacity issues early
21 that the commissioner directed us to turn to.
22 We expanded our capacity. And as of today,
23 we have 21 people that are past the 15.
24 We've ameliorated that with giving people in

1 SHU seven hours out of cell to be in
2 compliance with the definition of segregated
3 confinement.

4 And when in RRU, they are receiving
5 the seven hours out of cell. I know there's
6 some discussion and misinterpretation in what
7 that program is. Right now it's a cognitive
8 behavioral therapy that includes core
9 components of programming in our general
10 population. People feel as if we should give
11 program completion, which would lead to
12 merit time and early release.

13 We certainly don't want to incentivize
14 bad behavior to get to an RRU, but fully
15 support giving out-of-cell programming and
16 changing behaviors and working with the
17 unions, our stakeholders, and certainly you
18 folks in making sure we continue to drive
19 violence.

20 SENATOR BAILEY: Certainly we'd like
21 to correlate that with some of the data that
22 you have on record -- probably post-hearing,
23 given that I have 25 seconds -- in
24 consultation with the chair of the committee.

1 I wanted to have a conversation about
2 the IDs. You know, there's going to be
3 implementation of state IDs. In
4 conversation, and based upon the
5 Transportation hearing yesterday, it was
6 indicated that they hope to have this up to
7 speed in 20 facilities.

8 What's the -- that's still less than
9 half of our prisons. What is the plan to
10 make sure that everybody in DOCCS custody can
11 be given a state ID once they're released?

12 ACTING COMMISSIONER ANNUCCI: So we
13 have a good working relationship with DMV.
14 It does require high-tech equipment to be put
15 into the facilities. So far it's worked very
16 well, but we have plans to expand it.

17 I'll have to get back to you with the
18 exact schedule when they'll be rolling out in
19 the next facilities. But the first three
20 have been working well, and it's a great
21 partnership.

22 SENATOR BAILEY: Certainly we
23 appreciate the notion of that. We just want
24 to make sure --

1 CHAIRWOMAN KRUEGER: (Inaudible
2 overtalk.)

3 SENATOR BAILEY: -- sorry about --
4 Thank you, Liz. Sorry.

5 CHAIRWOMAN KRUEGER: Sorry.

6 SENATOR BAILEY: Thank you,
7 Commissioner.

8 CHAIRWOMAN KRUEGER: You'll get back
9 to him, yes?

10 EX. DEP. CMMR. MARTUSCELLO:
11 Absolutely.

12 CHAIRWOMAN KRUEGER: You will.

13 (To Senator Bailey.) He will.

14 Thank you. Assembly.

15 CHAIRWOMAN WEINSTEIN: So yes, now we
16 are going to Assemblyman Epstein for three
17 minutes.

18 ASSEMBLYMAN EPSTEIN: Thank you,
19 Madam Chair.

20 And thank you all for your testimony
21 and all your work.

22 Just back to Commissioner Annucci,
23 just on your statement about people who are
24 in the SHU and getting seven hours out of the

1 cell. When you're saying that, are you
2 saying that they're being locked in a
3 different cell outside? Or when they say
4 seven hours out, where are they going to be?

5 ACTING COMMISSIONER ANNUCCI: No, what
6 I was saying -- and I apologize if I wasn't
7 clear. When we had a shortfall in demand for
8 RRU capacity and people were backed up in SHU
9 beyond the 15 days, which is what HALT
10 requires, as the next best measure, had they
11 been in RRU they would have gotten seven
12 hours, so we were trying to give them that
13 seven hours while they were in an SHU cell.

14 Normally they'd be allowed four hours
15 of out-of-cell time in SHU.

16 ASSEMBLYMAN EPSTEIN: But where are
17 they for those seven hours? Are they -- like
18 are they free to roam around, are they just
19 in --

20 ACTING COMMISSIONER ANNUCCI: No, no,
21 they're not free to roam around.

22 ASSEMBLYMAN EPSTEIN: Are they in a
23 pen, like --

24 ACTING COMMISSIONER ANNUCCI: They're

1 escorted into areas, typically classrooms,
2 where they'll get their programming and staff
3 will deliver like aggression programming or,
4 you know --

5 ASSEMBLYMAN EPSTEIN: Because I've
6 been to where people have been let outside,
7 and it's like a little box, where like
8 they're outside in a little box.

9 That's not where they're spending the
10 seven hours?

11 ACTING COMMISSIONER ANNUCCI: No.
12 It's -- it's an open area where you can
13 deliver programming to -- in a group setting.

14 ASSEMBLYMAN EPSTEIN: And it's inside,
15 not outside.

16 ACTING COMMISSIONER ANNUCCI: Yeah,
17 inside.

18 But the recreation is outside.

19 ASSEMBLYMAN EPSTEIN: Great.

20 And what percentage of people in the
21 SHU got that seven hours outside, versus the
22 four hours you said earlier? What percentage
23 of people who are in SHU got those seven
24 hours out of the cell?

1 ACTING COMMISSIONER ANNUCCI: (To
2 deputy commissioner) Do you remember the
3 numbers?

4 EX. DEP. CMMR. MARTUSCELLO: Yeah, I
5 mean at any one given time -- I mean, we
6 report monthly on the HALT statistics. I
7 think at one point we had over 200 people
8 that were beyond the 15 days. As of today,
9 we're down to 21.

10 So those individuals would be offered
11 the seven hours while in a special housing
12 unit, until which time they can transfer to a
13 residential rehabilitation unit, where they'd
14 receive the seven hours out of cell.

15 ASSEMBLYMAN EPSTEIN: Great.

16 And so what -- do you know the numbers
17 of people pre-HALT versus now in SHU? What
18 percentage of people are now in these special
19 assignment units? Do you have the numbers in
20 relationship to pre-HALT and now? Is it
21 higher, is it lower?

22 EX. DEP. CMMR. MARTUSCELLO: So when
23 you -- certainly I can give you the numbers
24 offline.

1 ASSEMBLYMAN EPSTEIN: Thank you.

2 EX. DEP. CMMR. MARTUSCELLO: And we
3 have been publishing them under a previous
4 settlement agreement with NYCLU, as the
5 commissioner alluded to. And we're now
6 publishing those in segregated confinement.

7 So when you add segregated confinement
8 and RRU together, we have had an increase.
9 And that's a direct correlation to the
10 increase in violence in the system. As the
11 commissioner testified, 25 percent increase
12 of assaults on staff, as well as 34 percent
13 incarcerated on incarcerated. So that's
14 resulted in more people in an SHU and/or an
15 RRU, residential rehabilitation unit.

16 ASSEMBLYMAN EPSTEIN: And the 1600
17 people who are in school programs, how often
18 do you see them getting involved in violent
19 activity or involved in being sent to the
20 SHU?

21 ACTING COMMISSIONER ANNUCCI: Well,
22 let me just say that people that are involved
23 in programs like college typically don't get
24 involved in violence. Education is a way to

1 help bring the violence down in our system.

2 And they're great role models. I'd
3 rather have the classroom leader than the
4 gang leader be the role model for our
5 population.

6 CHAIRWOMAN WEINSTEIN: Thank you --

7 EX. DEP. CMMR. MARTUSCELLO: I just --
8 I would just add one thing. I'm sorry. That
9 in our programs typically we don't see
10 violence in our program areas. Unfortunately
11 in our RRUs, in the program areas, we have
12 seen violence, which has taken both the
13 incarcerated and our staff back. Because
14 they've typically been sanctuaries, because
15 the people that want to engage in programs
16 typically aren't involved in violence.

17 CHAIRWOMAN WEINSTEIN: Thank you.

18 So now we're going to go to the
19 Senate.

20 CHAIRWOMAN KRUEGER: Thank you.

21 Next we're going to hear from
22 Senator Rolison.

23 SENATOR ROLISON: Thank you, Chair.

24 And thank you for all being here. My

1 first question is to Commissioner Rosado.

2 With the additional GIVE money that is
3 included in the Governor's proposal, will
4 that be used to bolster current GIVE cities?
5 I have two in my district. And also will it
6 be able to be used to expand GIVE to other
7 jurisdictions that currently are not eligible
8 based on the crime data?

9 DCJS COMMISSIONER ROSADO: Yes.

10 SENATOR ROLISON: Yes on both?

11 DCJS COMMISSIONER ROSADO: The short
12 answer is yes.

13 SENATOR ROLISON: Okay.

14 DCJS COMMISSIONER ROSADO: But also I
15 want you to know that the program supports
16 20 police departments in 17 counties, and
17 that that represents approximately 80 percent
18 of the violent crime outside of the City of
19 New York. So -- and we -- you're right, you
20 have Poughkeepsie -- we're in Dutchess.

21 SENATOR ROLISON: Yeah.

22 DCJS COMMISSIONER ROSADO: And we're
23 in --

24 SENATOR ROLISON: Newburgh.

1 DCJS COMMISSIONER ROSADO: Newburgh.

2 SENATOR ROLISON: Correct.

3 To DOCCS, Commissioner Annucci.

4 There's been a lot of discussion today, this

5 afternoon, on recruitment, retention.

6 Specifically on the retention side of your

7 challenges, with 2900 under your budgeted

8 amount, what are you seeing losswise by

9 corrections officers who have started their

10 career and then have decided to leave?

11 You know, not wanting -- I get the

12 recruitment end, I understand that,

13 challenges, difficulty. But just on

14 retention. I mean, what is, you know, the

15 overall look of that?

16 ACTING COMMISSIONER ANNUCCI: There's

17 a lot of reasons for it. I mean, obviously

18 there's concern for their personal safety,

19 they're upset about the violence. As I said,

20 a small number of individuals can be

21 responsible for a disproportionate amount of

22 violence.

23 When I talk to my superintendents, who

24 have been in the system many years -- and our

1 superintendents basically are like parental
2 figures as they walk through a prison. If
3 they're good at their job, people look up to
4 them, the superintendents, and they take
5 their questions and they try and solve their
6 problems.

7 And I'm hearing from my
8 superintendents a small number of individuals
9 that just -- you know, challenging their
10 authority. When -- you have to follow the
11 rules. Everybody has to follow rules,
12 whether it's staff or the incarcerated
13 population. You can't keep your curtain up
14 in front of your cell because, you know, you
15 might be doing self-harm. So if you're told,
16 okay, you've got to remove your curtain. And
17 then that superintendent's authority is
18 challenged, that's an element, that's a
19 problem, and it can spiral out of control.

20 So our staff are dealing with that,
21 and they're getting frustrated.

22 SENATOR ROLISON: So just real
23 quickly, because I only have 36 seconds left,
24 I know you're addressing -- you talked about

1 the violence task force. Is that report
2 memorialized someplace? Or is that
3 constantly being updated? Is that something
4 that members of this body could see or
5 review, depending on -- I guess is it
6 specific to specific facilities?

7 ACTING COMMISSIONER ANNUCCI: We
8 certainly provide briefings. I'd be happy to
9 do that for any member --

10 SENATOR ROLISON: Okay, thank you. I
11 would like that. And then just one other
12 quick question. And thank you for all that
13 you're doing and trying to do.

14 Have you considered a retention
15 program for current corrections officers?

16 EX. DEP. CMMR. MARTUSCELLO: Yeah, we
17 are currently in contract negotiations right
18 now, so that's something that's a focus. The
19 Office of Employee Relations leads
20 negotiations between the bargaining units.

21 SENATOR ROLISON: Thank you.

22 CHAIRWOMAN KRUEGER: Thank you.
23 Assembly.

24 CHAIRWOMAN WEINSTEIN: We go to

1 Assemblyman Palmesano.

2 ASSEMBLYMAN PALMESANO: Yes,
3 Commissioner Annucci, I'm sure you expected
4 my three minutes to be used for you.

5 I'm just going to make a -- I have a
6 couple of quick questions I'm going to ask at
7 the end, but I wanted to make a couple of
8 points up front.

9 First of all, I will say about HALT, I
10 believe it's an absolute disaster and should
11 be repealed, which is unlikely with this
12 Legislature. The fact of the matter, as you
13 know, it severely restricts the ability of
14 our law enforcement and correction officers
15 to segregate the most dangerous and violent
16 inmates from the rest of the general
17 population.

18 You've seen it from your own
19 statistics already in your report, a 25 and
20 34 percent increase over last year. Since
21 the implementation of HALT in April, we've
22 seen that dramatic increase, and you've said
23 it's continuing today. It's a powder-keg
24 environment that's at our correctional

1 facilities, and you know it.

2 I think it's hard for many of us -- we
3 have the lowest levels of our prison
4 population. You expressed your outrage in a
5 memo, as was mentioned, to the prison
6 population. You had the prison violence task
7 force, all those things in 2021, but yet in
8 2022 we had the highest level of assaults
9 covered in our correctional facilities: 300
10 more than last year.

11 I have a suggestion -- you know, you
12 talked about some of the things that you're
13 doing. I have a suggestion to you to take to
14 Governor Hochul, as overseeing Corrections
15 and our staff that work inside there, because
16 I know you're concerned about them. Repeal
17 of HALT is unlikely with this Legislature,
18 but the Governor can declare a state of
19 emergency, as she's done for COVID,
20 monkeypox, and gun violence.

21 If she were to declare a state of
22 emergency, then she could suspend the HALT
23 law, HALT Act, get things under control, get
24 things back to where they need to be, and

1 then maybe you won't see a vacancy of
2 800-plus corrections officers and them being
3 burnt out with double overtime.

4 So my question for you, though -- and
5 you can address that in a different way --
6 under HALT there are certain inmates that
7 fall within the definition of special
8 populations.

9 ACTING COMMISSIONER ANNUCCI: Yes.

10 ASSEMBLYMAN PALMESANO: Those under 19
11 and those over 55 years old. Do you keep --
12 and they can't be put in the SHUs if they
13 commit violent acts against staff or other
14 inmates.

15 Do you have the stats on those data
16 for those special inmate populations that
17 commit assaults for those -- do you have that
18 data for those individuals?

19 ACTING COMMISSIONER ANNUCCI: Well, I
20 can tell you that we had two homicides in
21 2022. One homicide was committed by a
22 54-year-old who was six months shy of being
23 55, which would have defined him as special
24 population, which would have meant the very

1 next day he would have been -- he would have
2 been required to be in an RRU and seven hours
3 of out-of-cell time.

4 I can try and get the total numbers of
5 special population of 21 and under --

6 ASSEMBLYMAN PALMESANO: I think it
7 would be helpful, since they're exempt from
8 going to the special housing units, how many
9 assaults is this population creating.

10 And my other question is, what happens
11 to this population, the special population,
12 in 19 and under and 55-plus? When they do
13 commit a violent act, what happens to them?

14 ACTING COMMISSIONER ANNUCCI: We'd
15 have to transfer them to an RRU. And in our
16 medium-security facilities, this is one
17 factor that's put a lot of stress on officers
18 because we have to -- they have to be
19 transported. It's not a planned-for
20 transportation; you can't put them on central
21 transportation. So it requires a lot of
22 labor to move these people immediately to an
23 RRU. So a lot of stress.

24 Twenty-one and under, yes.

1 CHAIRWOMAN WEINSTEIN: Thank you.

2 Thank you. To the Senate.

3 CHAIRWOMAN KRUEGER: Thank you.

4 Next is Senator Palumbo.

5 SENATOR PALUMBO: Thank you,

6 Madam Chair.

7 Thank you all. Good to see most of

8 you again.

9 I'm just going to follow up. I'm not

10 going to beat the dead horse; we've talked a

11 lot about HALT.

12 So, Commissioner Annucci, I actually

13 had some members of corrections crying in my

14 office -- females -- about the sexual

15 assaults. So do we have a breakdown of these

16 numbers? So when you have assaults, I'm

17 assuming that's physical contact, physical

18 violence, including sexual assaults on staff.

19 So if you could just comment about

20 that and tell me if that's also been in

21 higher incidence, if that's increased.

22 And -- well, I'll have maybe one quick

23 follow-up or comment on it.

24 ACTING COMMISSIONER ANNUCCI: First of

1 all, nobody should be subjected to any kind
2 of mistreatment, any kind of assault, any
3 kind of sexual touching, inappropriately, in
4 the workplace.

5 So I can say that we react
6 immediately. The person does face
7 disciplinary consequences. They are
8 separated. I think part of the problem,
9 part, is that there's a perception by some of
10 the worst of the individuals that there are
11 no consequences for their behavior. That's
12 not the case. There are consequences. You
13 do get separated. You do get placed in SHU
14 if you're not a special population. You'll
15 get your four hours of out-of-cell time, but
16 then from there, after 15 days, you get moved
17 to your RRU.

18 I don't know if I have the ability
19 without manually looking at every unusual
20 incident report to see what percentage of
21 assaults are somebody forcibly touching, you
22 know, a staff member. I believe it's a
23 misdemeanor now. You know, maybe at some
24 point the Legislature might want to think

1 about, you know, whether it should be
2 elevated.

3 But no matter what, no staff person,
4 male or female, should be subjected to that
5 kind of treatment inside a correctional
6 facility, doing their job.

7 SENATOR PALUMBO: Certainly, of
8 course. And I think we all absolutely agree.

9 But with respect to other than
10 physical contact of the intimate parts, I'm
11 saying is there any statistic or any sort of
12 discipline imposed for someone who is saying
13 vulgar things. Not actual physical assault,
14 but they're misbehaving by cursing and saying
15 things that are sexual in nature. Because
16 that was also of significant concern from the
17 individuals I was speaking with, some union
18 members who were really concerned that that
19 has, in their mind, increased significantly
20 as well.

21 ACTING COMMISSIONER ANNUCCI: Yeah, it
22 is an act of misbehavior. But it's I believe
23 harassment, which is now a Tier 2. And a
24 Tier 2, if you're found guilty of that, you

1 can end up with a confinement sanction. You
2 can't end up with a disciplinary surcharge or
3 whatever other penalty we impose -- loss of
4 privilege, et cetera -- but there's no
5 confinement sanction.

6 So it's got to rise to the level of a
7 Tier 3 in order for somebody to end up being
8 confined as a result of that misbehavior.

9 SENATOR PALUMBO: Okay, understood.
10 Thank you, commissioner.

11 CHAIRWOMAN KRUEGER: Thank you.
12 Assembly.

13 CHAIRWOMAN WEINSTEIN: Assemblyman
14 Reilly.

15 ASSEMBLYMAN REILLY: Thank you,
16 Madam Chair.

17 Thank you to the commissioners and the
18 superintendent for your testimony.

19 My first question is going to be to
20 Commissioner Rosado. First I want to thank
21 you for working with us. And I know the
22 deputy secretary worked as well for the
23 retired peace officers, the amendment to the
24 concealed carry. Something that I can

1 identify with, because being a retired NYPD
2 member during the SAFE Act, when it passed,
3 I -- unfortunately it was a felony for having
4 a 16-round magazine. So I'm glad that that
5 correction's being made.

6 The next thing I wanted to touch on --
7 and it's actually a question. A few years
8 back I advocated for additional funding for
9 DREs, drug recognition experts, and my
10 colleagues were gracious enough to add that
11 to the budget. Is there still funding for an
12 increase of DREs, especially with the
13 marijuana, driving under the influence?

14 DCJS COMMISSIONER ROSADO: We continue
15 to do training on that. That's what Joe just
16 told me.

17 ASSEMBLYMAN REILLY: So do you think
18 we might need additional funding so that we
19 can have that training throughout the state,
20 especially with the increase of driving under
21 the influence of marijuana?

22 DCJS COMMISSIONER ROSADO: So we have
23 existing resources. And we're working on
24 that right now. That's not done yet, but

1 it's especially focused on the cannabis, as
2 was mentioned earlier.

3 ASSEMBLYMAN REILLY: Okay. Thank you.

4 Superintendent Nigrelli, I wanted to
5 ask you a question about the Forensic
6 Investigation Center. Currently with
7 firearms, if there is a firearm recovered or
8 an arrest made and it's simply just for
9 criminal possession of a weapon, they can't
10 submit it for DNA testing. It's not
11 accepted.

12 I'm hoping to expand that to allow
13 that for -- say, one example, you have a
14 carload of four people in a car, a gun is
15 found in the car. We can't pinpoint who
16 actually had the illegal firearm. So being
17 able to submit that would help exonerate the
18 three that may not have had the firearm, and
19 it will hold the one who does have the
20 firearm accountable.

21 Is that something that we could work
22 on?

23 ACTING SUPERINTENDENT NIGRELLI: You
24 know, Assemblyman, as a law enforcement

1 agency we will take any initiative, law,
2 practice that's passed by this body and by
3 the Governor that will help us do our job.

4 Three simple jobs: Deter, prevent,
5 solve crimes. If you really boil what we do
6 as an agency, as a profession, those are the
7 three things. Simple as that. If there's a
8 bill, a proposal that will help us do our
9 job, we support it.

10 ASSEMBLYMAN REILLY: Thank you.

11 CHAIRWOMAN KRUEGER: (Mic off;
12 inaudible.)

13 SENATOR O'MARA: -- crime statistics
14 hearing we had a couple of weeks ago that you
15 were not a part of and DCJS, I asked these
16 questions of them. And they don't keep stats
17 on gun crimes committed by an individual that
18 was the lawful owner of that gun, whether
19 it's a handgun or a long gun.

20 Does the State Police keep any such
21 statistics?

22 ACTING SUPERINTENDENT NIGRELLI: We do
23 not, sir.

24 SENATOR O'MARA: Do you keep any

1 statistics on whether a gun -- again, a long
2 gun or a handgun -- utilized in the
3 commission of a crime that was stolen from a
4 lawful gun owner, do you keep any stats on
5 that?

6 ACTING SUPERINTENDENT NIGRELLI: We do
7 not, sir.

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

10 ACTING SUPERINTENDENT NIGRELLI: Thank
11 you, sir.

12 CHAIRWOMAN KRUEGER: Assembly.

13 CHAIRWOMAN WEINSTEIN: We go to
14 Assemblywoman Simon.

15 ASSEMBLYWOMAN SIMON: Thank you.

16 Commissioner Rosado, I have a question
17 about the Extreme Risk Protection Order data
18 and how frequently that is released, and how
19 easily available is it to legislators? I --
20 that was a bill that I passed, and it was
21 very difficult for me to find out actually
22 who is using it, how many had been requested,
23 how many had been imposed.

24 And then I have another question for

1 Commissioner Annucci.

2 DCJS COMMISSIONER ROSADO: So it's OCA
3 data, actually.

4 ASSEMBLYWOMAN SIMON: Yeah, they
5 wouldn't give it. It took forever.

6 DCJS COMMISSIONER ROSADO: That's
7 produced on a monthly basis. And -- oh, it's
8 not ours at all. We don't touch it.

9 ASSEMBLYWOMAN SIMON: Okay. I was
10 hoping to go around them to you, because they
11 were taking too long. Oh, thank you. And --
12 sorry, but that's reality.

13 So, Commissioner Annucci, I have --
14 you know, I know there was a Columbia
15 University report showing that incarcerated
16 people in New York State prisons, there's
17 somebody who dies every three days. Do you
18 have a number for how many incarcerated
19 people died in DOCCS custody in 2022 and what
20 that demographic breakdown is?

21 ACTING COMMISSIONER ANNUCCI: Oh,
22 okay. I didn't quite hear it the first time.

23 But in 2022 we had 113 deaths, and
24 that's a decrease of 24, or 18 percent, from

1 2001.

2 I can give you a breakdown, it's 55
3 natural causes, 17 suicides, two homicides,
4 one accidental death, and 38 currently
5 awaiting final autopsy results to determine
6 final cause of death.

7 ASSEMBLYWOMAN SIMON: And when you do
8 an autopsy, how long does that take to turn
9 around, do you have any idea? I'm curious.

10 EX. DEP. CMMR. MARTUSCELLO: I mean,
11 it really varies by county because it's done
12 by the coroner. We await the results.

13 ASSEMBLYWOMAN SIMON: Okay. Thank
14 you.

15 EX. DEP. CMMR. MARTUSCELLO: Thank
16 you.

17 CHAIRWOMAN WEINSTEIN: Senate?

18 CHAIRWOMAN KRUEGER: Thank you. I
19 think I'm the only one left at the Senate.

20 So unfortunately Senator Salazar
21 couldn't be with us today because she's sick,
22 but she has submitted some questions to me.
23 But she's listening. We just didn't want her
24 here, nothing personal, because there was a

1 little contagion issue.

2 She's particularly concerned about
3 what is happening with HALT in the jails, and
4 points out that an answer to a slightly
5 earlier question -- I'm sorry, this is to
6 DOCCS -- that it was admitted that, for the
7 record, nearly a year after the HALT
8 implementation period, DOCCS has not complied
9 with the law yet. And what do you think we
10 need to do to make sure that we are complying
11 with the law and that you have the tools you
12 need?

13 I think Senator Salazar points out
14 that the law gave you \$50 million to
15 implement in the budget that passed two years
16 ago. Have you spent that money? What has it
17 been used for? Do you need more to make sure
18 that you continue this road of meeting the
19 requirements of the law?

20 EX. DEP. CMMR. MARTUSCELLO: Sure. So
21 thank you for the question. In terms of HALT
22 implementation, as we spoke to earlier, the
23 initial issue was going beyond the 15 days.
24 And really that became a result of the

1 increase in violence in the system that we
2 couldn't predict as we took a year to enact
3 the law.

4 We had a three-year plan. It got
5 expedited by a year based on the passage of
6 HALT, which we had enough capacity in place.
7 But with the 25 percent increase on assaults
8 on staff and a 34 percent on incarcerated, it
9 quickly dissipated that capacity.

10 So we've turned -- we are now
11 compliant with the 15 days, with the
12 exception of those 21 individuals.

13 In terms of the restraints, as the
14 commissioner spoke to, we do have still an
15 increase in violence in the system. And we
16 did see an increase in violence in our
17 residential rehabilitation units. And as a
18 result -- and again, that wasn't just against
19 staff, that was against staff and the
20 incarcerated. So we reinstated placing the
21 restraints on individuals.

22 So I think from -- and then lastly, in
23 terms of hiring, we talked about we're 2900
24 positions down. So the budget funds us for

1 the appropriate level of positions. We need
2 to go out and recruit those.

3 The Governor's been steadfast in her
4 commitment to build back the state workforce,
5 which will be critical to us moving forward
6 to ensure we can deliver programs in general
7 population similar to what we do in
8 segregated confinement and the RRUs.

9 At the end of the day, I think the
10 number-one goal is to work with our unions,
11 our workforce, interested stakeholders and
12 this Legislature to continue to identify ways
13 to drive down violence. And I think your
14 partnership in that regard, regardless of how
15 that's done -- and I think it could be done
16 in a multitude of ways -- that's what we
17 really need to be committed for -- to, is to
18 drive violence down.

19 CHAIRWOMAN KRUEGER: And again, I may
20 have statistics wrong, because this is not
21 really my territory, but I think the numbers
22 I saw show that almost 40 percent of the
23 people who are in this subsystem also are on
24 the OMH caseload for mental illness. So

1 clearly there's some correlation between what
2 happens or doesn't happen to mentally ill
3 people who end up in our prisons. And the
4 situation, once they're there, and also
5 potentially the increased problems for your
6 staff.

7 So I don't think any of us want to see
8 mentally ill people doing harm to themselves
9 or others wherever they are. And yet they're
10 in our prisons. So is there another model we
11 should be looking at to address such a large
12 percentage of the population that seems to be
13 having added issues? Other solutions that
14 you see from your perspective?

15 EX. DEP. CMMR. MARTUSCELLO: Yeah,
16 thank you for the question.

17 So I mean previous to, you know, the
18 laws passed recently with HALT, going back to
19 2008, 2009 when we passed the SHU exclusion
20 law, we created specific units dealing with
21 people with mental illness that were SMI,
22 seriously mentally ill, that were diverted
23 and go to residential mental health treatment
24 units.

1 So those units still exist. They're
2 operational. We co-manage them under the
3 auspice of OMH, who provides mental health
4 services within the system. So we do have
5 mechanisms to divert those individuals to
6 give them more specific care to deal with
7 their mental health as well as their
8 disciplinary behavior, without cell-time
9 programming, talking about you know, violence
10 and their mental health illness.

11 ACTING COMMISSIONER ANNUCCI: And the
12 caseload includes levels 1 through 4, which
13 are defined in the Correction Law. And
14 obviously we are very concerned about SMIs,
15 seriously mentally ill. The people that are
16 level 3 and 4 can function in general
17 confinement. And when they're moved to an
18 RRU, they're getting seven hours of
19 out-of-cell time. So we believe we're still
20 providing the appropriate level of care, not
21 exacerbating their condition in particular.

22 CHAIRWOMAN KRUEGER: And we have I
23 think talked about it at last year's budget
24 hearing, or perhaps right before, the issue

1 of the fact that a disproportionately growing
2 percentage of people who leave DOCCS end up
3 going just into a pipeline directly into the
4 New York City shelter system.

5 And I believe the data that I was
6 shown was that in 2014, 23 percent were
7 heading into the shelter system, and by 2017
8 it was 50 percent. And recent estimates show
9 about 50 percent.

10 So what can we be doing to do
11 something about this? Because as you well
12 know, the New York City shelter system is
13 beyond blowing up at this point. If people
14 go from prison to the shelter system, the
15 increased likelihood of them simply being
16 returned to the prison system also
17 skyrockets.

18 And I believe you had talked about a
19 plan to actually provide some kind of
20 supplemental rent money to actually make sure
21 people didn't go directly into the shelter
22 system. Were you able to start that program?
23 What have you learned? Can we expand?

24 ACTING COMMISSIONER ANNUCCI: Yes,

1 Senator. We have started the program. It's
2 at Edgecombe Transitional Housing.
3 individuals heading for New York City that
4 would otherwise head to homeless housing can
5 instead opt there.

6 It is not like a correctional
7 facility. They have a lot of freedom, they
8 have treatment and programming. They go out
9 and look for a permanent home and a job.
10 They can have their cellphones, things of
11 that nature.

12 We have people in the pipeline. I
13 think the capacity's 175 -- I'm sorry, 70.
14 And we are now creating a DVD to advertise
15 that option for the general population.

16 A second option: Years ago,
17 Fulton Correctional Facility was closed and
18 given to the Osborne Association. They're
19 very close to operationalizing that. We're
20 working with them, so that will be another
21 place where individuals could go.

22 I don't know if the grant that PLS got
23 where they're giving actual stipends to
24 people that are releasing to I believe

1 Manhattan, but perhaps the Bronx as well --
2 that is another avenue. There's a lot of
3 not-for-profits. We have our community-based
4 residential programs that we fund. I think
5 that's 175 beds.

6 So it is a complex problem, but we try
7 to do everything possible to support
8 families. But 64 or 66 percent of our
9 population has never been married, so they
10 don't have a married spouse to go to when
11 they leave. Perhaps they have a common-law
12 wife or somebody else, or children,
13 et cetera. But a lot of individuals don't
14 have those family connections, so we try to
15 maintain them as best we can while they're in
16 our system.

17 CHAIRWOMAN KRUEGER: You talked about
18 contracting. Is that through your budget, so
19 those are contracts with DOCCS to provide --
20 so we can get a list of those and the amount
21 of money being put into those contracts?

22 EX. DEP. CMMR. MARTUSCELLO: Yeah, we
23 have \$4 million dedicated through Aid to
24 Localities for beds, residential treatment

1 beds that are dispersed throughout the state,
2 depending on where our needs are.

3 And just to go back to your
4 percentages, last year about 31 percent of
5 the population that we're releasing were
6 undomiciled.

7 The commissioner talked about
8 Edgecombe. That does include a stipend
9 program where, when they find permanent
10 housing, to offset feeding an additional
11 mouth, they can get up to \$100 a week for
12 12 weeks to help incentivize people being
13 willing to take those individuals in.

14 Lastly, our reentry folks, we have a
15 whole reentry division that works with our
16 parole officers and those that are in the
17 shelter system to get them some type of
18 transitional housing or permanent housing.
19 The average -- the last time we looked at it,
20 the average time that a parolee spends in the
21 New York City shelter system is 37 days. So
22 that's the average. Which is better than the
23 typical stay in the shelter system generally.

24 So a lot of work goes on. The last

1 thing that I would say is we recently
2 completed a report that was due through -- in
3 collaboration with OTDA and DOCCS that talked
4 about the barriers to reentry, and it talked
5 about education and housing and all of those
6 things that are barriers. DCJS was -- also
7 assisted in there, in the report.

8 So that has been published, sent to
9 the Legislature. If you're interested, we
10 can send you a copy directly, Senator.

11 CHAIRWOMAN KRUEGER: Please.

12 And with my last 20 seconds -- it's a
13 big one. So if you look at the data going
14 back through time, we've cut the prison
15 population from 60,000 to 30,000 between 2010
16 and 2023. But we haven't cut the money. In
17 fact, your budgets fluctuate, obviously, but
18 even adjusting for inflation, really have not
19 gone down.

20 So how is it possible that we cut
21 DOCCS's population in half and yet we didn't
22 see any savings to invest in other programs
23 or activities, including for people who have
24 been reentering our communities?

1 EX. DEP. CMMR. MARTUSCELLO: Sure.

2 So, I mean, throughout the years,
3 particularly around prison closures, we have
4 seen a reduction in our budgets. But whether
5 through policy initiatives or legislative
6 initiatives, we've had to refund things
7 like -- such as HALT, which called for extra
8 funding. Or increasing in programs, which
9 this budget calls for increasing CDL and
10 automotive tech. So we're matching
11 vocational programs with real-time jobs in
12 the community.

13 And then also the cost of living with
14 our workforce -- you know, 80 percent of our
15 budget is personal services. And as
16 contracts are negotiated and percentage
17 raises, that all has to get rolled into our
18 budget and absorbed.

19 CHAIRWOMAN KRUEGER: So I have to cut
20 myself off on this time, since we're past
21 time.

22 (Laughter.)

23 CHAIRWOMAN KRUEGER: But I would love
24 to follow up with you more about looking at

1 the historical patterns of spending and where
2 money moved to and what we're getting for
3 that. So thank you.

4 And I will hand it over to the
5 Assembly.

6 CHAIRWOMAN WEINSTEIN: Good, I was
7 about to cut you off.

8 We go to Assemblyman Burdick.

9 ASSEMBLYMAN BURDICK: Thank you.

10 And the question for Acting
11 Commissioner Annucci -- and thank you for the
12 work that you've been doing, and I especially
13 wish to commend you for what you're doing in
14 the area of transitional housing, with the
15 ribbon cutting last year, and further what
16 you're doing.

17 I also wanted to give a shout out to
18 your deputy, Daniel Martuscello, for the
19 great work that he's doing with
20 community-based organizations and the Prison
21 Relations Advisory Committee. I think it's a
22 great model for the entire state for the kind
23 of partnership and collaboration.

24 I just wanted to go further in the

1 questions that Chair Krueger was asking
2 regarding transitional housing. And I'm
3 certainly pleased to hear that the stay in
4 the homeless shelters and the shelter system
5 is less than the average.

6 But I guess my question goes to, you
7 know, clearly DOCCS' mission is not housing.
8 We get that. It's a conversation that we had
9 a while back. I had that conversation as
10 well with Commissioner Visnauskas. And I
11 guess the question is, where do you feel it's
12 most appropriate for there to be a focus on
13 the state level for transitional housing for
14 those who come out of our correctional
15 facilities? Should it be OTDA? Should it be
16 continuing some of the work that you folks
17 are doing? Should it be entirely in the
18 private sector with community-based
19 organizations such as Osborne or Freedom
20 House or the Center for Community
21 Alternatives and such?

22 I'd be very interested in what
23 direction you think is appropriate,
24 particularly since the Executive Budget does

1 include a pilot program.

2 ACTING COMMISSIONER ANNUCCI: I think
3 it's all of the above, Assemblyman.

4 ASSEMBLYMAN BURDICK: All of the
5 above?

6 ACTING COMMISSIONER ANNUCCI: All of
7 the above.

8 I think right now there's a lot more
9 goodwill out there. The private sector wants
10 to step up and contribute; they want to, you
11 know, respond meaningfully to mass
12 incarceration. The not-for-profits are
13 stepping up to the plate. People, private
14 sector, are supporting them with funding.
15 OTDA brings a lot of expertise to this, but
16 we have a partnership with them.

17 If you read the report that Dan
18 Martuscello just mentioned, which we only
19 recently submitted to the Legislature -- and
20 it was overdue; it was delayed by COVID -- it
21 really goes in depth to the challenges, the
22 barriers, the solutions that we made.

23 So I think you'll find a lot of
24 answers to your question of --

1 ASSEMBLYMAN BURDICK: And OMH, do you
2 think that OMH should have a role?

3 ACTING COMMISSIONER ANNUCCI: There's
4 no question about it. OMH is another
5 partner; they're mentioned prominently in
6 that report because of people leaving our
7 facilities.

8 But I'll tell you, we have processes
9 in place to make sure that the individuals,
10 for example, either get the medical services
11 they need -- you know, if you have
12 hepatitis C and you have to be in a
13 continuity program, we have a discharge
14 planning unit within our health services to
15 make sure that happens.

16 And the same thing with mental health.
17 If you need to be placed in a treatment
18 program, we will escort you there --

19 ASSEMBLYMAN BURDICK: Appreciate that.

20 ACTING COMMISSIONER ANNUCCI: --
21 coordinated with OMH, to make sure there's no
22 interruption.

23 ASSEMBLYMAN BURDICK: Thank you.

24 CHAIRWOMAN WEINSTEIN: Thank you.

1 The Senate has no more questioners, so
2 we'll go to Assemblyman Flood.

3 ASSEMBLYMAN FLOOD: Thank you,
4 Chairwoman.

5 My question is for Commissioner
6 Rosado. Sorry. Can you hear me now?

7 So when we talk about the data
8 collection, are there any plans now to try
9 and figure out how we can capture some of
10 that, like we said with the non-fingerable --
11 the non-fingerable offenses? And for the
12 desk appearance tickets where we're not
13 having defendants show up to court? Is there
14 some way we can incorporate this data such
15 as, you know, work with the police to
16 actually get ahold of the number of DATs,
17 compare them with who's actually going to
18 court so we can get a more clear picture, a
19 more accurate picture of the actual data
20 that's going on?

21 DCJS COMMISSIONER ROSADO: I'm sorry,
22 were you here earlier when I talked about
23 this?

24 ASSEMBLYMAN FLOOD: I've been here the

1 whole time.

2 DCJS COMMISSIONER ROSADO: Okay, fine.

3 So I'll just -- I did report back that we
4 went back -- you know, we went back and
5 looked at it. And for the -- the DATs are
6 for fingerprinted within a day; we said that
7 was 99 percent for New York City and
8 87 percent in the rest of the state.

9 I know we -- you know, we cast some
10 doubt on that last week in our data
11 presentation, but we kind of got to the
12 bottom of it. And I reported on it earlier,
13 and I'm happy to come back and report to you.

14 ASSEMBLYMAN FLOOD: All right, so
15 you're saying that 87 percent of all people
16 who get a desk appearance ticket are actually
17 then fingerprinted?

18 DCJS COMMISSIONER ROSADO: Yes. In
19 the rest of the state, right, and 99 percent
20 in New York City.

21 ASSEMBLYMAN FLOOD: Okay. So and then
22 what about these -- the -- so the other
23 13 percent, is there a way that we're going
24 to try to incorporate that data in?

1 DCJS COMMISSIONER ROSADO: We're
2 looking at it, right?

3 DCJS EX. DEP. CMMR. POPCUN: So yes,
4 it is something we're looking at. Our
5 breakdown when we went back -- because we had
6 done an analysis before of the time between
7 the DAT and the fingerprint. And as the
8 commissioner reported, 87 percent are --
9 outside of New York City reported at the same
10 time.

11 The breakdown, the majority of them
12 then are captured within that same week. We
13 obviously are always looking to improve our
14 data collection, and we'll continue to work
15 with our law enforcement partners to make
16 sure that there's not that delay between the
17 DAT and the fingerprint.

18 ASSEMBLYMAN FLOOD: All right, thank
19 you.

20 CHAIRWOMAN WEINSTEIN: Assemblyman
21 Brown.

22 ASSEMBLYMAN BROWN: Thank you,
23 Chairwoman.

24 Thank you all for being here. Thank

1 you for your service. And thank you for the
2 men and women that work for you.

3 In a prior life I used to be an assistant
4 attorney general, so I represented the
5 State Police and the Department of
6 Corrections officers. So I have one question
7 for each of you, so I'll just go down the
8 line.

9 Commissioner, just based on the answer
10 that you gave to my colleague a second ago, I
11 think the important data point that we're
12 missing that we're trying to determine is
13 from the number of desk appearance tickets,
14 how many people are actually appearing in
15 court. So I think if we could get that
16 statistic, that's the one that we're missing.

17 Do you have any methodology that you
18 track because of bail reform -- as you know,
19 I brought up at the hearing last week we lost
20 an important tool in substance abuse, in that
21 do you know how many people now, as opposed
22 to before bail reform, are agreeing to
23 involuntary treatment in lieu of
24 incarceration? Is that a data point you

1 keep?

2 DCJS COMMISSIONER ROSADO: No. I
3 mean, we could probably dig it up.

4 ASSEMBLYMAN BROWN: I think that's
5 really important. Right? Because we don't
6 have something similar today to deal with
7 those people that want to voluntarily go into
8 treatment because they have a substance abuse
9 problem.

10 Superintendent, if I could ask you, my
11 colleague before, the ranker of Judiciary, he
12 brought up the fact of driving while
13 impaired. As you know, New York State
14 currently does not have a law that deals with
15 people who are driving impaired on drugs,
16 whether it be marijuana or any other drug. A
17 couple of states have looked into it.
18 There's eight states that did a study on swab
19 tests, Michigan being probably the lead.

20 But are you supportive of efforts to
21 change the law in New York State -- we had
22 Assemblyman Magnarelli last year was going to
23 have a hearing on it. You know, it was
24 something that I pointed out in the

1 newspaper. What's your gut feeling on it?

2 ACTING SUPERINTENDENT NIGRELLI: I
3 would encapsulate it like this. That I
4 really don't -- can't, it's not appropriate
5 for me to comment on any proposed, current or
6 future legislation.

7 However, the New York State Police
8 would greatly support any initiative that
9 this body passed as a law that will give us
10 tools to detect, investigate and solve
11 crimes, crimes including driving while
12 intoxicated, driving while ability impaired
13 by drugs --

14 ASSEMBLYMAN BROWN: Sorry, I see my
15 time is running short. So are you tracking
16 the number of accidents and fatal accidents
17 that are caused by marijuana use, either
18 before legalization of marijuana or after?

19 ACTING SUPERINTENDENT NIGRELLI: The
20 answer is yes. And I can meet with you
21 offline to go through this step.

22 ASSEMBLYMAN BROWN: That's fantastic.

23 I have 17 seconds. So, Commissioner,
24 I want to ask you, do you track in the

1 Department of Corrections how much work
2 you're doing in terms of substance abuse for
3 prisoners?

4 ACTING COMMISSIONER ANNUCCI: Oh,
5 yeah. We can tell you how many individuals
6 are in need of substance abuse treatment. I
7 think it's 70-something-percent or higher.
8 And we base that upon a mass test and another
9 score that --

10 ASSEMBLYMAN BROWN: And then the big
11 question for all of you, is there any money
12 in this Executive Budget that is directly
13 addressing the opioid/fentanyl crisis that
14 we're having in this state?

15 You would all say yes?

16 ACTING COMMISSIONER ANNUCCI: Yes,
17 absolutely.

18 DCJS COMMISSIONER ROSADO: Yes.

19 ACTING SUPERINTENDENT NIGRELLI: Yes.

20 ASSEMBLYMAN BROWN: Thank you very
21 much.

22 CHAIRWOMAN WEINSTEIN: Thank you.

23 And we go to Assemblyman Meeks.

24 ASSEMBLYMAN MEEKS: Okay, this

1 question is for Commissioner Annucci.

2 You spoke earlier about the vendor
3 package system. There was a package ban in
4 which families couldn't send packages into
5 facilities across the state, there was a ban
6 that was put in place. Can you speak to
7 that?

8 EX. DEP. CMMR. MARTUSCELLO: So prior
9 to the vendor package program, families could
10 mail in packages directly from home that they
11 pack, or they could bring them to the
12 facility when they came to visit.

13 So we've now moved to a vendor package
14 program where they can order from any vendor
15 they'd like, there's no restrictions on
16 vendors unless they get put on a disapproved
17 vendor list, meaning they violated our
18 protocols and tried to introduce contraband.
19 And then twice a year they can send a package
20 from home but it has to be non-food items.
21 Because we've had a lot of contraband
22 secreted in vegetables, canned goods and
23 things of that nature.

24 So the package program continues. We

1 continue to receive tons of packages via the
2 new mechanism.

3 ASSEMBLYMAN MEEKS: So when you say
4 vendors, like any grocery store chain, or is
5 it particular vendors that contract with
6 DOCCS?

7 EX. DEP. CMMR. MARTUSCELLO: No, no,
8 no, it's not a contract with DOCCS. It's any
9 vendor that will ship directly to the
10 facility. So if you want to go on Walmart
11 and order food, including produce and goods,
12 and have it mailed to the institution, any
13 vendor that you so choose, as long as it's
14 not on a disapproved vendor list.

15 We tried that in 2018, and we failed
16 abysmally. We listened to our
17 superintendents, the incarcerated population
18 and advocates, as well as our workforce.
19 This is a new program. It's not a secure
20 vendor where it's a limit on who they can buy
21 from. They can use anyone to ensure that we
22 keep economies of scale and they can buy the
23 cheapest products that they can find on the
24 market.

1 ASSEMBLYMAN MEEKS: So with the
2 implementation of this new system, have you
3 seen a decrease in contraband that has come
4 into the facilities?

5 EX. DEP. CMMR. MARTUSCELLO: Yeah, so
6 in --

7 ASSEMBLYMAN MEEKS: And what's the
8 percentage on the decrease?

9 DCJS EX. DEP. CMMR. POPCUN: I'm
10 sorry, in 2020 we had 924 instances of
11 contraband found in packages. 2021, we had
12 710. Since we've implemented this program,
13 we've had 30.

14 ACTING COMMISSIONER ANNUCCI: And a
15 significant reduction in the use of Narcan to
16 bring people back from an overdose.

17 ASSEMBLYMAN MEEKS: So when you say a
18 significant reduction, like what is that
19 number?

20 EX. DEP. CMMR. MARTUSCELLO: So in
21 terms of Narcan, we've seen -- sorry, we've
22 seen a 13 percent decrease in Narcan usage.
23 In 2021 we had 415 instances. 2022, we were
24 at 360.

1 We've also seen, as a direct result,
2 we believe, a significant increase in visitor
3 arrests. We've caught often attempts to
4 bring in drugs and weapons via the package
5 room, and as a result we've seen a 64 percent
6 increase in visitor arrests. And that's
7 directly correlated to not only the package
8 program, but our increased utilization of
9 canines. Which not only sniff visitors, they
10 also sniff staff.

11 ASSEMBLYMAN MEEKS: I've got five
12 seconds here, so let me ask this last
13 question as it relates to the practice of
14 shipping individuals across the state.

15 So for instance a person is charged
16 with a crime in New York City, they house
17 them in Attica or Orleans County. Why such a
18 practice as far as shipping people eight
19 hours away from their hometown, as opposed to
20 maybe an hour or two up the road?

21 EX. DEP. CMMR. MARTUSCELLO: Well,
22 again, as the commissioner previously
23 testified to, when you first come in and you
24 go through the reception process, we identify

1 what needs you have and then we identify a
2 facility that can meet those needs from a
3 medical, mental health and security
4 standpoint.

5 When we talk about proximity to minor
6 child, that's driving a lot of the beds that
7 are in close proximity to where the
8 population's coming from, so they take
9 priority.

10 And also we have an area preference,
11 which is based on good behavior, where we
12 incentivize behavior. As we continue to
13 leverage tools to drive violence, that's a
14 critical tool to (a) get people closer to
15 their children, as well as getting people
16 closer to home based on their good behavior.

17 So it's a matter of where the
18 population's coming from, where facilities
19 are situated, and some of the laws that are
20 in place to house people close to their minor
21 children.

22 CHAIRWOMAN WEINSTEIN: Thank you.

23 The final legislator to ask questions,
24 Assemblywoman Anna Kelles.

1 ASSEMBLYWOMAN KELLES: Thank you so
2 much, all of you, for being here and for your
3 endurance.

4 So first question, I wanted to first
5 thank you; I've heard a lot of you bring up
6 earned time, merit time, good time as another
7 incentive that we really could be using. And
8 I know from my own research that it has been
9 correlated with reduction in violence against
10 corrections officers, which we all want to
11 see, you know, associated with reduced
12 recidivism rates. Great data with this.

13 So I know in New York we have one of
14 the most conservative earned time act
15 programs from the state analysis that I've
16 been looking at. So I'm curious if you would
17 be open to reevaluating, looking across what
18 has worked across all states. I know even
19 Alabama and Texas, I was recently looking at,
20 were somewhat more expansive. So I know it's
21 a nonpartisan issue but -- the benefits from
22 it in particular. So I'm just curious if you
23 would be open to doing a deep dive and
24 reevaluation and expansion, potentially, of

1 that program.

2 ACTING COMMISSIONER ANNUCCI: Well,
3 we're always open to whatever the Legislature
4 thinks is appropriate.

5 I can tell you we've saved billions of
6 dollars in prison cost avoidance with
7 programs like shock incarceration, merit
8 time, and limited credit time. And, you
9 know, when you say we're very restrictive
10 compared to other states, the traditional
11 good time you can earn on an indeterminate is
12 one-third. We went conservative with the
13 VFOs when we enacted those laws. But even
14 then, we can cut into that with the limited
15 credit time allowance to allow the additional
16 six months, so --

17 ASSEMBLYWOMAN KELLES: Absolutely.
18 I'm talking about also making it available to
19 everyone who is incarcerated, because it's
20 such a great incentive. That is something we
21 certainly could do.

22 So there's some things like that,
23 looking into. We've talked about the roots
24 of success program; I'd love to see that

1 implemented. So further conversation, but
2 that's wonderful.

3 ACTING COMMISSIONER ANNUCCI: Sure,
4 absolutely.

5 ASSEMBLYWOMAN KELLES: Just some other
6 data. I know, looking at the research,
7 there's been a reported increase over the
8 last 10 years of violence among incarcerated.
9 So given that, I'm wondering what the
10 difference is that we're seeing here and if
11 we could dive a little bit more into the
12 data, because that's always helpful in
13 looking at possible prevention.

14 Are they often with someone who's in a
15 cell by themselves? Is it cases -- do you
16 have the distinction, for example, where we
17 have some that's been identified as assault
18 that would be identified as an assault under
19 criminal law? How are they defined? Are
20 they broken up?

21 Can you speak a little bit more to the
22 data and the definitions and the details?

23 ACTING COMMISSIONER ANNUCCI: Sure.
24 So for starters, our definition of assault is

1 broader than in the Penal Law. Penal Law
2 does require physical injury, which is a
3 threshold. So -- but if you bump into a
4 correction officer, that's an assault, but
5 it's challenging the officer's authority, and
6 it's something that's serious.

7 In terms of analyzing why we're seeing
8 the upward trends, what's changing --
9 especially since the population has gone
10 down, so all the traditional things you
11 looked at like, you know, double celling when
12 we were overcrowding, 90 inmates in a dorm
13 when we were overcrowding. That's gone away.
14 The maximum now is 50 in a dorm. There's no
15 single cells that we're using anymore for
16 double cells.

17 So there's a lot of other dynamics
18 that are going on which I think you're seeing
19 in outside society. We're no different. The
20 forces that are driving some of the increases
21 in violent crime and homicide are bleeding
22 into our correctional facilities as well.

23 EX. DEP. CMMR. MARTUSCELLO: Just two
24 things I'd like to just add and leave you

1 with is that the demographics of our
2 population have also shifted.

3 So right now, based on instant
4 offense, 74 percent of our population are
5 violent felony offenders. And if you look at
6 secondary crimes and/or past crimes, that
7 number jumps to 84 percent. So, I mean,
8 obviously the demographics of our population
9 have shifted, which I think is also helping,
10 you know, contribute to the violence.

11 And in terms of where we're seeing it,
12 we report on unusual incidents, a five-person
13 fight or above. So just to leave you with a
14 statistic, in 2021 we had 70 five-man-plus --
15 and I use "man" -- five-person fight or
16 above, right? In 2022, we had 110 instances
17 of five-plus-person fights. So just in a
18 year, a huge shift.

19 CHAIRWOMAN WEINSTEIN: Thank you.
20 Thank you.

21 ASSEMBLYWOMAN KELLES: I'd love to
22 look at that with you. That would be good.

23 CHAIRWOMAN WEINSTEIN: The Assembly is
24 finished with witnesses -- I mean, with

1 questioners.

2 CHAIRWOMAN KRUEGER: So I want to
3 thank all of you for coming and being with us
4 today, and I probably will get some follow-up
5 questions from a number of people. So you're
6 free, so to speak. Thank you very much.

7 And everybody can take their
8 conversations out to the hallways if they
9 need to grab these people outside. And we're
10 going to quickly move to the next panel.
11 We've now moved to the citizens.

12 All right, so we're going to be
13 calling up the Center for Justice Innovation,
14 the Urban Justice Center, the Release Aging
15 People in Prison Campaign, and the Center for
16 Community Alternatives.

17 Again, if you can please take your
18 conversations outside.

19 CHAIRWOMAN WEINSTEIN: Colleagues, can
20 you take your seats, please.

21 (Discussion off the record.)

22 CHAIRWOMAN WEINSTEIN: If you don't
23 leave, we're going to make you stay to the
24 end with us.

1 (Discussion off the record.)

2 CHAIRWOMAN KRUEGER: All right, I see
3 three out of four, so perhaps we just have
4 worn people down and we only have three out
5 of four.

6 All right, Senators, behave.

7 (Laughter.)

8 CHAIRWOMAN KRUEGER: Wow, that worked
9 almost.

10 Are you coming down to be with us?
11 Fine, we'll give you a -- don't rush. Be
12 careful on the stairs.

13 Good -- is it evening yet? Yes, it's
14 good evening. And I'm just going to go from
15 that side of the table back to that side.

16 And also please know when you're
17 leaving, if you don't want to go up the
18 stairs again, if you just go out either side,
19 there's an elevator and you don't have to
20 climb the stairs. Maybe it would be helpful
21 if we told you that before you came down the
22 stairs. But the best I can do is point it
23 out now.

24 Hi, everybody. Please let's start

1 with this side.

2 MS. BRYAN: Hello, yes. Can everyone
3 hear me okay? Great. I think you -- oh, you
4 can't --

5 CHAIRWOMAN KRUEGER: Introduce
6 yourselves and --

7 MS. BRYAN: Oh, yes, I'm
8 Courtney Bryan, with the Center for
9 Justice Innovation. Sorry.

10 The mic isn't on?

11 UNIDENTIFIED LEGISLATOR: Could you
12 put the mic a little closer?

13 MS. BRYAN: Sure, of course, yeah.

14 UNIDENTIFIED LEGISLATOR: Thank you.

15 CHAIRWOMAN KRUEGER: Great.

16 MS. BRYAN: Okay. I just wanted to
17 acknowledge and thank you all for your
18 endurance -- I think other people were
19 acknowledged for their endurance -- for
20 taking the time to listen and be so engaged
21 in this important topic.

22 And I'm pleased to have met a few of
23 you over the last couple of weeks over Zoom
24 or in person as the newish executive director

1 of the Center for Justice Innovation.

2 You may have known us as the Center
3 for Court Innovation for the last 25 years,
4 but we changed our name in the last few weeks
5 to kind of reflect the breadth of our work
6 and our mission which, as you may know, is to
7 continue to work in partnership with
8 government and with communities to help
9 create a fair, effective and humane justice
10 system.

11 We're a unique organization in that we
12 are -- we run programs, operating programs on
13 the ground in courts and communities, mostly
14 across New York City but also in Syracuse.
15 But we're also a research institution, and
16 then we work with reformers and
17 practitioners, policymakers around the world,
18 to help them improve their justice systems.
19 We do obviously a tremendous amount of work
20 here in New York State.

21 Some of you may also know us through
22 programs that we operate in your districts,
23 and I'm seeing some nodding heads who I know.
24 Thank you. We operate about 30 court-based

1 or community-based programs that seek to
2 reduce gun violence, that seek to reduce the
3 use of incarceration, help keep people in
4 housing or connect them to housing, transform
5 public spaces so that we're creating thriving
6 communities.

7 CHAIRWOMAN KRUEGER: Forgive me, I'm
8 just going to -- just one second. So for
9 everyone, you have three minutes.

10 MS. BRYAN: Three minutes, yes.

11 CHAIRWOMAN KRUEGER: So with all due
12 respect, don't use your time telling us about
13 your organization, tell us what you need us
14 to hear --

15 MS. BRYAN: Yup. Yup. Of course. So
16 I'd like to focus on --

17 CHAIRWOMAN KRUEGER: -- about the
18 budget.

19 MS. BRYAN: -- three urgent items.

20 One, and you all have engaged in this
21 already, continuing to reduce the use of
22 unnecessary incarceration. This is obviously
23 imperative, both for safety and for justice.
24 It was mentioned even -- the Midtown

1 Community Court, by a few folks earlier
2 today, that was the founding of our
3 organizations. We've been committed to this
4 to help people improve their lives, keep them
5 out of jail.

6 We have been working recently to
7 increase access to pretrial services, to
8 increase felony alternatives to
9 incarceration, and young people charged with
10 weapons possession. And I would just
11 encourage you all to continue to support that
12 and seek to support those efforts even more.
13 Frankly, we're getting more referrals from
14 judges than we can handle and that the
15 funding allows for. So there's a grave need
16 for expansion there.

17 Gun violence, again, has so dominated
18 the headlines and conversations and people's
19 experience over the last couple of years. We
20 have been running the Cure Violence program
21 in New York City in a few neighborhoods for
22 more than a decade, but we're continuing to
23 study and to learn from experience in doing
24 that, to think about ways to enhance the

1 Cure Violence model. We have a number of
2 ideas for how to do that so that it's not
3 just putting all of our eggs in this one
4 basket, but how can we invest in people and
5 communities more and talking to young people
6 for that.

7 And the last is mental health and
8 substance use. We, with the Bronx Hope and
9 Brooklyn mental health courts as examples,
10 seeking to invest more in communities but
11 also court-based diversion programs, but
12 would ask again for your support on that.

13 Thank you so much for your indulgence.

14 CHAIRWOMAN KRUEGER: (Mic off.)

15 Sorry, you don't need to go through
16 your whole testimony, you can't in three
17 minutes. And don't use your time just
18 telling us who your organization is because
19 then you don't get to tell us what you care
20 about in our budget. And we already have
21 everyone's testimony.

22 Okay, next person.

23 MS. SCHAFFER: Hi, all. Thank you for
24 the opportunity to testify today. I'm Katie

1 Schaffer. I'm the director of advocacy and
2 organizing at Center for Community
3 Alternatives, CCA.

4 We are here to testify in opposition
5 to the Governor's Executive Budget proposal
6 on bail reform and in support of the
7 Clean Slate Act and the End Predatory
8 Court Fees Act.

9 In her Executive Budget,
10 Governor Hochul proposes eliminating the
11 least restrictive standard to ensure return
12 to court and replace it with nothing -- no
13 standard whatsoever. There are 33 other
14 states in the country that use a least
15 restrictive standard; there are none that
16 have no standard at all. This is both
17 legally unworkable, it will lead to increases
18 in incarceration, and it will prompt judges
19 to engage in the worst forms of bias.

20 It is also -- the lack of a standard
21 will guarantee widespread confusion, which
22 makes it particularly bewildering given that
23 the Governor's justification for doing so is
24 judicial confusion. Having no standard at

1 all will result in arbitrary decision making
2 and generate far more -- far greater
3 confusion.

4 The second item that we want to
5 testify about is what will actually increase
6 community safety. The Governor herself has
7 acknowledged that bail reform has not
8 increased crime, as we heard also earlier
9 today. But we do know what works. There is
10 very clear data about the kinds of services,
11 supports and opportunities that increase
12 community safety. Thriving communities are
13 safe communities.

14 And one way that we can increase
15 community safety is through passage of the
16 Clean Slate Act. A recent study of
17 Michigan's sealing law found that when people
18 had access to having their records sealed,
19 they were more likely to be employed, they
20 were earning more, and they were less likely
21 than members of the general public to be
22 convicted of a crime.

23 This makes sense, that when people
24 have access to jobs, are able to support

1 themselves and their families, that is what
2 strong communities look like and that is what
3 safe communities look like.

4 So we urge both the Assembly and the
5 Senate to include the Clean Slate Act in your
6 one-house budgets. There is dramatic support
7 for the legislation across the state from
8 businesses, from labor unions, from local
9 governments. Even better, pass it
10 pre-budget. But since this is a budget
11 hearing, please include it in your
12 one-houses.

13 And finally, the End Predatory Court
14 Fees Act we would also encourage you to
15 include in the one-house budgets. Right now
16 New York State has a regressive form of
17 taxation through court fees that criminalizes
18 poverty, that fails to generate revenue, and
19 that results in really terrible forms of
20 government transparency.

21 So we urge you to include the
22 End Predatory Court Fees Act in the
23 one-houses as well.

24 CHAIRWOMAN KRUEGER: Thank you.

1 Next?

2 MR. SALDANA: Is this on? Can you
3 hear me good? Okay.

4 Okay, I'm Jose Saldana, director of
5 the Release Aging People in Prison Campaign.
6 I'm here to address something that was
7 excluded from the Governor's budget, and I'm
8 hoping that it will be a priority for y'all.

9 Mass incarceration has created an
10 inhumane crisis in our prison system.
11 Harsher sentences in the front end, and in
12 the back end the Parole Board re-sentencing
13 people to sometimes years and decades past
14 the minimum set by the New York State Supreme
15 Courts. In between, men and women and
16 nonbinary people are just getting older,
17 sicker and, sadly, in a lot of cases dying.

18 The money that is used to incarcerate
19 elder people in our prison system, elder
20 people who do not pose any risk to public
21 safety, as well as those who are infirm,
22 those who have illnesses that are almost
23 terminal, instead of languishing in prison
24 until they die or are released at an age

1 where they cannot be productive, we can save
2 a half a billion dollars a year -- money that
3 could be better used for services that are
4 included in the budget.

5 And I'd just like to mention that the
6 Governor talked about funding violence
7 interrupters. Where does she think that
8 violence interrupters are going to come from?
9 They're going to come from our prison system.
10 They're going to come from men who have
11 mentored me and men that I have mentored,
12 women who have been mentored by Val Gaiter,
13 the longest-serving woman in our state prison
14 system, who died because she was
15 misdiagnosed. She actually helped an entire
16 generation of younger women transform their
17 lives. She should have been in our
18 communities helping younger women, giving
19 them a vision of a future that does not
20 involve violence or drugs or gangs.

21 So I'm here to just propose that this
22 esteemed body pass the two bills that will
23 address mass incarceration in our prison
24 system, the Elder Parole bill and the Fair &

1 Timely Parole bill.

2 And I'd like to just add that last
3 year the former chair of the New York State
4 Parole Board wrote a letter to me, a personal
5 letter, and she said that she admits to being
6 wrong, she was on a panel that denied me
7 parole and she now says that I have shown
8 evidence, irrefutable evidence, that I was
9 not a risk to public safety, that I was ready
10 to return back to the community then when she
11 denied me. She was "I was wrong, and I
12 apologize."

13 An apology does not fix this crisis.
14 The crisis has to be fixed by our esteemed
15 body right here. Pass these two bills. They
16 will address these questions and they will
17 address the money that is misused. And, more
18 importantly to me, they will bring families
19 home and address the crisis of families in
20 our communities just living in pain and
21 suffering and despair from generation to
22 generation.

23 Thank you.

24 CHAIRWOMAN KRUEGER: (Mic off.)

1 CHAPLAIN DR. PHILLIPS: Peace and
2 blessings, everyone. Can you hear me?

3 CHAIRWOMAN KRUEGER: (Inaudible.)

4 CHAPLAIN DR. PHILLIPS: Peace and
5 blessings. You can hear me now? Okay.

6 Well, you have my written statement,
7 so it's evening now, so blessings, Chairs and
8 everyone else. I'm Chaplain Dr. Victoria A.
9 Phillips, and today I'm here also -- I'm the
10 founder of Visionary V ministries, and I'm
11 here representing the Urban Justice Center
12 Mental Health Project, which I've worked at
13 for the last eight years. And I'm here today
14 to talk about the Treatment Not Jail Act in
15 Senate 1976 and Assembly 1263.

16 And you have my testimony, so I just
17 really want to touch base, because I know I
18 don't have much time, on -- you know, I've
19 sat on the Department of Corrections Advisory
20 Board for six and a half years, even after my
21 brain surgery, so I am someone who lives with
22 invisible disabilities. And I'm now the
23 cochair to the DOC Young Adult Task Force in
24 New York City.

1 And I say that because I've sat here
2 and there's so many things I want to respond
3 to today, but I just want to be clear. As an
4 Army brat on domestic soil with a mother
5 buried in a military cemetery, I want to
6 remind everyone in this room that you all
7 have a duty to protect the heartbeats in your
8 district, to protect your constituents, to
9 protect every vulnerable individual in your
10 community that cannot protect themselves,
11 that might be going through a crisis, that
12 might have a downtime.

13 And I've listened to how we talk about
14 them versus us today, and I'm here to let you
15 know that I am them. And so are you. And
16 I've realized that during the pandemic. I
17 knew it before, but during the pandemic so
18 many more community members and peers had to
19 wake up and rise up to the fact that we all
20 deal with mental health in some way, fact or
21 form.

22 And as a chaplain, I take on a lot of
23 secrets. And I just want to highlight that
24 because we talk about people as if their

1 crisis defines who they truly are. And I'm
2 here to tell you, who you are in the moment
3 is not who you have to be for the rest of
4 your life. And as a chaplain I know what I
5 hear in the moment, many times you will put
6 your own self away, based on your own
7 judgment that I heard today.

8 And so I just want to highlight how
9 important it is to pass Treatment Not Jail,
10 because jails are not safe. I've worked in
11 the jail system in nursing, doing cognitive
12 behavioral therapy, some forms of chaplaincy
13 and some forms of monitoring for those who
14 have a broad-range diagnosis of serious
15 mental illness. And what I can say is jail
16 is never the way. Jail is never the case.

17 I've trained judges who do not know
18 what to do with someone and are afraid to
19 release them because they don't have the
20 proper resources and tools for what's going
21 on in the community.

22 And I just want to say, reinvest back
23 into your community. Take that money from
24 the DOC budget and make sure there's respite

1 centers, make sure there's clubhouses, make
2 sure there's adequate social workers. Make
3 sure you're saving your community. Because
4 when you take care of your most vulnerable,
5 you take care of yourself.

6 Peace and blessings.

7 Any questions?

8 (Laughter; scattered applause.)

9 CHAIRWOMAN KRUEGER: Thank you.

10 First, Senator Zellnor Myrie.

11 SENATOR MYRIE: Thank you.

12 It is Tuesday, but I felt like it was
13 a Sunday --

14 (Laughter.)

15 SENATOR MYRIE: -- being in church.

16 Thank you, Chaplain.

17 Questions directed at Ms. Bryan and
18 Mr. Saldana.

19 First, Ms. Bryan, we've worked with
20 your organization. Can you talk to us a
21 little bit about the work that you do with
22 individuals that are directly involved with
23 the violence that we're trying to stop? And
24 what the value is in working with this

1 population in a way that doesn't cast
2 aspersions on them, tell them to fix
3 themselves, but really looks at the solution.

4 And then to Mr. Saldana, if you could
5 speak to what public safety threat, if any,
6 our older incarcerated individuals pose to
7 the population. We heard from the acting
8 commissioner that they can assess the risks
9 of public safety for people who are outside
10 of their custody, but for inside their
11 custody they have no idea how to make this
12 assessment. So I'm hoping you can speak to
13 that.

14 And then I cede the rest of my time to
15 both of you.

16 MS. BRYAN: Thank you, and I'll be
17 brief.

18 But as you so eloquently said,
19 Chaplain, we are them, they are us. And so
20 that is such a powerful message when it comes
21 to the use of credible messengers and peers,
22 people who have been involved, been victims,
23 often, and perpetrators of violence, engaging
24 them and figuring out what the solutions are.

1 So instead of seeing them only as
2 problems to solve, sort of looking at them as
3 assets to tap into to develop solutions for
4 those community problems and the violence
5 that's in neighborhoods.

6 So with the SOS program that we run,
7 Save Our Streets, in Brooklyn, for example,
8 in your district, Senator, we are targeting
9 the folks who are most impacted, who are most
10 engaged in and victimized by violence.
11 Instead of offering them, frankly, a social
12 service, we're really seeing them as assets.

13 And so paying them for their time to
14 be engaged in civic work that identifies what
15 the problems are in those neighborhoods, and
16 how to solve them. So I think seeing that
17 reframe is very helpful, and we've seen a
18 reduction in gun violence in those
19 neighborhoods.

20 MR. SALDANA: You know, last year
21 during the same budget hearings
22 Acting Commissioner Annucci said that the
23 best credible messengers are the old-timers
24 who did a lot of time. What he didn't

1 mention is that very concept came from
2 incarcerated people in New York State. The
3 concept of violence interrupters also came
4 from the state prison system, of men who were
5 consumed, who were passionate about not only
6 changing their lives but changing the lives
7 of those around them.

8 So we're talking about people who have
9 addressed harm in the most productive way in
10 the worst conditions. So if men and women
11 can do that in our prison system, with people
12 who have been convicted of violent crimes,
13 they can do it anywhere.

14 CHAIRWOMAN KRUEGER: Thank you.

15 Assembly.

16 CHAIRWOMAN WEINSTEIN: Assemblywoman
17 Kelles.

18 ASSEMBLYWOMAN KELLES: Hi. Thank you,
19 all four of you, for being here.

20 I wanted to note, you know, one of my
21 concerns with policy debates is that we can
22 always find an anecdote to support our case.
23 As an epidemiologist when I was in grad
24 school used to say, there's literally only

1 one that you can't -- smoking and lung
2 cancer. Which even then you can find cases.

3 But so I want to ask you about data,
4 statistics, a little bit to get them out
5 there. First of all, how many -- what
6 percentage of people do we know who are
7 incarcerated have been diagnosed with mental
8 health and concurrent, in many cases, mental
9 health and substance use disorders? Do we
10 have that data?

11 CHAPLAIN DR. PHILLIPS: One of out
12 four.

13 ASSEMBLYWOMAN KELLES: So one out of
14 four has been diagnosed with mental health --
15 my understanding is it's over 60 percent that
16 is co-occurring.

17 CHAPLAIN DR. PHILLIPS: Yeah, one out
18 of four has a --

19 ASSEMBLYWOMAN KELLES: It's been a
20 long day.

21 CHAPLAIN DR. PHILLIPS: -- and with
22 substance abuse disorder.

23 ASSEMBLYWOMAN KELLES: Okay.

24 And another question I have, for

1 people who are released who are from the
2 elder population, 55 and older, what is the
3 percentage of recidivism that we see in that
4 population versus younger populations?

5 MR. SALDANA: You're talking about
6 percentage of recidivism or the rate of
7 recidivism?

8 ASSEMBLYWOMAN KELLES: Yes, mm-hmm.

9 MR. SALDANA: I was released when I
10 was 66 years old. The rate of recidivism of
11 someone 66 years old is zero percent. So
12 we're talking about a population that is the
13 least likely to ever commit a crime.

14 But I don't really go by that. I go
15 by what men have done for decades, the
16 decades they've been incarcerated, what they
17 have done for themselves and for others.
18 This is the measure of who they are. This is
19 the measure of who they will be once they are
20 returned back to our communities.

21 ASSEMBLYWOMAN KELLES: Thank you.

22 And the other thing I wanted to point
23 out, from the two pieces of legislation that
24 you identified, this is not an instant

1 release when you hit 55 years if you've been
2 in for 15 years. These are both cases where
3 you are then eligible for a parole hearing,
4 right?

5 MR. SALDANA: That's exactly right.
6 It just literally, in reality, it gives men
7 who don't have hope, it gives them a degree
8 of hope.

9 ASSEMBLYWOMAN KELLES: Okay. And also
10 an incentive for good behavior and -- right?

11 A question, you mentioned the
12 predatory practices, court practices, court
13 fees. Can you describe a little bit -- you
14 said something, that it doesn't actually
15 create any funding but it does -- can you
16 describe a little bit more what you meant by
17 that?

18 MS. SCHAFFER: Yeah, so New York's
19 mandatory court surcharge was created as a
20 revenue-generator. It is not part of your
21 fine or your sentence or your punishment. It
22 was just supposed to raise revenue for the
23 court system.

24 It is wildly ineffective at doing so.

1 New York is a very bad keeper of this data,
2 despite being statutorily obligated to do so.
3 But we know from other states that the cost
4 to collect can surpass the cost that is ever
5 collected, the revenue that is ever
6 generated. In some localities it's 60 cents
7 on the dollar; in some localities it's as
8 high as \$1.17 on the dollar.

9 CHAIRWOMAN KRUEGER: Thank you.

10 CHAIRWOMAN WEINSTEIN: Thank you.

11 CHAIRWOMAN KRUEGER: Jamaal Bailey.

12 SENATOR BAILEY: Thank you,

13 Madam Chair.

14 Jose, I'm very sad that I've lost you
15 as a constituent, but thank you for your
16 advocacy, continued. Appreciate all that you
17 do.

18 The rest of my comments were for
19 Ms. Schaffer in relation to Clean Slate. You
20 spoke about it and the necessity of it.
21 There are a lot of misconceptions about what
22 the bill is and what it does. In this time,
23 if you could, in the two minutes and change,
24 if you could just tell us what the economic

1 benefits would be and how it would help to
2 increase public safety, if you could.

3 Thank you.

4 MS. SCHAFFER: Of course. Thanks,
5 Senator Bailey.

6 So the economic benefits are very
7 clear. Recent research shows that the
8 benefits to New York State could be as much
9 as \$7 billion for people who are currently
10 unemployed or underemployed who would have
11 access to jobs. At a national level, that
12 looks at \$87 billion as being lost in
13 potentially wages.

14 And then at the individual level we
15 see that the research out of Michigan is that
16 people are 11 percent more likely to be
17 employed a couple of years later and are
18 earning 25 percent more.

19 So this is something that boosts
20 economic opportunity in the state, tax
21 revenue for the state, helps businesses hire
22 employees. And then at the individual level,
23 it is something that helps break cycles of
24 poverty. That if parents can support their

1 children, and there are hundreds of thousands
2 of children with currently incarcerated
3 parents and even more with formerly
4 incarcerated parents or parents with old
5 conviction records, that that makes a
6 tremendous difference in terms of those
7 children's economic opportunities as they
8 grow up.

9 And that economic benefit and those
10 economic opportunities contribute directly to
11 increases in community safety. That if
12 people don't have access to jobs, don't have
13 access to housing, can't support their
14 children, I think there's a very real
15 question about what it is we expect people to
16 do.

17 And the Clean Slate Act directly
18 allows people to take care of themselves and
19 to take care of their families.

20 SENATOR BAILEY: So I guess I would
21 just say, what I would proffer with the
22 remaining amount of my time, is back to Jose.

23 Is it fair to say that if an
24 individual has meaningful opportunities at

1 gainful employment, that just from your life
2 experience, it's much less likely that they
3 would be recidivists? Is that something
4 that's fair to say?

5 MR. SALDANA: Absolutely.

6 The men and women returning from our
7 prison systems, they come out with a mission.
8 They're the most socially conscious human
9 beings in our commission. Just take it from
10 me. I was a member of your council, your
11 criminal justice council. I was also a
12 member of Chris Burdick's correction advisory
13 committee.

14 You know, we've come out to repair
15 harm. We've come out to revitalize
16 communities that we helped destroy. So this
17 is our mission, and this is how we should be
18 valued.

19 SENATOR BAILEY: I appreciate all of
20 your time and effort. Thank you.

21 CHAIRWOMAN KRUEGER: Thank you.

22 Any other? No, okay.

23 Then I want to thank everyone on the
24 panel for being with us today. Appreciate

1 it.

2 And I'm going to call up the next
3 panel: The Firefighters Association of the
4 State of New York, the New York State Police
5 Investigators Association, the New York State
6 Park Police Sergeants Benevolent Association,
7 and the New York State Correctional Officers
8 and Police Benevolent Association.

9 And again, if you want to avoid the
10 stairs, you can just go straight out and
11 around, and you don't even have to go up the
12 stairs. Okay, fine. I just wanted to make
13 sure you knew that. Everyone is welcome to
14 avoid the stairs.

15 Is there anyone else who is going to
16 join us? I see three out of four groups.
17 You're missing one? Well, maybe they'll show
18 up. Well, I see the firefighters. So why
19 don't we start on this side and we'll go
20 down, and perhaps a fourth will join us.

21 Hi. Please.

22 MR. TASE: Well, good evening, and
23 thank you very much for the opportunity.
24 Thank you, and my name is Ed Tase. I'm the

1 president of the Firefighters Association of
2 the State of New York, the voice of New York
3 State's 80,000-plus volunteer firefighters.

4 We were down 20,000 volunteer
5 firefighters in New York over the last
6 20 years, and most of the remaining ones look
7 a lot like me.

8 Volunteer fire departments both here
9 in New York and nationwide are struggling to
10 recruit new members and retain existing ones
11 who are rapidly aging out. At the same time,
12 annual call volume has nearly doubled, as
13 volunteer operational responsibilities beyond
14 fire protection -- like weather-related
15 issues, operations -- continue.

16 The training necessary to perform
17 these expanding responsibilities safely and
18 effectively, and the time committed expected
19 of a volunteer, has increased -- a result of
20 the crisis that cannot be understated, as it
21 impacts the protection of lives and
22 properties in our local communities. It is a
23 serious concern, as almost 80 percent of the
24 fire protection services in the State of

1 New York, outside the City of New York, are
2 provided by volunteer fire companies and
3 combination departments.

4 My goal as FASNY's president is to
5 recruit 10,000 new volunteer firefighters or
6 EMS providers during my two-year term. So I
7 welcome and embrace creative strategies to
8 address the complex problem. There is no
9 silver bullet, and it's going to take a
10 comprehensive statewide approach to be
11 effective.

12 In regards to the budget proposal,
13 FASNY is very encouraged that Governor Hochul
14 has clearly prioritized the crisis of
15 volunteer fire recruitment and retention.
16 Her leadership on this issue is
17 mission-critical, and we applaud the
18 executive.

19 PPGG Part H proposes local governments
20 to have the ability to pay a nominal fee to
21 volunteer firefighters responding to
22 emergency calls. Paid per call is a new idea
23 in New York, and exploring new solutions is
24 commendable. The volunteer fire service

1 looks forward to seeing the specifics and
2 remains open to ongoing discussions with the
3 Executive and OFPC.

4 Another way to approach the concept is
5 to allow authorities to have jurisdiction to
6 provide nominal reimbursement for expenses
7 incurred, for training and expenses incurred
8 by that volunteer firefighter.

9 Additionally, OFPC is authorized under
10 the budget proposal to create a stipend fund
11 for volunteer firefighters who complete basic
12 training programs. FASNY is fully supportive
13 of this. It represents out-of-the-box
14 thinking by the Governor and her public
15 safety team.

16 For this proposal to be truly
17 successful, it needs a permanent statutory
18 funding mechanism. It should also be
19 available for ongoing training as well.

20 I would like to focus my remaining
21 time --

22 CHAIRWOMAN KRUEGER: I'm sorry, you
23 don't have remaining time.

24 MR. TASE: Okay, thank you very much.

1 Thank you.

2 CHAIRWOMAN KRUEGER: Thank you very
3 much.

4 Again, we have all of your testimony.
5 And so we just ask everyone to bullet point
6 the key issues for themselves. Thank you.

7 MR. TASE: Thank you very much.

8 CHAIRWOMAN KRUEGER: We'll go to my
9 right, her left.

10 Hi. Introduce yourself.

11 MR. MCGARITY: Thank you.

12 Good evening. My name is
13 Frank McGarity, and I'm the director of the
14 New York State Park Police Sergeants
15 Benevolent Association, part of the PBA of
16 New York State.

17 In my 20 years with the Park Police
18 I've seen a dramatic change within my agency,
19 including at least a 40 percent reduction in
20 the number of Park Police officers.

21 Our current 178 officers are tasked
22 with protecting 287 Office of Parks,
23 Recreation and Historic Preservation sites,
24 from Montauk to Niagara, in a variety of

1 terrain and environments, rural and urban.

2 We are stretched to the breaking point
3 both in terms of manpower and resources. Our
4 current academy class is scheduled to
5 graduate in May with 38 new officers. Sadly,
6 these officers will barely offset current
7 attrition.

8 The elephant in the room is: Why are
9 our numbers so low? Why did one-third of our
10 job leave since 2019? Why do we lose
11 officers to other agencies -- municipal,
12 county and state?

13 The answer is simple. Nearly every
14 other law enforcement officer in New York
15 State receives a 20-year retirement benefit,
16 while we continue to work under an outdated
17 and inequitable 25-year retirement plan.

18 The officers being poached away by
19 competing agencies include our diverse
20 officers. This makes it increasingly
21 difficult to represent the diverse
22 communities we serve.

23 The record 78-plus million people who
24 visit our state parks and historic sites each

1 year come from across the state, the nation,
2 and the world. To be blunt, our park police
3 officers are largely white and largely male.

4 We recognize that diversity is
5 important and a fundamental aspect of our
6 specialized mission of community policing.

7 This past year Governor Hochul
8 committed the Park Police to the
9 30x30 initiative to increase the number of
10 women in law enforcement to 30 percent by
11 2030. We embraced this effort, but we've
12 lost 11 women since 2019. The 20-year
13 retirement benefit would have helped with
14 that.

15 The State Legislature has been
16 incredibly supportive in passing our 20-year
17 retirement bill year after year with near
18 unanimous bipartisan support. Thank you very
19 much for that. It's greatly appreciated.
20 Unfortunately, the bill has been vetoed
21 repeatedly, citing a need to include it as
22 part of the budget. Our members respectfully
23 and strongly urge the Legislature to include
24 the 20-year retirement benefit as part of

1 your budget proposal.

2 Last year a joint working group was
3 convened to explore the future of the
4 Park Police. Despite requests from our union
5 to participate, we were not included. In
6 December a report was issued from the group,
7 but as of yet we have not been provided an
8 opportunity to review it.

9 On behalf of my fellow Park Police
10 officers, I thank you for the opportunity to
11 testify, and I welcome any questions.

12 Thank you.

13 MR. DYMOND: Good evening, Senate and
14 Assembly members. My name is Tim Dymond, and
15 I'm a senior investigator with the New York
16 State Police and currently the elected
17 president of the New York State Police
18 Investigators Association. I represent
19 roughly 1150 State Police senior
20 investigators and investigators located
21 throughout the state. We make up the BCI.

22 Much has been spoken of public safety
23 and our communities during the budget
24 discussions, and I would like to say that our

1 members handle the most serious crimes on a
2 daily basis. We are the ones that handle
3 murders, rapes, robberies. We handle human
4 trafficking, kidnappings, counterterrorism,
5 undercover narcotic investigations, and most
6 recently our members have handled the large
7 majorities of TERPOs and ERPOs in the rural
8 areas of New York State.

9 Each of our members starts their
10 career as a uniformed Trooper. Then our
11 membership is a group of hand-selected,
12 experienced Troopers taken from the mass and
13 made into investigators.

14 The State Police as an agency has
15 proven to be highly adaptable to current law
16 enforcement forms, and we continue to take a
17 leadership role in the law enforcement
18 community. To maintain this level of
19 service, I detailed a few items that I think
20 deserve consideration in the pending budget.

21 Our highest priority continues to be
22 replacement of retiring members within our
23 ranks. Like most law enforcement agencies in
24 this country, recruitment and retention are

1 reaching a troubling point. We continue to
2 lose our most experienced members to
3 retirement at an alarming rate. Our BCIs are
4 down 100 investigators statewide from where
5 we were just a few years ago, and
6 realistically we're about 200 investigators
7 from where we would operate most effectively.
8 Our backroom BCI units are short, and special
9 details statewide are running at a reduced
10 level.

11 At the same time, the workload
12 continues to increase exponentially due to
13 the increase in violent crime and the recent
14 explosion of TERPO cases. In 2022, my
15 membership handled nearly a 470 percent
16 increase from 2021 in TERPO cases. Each of
17 these cases is important and requires roughly
18 eight hours of work to prepare for hearings.

19 This year we asked the Legislature to
20 support the Governor's proposal of four
21 additional State Police recruit classes to
22 replenish the ranks necessary to keep
23 New Yorkers safe.

24 We were pleased to hear the Governor's

1 support for an increase in the funding that
2 is used to battle the spike in gun violence
3 across the state. These are CSU units,
4 community stabilization units, that you've
5 heard much about earlier today from
6 Superintendent Nigrelli.

7 These are made up and led by senior
8 investigators and investigators, and they
9 target gun crime throughout the State of
10 New York in our most troubled neighborhoods.
11 They have proven to be very effective,
12 seizing hundreds of ghost guns just this past
13 year.

14 Lastly, we ask the Legislature to
15 support additional funding to bolster the
16 ICAC, the Internet Crimes Against Children,
17 and the CCU, Computer Crimes Unit members
18 across the state. There is no mission more
19 important than protecting our children
20 statewide.

21 Thank you.

22 CHAIRWOMAN KRUEGER: And let's go --
23 we went around without you, so please.

24 MR. POWERS: Thank you.

1 Thank you, distinguished chairs and
2 members of the Legislature. I'm Michael
3 Powers, president of NYSCOPBA. On behalf of
4 more than 30,000 active and retired members,
5 thank you for the opportunity to discuss the
6 current state of New York's correctional
7 facilities.

8 Let me start by saying we support
9 several items in the Executive Budget
10 proposals, including body scanners, lowering
11 the hiring age of correction officers from 21
12 to 19, and of course with no prison closures
13 in the fiscal year.

14 But I'd like to focus on the current
15 conditions in our correctional facilities.
16 To put it bluntly, they're deteriorating and
17 our members are burned out. Over the past
18 several years the decisions made by elected
19 leaders have resulted in tremendous
20 consequences for the brave men and women who
21 work in our prisons.

22 2022 was the most violent year in our
23 history. Single-year records were set in
24 both inmate-on-staff and inmate-on-inmate

1 assaults. The state-tracked data shows the
2 beginning of record-setting violence
3 immediately following the enactment of the
4 HALT Act on April 1.

5 Not only have the number of assaults
6 significantly increased, but the severity,
7 boldness, and brazen activity has also
8 increased. Within the last year, a female
9 correction officer working at Attica
10 Correctional Facility was sexually assaulted
11 by an inmate as she was escorting him from a
12 COVID-19 testing site. In plain sight of
13 others, incarcerated individuals and staff,
14 the inmate brazenly attacked the female
15 officer, grabbing her in the groin and other
16 multiple areas.

17 Thanks to the HALT Act, this
18 individual was afforded seven hours
19 out-of-cell time with other rule-breaking
20 inmates only days after this attack. I ask,
21 how does this make prisons any safer?

22 The viciousness of the attacks isn't
23 targeted just towards staff but the
24 incarcerated community alike. Just a few

1 short weeks ago, after the enactment of HALT,
2 two inmates were murdered by other inmates.
3 These reprehensible acts match the total of
4 in-facility homicides over the previous
5 three years. Now, under the HALT Act,
6 inmates who murder fellow inmates are legally
7 required to receive out-of-cell time in
8 congregate settings a mere 15 days after
9 their horrific crime, putting other
10 individuals and staff at risk of being the
11 next victim.

12 How do you expect us to separate
13 murderers now? How do you expect us to
14 separate rival gangs now? The proponents of
15 HALT refuse to acknowledge the data and
16 equate individuals who are housed in Special
17 Housing Units as being tortured to deflect
18 their own culpability in creating these
19 horrific conditions.

20 How is it torture to be secured in a
21 cell after violent behavior when other people
22 need to be protected from that very violence?
23 How is it torture to be provided in their
24 cell with an internet-connected tablet for

1 reading books, listening to music, playing
2 games, emailing, making phone calls to
3 friends and family and other loved ones?

4 In society, lawbreakers go to prison
5 to keep them separate from the population.
6 The same used to be true in our correctional
7 system. For the good of staff and those
8 trying to safely do their time and move on
9 with their lives, I ask you members of the
10 Legislature, when will you act? I propose
11 it's time for our elected leaders to listen
12 to the subject matter experts, recognize the
13 factual data, and reform HALT to keep
14 everyone safe.

15 Thank you for your time.

16 CHAIRWOMAN KRUEGER: Thank you.

17 SENATOR HINCHEY: Thank you very much.

18 And I appreciate all of you staying -- and
19 staying for your testimony.

20 I have a couple of questions. My
21 first one is for President Tase. So in my
22 district I represent 56 towns, and only one
23 provisional fire department, so the rest of
24 them are volunteers. And so I thank you and

1 your members for everything that you do.

2 Taking a little bit different look at
3 funding, more capital funding for firehouses.
4 So I have a firehouse in my district that is
5 deemed a FEMA shelter. It is tiny, it cannot
6 fit the equipment, it does not -- cannot be
7 an actual, real functioning shelter.

8 We have \$300,000 in the bank from a
9 SAM grant that was given to them, and yet the
10 cost of -- as we know, to redo a firehouse is
11 upward of over a million dollars. So they
12 can't even touch that money.

13 Most of the requests that I get from
14 my office for help with funding come from our
15 volunteer firehouses for help with capital
16 projects. Can you talk a little bit about
17 that and what that scale looks like?

18 MR. TASE: That is a very serious
19 problem within the volunteer fire service.
20 Most of the volunteer fire services do --
21 they work under a budget, they get contract
22 money from their municipality to provide both
23 fire protection, equipment for their
24 volunteer firefighters, and there's usually

1 no money for buildings.

2 That's where they go to the feds, FEMA
3 for grants, and things like that, to assist
4 that. It's very difficult for a volunteer
5 fire company to decide do they need a
6 building or do they need turnout gear to
7 outfit their firefighters.

8 SENATOR HINCHEY: And am I right to
9 say even some of those buildings they can't
10 even fit the new equipment that they're
11 required to have because of the old buildings
12 that they're in. Is that right?

13 MR. TASE: Yeah. It's very expensive
14 for the equipment for the firefighters. You
15 know, it takes in excess of probably \$10,000
16 to outfit a volunteer firefighter. You know,
17 recruitment could be a problem, but -- it's
18 tough, though.

19 SENATOR HINCHEY: We -- in the budget
20 last year, we put in a fund for capital
21 improvements for Legions and VFWs to get
22 because we know they're struggling with
23 capital as well. Would a fund like that be
24 helpful to our volunteer firefighters?

1 MR. TASE: Yes.

2 SENATOR HINCHEY: Thank you.

3 And in my last 44 seconds, my next
4 question is for Frank McGarity.

5 Thank you for being here. I want to
6 just put on the record I'm incredibly
7 supportive of the 20-year retirement bill.
8 If we have to get it done in the budget, I
9 support that.

10 Can you talk a little bit, in our last
11 couple of seconds, about other things that we
12 could do, the Legislature and the state could
13 do to help with recruitment and retention?
14 Because you were writing these -- especially
15 in places like the Catskills Park that I
16 represent -- are critically important, and
17 yet we know we are struggling. So how can we
18 help you?

19 MR. McGARITY: Just to answer your
20 question quickly, the Comptroller put out a
21 report recently in the fall of '22, and
22 95 percent of police and fire retirement
23 systems have 20-year retirement. We are the
24 5 percent that do not.

1 In the Budget Book, page 126, they
2 talk about rebuilding the workforce, the
3 state workforce, and one sentence stuck out
4 to me, and that was leveling the playing
5 field with the private sector. And I think
6 that we should take that concept and level
7 the playing field in our own house, within
8 the state, across state agencies.

9 CHAIRWOMAN KRUEGER: Thank you.

10 MR. MCGARITY: I think that could help
11 with recruitment and retention.

12 SENATOR HINCHEY: Thank you.

13 MR. MCGARITY: Thank you.

14 CHAIRWOMAN KRUEGER: Assembly.

15 CHAIRWOMAN WEINSTEIN: Assemblyman
16 Norris.

17 ASSEMBLYMAN NORRIS: Thank you,
18 Madam Chair.

19 My questions are directed to
20 President Tase. I'm honored to have him as a
21 constituent of mine in the Town of Lockport.
22 And thank you very much, Mr. President, for
23 all the work you do and for FASNY across the
24 state.

1 My question for you is, what is the
2 number-one need for recruitment and retention
3 for our volunteer fire service?

4 MR. TASE: Well, as we've stated in
5 our written testimony, that to recruit the
6 volunteer firefighters today -- it's
7 unfortunate, we need to get the younger folks
8 in the fire service. We need to get tangible
9 needs in their hands. The LOSAP program that
10 we have is great, but the younger folks
11 aren't waiting until they're 65 to get that.
12 They need something right now, something
13 tangible that they can get, either a gas
14 card, reimbursements for their equipment like
15 their blue lights or flashlights or something
16 like that, that the young gentlemen and
17 ladies can get in their hands right now.

18 If we could give -- somehow work out
19 to give a gas card where the volunteer
20 firefighter goes to the gas station and saves
21 3 cents on a gallon for their gasoline, that
22 would be tangible for the local -- the
23 individual, that they can enjoy right now.

24 The property tax thing is great. But

1 I think with the property tax exemption we
2 have, we need to take a look at the New York
3 State income tax credit that we have right
4 now. It's over 20 years old. At \$200, we
5 need to make -- we need to increase that.
6 It's 20 years old, and they're getting \$200.
7 We need to increase that to a level that
8 helps.

9 And we need to be able to use the tax
10 credit and that at the same time, and not
11 pick between one or the other. A lot of our
12 younger volunteer firefighters don't own
13 property. So that's what we've got to take a
14 really serious look at.

15 ASSEMBLYMAN NORRIS: So President
16 Tase, just so I'm clear, right now we know
17 inflation is up, gas is up, and our motor
18 vehicles, wear and tear -- they're going to
19 our scenes every day, volunteers, so it's
20 important that we provide some sort of either
21 tax credit or gas card to make sure they can
22 afford to do the services of volunteer fire
23 service. Correct?

24 MR. TASE: That's -- that's true. You

1 know, the volunteer numbers are decreasing.
2 Again, if you look at -- in 2015, FASNY did
3 an economic value study. The value of the
4 volunteer fire service in the State of
5 New York, if they didn't have us, it would be
6 \$3.3 billion in increased taxes to the State
7 of New York.

8 ASSEMBLYMAN NORRIS: And President
9 Tase, if I could just add. I mean, I have
10 over 25 districts -- fire companies in my
11 district. We appreciate everything you do.
12 And it's just not fire companies, right, in
13 terms of firefighter services, it's the
14 natural disasters, the blizzard we just had.
15 You know, it's also chemical spills that
16 happen. All types of things. Because of the
17 service of our volunteers that serve, you
18 know, \$3.3 billion a year across the state.

19 So we appreciate what all of your
20 membership does. And I just want to tell you
21 for me, as your representative, thank you for
22 what you do. We appreciate it.

23 MR. TASE: Thank you very much.

24 CHAIRWOMAN KRUEGER: Senator Rolison.

1 SENATOR ROLISON: Thank you, Chair.

2 And thank you for all being here.

3 Just a quick comment to

4 President Powers. We have spent the past two
5 weeks in our hearing rooms talking a lot
6 about data, the data that DOCCS and the
7 commissioner had spoken about before and
8 you're reiterating again. When it comes to
9 the situation within our correctional
10 facilities that relates to assaults on
11 correction officers and staff and inmates, it
12 is irrefutable. Something has to be done on
13 that to create the atmosphere in there both
14 for everyone that is inside those buildings.
15 And obviously I think you know that you have
16 the interest of I would hope all of us in
17 trying to do something.

18 To Director Frank McGarity, you had
19 spoken about the staffing. What was the
20 number that you used for your current staff
21 in the Park Police?

22 MR. MCGARITY: Current staffing right
23 now is 178 officers. That does not include
24 the 38 that we have in the academy right now.

1 SENATOR ROLISON: And what has the
2 number traditionally been, you know,
3 pre-pandemic, pre-people not wanting to get
4 into law enforcement and obviously all the
5 issues related to the 20-year retirement, to
6 pay and retention issues. How high has it
7 been?

8 MR. MCGARITY: Well, when I first got
9 on the job back in 2003, we were 300-plus.
10 As -- we had 266 officers in 2019. Then we
11 went through a period where the pandemic
12 happened, and we then were under the
13 operational control of the State Police.

14 We were under a restriction that to my
15 knowledge -- we endured a restriction that no
16 other agency endured in the state, and that
17 was no transfers, no promotions, no hiring.
18 From that, 88 officers left the job. So
19 one-third of our job left.

20 SENATOR ROLISON: And with new
21 officers coming in in Tier 6, there's issues
22 related to that, calculation of overtime,
23 et cetera, which makes base pay a more
24 important, you know, thing for police

1 officers.

2 What if anything has your organization
3 done -- I've asked this to previous
4 individuals testifying here -- done for
5 retention? Has there been a retention
6 program discussed, thought about, to say, all
7 right, how do we keep our well-trained park
8 officers here in our park system?

9 MR. MCGARITY: Recently we -- we've
10 had a couple of things. So we have the
11 academy. Prior to that, we didn't have a --
12 we didn't hire since October of 2018. We
13 have an academy in session right now --

14 SENATOR ROLISON: What about money and
15 things such as that?

16 MR. MCGARITY: The -- there is a
17 geographic pay differential for downstate
18 counties on our job, and that has helped.
19 We'll see where we are with that, if it will
20 give us some stability.

21 SENATOR ROLISON: Okay. You know
22 what, in the interests of time, we can follow
23 up offline.

24 CHAIRWOMAN KRUEGER: I'm sorry, I have

1 to cut you off. Thank you.

2 SENATOR ROLISON: Thank you, Chair.

3 CHAIRWOMAN KRUEGER: Assembly.

4 CHAIRWOMAN WEINSTEIN: Assemblyman Ra.

5 ASSEMBLYMAN RA: Thank you.

6 Mr. Powers, thank you for the work
7 that you and your members do. I just wanted
8 to know if you could talk a little bit more
9 regarding HALT.

10 I think it's clear that your feeling
11 is that you don't have adequate opportunities
12 to address violence when somebody is engaging
13 in these type of acts, because of that law.
14 So can you elaborate on the type of reforms
15 that the legislature should be doing to keep
16 both your officers as well as the inmates
17 safe?

18 MR. POWERS: Yeah. I mean, we've
19 introduced legislation to this body for the
20 last three years. You know, we've asked for
21 a violence study in our correctional
22 facilities. You know, because this is a
23 trend that's been happening since 2014, and
24 it's only been accelerated since the HALT Act

1 of April 1.

2 And then -- then the data shows it.

3 You know, it's very clear to us. Ultimately
4 at the end of the day, I mean, we all want a
5 safe working environment. We want not only
6 for ourselves, but the civilian staff and the
7 incarcerated individuals, to maintain the
8 rehabilitation model that -- as was discussed
9 earlier with the commissioner and the deputy
10 commissioner.

11 You know, it seems to be everything is
12 driven towards the RRUs now in the general
13 population. I think the question this
14 Legislature needs to ask the department is,
15 is the general programs in the general
16 population being hindered due to the programs
17 in the RRUs? You know, I think if you take a
18 good look at that, that's one of the concerns
19 that's come forward.

20 But, I mean, we want answers. We want
21 to work with this body to find those answers
22 so that we can have a safer work environment
23 and a living environment for the incarcerated
24 individuals as well. I mean, you know, we're

1 not -- we're not just, you know, keepers of
2 the gate. As the acting commissioner said,
3 you know, we have a lot of functions. We
4 serve a lot of roles, and it's not just
5 turning the key and opening a gate, you know.
6 We're the ones that are on the front line
7 with them. And we listen to them. And, you
8 know, we assist them in many other ways than
9 just security.

10 ASSEMBLYMAN RA: Thank you again.

11 CHAIRWOMAN WEINSTEIN: Senate.

12 CHAIRWOMAN KRUEGER: Senator Bailey.

13 SENATOR BAILEY: Thank you.

14 Good evening, gentlemen. Thank you
15 for sticking it out and waiting. Thank you
16 for testifying. And thank you for the work
17 that you -- and the people that you represent
18 in public service. I sincerely mean that, so
19 thank you.

20 This question is for Mr. Tase. This
21 is in reference to the Rural Ambulance
22 Task Force. Yes, there are rural parts of
23 the Bronx, apparently. But I'm asking this
24 question for some of our friends in more

1 rural areas.

2 There's a Rural Ambulance Task Force,
3 to my understanding. What is the status of
4 that, to your knowledge? And have there been
5 any appointments and have there been any
6 meetings of that task force?

7 MR. TASE: I am sorry, but I didn't
8 really understand.

9 SENATOR BAILEY: The Rural Ambulance
10 Task Force.

11 MR. TASE: I would refer to my
12 secretary, John, if I could, please. He's my
13 guru when it comes to --

14 SENATOR BAILEY: Absolutely. As long
15 as he gets on the mic. He has two minutes to
16 get down here so we can make it happen.

17 It's the only question I have, so
18 we'll do what -- we're all good.

19 MR. D'ALESSANDRO: Senator, our
20 organization represents volunteer
21 firefighters and volunteer EMS personnel.
22 They are generally associated with a fire
23 department, part of a fire department. So we
24 have not been asked to participate in that

1 task force.

2 SENATOR BAILEY: Excellent. And
3 again, on behalf of all of us who call 911
4 and all of us who need help and things like
5 that, when we're running away and you all run
6 in, I just wanted to make sure I thank you
7 all for the record.

8 No further questions.

9 MR. D'ALESSANDRO: Thank you.

10 CHAIRWOMAN KRUEGER: Thank you.
11 Assembly.

12 CHAIRWOMAN WEINSTEIN: Assemblywoman
13 Kelles.

14 ASSEMBLYWOMAN KELLES: I wanted to
15 thank you all as well for being here.

16 I can't ask all of you questions, so I
17 want to get to some new questions for myself
18 and my district.

19 Director McGarity, thank you so much.
20 I absolutely support the 20-year retirement.
21 I just wanted to note that, very important in
22 my district.

23 But I am going to direct my questions
24 at you, President Tase. In particular, you

1 know, I'm looking through the budget, the
2 recommended budget -- or the proposed budget,
3 and some of these are wonderful. My concern
4 is operating costs. You know, of all the
5 conversations we have with pay, the fact that
6 you all do it for free, by the way, I just
7 want to honor that and acknowledge that and
8 repeat that. Because the work you do -- you
9 know, what I've seen that you do and the
10 lives that you put in harm's way of your own,
11 for free, for all of us -- thank you.

12 But again, my concern of where you are
13 with operating costs. Because what my
14 conversations have been with my local
15 firefighters is that they do not have the
16 funding that they need and they're closing
17 one after another after another. And we are
18 seeing larger and larger service areas that
19 are not realistic.

20 So I just wanted to address that,
21 because I do not see that support in the
22 budget.

23 MR. TASE: Well, the volunteer fire
24 service has changed over the last 20 years.

1 Okay? It used to be we used to run out and
2 put fires out. But now we do traffic
3 control, we do EMS, we do auto extrications
4 in auto accidents. And I'll tell you, the
5 Western New York volunteer firefighters
6 worked their butts off in December of 2022.

7 ASSEMBLYWOMAN KELLES: Right.

8 MR. TASE: They bailed people out of
9 snowdrifts, out of cars, rescued people. And
10 that's what volunteer firefighters do.

11 As I've said to everybody I've ever
12 spoken to, the volunteer fire service will
13 never say no. We are here to service the
14 communities that we protect.

15 ASSEMBLYWOMAN KELLES: So one of the
16 things that I've been noticing is that for
17 EMS services, the -- it's a public service.
18 You are the first step of public health at
19 this point. You can do up to almost surgery,
20 multiple -- you know, superficial,
21 small-scale, but surgery in EMS.

22 And my concern is that they can't be
23 funded by local funding because the service
24 areas aren't necessarily associated anymore

1 with just a municipality.

2 MR. TASE: Right.

3 ASSEMBLYWOMAN KELLES: So where are
4 your other sources of funding if you can only
5 do municipality and Medicaid rates are not
6 reaching the actual cost?

7 MR. TASE: Are you speaking of EMS?

8 ASSEMBLYWOMAN KELLES: Correct.

9 MR. TASE: EMS was gracious enough
10 that we fought in the one-house budget last
11 year and we got the EMS cost recovery bill
12 passed, which made it available. Because up
13 till then New York State was the only state
14 in the United States that could not -- their
15 volunteer firefighters could not charge for
16 their ambulance services.

17 ASSEMBLYWOMAN KELLES: Yes, that was
18 one piece.

19 MR. TASE: That has helped
20 tremendously, okay? The implementation of
21 getting that in has helped. It's helped with
22 the recruitment side of it, and it's helped
23 with them to provide quality service.

24 CHAIRWOMAN KRUEGER: Thank you.

1 CHAIRWOMAN WEINSTEIN: Thank you.

2 Senate?

3 CHAIRWOMAN KRUEGER: I'm sorry.

4 Senator Palumbo.

5 SENATOR PALUMBO: Thank you,

6 Madam Chair.

7 And just a brief follow-up. You may
8 have seen a previous panel with the
9 commissioner that -- and President Powers,
10 this is really directed to you, representing
11 the men and women on the front lines in our
12 correctional facilities.

13 And it wasn't anecdotal, it actually
14 was actually a story of some of your members
15 had come in and said, Look, this is -- it's
16 awful, what's going on. This one woman who
17 was extremely upset, obviously, said: Look,
18 I just want to go to work. I need my job.
19 I'm married, I have a family.

20 So the concern was when you don't have
21 a system of discipline within the -- and I'm
22 a former prosecutor. I've represented people
23 on both sides of the aisle. So when you see
24 these numbers -- not just on staff,

1 necessarily, you have them on
2 inmate-on-inmate. And when someone sends a
3 loved one off to prison, it's an awful day.
4 And they get that, and they have a debt to
5 society to pay. They want to come home and
6 hopefully be reassimilated back into society.

7 So these -- obviously we have a
8 34 percent increase inmate-on-inmate. So
9 obviously this should be everyone's concern,
10 regardless of your political ideology and
11 position. This is -- those folks deserve to
12 serve their time safely. That doesn't mean
13 that they can, you know, be fought with
14 and -- and you get my point.

15 So when I talk about this internal
16 system of discipline, carrots and sticks --
17 you behave, you get more privileges; you
18 don't, you get less. And we are continuing
19 to talk about HALT. So when you have, for
20 example, a sexual assault where someone
21 physically grabs -- we get it, there is a
22 system of discipline, they can go to SHU. If
23 someone is saying awful, vulgar things -- not
24 physically touching them -- and these were

1 some of the complaints, that it escalates and
2 they can get away with it.

3 So what is -- what sort of discipline
4 is imposed for someone who's saying
5 disgusting things, for example, to one of the
6 staff? You know, sexual in nature.

7 MR. POWERS: Well, over the course of
8 the last couple of years, I mean, the
9 commissioner -- the acting commissioner and
10 his deputy talked about it earlier. In 2017,
11 the NYCLU settlement, you know, there was a
12 three-year plan to implement and roll out
13 disciplinary standards. But that got
14 expedited within one year, with HALT, which
15 has to come with the money and fiscal, you
16 know, obligation from the state in order to
17 implement within the system.

18 And everything got -- basically just
19 got pushed and watered down. And our biggest
20 concern going forward is not that we weren't
21 willing to implement the programs. We're
22 more than happy to implement the programs,
23 but you've got to have the infrastructure and
24 the staff to do it. And with that came a

1 higher model of violence, a significantly
2 higher model of violence.

3 SENATOR PALUMBO: And even in a
4 nonviolent situation, though, is there any
5 type of discipline? So if they do it one
6 day, are they --

7 MR. POWERS: It's -- you know, there's
8 discipline across the board for certain
9 activity. But an act such as yours of vulgar
10 -- and we've seen it, this Legislature's
11 tried to pass aspects of that in the past as
12 far as language being used against staff or
13 staff using it against incarcerated
14 individuals or likewise, you know, so --

15 SENATOR PALUMBO: Any other workplace,
16 though, but yours.

17 (Laughter.)

18 CHAIRWOMAN KRUEGER: Thank you. Thank
19 you, Senator.

20 SENATOR PALUMBO: Thank you, Madam
21 Chair.

22 CHAIRWOMAN KRUEGER: Assembly.

23 CHAIRWOMAN WEINSTEIN: No, we're done.

24 CHAIRWOMAN KRUEGER: We're done?

1 CHAIRWOMAN WEINSTEIN: We're done.

2 CHAIRWOMAN KRUEGER: Okay, and no
3 other Senators? Great.

4 Oh, Phil Palmesano.

5 CHAIRWOMAN WEINSTEIN: I didn't see
6 your hand raised before, sorry.

7 ASSEMBLYMAN PALMESANO: Thank you.

8 First, I just want to say thank you to
9 all of you for the commitment and dedication
10 of your members to keep our communities safe.
11 So thank you.

12 And President Tase, I want to
13 especially say thank you to you. As our
14 volunteer firefighters, you know, I've said
15 often they're the backbone of our rural
16 communities. I mean, not only are you
17 protecting your neighbors and community
18 members, you're protecting the taxpayer.
19 Because -- the property taxpayer, because if
20 those services you provide had to be paid,
21 there'd be \$3.3 billion in additional
22 property taxes. So thank you to you and your
23 members.

24 MR. TASE: Thank you.

1 ASSEMBLYMAN PALMESANO: My questions
2 are really for Mr. Powers.

3 Mr. Powers, you heard the commissioner
4 talk about the extreme vacancies, the
5 867 vacancies of corrections officers, 1150
6 by year's end. You know, and the staggering
7 violence that you talked about that we
8 continue to talk about.

9 And when we talk about the bail
10 reform law, one of the biggest complaints
11 about it was it didn't engage our law
12 enforcement and our district attorneys. When
13 they went to pass the HALT Act, were the
14 correction officers -- were you guys at the
15 table? Did they invite you to the table and
16 really take any serious input from you from
17 that perspective, or --

18 MR. POWERS: No, sir.

19 ASSEMBLYMAN PALMESANO: Not at all.
20 Shocking.

21 I guess the thing I wanted to ask -- I
22 mean, I know the best thing we -- one of the
23 things we could do that would help on a
24 safety perspective -- we know HALT's been a

1 disaster -- I said it here, I'll say it
2 again -- not giving you the ability to
3 segregate the most dangerous inmates from the
4 general population.

5 Repeal of HALT probably will never
6 happen with this Legislature. The Governor
7 could declare an emergency, and with that she
8 could suspend the HALT Act because she would
9 have that power in her state of emergency.

10 Are there additional things that you
11 could see that can be done, whether it's with
12 HALT, from a reform perspective? Or what
13 other steps can we take that might help
14 provide tools and resources to help protect
15 your members to be safe doing their job, and
16 other inmates that really are just trying to
17 do their time but continue under attack and
18 onslaught by dangerous and violent inmates
19 that don't care who they hurt or who they
20 affect?

21 MR. POWERS: Well, it's going to be a
22 heavy lift at this point. The morale of our
23 members is the lowest I've seen, and I've got
24 33 years in this agency. And I've been

1 serving this union for the last nine years,
2 and it's the worst I've ever seen it, hands
3 down.

4 You know, we need -- we need staff.
5 We need -- we need more training. You know,
6 which we work in conjunction with the
7 department to achieve. But ultimately at the
8 end of the day, you know, the violence study.
9 You know, let's get to the root of it. You
10 know, let's figure out what programs can
11 offset it so that we can have a safer
12 environment for all that are employed. And
13 more importantly, you know, at the end of the
14 day -- I mean, whether you repeal it or at
15 least walk it back, let's have a conversation
16 and let's go over the data so that we can all
17 sit down and talk about it and bring about
18 positive change for a safer environment for
19 not only the state employees but the ones
20 that are wards of the state.

21 ASSEMBLYMAN PALMESANO: Thank you.
22 And I know I only -- that I've got only six
23 seconds, but DOCCS has this safety task
24 force. Have you seen any details of that, is

1 that being shared with you at all?

2 MR. POWERS: Yeah, we played an
3 important role in it.

4 ASSEMBLYMAN PALMESANO: Good. Thank
5 you.

6 CHAIRWOMAN KRUEGER: Okay. Thank you
7 very much.

8 Senator Tom O'Mara.

9 SENATOR O'MARA: Thank you.

10 Gentlemen, I want to thank all of your
11 membership for the varying roles that they
12 all play in protecting and serving our
13 communities across the state -- and
14 yourselves as the leaders of those entities.

15 I want to, you know, acknowledge what
16 you've all talked about with difficulties
17 with recruitment, retention and attrition
18 currently in this "defund the police"
19 environment that we have. And you all are
20 experiencing that for a variety of reasons,
21 different reasons, each of you, frankly, so I
22 think we need different approaches to each of
23 the issues.

24 But one of the most concerning ones to

1 me right now is with our correction officers.
2 And Mr. Powers, I've been with you for many
3 rallies, tours of facilities, the facilities
4 I have in the district I represent. If you
5 could just speak a little bit -- I got a
6 phone call just last week from a young woman
7 in my district, very interested in going into
8 law enforcement. She's going to sit for the
9 correction officers exam. But very, very
10 concerned about the safety of going into that
11 field and going into that job.

12 And you mentioned in your testimony,
13 Mr. Powers, since the HALT Act has gone in, I
14 think you mentioned the brazenness and the
15 boldness of the inmates now. Can you just
16 extrapolate that out a little more for us on
17 really why you think that's happening? And
18 actually what it is, what you're seeing, what
19 your officers are witnessing in the
20 environment behind the walls.

21 MR. POWERS: Since the 2017 NYCLU
22 settlement that DOCCS had entered into, you
23 saw a watered-down discipline system.
24 Basically, there's no consequences for their

1 actions. Whether it be illegal inside the
2 penal system or at the end of the street,
3 whatever the case may be, there are no
4 consequences for much of that, that activity.

5 A variance -- and it happened this
6 morning, Fishkill Correctional Facility, in
7 an RRU, where an individual -- an
8 incarcerated individual was laying up in his
9 bed, appeared to be incoherent, appeared to
10 be out of it. Staff responded accordingly
11 with medical. They went into the cell. He
12 popped up with a weapon in his hand and
13 started to attack the staff.

14 We're concerned about the system of
15 HALT. The way it's established and the way
16 it's rolling going forward, it's going to be
17 a model for this agency going forward and it
18 is going to take away from the original
19 rehabilitation model. We spent hundreds of
20 millions of dollars for this unit. And the
21 general population, what did they get? That
22 are toeing the line and actually working to
23 achieve rehabilitation.

24 CHAIRWOMAN KRUEGER: Thank you.

1 SENATOR O'MARA: Thank you. Thank
2 you again for your service and that of all of
3 your members.

4 CHAIRWOMAN KRUEGER: Thank you.

5 MR. POWERS: Thank you.

6 CHAIRWOMAN KRUEGER: Just checking.
7 Any other Assemblymembers? I don't want to
8 be rude to you over there. Senators?

9 All right. Then I want to thank you
10 gentlemen for your work, for the work of your
11 members, and for staying with us so late to
12 come and testify. Thank you.

13 MR. TASE: Thank you for your time.
14 Thank you very, very much.

15 MR. POWERS: Thank you.

16 CHAIRWOMAN KRUEGER: Thank you very
17 much.

18 And we're going to ask people not to
19 talk to them as they leave unless you want to
20 go out in the halls.

21 And we want to call up the next panel,
22 which will be the District Attorneys
23 Association, the Vera Institute of Justice,
24 the New York Immigration Coalition. That's

1 it for that one.

2 Senator O'Mara's implying I get no
3 respect.

4 SENATOR O'MARA: Now imagine dealing
5 with inmates.

6 (Laughter.)

7 CHAIRWOMAN KRUEGER: I deal with you.

8 (Laughter.)

9 CHAIRWOMAN KRUEGER: Okay, take your
10 chats outside. Senator Hinchey,
11 Assemblymember Kelles, move it out.

12 No, no one listens. Okay --

13 CHAIRWOMAN WEINSTEIN: Out, out.

14 CHAIRWOMAN KRUEGER: Good evening.

15 All right, good evening, ladies.

16 Do we have anyone else joining? Is
17 there a -- hello.

18 UNIDENTIFIED SPEAKER: How are you?

19 CHAIRWOMAN KRUEGER: I'm fine, thank
20 you.

21 CHAIRWOMAN WEINSTEIN: Excuse me, can
22 Hinchey -- Hinchey, Kelles, take your
23 conversations outside, please.

24 (Off the record.)

1 CHAIRWOMAN KRUEGER: Okay, out the
2 door. We have to get a gavel.

3 Okay. Good evening. Hi. All right,
4 if everyone would -- we'll start with my
5 left, your right, and we'll just go down that
6 way. And you have three minutes, be concise.
7 We have your full testimony. Thank you.

8 MS. DONNELLY: Good evening,
9 Madam Chairwoman. I'm Mary Pat Donnelly,
10 Rensselaer County DA.

11 I'm here on behalf of the District
12 Attorneys Association of the State of
13 New York, here on behalf of President Anthony
14 Jordan of Washington County. I do know that
15 you have his testimony. I'm looking to
16 highlight a couple of points.

17 Before I get into what I have
18 prepared, I want to say the DAs as a whole
19 are on board with infusion of funds into
20 treatment courts, drug and alcohol treatment,
21 mental health treatment, and anything that is
22 going to be brought into our cities and our
23 towns to help our youth. So that's an
24 overarching statement that we are all 100

1 percent behind.

2 My comments going forward are going to
3 be somewhat limited to discovery and the dire
4 need for funding therein. However, I'm
5 available for questions about any relevant
6 topics.

7 In order to successfully implement the
8 changes that were made to discovery, DAs are
9 in dire need of increased and sustained
10 funding so that we can ensure fairness and
11 equity for defendants in New York State. We
12 need staff. We need staff training, and we
13 need updated technology.

14 Prosecutors around the state have
15 spent a great deal of time and energy
16 establishing new mechanisms for discovery,
17 discovery storage, and protocols for the
18 exchange of discovery materials. This
19 process requires monetary resources which
20 grossly exceed what most counties can provide
21 to prosecutors' offices.

22 DAs' offices in 2023 are operating
23 with significant increases in workload while
24 dealing with dramatic staffing shortages. In

1 Rensselaer County I'm funded for 15 ADAs, and
2 I currently have 10. I lost five attorneys
3 in 2022; each left for higher-paying jobs.
4 The pace of discovery was cited as a reason
5 for departure in multiple conversations.

6 Prior to the reforms, approximately
7 3 percent of cases engaged in discovery
8 because discovery only occurred on demand as
9 a case headed to trial. With the
10 implementation of Article 245, discovery is
11 required in every case within 20 to 35 days,
12 depending on release status.

13 Almost concurrently with this major
14 shift, the New York State Police deployed
15 body cameras, as did many cities and town
16 agencies around the state, and 50-a was
17 repealed, once again adding massive volume to
18 the amount of data and information which must
19 be collected and turned over. But before
20 it's turned over, it must be analyzed.

21 The only way to fully implement the
22 reform without triaging crime is to increase
23 funding to the DA's office in order to
24 decrease the caseload of each prosecutor and

1 to provide support staff for each prosecutor.

2 That said, I continue to support
3 certain substantive changes which I believe
4 would provide some relief to DA staff without
5 impacting the fairness and equity of
6 prosecutions. For reference, a simple DWI
7 case can yield up to eight hours of body
8 camera -- a more complex case, over 20 hours.
9 And before we can turn that footage over, it
10 must be reviewed -- for example, to blur out
11 a license plate or to obscure the face of an
12 uninvolved bystander.

13 Other materials such as medical
14 records and x-rays also must be reviewed and
15 redacted to remove identifying information
16 such as Social Security numbers and dates of
17 birth. This takes time, and this takes
18 training.

19 In sum, we need funding so that we can
20 make sure this is done right. We support the
21 changes at this point, we are on board with
22 doing it, we just need the manpower to make
23 it happen. Thank you.

24 MS. KESSLER: Good evening. Thank you

1 very much, and thank you for your time and
2 perseverance this evening.

3 My name is Shayna Kessler. I'm the
4 state advocacy manager with the Vera
5 Institute of Justice. And I am pleased to
6 testify in support of two areas this
7 evening -- legal representation for
8 immigrants and pretrial reforms in the
9 criminal legal system.

10 Regarding immigration, we urge the
11 passage this year of the Access to
12 Representation Act, the ARA, which would
13 establish a right to representation for
14 people at risk of deportation in New York,
15 along with increased investments in
16 immigration legal services.

17 Specifically, we seek \$55 million to
18 implement the first year of the ARA, a
19 \$35 million investment in the Liberty Defense
20 Project, and a \$10 million investment to
21 support rapid response services for newly
22 arriving immigrants. Totaling \$100 million,
23 this would advance New York's leadership in
24 support of welcoming immigration policies

1 that center human dignity and promote safety
2 and stability for our entire state.

3 As asylum seekers seeking safety
4 arrive in New York, and as long-term
5 immigrant neighbors continue to be at risk of
6 detention and deportation, New York's
7 investment in representation provides a
8 beacon of hope. Immigrant New Yorkers are
9 deeply woven into the fabric of our state.
10 One in three New York children have an
11 immigrant parent. More than a quarter of our
12 workforce is foreign-born, and immigrants own
13 more than 280,000 businesses in New York.

14 We know legal representation works.
15 The data shows that immigrants with counsel
16 are far more likely to win their cases than
17 those without representation.

18 Governor Hochul included \$43 million
19 in her Executive Budget for immigration legal
20 and social services, but that number falls
21 short, as we have over about 60,000 estimated
22 to be fending for their lives in immigration
23 court in New York today without access to
24 counsel.

1 By passing the ARA, enacting a right
2 to representation and immigration court, and
3 increasing investments in these services, we
4 can center dignity, family unity, and
5 economic stability. New Yorkers agree that
6 this is the fair thing to do. Polling shows
7 that 93 percent of New Yorkers support
8 representation for people in immigration
9 court, funded by the government.

10 Separately, regarding pretrial
11 reforms, the bureau is also deeply concerned
12 about the Governor's proposal to again change
13 New York's bail laws. You have our separate
14 written testimony on this topic which
15 outlines the ways the proposals would gut the
16 2019 legislation and eliminate longstanding
17 protections in state law. The proposal would
18 make the system even less fair than before
19 the reforms.

20 My colleagues from Vera's Greater
21 Justice New York team work on reducing
22 incarceration in New York, and they can
23 certainly answer any questions you may have
24 should you have them on that topic.

1 Thank you very much for your time and
2 your support for investments in immigration
3 legal services and in criminal legal system
4 reforms.

5 MS. KELECHIAN: Thank you, and good
6 evening. My name is Kayla Kelechian, and I
7 am the manager of organizing and strategy for
8 Central New York with the New York
9 Immigration Coalition, or the NYIC. I'm
10 based in Syracuse, and the NYIC represents
11 over 200 immigrants' rights organizations
12 across the State of New York.

13 The NYIC is grateful to the New York
14 State Senate and Assembly for convening this
15 important hearing. We have long been vocal
16 advocates of the critical importance of
17 access to legal representation for immigrants
18 in removal proceedings and while applying for
19 immigration benefits.

20 State-funded legal services have
21 provided help to children fleeing persecution
22 in Central America, Afghan refugees newly
23 arrived in the United States, and long-time
24 permanent residents facing deportation. The

1 funding has protected access to justice and
2 literally has saved lives.

3 We urge the inclusion of 100 million
4 in funding for immigration legal services in
5 the fiscal year 2024 New York State budget
6 and the immediate passage of the Access to
7 Representation Act.

8 So unlike in criminal court, you do
9 not have the right to a government-appointed
10 attorney. In fact, if you are pleading for
11 asylum, you must defend yourself alone if you
12 cannot pay for representation. And that goes
13 for everyone, including children.

14 I can give a grave example in Buffalo
15 immigration court, which serves all of
16 upstate New York. We have witnessed a
17 three-year-old indigenous Guatemalan child
18 have to plead her case in front of an
19 immigration judge and ICE attorney alone. Of
20 course her mother was there on the side, but
21 no child should have to defend themselves in
22 court alone.

23 New York State must take
24 responsibility in providing legal

1 representation for all New Yorkers to have a
2 fair day in court. Because of the Trump
3 administration's aggressive enforcement
4 activities and the near-total shutdown of
5 immigration courts during the pandemic, there
6 is a record backlog of cases awaiting
7 adjudication, including nearly 190,000 in
8 New York State. An estimated 40,000 asylum
9 seekers have arrived in New York City, the
10 majority of whom will eventually have to make
11 their case to remain in the United States in
12 immigration court.

13 And as mentioned at the beginning of
14 my testimony, even young children facing gang
15 violence in their home countries are forced
16 to defend themselves in a complicated asylum
17 hearing without the help of a
18 government-appointed attorney. We know from
19 extensive research that having an attorney on
20 a case significantly affects the outcome. A
21 study published in 2018 in New York City
22 shows that having an attorney increased
23 chances of winning and gaining the ability to
24 legally remain in the United States by

1 1,100 percent.

2 Therefore, the NYIC endorses the
3 continued funding of immigration legal
4 services, the expansion of funding to
5 100 million, and the immediate passage of the
6 Access to Representation Act.

7 Thank you for your work on behalf of
8 immigrant communities, for calling this
9 hearing, and for the opportunity to testify
10 today, and I'm happy to answer any questions.

11 Thank you.

12 CHAIRWOMAN KRUEGER: Thank you very
13 much.

14 Senator Jamaal Bailey.

15 SENATOR BAILEY: Yes. Thank you,
16 Madam Chair.

17 Good evening, everyone. Thank you so
18 much for waiting.

19 DA Donnelly, I want to thank you.
20 Just really quick, in terms of the
21 discovery -- and I was reading the testimony
22 as you were speaking. In relation to
23 discovery, it had been my understanding, you
24 know, by again reading certain media reports

1 and having certain conversations that certain
2 district attorneys had applied for discovery
3 funds. Is that accurate?

4 MS. DONNELLY: I believe that is
5 accurate, and there's a variety of reasons
6 for that. I'd be happy to discuss those.

7 SENATOR BAILEY: Okay. So why would
8 certain -- like obviously -- and I agree that
9 district attorneys do need funding. I would
10 also agree that defendants need funding as
11 well. But you guys need funding. Why
12 wouldn't district attorneys apply for funding
13 that was available?

14 MS. DONNELLY: Sure. I'm glad you
15 asked that question.

16 The money was given to county
17 governments, and district attorneys had to
18 collaborate with our county governments to
19 come up with a plan before they could submit
20 it to DCJS. There are a variety of
21 reasons -- 62 different counties -- as to why
22 things went the way they did.

23 I know we had at least one county
24 where the county government did not agree

1 with the reforms and therefore did not want
2 to take the money.

3 Many counties were required to wait
4 until after their budget had passed to make
5 sure that the county government would sign on
6 to the plan that they had come up with.

7 Another concern that came up in
8 multiple counties was, Thank you for the
9 money, but our county government won't allow
10 us to give these raises and to create these
11 new positions, and they will not promise that
12 the money will be there going forward,
13 because it came in as an infusion. So that
14 caused a lot of problems for a lot of people,
15 because we didn't want to take our staff and
16 say Hey, here's your raise, or Hey, do you
17 want to come work for a year, I'm pretty sure
18 we're going to have money for you next year
19 but we don't yet know.

20 So there was a lot of confusion as to
21 how to get that done. I think at this
22 point -- last time I checked there may have
23 been 19 counties still that were working on
24 it, and I know that as -- at our meeting last

1 week at DAASNY that was a lot of the
2 discussion, is it was quite difficult to
3 negotiate with the county government to make
4 it happen.

5 So we were hoping, going forward,
6 perhaps it would be something more directed
7 towards DAs' offices.

8 SENATOR BAILEY: Directly from the
9 state to the district --

10 MS. DONNELLY: It would be incredibly
11 helpful.

12 SENATOR BAILEY: -- to the DAs'
13 offices, a centralized fund or something that
14 you wouldn't have to, I guess, have the
15 concern with county governments.

16 And again, I'm hopeful that you're
17 able to ameliorate this concern with the
18 counties. Because if the money is there, the
19 county should not be able to hold up some of
20 the progress that we've been able to make.
21 And I'm glad you said that because, hey, as
22 I've said in public, in the past in public,
23 and I'll say it again, you need money to be
24 able to run the operation that you run. All

1 right? And I'll be the first one to say
2 that.

3 But, you know, we can't have the
4 conversation in the public saying that we
5 don't have the resources but there are other
6 reasons besides the state that are happening.

7 So last question, and what I'll say is
8 that you -- there is obviously -- you're
9 obviously in support of funding for you. Are
10 you also in support of additional funding for
11 defense practices as well?

12 MS. DONNELLY: As far as I understand
13 it -- and at least I can only speak to my own
14 county -- they seem to have a significant
15 amount more than I do at this point.

16 Quite frankly, I don't have any
17 opposition to anybody being funded to do
18 their job right. I don't have a problem with
19 it.

20 SENATOR BAILEY: DA Donnelly, you're
21 preaching to the choir.

22 Thank you.

23 CHAIRWOMAN KRUEGER: Thank you. Thank
24 you, Jamaal.

1 Assembly.

2 CHAIRWOMAN WEINSTEIN: Assemblywoman
3 Simon.

4 ASSEMBLYWOMAN SIMON: Thank you.

5 Thank you all for your testimony.

6 I wanted to speak to the issue of the
7 migrants coming into the state. You know, I
8 was just recently at one of the big
9 facilities in Brooklyn. And while they're
10 doing everything they can to connect people,
11 there's a real shortage of attorneys who know
12 anything about immigration law. And
13 another real shortage of people who can speak
14 other languages, especially those who are
15 attorneys who are speaking other languages.

16 So I think it goes to the issue about
17 who's coming into our law schools and how
18 we're training them. That's not quick
19 enough. What if any recommendations do you
20 have for addressing that real shortage that
21 we have of attorneys, practicing attorneys,
22 in a field such as immigration law where the
23 need is so great?

24 MS. KESSLER: Yes. Thank you so much

1 for that question, and I think it's really
2 important.

3 And what we see is that the Access to
4 Representation Act really is, once passed, a
5 law that would address -- would establish a
6 long-term, stable system to ensure that,
7 first of all, we wouldn't have to scramble to
8 welcome people with the services they need
9 when they come to New York.

10 And secondly, a component of the
11 bill -- to get to what you're asking at in
12 particular -- would ensure that there are
13 investments in building up the infrastructure
14 in the legal services field to make sure that
15 we have those immigration attorneys with the
16 right skills and the teams, the legal
17 services teams with the right skills, with
18 the right capacity, in the right places
19 across the state to meet the need.

20 And so there's a six-year
21 implementation period that's built into the
22 bill so that investments could increase and
23 services like, you know, law school clinics,
24 fellowships, and things like that could be

1 invested in, to ensure that the services that
2 are needed are in place across the state.

3 ASSEMBLYWOMAN SIMON: Thank you.

4 CHAIRWOMAN KRUEGER: Senator Tom
5 O'Mara.

6 SENATOR O'MARA: Yes, thank you.

7 Thank you for sticking it out and
8 testifying here this evening. I could spend
9 probably an hour on immigration issues with
10 you right now, but I need to talk about
11 discovery a little bit first, so I apologize
12 for that.

13 But on the discovery -- and I'm a
14 former district attorney, and I agree that
15 these discovery changes were warranted in
16 large part; too aggressive on the timeline.
17 And the ramifications and implications for
18 errors in the process -- we've seen quite a
19 bit of draconian outcomes in cases. And, you
20 know, I just read about a high-profile one in
21 New York City last week where a police
22 officer was on trial for fabricating
23 evidence, perjury. Some things weren't
24 turned over. I don't know all of the details

1 of that case. But, you know, I think even
2 the proponents of this legislation, as
3 extreme as it went, you know, we don't like
4 these outcomes and what we're doing.

5 So I've seen some proposals about
6 trying to stagger the timeline of -- and
7 prioritizing certain things to be turned over
8 and a timeline rather than all within, what
9 is it now, 15 days?

10 MS. DONNELLY: Twenty if they're at
11 liberty and 35 if -- I'm sorry, 20 if they're
12 incarcerated, 35 if they're --

13 SENATOR O'MARA: And I've talked to
14 District Attorney Jordan a little bit about
15 this. But if you can expound a little bit
16 for us kind of what that concept would be on
17 what you think should be prioritized and then
18 staged as far as turning over to the defense
19 in a reasonable fashion that, you know, may
20 also lessen some of the costly fiscal
21 implications of this.

22 MS. DONNELLY: Sure. There is a
23 proposal that was supported by DAASNY to have
24 that staggered, where we would have the

1 imperative material turned over first, the
2 duplicative material turned over at a later
3 date, and then any impeachment material at
4 the end, at least 15 days after the
5 conclusion of omnibus motions.

6 So that would require the DAs to file
7 three different certificates of compliance,
8 and it would give each -- it would give an
9 opportunity at each run to see how the case
10 was going to proceed. And that is something
11 that I would hope we could discuss with an
12 open mind at some point, because that's
13 what's -- that's what's getting lost in the
14 weeds, is that we have officers with body
15 cameras. I work in the City of Troy, it's a
16 smaller department compared to New York City,
17 but it's large for Rensselaer County. You
18 have a major event, you have 15 officers
19 respond. You have four to five who are
20 engaged, you have several on the sidelines.
21 Somebody forgets to sign the log-in sheet. I
22 don't find out, until a period of time later
23 when I'm able to have everyone in, that this
24 particular officer was there. And the judge

1 doesn't want to hear it, because it's
2 required that we turn it over.

3 We don't know what we don't know, and
4 we haven't yet figured out how to make that
5 work. So we feel like the staggered
6 procedure would definitely give us an
7 opportunity to get it right and to make sure
8 that the most important material is turned
9 over first.

10 CHAIRWOMAN KRUEGER: Thank you.
11 Assembly.

12 CHAIRWOMAN WEINSTEIN: Assemblyman
13 Epstein. (Inaudible.) Thank you,

14 CHAIRWOMAN KRUEGER: The Senate is --
15 no? -- done.

16 So thank you all very much for your
17 testimony here tonight. We appreciate your
18 sticking with us all day. And we have your
19 testimony.

20 And I'm going to call up -- sorry,
21 thank you -- Panel G: The Katal Center for
22 Equity, Health and Justice, and
23 @HALTSolitary. I think you call it "at" -- I
24 don't know. "Hash." I'm sorry, I'm very

1 old. Hashtag, HALTSolitary. If they're
2 here. Somebody's coming down, okay.

3 And then just to move us along, I'm
4 going to announce the next group, which will
5 be -- so just to get you on board. It will
6 be the New York Defenders Association, the
7 Brooklyn Defender Services, the Prisoners'
8 Rights Project of the Legal Aid Society, and
9 the League of Women Voters, even though
10 originally it was a different panel but only
11 one of the panelists is left.

12 So is anybody else showing up for this
13 panel? Yes, okay. Not this one? Okay.

14 And you are?

15 MR. ZEITZ: Yonah Zeitz, from the
16 Katal Center.

17 CHAIRWOMAN KRUEGER: From which group,
18 I'm sorry?

19 MR. ZEITZ: The Katal Center.

20 CHAIRWOMAN KRUEGER: Thank you.
21 Welcome.

22 UNKNOWN ASSEMBLYMAN: Could you move
23 your microphone a little closer to your
24 mouth?

1 MR. ZEITZ: Is that better?

2 CHAIRWOMAN KRUEGER: Yes.

3 CHAIRWOMAN WEINSTEIN: Yes.

4 CHAIRWOMAN KRUEGER: Please.

5 MR. ZEITZ: Thank you, Senator Krueger
6 and Assemblymember Weinstein, for the
7 invitation to testify at today's hearing.

8 My name is Yonah Zeitz, and I'm the
9 director of advocacy at the Katal Center for
10 Equity, Health and Justice. We're a
11 community-based organization focused on
12 building the leadership capacity of
13 neighborhood residents and ending mass
14 incarceration and the war on drugs.

15 And we submit this testimony to bring
16 your attention to Governor Hochul's proposal
17 to jail more New Yorkers simply because they
18 can't afford to pay for their freedom.

19 The Governor's proposal to gut bail
20 reform as a part of the budget is bad for all
21 New Yorkers, but it will be particularly bad
22 for Black, brown, and low-income New Yorkers
23 who will face the brunt of this retrograde
24 approach. And this proposal will also

1 further delay, if not even outright wreck,
2 the plans to close the notorious
3 Rikers Island jail complex.

4 And in particular, it's unconscionable
5 that after a year in which 19 people passed
6 away on Rikers -- the most deaths on the
7 island in the last decade, and the highest
8 death rate in 25 years -- the Governor would
9 put forth a proposal that will send more
10 New Yorkers to be jailed there.

11 And just this weekend alone, a
12 65-year-old who was held on unaffordable cash
13 bail on Rikers died. And so this is
14 unacceptable.

15 And this proposal will be very, very
16 expensive for New York taxpayers, who are
17 already picking up the excessive costs of
18 pretrial detention as is, including more than
19 \$500,000 per year per person for everyone
20 held at Rikers.

21 So in short, the Governor's proposal
22 moves New York backwards and must be
23 rejected.

24 And for years prior to my work at

1 Katal, I worked at a community bail fund in
2 New York City, and during this time I paid
3 bail for about 500 New Yorkers who but for
4 the bail fund would have continued to
5 languish in the city's jails while legally
6 innocent simply because they couldn't afford
7 bail. And so this is, for me, a clear window
8 into how utterly grotesque, unjust and
9 predatory the state's pretrial system was.

10 And so the Legislature must reject the
11 racialized fearmongering and misinformation,
12 because it's clear that bail reform is
13 working. People are returning to court at
14 extremely high rates while being afforded
15 their liberty, and it has had no impact on
16 violent crime. So if politics followed the
17 data, we wouldn't be here, because data is
18 clear. Bail reform works, so we should be
19 doing more of it.

20 Unfortunately, the Governor's proposal
21 gives judges unfettered discretion to set
22 unaffordable bail on the most marginalized
23 New Yorkers, and it creates a pseudo
24 "dangerousness standard" that will further

1 exacerbate racial disparities and drive up
2 the number of people held in pretrial
3 detention.

4 And so we call on the State
5 Legislature to reject the Governor's baseless
6 proposal once again to amend the state's bail
7 laws. Instead of proposals that will
8 increase jail populations and keep Rikers
9 open, the Governor must work with the
10 Legislature to pass a budget that will reduce
11 our reliance on jails and prisons, close
12 Rikers and other daily jails, and invest in
13 real public safety -- things like housing,
14 jobs, healthcare, and education.

15 Thank you.

16 CHAIRWOMAN KRUEGER: Thank you.

17 Any questions from the Senate?

18 Any questions from the Assembly?

19 Well, then thank you very much for
20 being with us here tonight.

21 MR. ZEITZ: Thank you.

22 CHAIRWOMAN KRUEGER: We appreciate it.

23 And we appreciate your staying so late.

24 And we're next going to call up our

1 final panel: The New York State Defenders
2 Association, the Brooklyn Defender Services,
3 the Prisoners' Rights Project of the Legal
4 Aid Society, and the League of Women Voters
5 of New York State.

6 Hi.

7 MS. BRYANT: Hi, good evening.

8 CHAIRWOMAN KRUEGER: Good evening.

9 MS. BRYANT: I am Susan Bryant. I'm
10 the executive director of the New York State
11 Defenders Association. It's good to see all
12 of you, and thank you for the invitation to
13 testify today.

14 And I'm actually thrilled that it's
15 this time of the evening; usually I'm later.
16 So thank you for keeping to the time. I
17 really appreciate it.

18 I'm here, as I am every year, to ask
19 for a restoration of the New York State
20 Defenders Association funding. We are an
21 organization that since 1981 has operated the
22 Public Defense Backup Center, which is a
23 support center for all the public defenders
24 throughout the state, and we provide that

1 support.

2 The Governor every year puts in a
3 million dollars for our budget, and that is
4 nowhere near enough to do the work that we do
5 every year. So we appreciate very much the
6 Assembly's support over the years in
7 particular to restore funding -- and last
8 year, in fact, gave us additional funding to
9 create the Statewide Discovery in Forensic
10 Support Unit.

11 And we have now hired for that unit,
12 we are rolling out services for that unit,
13 and I'd really love to keep that staff and to
14 provide the services that you decided were
15 necessary for public defense.

16 We're also coming to ask for an
17 additional \$450,000. You've heard a lot
18 about recruitment and retention issues in all
19 sorts of employment, including district
20 attorneys. Well, it happens in public
21 defense too, and my colleagues can certainly
22 speak to that.

23 We're looking to create a project that
24 would go to law schools, undergraduate

1 institutions both in New York and other
2 states, to attract people to this work, so
3 they understand what the work is and to come
4 to it. We need to build a new crop of
5 defenders and investigators and social
6 workers that want to do this work.

7 We're just getting to the
8 60th anniversary of Gideon vs. Wainwright,
9 and we want to make sure that public defense
10 continues to thrive in New York. And our
11 request would allow us to support all of
12 these offices around the state in trying to
13 recruit and retain attorneys that are
14 well-qualified to do this work. So I greatly
15 appreciate your support for that.

16 I also want to mention, even though
17 it's not part of the public protection table,
18 that New York State Defenders Association
19 operates a Veterans Defense Program that
20 provides support to any defender who is
21 representing someone who is a veteran, who is
22 in the reserves or active-duty military, that
23 is charged with a crime or is in
24 Family Court.

1 We provide support to anyone who asks
2 for it. We provide peer-to-peer mentoring
3 from veterans themselves who are case
4 managers. And our attorneys provide
5 mitigation support. And we estimate that
6 we've saved the state probably close now to
7 \$100 million in incarceration costs alone
8 saved. And that's not including any of the
9 savings to human beings and their families in
10 keeping them getting treatment in the
11 community.

12 We ask that you restore the funding
13 for the Veterans Defense Program.

14 Thank you very much.

15 CHAIRWOMAN KRUEGER: Thank you.

16 Good evening.

17 MS. SCHREIBERSDORF: Good evening.

18 Lisa Schreibersdorf. I'm the executive
19 director of Brooklyn Defender Services. I'm
20 also speaking on behalf of the
21 Chief Defenders Association of New York,
22 which is the same asks. And you have written
23 testimony -- you will have written testimony
24 from them.

1 Look, we've been here all day, I just
2 really want to get to the point. I have two,
3 really, pointed asks I want to make of you
4 all today.

5 The first one is relating to criminal
6 cases -- so just to, you know, back it up a
7 second, my office does criminal cases and
8 family cases. So you heard earlier from ILS
9 that we have a crisis, a real crisis in
10 Family Court when it comes to funding for
11 lawyers that represent parents.

12 That work is very labor-intensive and
13 it involves a lot of social work assistance.
14 And when you represent a parent properly,
15 you're more likely to keep the child at home
16 safely.

17 And we are extremely successful in
18 reducing the amount of time that a child
19 spends in foster care, as well as avoiding
20 foster care altogether. You know, this is
21 the Public Protection Hearing, and you know
22 that once somebody goes into foster care the
23 chances of them getting arrested later on in
24 life is much higher. So all around, I think

1 it's a huge, very positive investment.

2 You did ask -- or somebody asked a
3 question about a lawsuit around Family Court.
4 And I think Patricia Warth from ILS said all
5 the elements are there. I did want to
6 address that, because I do think all of the
7 elements are there but the Hurrell-Harring
8 lawsuit on the criminal side took 10 years to
9 resolve, and we can't wait 10 years.

10 So ILS asked for \$28 million in the
11 budget, which is modest. I sat here all day
12 and heard about hundreds of millions of
13 dollars. It's a \$28 million ask. The chief
14 defenders from around the state are asking
15 for \$28 million for five years, every year
16 for five years. So it would go up just where
17 the Hurrell-Harring settlement went up, in
18 much the same way.

19 I am asking you to make that part of
20 your one-house budgets. And I'm asking you
21 please to advocate for that for us with the
22 Governor.

23 I'm sorry, I know my time is up. But
24 I really have --

1 CHAIRWOMAN KRUEGER: You have
2 57 seconds. Keep going.

3 MS. SCHREIBERSDORF: So one minute.

4 Criminal. So what I heard here
5 today -- and, you know, we all sat here all
6 day. I heard some horrifying things today,
7 I'm going to be honest. But what I heard
8 that really struck me was that about
9 60 percent of people in the upstate prisons,
10 which are 31,000 people, have a mental health
11 issue. I can bear that out that most of --
12 probably the majority of our clients.

13 I also heard Corrections say that they
14 see themselves as a paramilitary
15 organization. My heart just dropped out.
16 What I want to say to you is this. What do
17 you think stands between somebody with mental
18 illness and that fate? It's a good defense
19 attorney. It's a defense attorney that has
20 the resources to investigate the case and
21 make sure that person isn't innocent or has
22 mitigating circumstances, can get treatment
23 instead of jail, like in our Mental Health
24 Court. That is the resource that stops that

1 straight line.

2 So I just ask you -- so I've got to
3 finish this. So the DAs have been given
4 almost \$100 million in this budget, and the
5 defenders have only gotten 7.5 million. Many
6 of you have asked about the defense funding.
7 It is clear that that money is allocated to
8 the DAs.

9 We are asking you to match the funding
10 that the DAs got for discovery and other
11 resources, as well as give us the 40 million
12 that they got last year that we didn't get
13 also -- which they got for discovery and they
14 still have not implemented, you know, really
15 efficient procedures.

16 So that is our ask of you, and I don't
17 want to use any more time. I'll be back to
18 discuss that further.

19 CHAIRWOMAN KRUEGER: Thank you.

20 Good evening.

21 MS. HAAS: Good evening. My name is
22 Katherine Haas, and I'm a staff attorney with
23 the Legal Aid Society's Prisoners' Rights
24 Project. Thanks for the opportunity to

1 testify here today.

2 I fully echo the call for funding
3 parity that Brooklyn Defender Services just
4 made so eloquently. But I'm here to talk
5 about something different, which is the
6 implementation of HALT -- or, rather, the
7 lack thereof.

8 So in 2008 this Legislature passed the
9 SHU exclusion law, a leading segregated
10 confinement reform requiring DOCCS to divert
11 people with serious mental illness away from
12 segregated confinement. But for years DOCCS
13 took advantage of exceptions in that law and
14 simply ignored some of its most important
15 provisions. Thousands of people with serious
16 mental illness languished in segregated
17 confinement as a result, and some died there.

18 I'm here today to tell you that
19 history is repeating itself. Recognizing
20 that segregated confinement is nothing short
21 of torture, in 2021 this Legislature passed
22 the Humane Alternatives to Long-Term Solitary
23 Confinement Act, or HALT, requiring DOCCS to
24 severely curtail its use of segregated

1 confinement. But the reforms promised by
2 HALT have yet to materialize because DOCCS
3 has failed to faithfully implement the
4 statute.

5 Based on numerous credible reports my
6 office has received from incarcerated people,
7 as well as data and policies that DOCCS
8 itself has provided, we know that the use of
9 long-term segregated confinement is still
10 widespread in New York prisons, in flagrant
11 disregard of the HALT statute.

12 Whatever DOCCS has done with the
13 millions of dollars this Legislature has
14 already provided for implementation of HALT,
15 it has not made the law a reality. People
16 are still living in segregated confinement
17 for weeks and even months on end. For many,
18 the lights are on all night, the temperatures
19 are frigid, and insufficient food leads to
20 constant hunger.

21 Some cells are filthy, with human
22 excrement from prior occupants covering the
23 walls. Recreation may be nothing more than
24 access to a small individual cage attached to

1 one cell, where there is nothing to do but
2 pace back and forth alone. Those who are
3 lucky enough to leave their cells at any
4 other time are shackled whenever they do so.

5 These torturous conditions are the
6 state of HALT's implementations in New York
7 prisons. Unsurprisingly, incarcerated people
8 report that these conditions severely damage
9 both their physical and mental health. Some
10 even report instances of self-harm. This
11 type of anguish is exactly what HALT was
12 designed to prevent.

13 A lengthy description of the many
14 provisions of HALT that DOCCS consistently
15 violates can be found in our written
16 testimony. But the bottom line is that
17 nearly every major provision of the law has
18 been either misconstrued or ignored. DOCCS
19 still holds numerous people with
20 disabilities, including people with mental
21 illnesses, in segregated confinement, despite
22 HALT's blanket ban on that practice. People
23 still regularly face segregated confinement
24 for far longer than 15 consecutive days.

1 Segregated confinement makes prisons
2 less safe. Unsafe prisons make for unsafe
3 communities. HALT, if implemented properly,
4 will make New York's prisons both safer and
5 more humane. It is time for DOCCS to do its
6 duty as an executive agency and professed
7 steward of public safety and implement the
8 law.

9 Thank you for your time.

10 CHAIRWOMAN KRUEGER: Thank you.

11 And our last testifier. Yes, please
12 share the microphones.

13 MS. SMITKA: Thank you for the
14 opportunity to testify today.

15 My name is Erica Smitka. I'm the
16 legislative and deputy director for the
17 League of Women Voters of New York State.

18 First of all, we greatly appreciate
19 the tremendous gains that have been made in
20 the past few years to make voting more
21 accessible, and we applaud the Legislature
22 for enacting these reforms.

23 The League was pleased to see that the
24 State Board of Elections was adequately

1 funded in the Executive Budget. However,
2 many reforms still have not been sufficiently
3 funded at the local level. We ask that a
4 minimum of \$20 million in funding be
5 allocated to county boards of elections. The
6 recent expansion of polling sites on college
7 campuses and early voting reforms require
8 additional support for counties to ensure
9 compliance.

10 County boards must hire additional
11 staff, secure additional sites, and purchase
12 new equipment. These reforms will continue
13 to strengthen the voting process for many
14 voters, but only if counties have the
15 resources they need to implement them.

16 Outside of county funding, we wanted
17 to highlight a recent reform that we expected
18 to see support for in the Executive Budget.
19 The passage of the John R. Lewis Voting
20 Rights Act of New York State was historic.
21 It includes critical protections against
22 voter suppression. However, in order to
23 effectively implement the NYVRA, we must fund
24 it and pass the companion database bill this

1 session. The League urges the Legislature to
2 include this bill as a part of their budget
3 proposal and to include the \$5 million that
4 would be required to support both the AG's
5 office and establish the database.

6 Regarding campaign finance reform, the
7 League applauds the Governor for including
8 \$14.5 million in funding to support the
9 administrative needs of the Public Campaign
10 Finance Board. However, the underfunding of
11 the matching portion of the program by
12 \$75 million will not build the trust
13 necessary for candidates to opt into the
14 program.

15 This year is the first opportunity for
16 New York State to demonstrate a commitment to
17 campaign finance reform and to reduce the
18 influence of big money in our politics. So
19 we urge members of the Legislature to fully
20 fund this request at \$114.5 million for the
21 program.

22 As it relates to bail reform, we urge
23 any changes, discussion, or decisions on bail
24 reform to be made based on data, facts, and

1 experience under the law as it was amended
2 last year, not the continued rhetoric around
3 this issue.

4 In conclusion, the League is greatly
5 appreciative of the improvements the
6 Legislature and the Governor have made to
7 New York State's elections. But in order to
8 realize the pro-voter goals of both
9 legislative leaders and the Governor, we need
10 a serious commitment to funding to ensure
11 that these progressive reforms are not
12 unfunded mandates.

13 Thank you so much.

14 CHAIRWOMAN KRUEGER: Thank you.

15 Senator Zellnor. Myrie. Excuse me.
16 Senator Zellnor Myrie.

17 SENATOR MYRIE: I'm also Senator
18 Zellnor.

19 (Laughter.)

20 SENATOR MYRIE: So I appreciate that.
21 Thank you, Madam Chair.

22 CHAIRWOMAN KRUEGER: You aren't only
23 Senator Zellnor, let's be fair.

24 SENATOR MYRIE: That's right. Thank

1 you, Madam Chair.

2 And thank you for all of your patience
3 waiting for an entire day.

4 Lisa, I was hoping that you could
5 expound a little bit on the needs of the
6 defense bar as it relates to discovery. I
7 think we have heard in ample amount the needs
8 for the prosecution, and I happen to agree
9 that more resources are necessary, but if you
10 could go into some more detail about what the
11 extra burden has been on the defenders and
12 why it's important for us to make that
13 allocation equitable.

14 MS. SCHREIBERSDORF: Absolutely.

15 Can you hear me?

16 The -- look, you heard from the
17 DAs Association that there are multiple
18 webcams with hours and hours and hours of
19 video on these cases. So while it is true
20 that they also need resources, which I
21 believe they do -- and we support them
22 getting resources -- we have the same
23 obligation. We have to watch every single
24 video, because it could be the one angle that

1 somebody's looking at that can change the
2 whole case.

3 So we also have to look at every
4 video. We also have to store all that data.
5 It's provided digitally by the DAs, and we
6 have to store it, we have to sort it, we have
7 to be able to use it, organize it, and we
8 have to also share. We have things that we
9 also need to share with them, this reciprocal
10 discovery.

11 So we actually joined together with
12 the New York City DAs -- the five DAs in the
13 city and all the heads of the defender
14 offices joined together to make an ask of the
15 city -- you know, of the mayor's office. And
16 we jointly asked for one paralegal for every
17 three attorneys. We jointly asked for a
18 25 percent increase in our salaries, because
19 we have the same issue with attrition and
20 we're losing a lot of our more senior people
21 who we need to train the newer people. And
22 we also asked for money for technology.
23 Because the storage, the amount of storage
24 that we need and the ways to store it, we

1 have to build whole new systems in order to
2 store it in a way that we can utilize it.

3 Does that answer your question?

4 SENATOR MYRIE: Thank you.

5 CHAIRWOMAN KRUEGER: Assembly.

6 CHAIRWOMAN WEINSTEIN: Assemblywoman
7 Kelles.

8 ASSEMBLYWOMAN KELLES: Attorney Haas,
9 I just have one question for you. We had
10 a several-hours conversation about HALT. One
11 of the statistics that was given -- and so
12 I'm very confused, and I'd like to hear your
13 thoughts on this -- that there are currently
14 21 people incarcerated who are currently out
15 of the allotted or allowed parameters in HALT
16 of 15 days. That was the statistic.

17 Maybe I misunderstood. Maybe it was
18 21 at any one time. I'm unclear.

19 I'm curious if you have any
20 contradictory data, any other understanding
21 of that data, because it seems there's
22 something different in your testimony from
23 what we've heard.

24 MS. HAAS: Yes. So my understanding

1 of the data that DOCCS releases regarding who
2 is in solitary confinement beyond 15 days is
3 it's a snapshot of how many people are in
4 segregated confinement for 16 or more days on
5 one given day. And they release that once a
6 month.

7 And so it's not a total of all the
8 people over any length of time, it's the
9 number of people on that given day.

10 ASSEMBLYWOMAN KELLES: It's a point in
11 time.

12 MS. HAAS: Yes.

13 ASSEMBLYWOMAN KELLES: So it's 21 --
14 if I went any single day for the whole state,
15 I would find, on average, 21 people who'd
16 been in for longer than 15 days.

17 MS. HAAS: I'm not sure if 21 would be
18 average. I would say actually they release
19 the data once a month, and the number has
20 been higher than that in the past months many
21 times.

22 In our written testimony I think it
23 was far higher, it was dozens of people, just
24 the month before January 1, 2023. And that

1 data is in our written testimony.

2 ASSEMBLYWOMAN KELLES: Detailed,
3 careful analysis and interpretation and
4 communication of data is critical.

5 Thank you for the enlightening
6 statement.

7 MS. HAAS: Absolutely.

8 CHAIRWOMAN KRUEGER: Senator Jamaal
9 Bailey.

10 SENATOR BAILEY: Thank you,
11 Madam Chair.

12 Thank you so much for your patience
13 and for your testimony, most importantly for
14 the hard work that you do on a day-to-day
15 basis for New Yorkers. It is truly
16 appreciated.

17 In relation to discovery -- and, you
18 know, we've had a lot of conversations in the
19 past about discovery. It's fair to say that,
20 you know, you have the same obligations, so
21 to speak, as prosecutors. Would that be fair
22 to say?

23 MS. SCHREIBERSDORF: I would say
24 equivalent. It's not exactly the same, but

1 it's very equivalent.

2 SENATOR BAILEY: That's what I meant.
3 Equity versus equality, right? Like it's one
4 of those things. Yes, obviously the state is
5 the state, and you're representing the
6 defendant. I didn't mean it in that way.

7 But -- so the funding should be equal,
8 because you're equally representing -- and I
9 just want to make sure that I'm not putting
10 words in your mouth, that I'm just adequately
11 reflecting your testimony, that you're not
12 asking for any more but you're not asking for
13 less.

14 MS. SCHREIBERSDORF: Exactly.

15 SENATOR BAILEY: You just want -- you
16 just want parity.

17 MS. SCHREIBERSDORF: Right.

18 SENATOR BAILEY: So as far as
19 discovery goes, specifically in Brooklyn,
20 have there been programs that you've been
21 able to engage in that would be able to be a
22 cost savings to the State of New York?

23 MS. SCHREIBERSDORF: Well, I think
24 there are a lot of different ways that this

1 could have been done a lot more efficiently.
2 And if people had banded together to try to
3 do that, I think there was a lot of things
4 that could happen. And I don't think it's
5 just a simple program that would answer that.

6 We have identified a program called
7 Ignite that's a document storage program
8 that's working very well for us. I mean, it
9 costs us upwards of a million dollars even
10 just to figure all this out.

11 But I think one of the biggest
12 problems -- and, you know -- is that the
13 police are not sharing the information with
14 the DAs in a way that they can easily access
15 it and then share it in a timely manner.
16 Right? I think they also have the problem
17 with, like you heard earlier, being able to
18 see everything in a short amount of time. I
19 get that.

20 But the real reality is that they're
21 not getting that information in a way that
22 they can easily download and then provide it
23 to us. So I think if we're really going to
24 look at solutions, I think that could really

1 be studied a lot more carefully. I know in
2 New York City that's one of the big problems.

3 SENATOR BAILEY: In terms of the
4 police/district attorney --

5 MS. SCHREIBERSDORF: Right.

6 SENATOR BAILEY: -- relationship.

7 MS. SCHREIBERSDORF: I --

8 SENATOR BAILEY: I shouldn't say
9 relationship --

10 MS. SCHREIBERSDORF: The sharing of
11 information. Right? I don't want to get --

12 SENATOR BAILEY: The sharing of the
13 information. I want to be precise with the
14 language --

15 MS. SCHREIBERSDORF: -- into the whole
16 marriage.

17 SENATOR BAILEY: -- you're right.

18 MS. SCHREIBERSDORF: You know, it's
19 like -- you know, that is a big problem. But
20 ultimately, also, the DAs have -- right now
21 the DAs have everything in OneDrive, which is
22 a Microsoft program. But for us to get it
23 from them, we actually have to -- we can't
24 just sort of transfer it over to our account.

1 We have to download it from their account,
2 which takes time, and then re-upload it.

3 So that takes a huge amount of time
4 and a huge amount of energy, and a lot of
5 space is being used. OneDrive is a
6 particularly bad program for sorting,
7 finding, filing and using. Right? You
8 can't, you know, chop up documents online.
9 It's very complicated, which is why we moved
10 to a different one.

11 But, you know, it's not good for them
12 either. So, you know, I think that work
13 could be done to try to find something
14 better.

15 SENATOR BAILEY: Right. And as I
16 close, I just want to again say thank you.

17 Are there any statutory changes that
18 you think that should be made to the
19 discovery law at all?

20 MS. SCHREIBERSDORF: No. And none to
21 bail either, thank you.

22 SENATOR BAILEY: I just wanted -- just
23 wanted to get it on the record. Thank you.

24 Thank you for your time.

1 MS. SCHREIBERSDORF: Thank you.

2 CHAIRWOMAN KRUEGER: Thank you.

3 Assembly?

4 CHAIRWOMAN WEINSTEIN: We're done.

5 CHAIRWOMAN KRUEGER: We're done?

6 Okay. Well, then I want to thank you
7 all for testifying tonight. I thank you for
8 waiting so long to get our attention. But we
9 have your full testimony.

10 And for anyone else who's here, I'm
11 assuming you didn't think you were going to
12 testify, you just are enjoying yourselves.

13 I want to thank all the staff for
14 staying and remind everyone that tomorrow's
15 hearing starts at 9:30. The topic is
16 education. So, you know, bring snacks and
17 popcorn. We will be back here tomorrow
18 morning. Thank you.

19 (Whereupon, the budget hearing
20 concluded at 7:38 p.m.)

21

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23

24