BEFORE THE NEW YORK STATE SENATE FINANCE
AND ASSEMBLY WAYS AND MEANS COMMITTEES
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JOINT LEGISLATIVE HEARING
In the Matter of the
2022-2023 EXECUTIVE BUDGET ON
PUBLIC PROTECTION
-----------------------------------------------------

                        Virtual Hearing
                        Held via Zoom
                        January 25, 2022
                        9:36 a.m.

PRESIDING:

Senator Liz Krueger
Chair, Senate Finance Committee

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

PRESENT:

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

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

Senator Brad Hoylman
Chair, Senate Committee on Judiciary

Assemblyman Charles D. Lavine
Chair, Assembly Committee on Judiciary

Senator Jamaal T. Bailey
Chair, Senate Committee on Codes

Assemblyman Jeffrey Dinowitz
Chair, Assembly Committee on Codes
PRESENT: (Continued)

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

Assemblyman David I. Weprin
Chair, Assembly Committee on Correction

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

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

Senator Gustavo Rivera

Assemblyman Harry B. Bronson

Senator Pete Harckham

Senator Andrew Gounardes

Assemblyman Erik M. Dilan

Assemblywoman Jenifer Rajkumar

Assemblyman Phil Steck

Senator Zellnor Myrie

Assemblywoman Dr. Anna R. Kelles

Senator James Tedisco

Assemblyman Robert C. Carroll

Assemblyman Joseph M. Giglio

Senator Luis R. Sepúlveda
PRESENT: (Continued)

Senator Anna M. Kaplan
Assemblyman Thomas J. Abinanti
Assemblywoman Karen McMahon
Assemblyman Ron Kim
Assemblyman Philip A. Palmesano
Assemblywoman Catalina Cruz
Assemblyman Mike Lawler
Senator Kevin Thomas
Assemblyman Michael Tannousis
Assemblywoman Marcela Mitaynes
Assemblyman Harvey Epstein
Senator Anthony H. Palumbo
Assemblyman Michael Cusick
Senator George M. Borrello
Assemblywoman Rebecca Seawright
Assemblywoman Latoya Joyner
Assemblyman Michael Reilly
Assemblywoman Alicia Hyndman
Senator James Gaughran
Assemblyman William Colton
Assemblywoman Monica P. Wallace
2022-2023 Executive Budget
Public Protection
1-25-2022

PRESENT: (Continued)

Senator Jeremy A. Cooney
Assemblywoman Marjorie Byrnes
Senator Sue Serino
Assemblyman Angelo J. Morinello
Senator Phil Boyle
Assemblywoman Latrice Walker
Assemblyman Chris Burdick
Assemblyman Mark Walczyk
Senator Patrick M. Gallivan
Assemblywoman Linda B. Rosenthal
Assemblyman Jeffrion L. Aubry
Assemblyman Kenny Burgos
Senator Fred Akshar
Assemblywoman Vivian E. Cook
Senator Peter Oberacker
Assemblyman John T. McDonald III
Assemblyman J. Gary pretlow
Senator Patty Ritchie
2022-2023 Executive Budget
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Honorable Lawrence K. Marks
Chief Administrative Judge
NYS Office of Court Administration

Robert H. Tembeckjian
Administrator and Counsel
New York State Commission on Judicial Conduct

Jackie Bray
Commissioner
NYS Division of Homeland Security and Emergency Services

Rossana Rosado
Commissioner
NYS Division of Criminal Justice Services

Anthony J. Annucci
Acting Commissioner
NYS Department of Corrections

Kevin P. Bruen
Superintendent
NYS Division of State Police

Angelo Riddick
Interim CIO and Director
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Patricia Warth
Director
NYS of Indigent Legal Services
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District Attorneys Association of the State of New York
-and-
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President
NYS Court Clerks Association
-and-
Elena Sassower
Director
Center for Judicial Accountability

727  738
CHAIRWOMAN KRUEGER: Good morning, everyone. Hi. I'm State Senator Liz Krueger, the chair of the Finance Committee in the Senate.

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

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

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

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

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

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

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

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

So again, good morning. Today is the first of 13 hearings conducted by the joint
fiscal committees of the Legislature regarding the Governor's proposed budget for state fiscal year '22-'23. These hearings are conducted pursuant to the New York State Constitution and Legislative Law.

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

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

I will now introduce members of the Senate, and Assemblymember Helene Weinstein, chair of the Assembly Ways and Means
Committee, will introduce members from the Assembly. In addition, Tom O'Mara, my ranking member of the Senate Finance Committee, will introduce the members from his conference.

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

SENATOR O'MARA: Thank you, Senator Krueger.

In addition to myself, at this point we are joined by Senator Jim Tedisco on the minority side. And that's it right now. I think a bunch of our members are finishing up
another meeting right now, so I'm sure there will be more joining us.

    Thank you.

    CHAIRWOMAN KRUEGER: Thank you very much.

    And so now Helene Weinstein to introduce the Assemblymembers.

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

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

    I also just wanted to clarify the time frames, because -- for the chairs are
10 minutes, and the chairs of each of the committees are the only ones who will have a second round of three minutes. The rankers have five minutes. And so that we end before the next hearing begins, all other members who are here have three minutes.

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

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

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

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

CHAIRWOMAN KRUEGER: Great. Thank you very much.

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

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

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

Good morning, Judge Marks.

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

I'm Lawrence Marks. I'm the
Chief Administrative Judge of the state court
system. And thank you for the opportunity to
be here with you this morning to discuss the
Judiciary's budget request for the 2022-2023
fiscal year.

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

So as was the case last year, this
year's budget request must be viewed in the
context of the ongoing COVID-19 pandemic.
The pandemic has presented the Judiciary with
multiple challenges. These have included the
unprecedented task of keeping the courts open
consistent with rapidly changing public
health needs -- and, at least in the early
stages of the pandemic, to do so with
significantly less funding than would
otherwise have been available during a normal
Throughout the course of the pandemic, the court system has adapted its operations to comply with the prevailing guidance provided by public health authorities. And very early on, while determined to keep the courts open for business, we limited our in-person operations to essential and emergency applications only. That was quickly followed by a program of virtual court operations which used the latest in technology. And this made it possible for judges and staff to safely adjudicate cases in all of our courts across the state.

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

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

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

In following through on this
commitment in 2022-'23, we will continue to
make every effort to fill vacant nonjudicial
positions in the courts. During the pandemic
the court system has seen hundreds of
employees retire and leave for other reasons.
And at the same time, because of the state's fiscal crisis in 2020-'21, the Judiciary, at the urging of the Executive, cut its planned spending through a variety of austerity measures, which included a system-wide hiring freeze.

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

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

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

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

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

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

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

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

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

Finally, in 2022 we will renew our effort to simplify our trial court system
through a constitutional amendment to merge
our nine major trial courts into two courts:
a Supreme Court and a Municipal Court. In
making this effort, we will be joined by a
coalition of over 100 groups representing all
corners of the community -- bench, bar, legal
services providers, business, and good
government.

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

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

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

CHAIRWOMAN KRUEGER: Thank you very much, Judge.

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

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

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

CHAIRWOMAN WEINSTEIN: Yes, if we could.

CHAIRWOMAN KRUEGER: Sure.

CHAIRWOMAN WEINSTEIN: We've been joined by Chair Zebrowski of the Government
Ops Committee; Assemblyman Abinanti;
Assemblyman Cusick; Assemblywoman McMahon;
Assemblywoman Mitaynes; Assemblywoman
Seawright; Assemblyman Steck; and
Assemblywoman Walker.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

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

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

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

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

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

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

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

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

Judging obviously is not a science. Judges don't have a crystal ball. And, you know, it's impossible to predict -- you can
try to predict but it's impossible to predict
with any certainty what the consequences
would be of releasing someone to the
community or not releasing someone to the
community.

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

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

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

SENATOR HOYLMAN: Thank you.

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

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

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

CHIEF ADMIN. JUDGE MARKS: Well, firstly, in New York City -- and the overwhelming, overwhelming number of these
pending eviction cases are in New York City. The number dwarfs the number of cases in the 57 counties outside New York City. And more cases will be filed, certainly, but the vast percentage of these cases are pending in New York City and will ultimately be filed in New York City.

And the most important thing that a judge can do to ensure that tenants' rights in these cases are recognized or understood by tenants and are realized in the court process is the appointment of counsel. And fortunately in New York City, going back to the prior mayor's administration and continuing in the current mayoral administration, tenants who can't afford a lawyer will be matched with a lawyer. And we've established a process in New York City Housing Court where the first appearance will be a virtual appearance -- and actually this has been going on -- this isn't taking effect now, this has been going on for a number of months now in the New York City Housing Court.
The first appearance will be for the
purpose of connecting the tenant with a
lawyer if the tenant can't afford a lawyer.
And the second appearance will be an
in-person appearance with the tenant, if the
tenant chooses to appear, but the lawyer
that's been assigned to the tenant will
appear in person. And the landlord, and if
the landlord has a lawyer, the landlord
and/or the landlord's lawyer will be in
person, with the goal of trying to resolve
the case without further litigation.

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

Outside New York City, less of a
guarantee that a lawyer will be assigned to a
tenant who can't afford one. But I know the
Governor has thankfully identified that as a
problem and has suggested at least that maybe 
there will be funding from the state to 
replicate sort of the very positive situation 
in New York City, in that lawyers will be 
provided to replicate that in landlord/tenant 
cases outside of New York City.

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

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

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

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

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

(Zoom interruption.)

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

CHIEF ADMIN. JUDGE MARKS: Sorry. That it -- the virtual approach to arraignments is not ideal. And in fact
that's why the State Office of Indigent Legal
Services propounds a policy that
arraignments, except in extreme situations,
need to be done in person. It's a critically
important first appearance in a criminal
case.

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

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

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

SENATOR HOYLMAN: Thank you, Judge.

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

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

CHAIRWOMAN WEINSTEIN: Thank you.

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

Chair Weinstein.

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

CHIEF ADMIN. JUDGE MARKS: Good morning.

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

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

CHIEF ADMIN. JUDGE MARKS: Well, at the outset of the pandemic there was, I think it's fair to say, a devastating toll. We lost three judges, who passed away in the early spring of 2020. Of course there's no
way to know whether they contracted COVID while in the courthouse or in their -- at home or, you know, in their personal lives. But regardless, it was a devastating circumstance for us.

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

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

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

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

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

CHIEF ADMIN. JUDGE MARKS: You're absolutely correct in what you're describing.
The reason for that is we've adhered and continue to adhere to the six-foot social distancing rule, which is the CDC guideline for indoor public places where there's no assurance that people coming into those indoor public spaces have been vaccinated, which is a category that the courthouses and courtrooms fall into.

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

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

I mean, as you know as a former practicing lawyer, most cases on both the criminal side and the civil side are resolved without the necessity of a trial. But we
need to do trials. Trials can keep the
system honest. And again, under existing
protocols, it's been very difficult to do
that on a large scale.

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

ASSEMBLYMAN LAVINE: Last question, on
a microeconomic scale.

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

CHIEF ADMIN. JUDGE MARKS: Well, it
will be used to upgrade and expand our case
management systems. For those of you not
familiar with that term, our case management
systems that every court in the state has, it
is a part of -- it's where all the relevant
information and data about the case is
entered. And it would be hard to imagine
running a court system these days, with the
volume and complexity of cases we have,
without a robust and efficient and effective 
case management system.

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

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

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

CHIEF ADMIN. JUDGE MARKS: Thank you.

SENATOR RIVERA: You're muted, Liz.

ASSEMBLYMAN LAVINE: Am I supposed to
just continue on and on?
CHAIRWOMAN KRUEGER: I apologize. I apologize, everyone. I for some reason lost my unmute button for a second. We are now turning it over to --

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

CHAIRWOMAN KRUEGER: Of course. Of course.

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

Thank you. Now to the Senate.

CHAIRWOMAN KRUEGER: Thank you.

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

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

SENATOR MYRIE: Thank you,

Madam Chair.

And thank you, Judge Marks. I'm going
to try and be as efficient as possible in my questioning, and my hope is that you will do the same in answering.

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

CHIEF ADMIN. JUDGE MARKS: That's correct.

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

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

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

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

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

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

SENATOR MYRIE: Thank you for that, Judge Marks. And speaking of those audits, the Comptroller's office has done, I think,
recently one in 2021 and another one in 2015. They issued I believe 18 recommendations. That office has not adopted the overwhelming majority of those. Is there any consequence from OCA for that office not complying or not fulfilling its duty as recommended by the audits by the Comptroller's office?

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

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

SENATOR MYRIE: So Judge Marks, I'm sorry, just because my time has expired. So there is no function for a public administrator's office that has been found not to meet the recommendations -- some of
those recommendations include competitively bidding vendor contracts. They can flout that without consequence from OCA?

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

SENATOR MYRIE: Thank you, Judge.

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

I'm turning it over to Assemblywoman Weinstein.

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

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

ASSEMBLYMAN DINOWITZ: Thank you.

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

CHIEF ADMIN. JUDGE MARKS: Good
morning.

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

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

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

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

You know, the thinking and the wisdom about civil litigation in particular, but it applies to criminal litigation as well -- and I think, Assemblyman Dinowitz, is your question more focused on the civil term of Supreme Court when you ask that, or is it both?
ASSEMBLYMAN DINOWITZ: Well, I think it's both. While I'm more familiar with, you know, the goings on on the civil side, the fact is in terms of, you know, really affecting people's lives in an extremely serious way, I think perhaps on the criminal side is what we really need to focus on.


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

But that's had its limitations. You know, I think alternative dispute resolution,
which we're committed to and sort of -- we
were in the process of institutionalizing
that throughout the state as we came into the
pandemic in the spring of 2020 -- that can
play a very significant role in resolving
backlogs. And getting judges actively
involved in trying to resolve cases can play
an important role.

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

And that's obviously influenced by the
circumstances of the pandemic. But if that
can happen, you know, we can return to
something resembling the normal court system
that we had pre-pandemic, where the
overwhelming percentage of cases get resolved
without the necessity of a jury trial, but
the jury trial is critically important to
achieving dispositions and resolutions of
cases.

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

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

And I make it a habit of not
necessarily believing everything I read in
certain newspapers unless -- unless there's a
second source, I suppose. But I asked the
commissioner -- and I know my colleague
Assemblymember Walker will remember this
well -- I asked him does he have any data
that shows that people who are accused of
certain offenses and were out without bail
then committed the same offense.

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

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

CHIEF ADMIN. JUDGE MARKS: Yes, we
have extensive data that's on our website.
We worked with the State Division of Criminal
Justice Services on this. And I know the
DCJS commissioner is testifying, and you
should, if you're able to, ask her that
question as well.
But we have extensive data. I can tell you I haven't absorbed it all, it's not sort of on the tip of my brain right now. But I can tell you that there have been people who have been released either on their own recognizance or non-monetary conditions, or for whom bail was set and they posted bail and have been released.

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

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

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

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

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

Thankfully, that budget situation turned around. And I want to thank the Legislature for that, because the budget that was approved for the current fiscal year, the one we're still in, allowed us to lift our hiring freeze and undo a number of the strict austerity measures that we imposed, including
we invited back the judges who because of the budget problem were not certificated.

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

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

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

ASSEMBLYMAN DINOWITZ: I have a few seconds left. You had mentioned earlier that the judges in the system, basically they're
all vaccinated, or pretty much all. I thought I read -- I mean, shockingly, I thought I read that one of the Court of Appeals judges has refused to be vaccinated and therefore is not appearing in person in court. Am I wrong about that, or is that true?

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

But I can tell you that there are a very small number, you could count them on one hand, or part of one hand, who are not in compliance with our program, who either have not provided proof of full vaccination or have not received a religious or a medical exemption. There's a tiny number of judges
who fall into that category. And hopefully you'll understand why I don't want to identify individual judges by name.

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

Anyway, thank you very much, Judge Marks.

CHIEF ADMIN. JUDGE MARKS: Thank you.

CHAIRWOMAN KRUEGER: Thank you very much.

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

SENATOR BAILEY: Thank you, Madam Chair. Judge Marks, good to see you.

CHIEF ADMIN. JUDGE MARKS: Good to see you.

SENATOR BAILEY: Thank you for
testifying today.

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

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

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

SENATOR BAILEY: Sure.

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

CHIEF ADMIN. JUDGE MARKS: Yes, all of the above. It's categorized in a number of ways which we think will be helpful.
And we added additional data fields because researchers from Vera and John Jay and the center for court innovation were very interested in this data, and we added fields at their request. And we provide it in a format that we think is very user-friendly so that they can do, you know, extensive research and really dig down into this data and draw, you know, whatever conclusions they draw from it.

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

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

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

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

SENIOR BAILEY: Okay, excellent.

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

CHIEF ADMIN. JUDGE MARKS: Don't hold me to the precise language, but I'm pretty
sure there's a presumption that the case would stay -- would go to Family Court. An application would be made by the prosecutor. If the prosecutor would like to see the case transferred over to Family Court, or the attorney for the child would like to see that, there's an application that's made. The prosecutor could argue the case should stay in criminal court; you know, the converse of that. And the precise standard -- I apologize --

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

CHIEF ADMIN. JUDGE MARKS: Absolutely.

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

CHIEF ADMIN. JUDGE MARKS: Correct.

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

CHIEF ADMIN. JUDGE MARKS: It's a
case-by-case determination, that's right.

SENATOR BAILEY: Okay. A question

about -- thank you for the questions on that.

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

CHIEF ADMIN. JUDGE MARKS: Absolutely.

It's been -- and I know you have a bill on
that --

SENATOR BAILEY: Yes.

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

SENATOR BAILEY: Correct.

CHIEF ADMIN. JUDGE MARKS: And that's
having like a serious, serious impact on the
processing of cases. The attorney panels or
rosters from which -- these attorneys apply
and get on rosters and then take assignments
to these cases in the criminal courts and in
the Family Court. Those rosters are
depleted. Fewer and fewer attorneys are able
to -- they've concluded they can't afford to
take these cases because the rate is so low
and there's been no increase in such a long
period of time.

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

SENATOR BAILEY: Thank you. I would
certainly agree. As you mentioned, there's a
piece of legislation that I carry. And
understanding that those backlogs could be
alleviated significantly and those who are at
most risk could be able to receive counsel
that is efficient.
I guess the last question that I'll have is related to diversity in the courts. And you and I have spoken about this I think at every budget hearing since I've been a member of the New York State Senate. And strides have been made in terms of the LEO Program. But in terms of greater diversity, what steps is OCA taking to make sure that we have great diversity, not just in race but in gender, in orientation, in any diverse group? What steps are we taking in OCA to make sure that this is taking place in our court system? And not just on the bench, in terms of court personnel and employees as well.

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

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

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

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

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

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

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

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

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

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

CHAIRWOMAN KRUEGER: Thank you.

We've been joined by Senator Phil
Boyle, the ranker on Codes; by Senator Pete
Oberacker, Senator Sue Serino, and
Senator Pat Ritchie.
And now turning it over to the Assembly.

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

And we go to Assemblyman Weprin, three minutes.

ASSEMBLYMAN WEPRIN: Thank you, Madam Chair.

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

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

Would you be able to comment on that,
Judge?

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

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

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

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

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

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

So thank you.

CHAIRWOMAN WEINSTEIN: We go now to
the Senate.

CHAIRWOMAN KRUEGER: Thank you very
much.

And we're actually going to jump to
the ranker for Codes, Senator Phil Boyle.

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

SENATOR GOUNARDES: Thank you very much, Senator Krueger.

Hello, Judge Marks.

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

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

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

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

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

SENATOR GOUNARDES: I appreciate that.

Thank you very much, Judge.

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

In my former capacity as chairman of
the Civil Service Committee, we've heard a
lot of issues about the difficulty in
recruiting and retaining state workers because of the pension benefits that are under Tier 6. As you are looking to fill in some of the open vacancies you have, both pre-pandemic and because of the pandemic, what challenges do you think you're facing because of the benefits package that we are now currently offering state employees?

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

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

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

So does the Tier 6, which obviously is
less generous than the lower tiers, does that
discourage people from looking at employment
within the court system? You know, that's
something I'd have to take a look at that and
ask our HR people, and I could get back to
you.

SENATOR GOUNARDES: That would be
great. Thank you.

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

SENATOR GOUNARDES: Thank you.

CHIEF ADMIN. JUDGE MARKS: Thank you.

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

ASSEMBLYMAN RA: Thank you, Chair.

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

CHIEF ADMIN. JUDGE MARKS: Good
morning.

ASSEMBLYMAN RA: Just to go back to
the bail reform conversation, as people know,
you know, right now only in qualifying
offenses is it legally permissible for judges
to exercise really any form of discretion,
and it's really only when the judge finds
bail or remand to be the least restrictive
means necessary to ensure court attendance.

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

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

I mean, we don't have a formal
proposal. But judges as a group, I think
it's fair to say -- you know, I'm not
speaking for a hundred percent of our judges,
and I'm not sure what percentage I am
speaking for, but I think it's fair to say
that individual judges would like to have
more discretion in making this decision and
feel that they would be able to fairly and
effectively make decisions on a case-by-case
basis if they had more discretion.

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

ASSEMBLYMAN RA: Thank you.

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

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

How is OCA handling that, A, in terms
of knowing -- do you have a number of how
many cases are currently stayed as a result
of somebody applying for the Emergency Rental Assistance Program?

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

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

And we have data that the OTDA has shared with us on, you know, listing people who have applied. And that information is used in Housing Courts throughout the state when cases are calendared, which they have been all along and will continue to be calendared now that the moratorium has been lifted. And those lists are referenced by
courts to ensure that someone who has a pending application is not evicted, that their case is stayed.

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

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

So the courts are calendaring cases, to answer your question.
ASSEMBLYMAN RA: Thank you.

CHIEF ADMIN. JUDGE MARKS: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Okay, now we're going to try again

Senator Phil Boyle, ranker on Codes.

SENATOR BOYLE: Thank you,

Madam Chair. And thank you, Your Honor.

Just a quick question. Obviously on

Long Island we've had a long history of

overburdened courts. And I'm asking you what

are the steps that you're taking to advance

the creation of a Fifth Department appellate

division for the Long Island region?

CHIEF ADMIN. JUDGE MARKS: Well,

interesting you raise that, because in our

proposed constitutional restructuring of the

trial courts -- which focuses mainly on the

trial courts. We have 11 trial courts in

New York; it's far more than any other state

in the country has. And we're trying to get

approval to consolidate and reduce the number

of trial courts. But within that proposal,

that issue was addressed, the Fifth

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

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

So it's in that proposal.

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

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

CHIEF ADMIN. JUDGE MARKS: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assemblywoman.

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

ASSEMBLYWOMAN RAJKUMAR: Thank you.

Good morning, Your Honor.

CHIEF ADMIN. JUDGE MARKS: Good morning.

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

Now, part of the reason may be delays related to COVID-19. And OCA I know limits
the number of trials conducted at once. But I'm very interested in last year's study by the Center for Court Innovation, which partnered with you at OCA. And that study concluded that the actual caseload is not the real driver of delays; the culprit is inefficient calendar management and judges setting lengthy adjournments without considering whether parties could complete the tasks sooner in between court appearances.

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

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

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

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

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

(Zoom interruption.)

CHAIRWOMAN KRUEGER: Somebody please
mute.

SENATOR RIVERA: Brad. Brad.
It's Brad Hoylman. There you go.

CHAIRWOMAN KRUEGER: Oh, thank you.

CHIEF ADMIN. JUDGE MARKS: So greater
use of ADR. Refocused attention
on individual cases, inventories and -- this
is a component of the Chief Judge's
Excellence Initiative. Which I should say,
by the way, the pandemic has presented real
challenges to resolving more cases in attacking backlogs. But the Excellence Initiative, which was in effect from 2016 to 2020, eliminated backlogs in many courts throughout the state and greatly reduced backlogs in other parts of the state. And but for that, the situation would be even more challenging today.

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

We worked with them on that pilot program, and it was successful -- I don't want to say it was dramatically successful, but it was successful in reducing the age of cases and promoting the earlier disposition of cases. And we've been in discussions with
them to replicate that approach in other
courts, which is something that we would like
to do.

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

Senator Sepúlveda.

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

CHIEF ADMIN. JUDGE MARKS: Good
morning.

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

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

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

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

SENATOR SEPÚLVEDA: Judge, you know, again, we'll be battling that when the time comes. But I just wanted you to be aware of my feelings about the entire merger discussion.
Any particular reason why you only
have two Latinos in positions of either
policy or management in the entire OCA
system? You have an administrative judge in
the Bronx, and I believe you have Judge
Rolando Acosta in the Appellate Division. No
other judges exist in the entire OCA. Is
there any particular reason for that?

CHIEF ADMIN. JUDGE MARKS: There's no
reason. We did lose three Hispanic judges
to -- Judge Jeanette Ruiz, who was the
administrative judge for the New York City
Family Court, retired. Julio Rodriguez, in
your county, who was the administrative judge
in the Civil Term in the Bronx, went to the
Appellate Division. And Judge Joe Zayes, who
was our administrative judge for the criminal
term in Queens Supreme Court, went to the
Appellate Division.

So the -- I agree with you, it's
difficult sometimes, you know, in terms of
who applies and who has the best
qualifications for the job. And by the way,
these administrative jobs are critically
important these days, because our focus is so much on court operations and frontline court activity. So --

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

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

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

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

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

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

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

SENATOR SEPÚLVEDA: Hopefully we can
have a discussion soon.

CHIEF ADMIN. JUDGE MARKS: Sure.

Thank you.

SENATOR SEPÚLVEDA: Thank you.
CHAIRWOMAN KRUEGER: I do have to cut
you off.

But Judge, I suspect that if we took a
hand-raising here, you would find many
legislators from New York City agree with
that last recommendation. So just raise your
hand if you agree with Senator Sepúlveda.

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

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

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

Assemblywoman Weinstein.

CHAIRWOMAN WEINSTEIN: We go to
Assemblywoman Walker.

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

And on the other note is if we allow
for the judges to have discrimination in
their analysis of dangerousness, do you believe that those inherent biases, discrimination and systemic racism will and can have an impact on a determination of dangerousness for the people who we have jurisdiction over?

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

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

ASSEMBLYWOMAN WALKER: Thank you, Judge. Judge, I'm just asking whether or not the biases that were found have the ability to be utilized in assertion of
dangerousness in the discretion that's being requested for people with respect to bail reform.

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

ASSEMBLYWOMAN WALKER: Thank you. Thank you.

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

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

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

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

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

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

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

Thank you, Honorable Chairwomen.
CHAIRWOMAN WEINSTEIN: We go to the Senate.

CHAIRWOMAN KRUEGER: Thank you.
And we go to Senator Diane Savino.

SENATOR SAVINO: Thank you, Senator Krueger.

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

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

And I think it's important that from time to time we hear from judges as to whether or not we've drafted a confusing statute. And for those of you who think that we did or we didn't, I would suggest you read an op-ed in the January 21st Daily News
written by a criminal court judge from the
Bronx, Jeff Zimmerman, who in fact says that
what we have handed them is an incredibly
complicated, confusing statute.

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

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

On to the other issue I want to talk
to you about. I notice you're not asking for
money to cover the cost of labor contracts.
You do have some outstanding ones. And
you're in the middle of negotiations, I believe, with the Superior Court Officers Association -- which is not going well, from what I understand, because there's not enough money at the table.

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

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

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

But if we go back to -- an earlier questioner was talking about recruiting and retaining people and the problems you're having recruiting people to work in the court
system. You might want to aim higher,
Judge Marks. So perhaps a higher percentage
increase would assist you in recruiting
people, retaining them, and keeping the
courts operational.

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

SENATOR SAVINO: (Laughing.) Thank
you.

I'm done. I yield my 30 seconds.

CHAIRWOMAN KRUEGER: Thank you very
much, Senator Savino.

Assemblywoman Weinstein.

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

ASSEMBLYWOMAN MITAYNES: Hi. Thank
you very much.

My question is more around Housing
Court. And I'm actually from Brooklyn. But
so just wanting to piggyback on the HP cases.
We have various ones that we're aware of that
are trying to be filed and they're not moving
forward. And our understanding is that there is a backlog because they don't have sufficient staff to process them. So I just wanted to throw that out there.

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

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

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

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

But we can't predict for sure that
that will happen, so we may have to rely on
virtual proceedings for some time longer.
And even if we go back to normal, there could
still be a value for people, in the example
that I'm raising, who rather than have to
tavel all the way to the central courthouse,
can participate by going to a nonprofit
organization in their community which --

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

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

So it's low-tech, but the phone has
served its purpose in a court like Family
Court. So on an immediate basis, that's not
ideal, it's not perfect, but it's sort of a
patchwork approach that we can do
immediately.
But in the long term, where we can think, you know, with more vision, technology in the community could be of great benefit to people who don't have equipment to participate in virtual proceedings or the knowhow or the computer savviness to be able to do that.

CHAIRWOMAN WEINSTEIN: Back to the Senate.

CHAIRWOMAN KRUEGER: Thank you very much.

Senator Palumbo for five minutes, ranker on Codes.

SENATOR PALUMBO: Thank you, Madam Chair.

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

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

SENATOR PALUMBO: Good to see you again.

And just by way of follow-up on what you were just discussing, do you think that some form of hybrid may be here to stay?
CHIEF ADMIN. JUDGE MARKS: Yes, absolutely. Because the crowded courtrooms, they're called "cattle calls" by some people, where 150 people are in a courtroom, you know, at 9:30 in the morning, are really a thing of the past.

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

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

CHIEF ADMIN. JUDGE MARKS: We don't have our own bill, but we strongly, strongly
support increasing the assigned counsel fees.

It's been --

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

CHIEF ADMIN. JUDGE MARKS: Yeah.

SENATOR PALUMBO: Yeah, I'm sorry.

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

(Overtalk.)

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

SENATOR PALUMBO: Sure. Sure, I agree.

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

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

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

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

CHIEF ADMIN. JUDGE MARKS: Absolutely.

Yes.

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

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

SENATOR PALUMBO: That would be great.

Thank you, Your Honor.

And regarding, you know, there's --
just as discussed by Senator Savino as well,
that there's some concern about the clarity,
the results of the criminal justice reforms
that have been implemented in recent years,
do you have any numbers on people who are
released pursuant to that program who have
actually been rearrested or reoffended?

CHIEF ADMIN. JUDGE MARKS: Yes.

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

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

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

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

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

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

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

CHIEF ADMIN. JUDGE MARKS: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Chair Weinstein.

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

ASSEMBLYMAN LAWLER: Thank you,

Madam Chair.

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

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

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

So I know you briefly elaborated on it just now. I think it really warrants a more thorough response, with all due respect. I think the mayor of the City of New York, the new mayor, has inherited quite a problem when
it comes to a rising level of crime, a rising level of gun violence in the City of New York. He is asking and imploring all of us to act with respect to giving judges judicial discretion. And so I'd really like to hear from you, you know, why New York State is the only state that does not allow it and whether or not you think it's warranted.

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

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

Now, having said that, are they able to carry out their duties and their functions
under the current bail reform legislation?
Yes, absolutely, they're able to perform their responsibilities.

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

CHIEF ADMIN. JUDGE MARKS: Do I believe that? I don't think my own individual opinion is what matters.
But I can report to you that as a group, it's fair to say that judges feel that way, yes.

ASSEMBLYMAN LAWLER: Okay. Thank you very much.

CHAIRWOMAN WEINSTEIN: Senate?
CHAIRWOMAN KRUEGER: Thank you.
Senator Kevin Thomas.

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

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

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

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

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

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

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

SENATOR THOMAS: Okay. Would you --
would you support a statewide program through
the budget for guardianship?

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

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

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

SENATOR THOMAS: All right, will do.

Thank you, Judge.
Chief Admin. Judge Marks: Thank you.

Chairwoman Krueger: Thank you.

Chairwoman Weinstein.

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

Now to Mr. Carroll.

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

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

Assemblywoman Alicia Hyndman.

Assemblywoman Hyndman: Thank you, Chairs Weinstein and Krueger.

Judge Marks, I have two questions.

I'll ask them both because of the time. In Housing Court, are there resources and/or measures in place for litigants that don't
have and haven't had access to the technology required for virtual hearings? That's the first question.

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

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

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

CHIEF ADMIN. JUDGE MARKS: Yeah, taking the last one first, if the city data is showing different results from the court system and DCJS data that I'm familiar with,
we should look at that. There must be an
explanation for that.

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

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

ASSEMBLYWOMAN HYNDMAN: I was at a
hearing, sorry.

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

But the most important thing that we
can do in Housing Court is to provide lawyers
for people who can't afford one. And
fortunately, in New York City the city
government is committed to doing that and has
been committed to that for a while, so that
everyone who can't afford a lawyer, every
tenant who can't afford a lawyer in New York
City will get one to represent him or her.

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

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

And one of the answers -- and it's not
an immediate answer, because this will take
time and money. But one of the answers is to install technology in community organizations where people can go to a nonprofit community organization in their community which has the technology, and they can participate virtually from that remote location.

ASSEMBLYWOMAN HYNDMAN: Thank you.
CHAIRWOMAN WEINSTEIN: We go to the Senate.
CHAIRWOMAN KRUEGER: Thank you.

Senator Fred Akshar.
SENATOR AKSHAR: Madam Chairwoman,
thank you so much.
Your Honor, good to be with you.
Thanks for joining us today.
As you can tell, not only today but for the past many months or last couple of years, we've been having this robust debate about public safety and the criminal justice system throughout the State of New York. I for one believe that we are failing New Yorkers and we are less safe today than we were just a short two years ago.
I have two questions, very briefly.
Does OCA have measures in place to address the perceived racism or biases that exist? So in the event that something like this presented itself, are there measures in place for OCA to deal with them directly?

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

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

And to address implicit bias, we're embarking on a mandatory five-year implicit bias anti-bias program for all judges and all staff in the court system. It will be mandatory. It will be mandatory. It will not be just a one-and-done presentation, it will be a series of educational programs for everyone over the course of a five-year
period. And we're very excited about this and looking forward to this starting. And we feel that effective training on bias will prevent bias.

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

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

SENATOR AKSHAR: Thank you, Your Honor.

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

So I'm just looking for a yes or a no, if you can. Do you believe that if your judges were able to make the determination
from the bench of the dangerousness of a
defendant in front of them, would that
ability keep New Yorkers more safe, yes or
no?

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

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

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

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

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

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

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

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

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

    CHAIRWOMAN KRUEGER: Thank you,
Senator.

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

ASSEMBLYMAN CARROLL: Chair Weinstein, can you hear me?

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

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

CHAIRWOMAN WEINSTEIN: Okay.

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

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

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

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

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

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

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

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

ASSEMBLYMAN CARROLL: Judge Marks,

I --

CHIEF ADMIN. JUDGE MARKS: That's the number-one thing we can do.
ASSEMBLYMAN CARROLL: I have limited time.

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

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

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

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

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


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

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

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

Thank you, Your Honor. My question will be quick, and I actually just want to underline something that was said earlier. Many of the questions that I wanted to ask have been asked, but specifically something that Senator Sepúlveda brought up earlier at the end of his questioning, and I just wanted
to give you, just so that you know -- because
I understand, obviously, you're responsible
for the entire court system.

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

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

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

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

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

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

CHIEF ADMIN. JUDGE MARKS: Thank you.
CHAIRWOMAN KRUEGER: Thank you.
Assemblywoman Weinstein.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Burdick.

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

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

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

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

And bail reform, as you know, was intended to address this disparity as well as
to reduce the degree that people are jailed
without a conviction.

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

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

So the centralized arraignment part
for -- off-hour arraignments can take place
in a central location where there will be a
lawyer, staff there, and a prosecutor staff
there and a judge, obviously, there. And
it's far preferable to, you know, running
around all over the place trying to find a
judge in the middle of the night, and often
not succeeding.

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

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

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

But we still have cash bail in this
state, and there are states that have
eliminated cash bail. And, you know, that's
something that should be considered,
obviously.
ASSEMBLYMAN BURDICK: Thank you very much. I appreciate it.

CHIEF ADMIN. JUDGE MARKS: You're welcome.

CHAIRWOMAN WEINSTEIN: Thank you. Now to the Senate.

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

SENATOR SERINO: Thank you, Chairwoman.

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

CHIEF ADMIN. JUDGE MARKS: Sure.

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

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

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

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

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

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

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

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

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

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

CHAIRWOMAN WEINSTEIN: Wait, who's
this?

ASSEMBLYMAN EPSTEIN: Harvey.

ASSEMBLYWOMAN KELLES: Harvey's first.

CHAIRWOMAN WEINSTEIN: Oh, I'm sorry.

Yes, I cut you off. Yes, Assemblyman Epstein
and then Kelles and Walczyk.

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

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

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

ASSEMBLYMAN RA: Okay. Thank you.

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

(Laughter.)

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

CHAIRWOMAN WEINSTEIN: Assemblyman
Epstein.

ASSEMBLYMAN EPSTEIN: Thank you, Chair.

And thank you, Judge Marks, for being here.

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

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

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

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

ASSEMBLYMAN EPSTEIN: I appreciate that.

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

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

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

CHIEF ADMIN. JUDGE MARKS: Of course.

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

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

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

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

Like what is the real plan? Because
18 months isn't a real plan to get these
cases taken care of. We really need to hear
what the short-term plan is. Is it additional resources? What is the plan, is it additional space? Like what is the plan to get this backlog taken care of?

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

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

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

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

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

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

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

    CHIEF ADMIN. JUDGE MARKS: Okay.
CHAIRWOMAN WEINSTEIN: Thank you.
So now we go to Assemblywoman Kelles.
ASSEMBLYWOMAN KELLES: Thank you so
much.

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

    Just, first, one comment that was
previously mentioned about funding and
staffing for assigned counsel. I just wanted
to add my two -- you know, additional support
for that. We are also having a very
difficult time and I know the rates have not increased since 2004. I definitely think we are due.

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

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

And so I wanted to ask really quickly
if that has been something that you at all discussed and something that you would consider supporting and advocating for.

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

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

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

But I did want to make one comment
quickly about bail reform, and a question.

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

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

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

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

CHAIRWOMAN WEINSTEIN: Assemblywoman,
leave --

ASSEMBLYWOMAN KELLES: -- for people
of color.

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

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

CHIEF ADMIN. JUDGE MARKS: Sure. I
think that the rise in shootings is not just
a phenomenon here in New York, but it is
particularly in cities across the country,
some of which have bail reform, some of which
don't, I assume. I don't have all the
information on all the jurisdictions across
the country.
But there's no doubt, I would think, that it's fair to say that the pandemic has had an impact on that. Exactly how, I'm not sure. I'm not a criminologist. But I think the evidence would point to the pandemic having an impact on the rise in shootings in jurisdictions around the country.

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

ASSEMBLYWOMAN KELLES: I'll share the data.

CHIEF ADMIN. JUDGE MARKS: Okay.

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

ASSEMBLYMAN WALCZYK: Thanks,

Madam Chair.

Your Honor, wonderful to hear from you today. Appreciate your answers to a number of the questions, and that's cut down on the number of questions that I have today.
So the Judiciary Budget that's presented by the Executive here requests -- shows that the New York City Civil Court is disposing of less than half of the new case filings, yet the budget does not request a significant increase in personnel and requests only a minuscule amount of overtime -- I think I'm reading this right, only $14,000?

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

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

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

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

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

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

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

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

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

CHIEF ADMIN. JUDGE MARKS: I think they -- and, by the way, they never closed. They operated virtually. You know, we always emphasize that, that during the worst days of
the pandemic, once we set them up with
technology -- and we help the town and
village courts with technology, even though
we don't fund them -- you know, the courts
conducted proceedings virtually.

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

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

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

CHIEF ADMIN. JUDGE MARKS: You're
welcome.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to Assemblyman Reilly.
ASSEMBLYMAN REILLY: Thank you, Madam Chair.

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

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

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

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

So I don't know if that's happened yet, but what I read is that there will be an appeal, and if there's an appeal there will
be a notice of appeal filed. And you know, that will resurrect an automatic stay of the trial court's decision.

ASSEMBLYMAN REILLY: Thank you for that clarification, sir.

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

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

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

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

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

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

ASSEMBLYMAN REILLY: One of the concerns we have is that when you have someone like a 14- or a 15-year-old that has a firearm and it goes to Family Court, that case is sealed and can't be used. While just a recent incident in the Bronx, that defendant actually had a case in
Family Court Act and pled, and it was a
misdemeanor they pled it down to, but it
can't be used, and now the 16-year-old
incident. So it's as if that never happened.
So they've used a gun twice, and
unfortunately only one could be used. So I
think this is a step that could help us in
all directions.

Thank you.

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

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

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

ASSEMBLYMAN REILLY: Well, when we
have gang members that are using 16- and
17-year-olds to skirt the law by having
loaded firearms, knowing that they won't be
held accountable, that's where we jeopardize
safety. And I think that's something that we
have to consider, and that's a narrow point
of change that could be made.

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

CHIEF ADMIN. JUDGE MARKS: No problem.

CHAIRWOMAN WEINSTEIN: Thank you,

Assemblyman.

And our final questioner is

Assemblyman Palmesano.

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

Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

So now to Assemblyman Palmesano.

ASSEMBLYMAN PALMESANO: Yes, thank
you, Your Honor, for being here and your patience for this long day.

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

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

And court facilities, as you may know -- it's a state court system, and the judges and employees are all state employees. But the facilities are -- at least for the trial courts, the facilities are owned and
maintained by the localities, New York City
in the City of New York, and individual
counties outside New York City.

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

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

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

Last year the Legislature unanimously
passed legislation, A6044, that basically
required that any retired judge of the Court
1 of Appeals shall be recertified by the OCA,
2 instead of may, as long as they have the
3 mental and physical capacity to perform
4 such duties.

5 What is OCA's position on this
6 legislation, and have you had conversations
7 with the administration on whether they're
8 supporting the bill or chaptering it or
9 reading the legislation? Because obviously
10 that's an important piece of legislation that
11 had unanimous support from the Legislature.
12
13 CHIEF ADMIN. JUDGE MARKS: To be
14 blunt, we think it's a terrible bill. It
15 would lead to really unfortunate consequences
16 if that became law. I could go into the
17 reasons why with you, but we could talk about
18 that offline. And we've made our views known
19 to the Governor's office why we think it's a
20 really bad bill.

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

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

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

CHIEF ADMIN. JUDGE MARKS: Thank you.

CHAIRWOMAN WEINSTEIN: Senator Krueger?

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

I think it's clear, Judge Marks, that we appreciate how much the court system has been going through during this complex period of COVID and keeping distance and keeping people healthy and safe while ensuring our judicial system goes forward. But I also
think it's we have lots of questions and concerns moving forward. And we look forward to working with you and the court system to make our New York court system even better in addressing the needs of our communities.

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

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

Hi, Robert, how are you?

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

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

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

So apart from this Governor having an appreciation for the unique constitutional role that the commission plays, I think that she and her senior staff appreciate that the Legislature has had that appreciation for quite some time.
As you know, the commission is the
state agency that enforces the rules of
ethics on the judiciary. There are 3500
judges in the State Unified Court System over
whom we have jurisdiction. Despite the
disruptions over the last two years as a
result of the pandemic, we have managed to
meet our responsibilities with innovative
technological improvements and advances, so
that we processed last year over 1900
complaints and over 3400 over the last two
years. We engaged or conducted over 630
preliminary reviews and inquiries, we have
initiated over 240 full-fledged
investigations, and have removed or
effectuated the permanent resignation of
24 judges, publicly reprimanded 17, and
confidentially cautioned 53.

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

The one thing that I would ask the
Legislature to consider -- and it's not
strictly a money-related bill, although it
affects the manner in which the commission
makes its financial presentation to the
Legislature. I have asked the Governor's
office to consider, in one of the 30-day
amendments, a single-sentence addition to our
governing statute in the Judiciary Law which
would emulate the way the Executive presents
the Judicial Budget to the Legislature.
We're asking for authorization to submit our
budget to the Legislature through the
Executive, but without amendment and with
comment.

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

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

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

So seeing the smile on my face instead
of the hat in my hand this year, I'm happy to
answer whatever questions you might have,
Senator Hoylman, Chairman Lavine on the Assembly side, and any of your other colleagues.

CHAIRWOMAN KRUEGER: Great. Thank you very much.

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

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

CHAIRWOMAN KRUEGER: Correct. Thank you.

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

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

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

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

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

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

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

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

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

We have in the past, even before the bail law reforms, publicly disciplined, including removed from office, judges who were abusing bail and otherwise not abiding by statutory guidance. So we're not afraid
to take it on. We have disciplined judges in
the past for violations of the bail statutes.
And if we find that anyone is currently
purposefully avoiding, as opposed to making a
good-faith error that would be reviewable on
appeal, we have reviewed those complaints and
we would take action.

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

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

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

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

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

We've previously discussed ways to
increase transparency in judicial conduct
proceedings, including making proceedings public once there is a formal charge. Could you discuss how that might work and why it would be important to foster public trust in the judiciary?

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

And I think that the significance or the importance of transparency is twofold: One, for the public to have confidence that the disciplinary system is working as it should. So in the same way that a grand jury investigation of an alleged crime would be confidential, once there is an indictment returned, even if the individual goes on to be acquitted at trial, the matter becomes public. That is enshrined in the U.S. Constitution and in our law since post-colonial constitutional government was founded.
Secondly, as the commission itself has said in previous annual reports, it's a way to keep the disciplinary body honest and for the public to appreciate or understand that the body is dealing with important, serious matters in a way that the public can see, the process can be seen, so that the public can have faith that the commission is not, for example, to use an old vernacular, deep-sixing the case unjustifiably.

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

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

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

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

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

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

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

Are there any complaints to the
Commission on Judicial Conduct on this
subject? And what are the potential
consequences for a judge that, you know, puts
their colleagues and staff and litigants at
risk?
ADMINISTRATOR TEMBECKJIAN: Well, judges are obliged by the Ethics Code to obey not only the law but court rules. And the court system has promulgated rules on vaccination and on masking -- in fact, the state has obviously the masking requirement that is the subject of some litigation. Failure to abide by rules subjects a judge to public discipline. So as Judge Marks was unable to discuss specific cases, suffice it to say that a serious as opposed to an inadvertent violation of an important public health rule of the court system, such as vaccination or masking, would subject a judge to review by the Commission on Judicial Conduct. And in fact the Office of Court Administration has publicly said that it would refer judges who don't abide by those rules to the commission. Now, I can't get into the individual details, but this is something that in my experience suggests that Judge Marks and OCA are taking seriously, and I know the commission is taking seriously.
SENATOR HOYLMAN: Thank you,
Mr. Tembeckjian. Thank you, Madam Chair.

CHAIRWOMAN KRUEGER: Thank you,
Mr. Chair.

Assemblywoman Weinstein.

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

ASSEMBLYMAN LAVINE: Thanks, Chair
Weinstein.

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

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

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

But as former chair of the Legislative
Ethics Commission and chair of the Assembly
Ethics Committee and presently chair of the
Judiciary Committee who had responsibility
for the investigation of the former governor
and the report, I want you to know something
that I know you know, which is that I have
great respect for what the Judicial Conduct Commission does and what you do for the Judicial Conduct Commission and for all the people of the State of New York.

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

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

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

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

We're not seeing any different distribution in the subject matter of these complaints than usual. The range has more or less been steady. I can't really say that we've seen that the stresses of the pandemic have been responsible either for changes in judicial behavior or among those who are making complaints. And it's understandable, because there's a lot of stress involved even without the pandemic in -- for all the participants in judicial proceedings, from judges and court staff down to the litigants.
And in certain places, such as Family Court, where the stakes are more volatile, there is a natural built-in stress to the process. But the pandemic per se, I can't say -- from what we've seen so far, I can't say that the pandemic has been responsible for any greater proportion of our complaints than the ordinary stresses of litigation.

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

CHAIRWOMAN WEINSTEIN: Thank you.

Senator, do you have --

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

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

ADMINISTRATOR TEMBECKJIAN: Likewise, thank you.

SENATOR PALUMBO: So my question was -- it's more of a hypothetical. So I was thinking, as you were speaking earlier about
disciplinary rules and your disciplinary
concerns with some judges, I'm sure -- or how
do you reconcile situations where a judge is
particularly reluctant to go along with the
positions of a district attorney? Obviously
they have discretion. We see what's going on
in Manhattan now with some proclamations as
to how they're going to proceed.

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

ADMINISTRATOR TEMBECKJIAN: We have
not seen instances where -- not typically,
anyway. There has been an odd case here or there over the years in which judges seem to be working hand in hand with law enforcement as opposed to being independent arbiters of the cases.

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

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

That judge was removed from office.
There is that rare case where it does happen.

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

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

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

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

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

SENATOR PALUMBO: Great. Well, thank you again.

CHAIRWOMAN WEINSTEIN: Thank you.

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

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

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

ADMINISTRATOR TEMBECKJIAN: Typically, if the OCA inspector general finds evidence in some court system inquiry of bias by a
judge, they refer that to the commission. We also get complaints of bias from third parties. And we also, on occasion, come across it on our own in the course of investigating other misconduct.

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

It's been relatively constant in the last few years. But we have, in the last several years, either removed or negotiated the resignation of judges who have publicly made biased statements against the LGBTQ community, against the Black community, against women. We've had several public decisions where judges were either removed or forced to resign. For example, we had one case involving a judge in deep upstate New York, near the Canadian border --
ASSEMBLYWOMAN WALKER: Can you speak a little bit more about the judge -- the Surrogate's Court judge in Brooklyn? Because I think that's also a huge concern.

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

Like what -- what happens in those situations?

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

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

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

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

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

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

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

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

CHAIRWOMAN WEINSTEIN: Thank you.
We've been joined by Assemblywoman Joyner.

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

CHAIRWOMAN KRUEGER: Thank you very much, Chair Weinstein.

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

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

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

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

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

CHAIRWOMAN KRUEGER: Thank you.

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

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

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

Hi, Jackie.

DHSES COMMISSIONER BRAY: Hi, good afternoon.

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

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

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

Welcome to the budget hearing, your first budget hearing. And please -- you have 10 minutes to give us your testimony.
DHSES COMMISSIONER BRAY: Thank you.

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

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

The Executive Budget provides necessary resources for the division to carry out our mission of enhancing public safety and to continue pandemic response. The total agency appropriation in the Executive Budget is $4.9 billion, which includes $32.5 million in new appropriations. The Executive Budget
puts forth additional funding to build a new
Emergency Operations Center, expand the
division's cybersecurity capabilities, and
further improve our State Preparedness
Training Center.

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

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

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

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

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

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

Governor Hochul's proposed budget also seeks to expand the Division's Cyber Incident Response Team. Since 2018, the CIRT has assisted local governments, school districts, and non-Executive agencies through assessments as well as direct incident
response support. In 2021, the CIRT responded to all requests for assistance, helping more than 50 local entities. Governor Hochul's commitment to cybersecurity in the budget will allow the CIRT to expand preventative assessments, response capabilities, and training.

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

It's impossible to address all the fantastic work of the division during this testimony, but I appreciate the opportunity
to appear before the Senate and the Assembly
today. I look forward to our continued
partnership with the Legislature, and I'll
gladly take any questions you have at this
time.

CHAIRWOMAN KRUEGER: Thank you very
much.

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

Senator Patricia Ritchie.

SENATOR RITCHIE: Thank you,
Chairwoman.

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

I'm just wondering, are you planning
to do that? Do you have financial resources
to do that? Or do you have an update, by any chance, on this issue?

DHSES COMMISSIONER BRAY: Absolutely. Thank you, Senator.

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

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

SENATOR RITCHIE: Okay, I very much appreciate this. You know, it's been very difficult for the family and as time goes on,
it's, you know, made it even more difficult
to move on. So I appreciate that, and I'm
glad that you were briefed and you're going
to move ahead, and I'm sure the family will
be glad to hear that also. Thank you.

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

SENATOR RITCHIE: Thank you very much.

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

ASSEMBLYMAN RA: Great, thank you.

Just really one particular question.
You know, as I'm sure you're aware, you know,
with some of the recent incidents we've seen,
there's a recent federal Department of
Homeland Security and Federal Bureau of
Investigation announcement that faith-based
Communities have been and will likely be targets of violence. And I know there's hate crime grant funding within the DCJS budget, but I was wondering if within the Department of Homeland Security if there are any particular programs or funding in place to try to prevent these types of incidents and protect, you know, houses of worship and other faith-based facilities that could be targeted.

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

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

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

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

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

DHSES COMMISSIONER BRAY: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Senator Tom O'Mara.

SENATOR O'MARA: Thank you, Chairwoman
Krueger.

And Commissioner Bray, thanks for being with us again.

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

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

We have certainly a track record of past disasters where that type of assistance has been provided directly by the states, and I'm just wondering, from your perspective, where those funds could be found if approved for that, and where they should be in the budget, if they're not in there right now, for something like that.
DHSES COMMISSIONER BRAY: So let me say I share your frustration and disappointment that the feds didn't approve the individual assistance for Steuben and for Tropical Storm Fred. I thought they should have done that, and I'm very sorry that they didn't and frustrated that they didn't.

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

SENATOR O'MARA: Would that not be able to come out of that $4 million appropriation that's in the Aid to Localities if the Governor chose to utilize it that way, or a portion of that?
DHSES COMMISSIONER BRAY: I don't believe it would. That appropriation specifically is a federal pass-through appropriation and not designed for state funding. But I'm happy to continue that conversation with you.

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

DHSES COMMISSIONER BRAY: Thank you.

CHAIRWOMAN KRUEGER: Chair Weinstein.

CHAIRWOMAN WEINSTEIN: Yes, we go to Assemblyman Burdick.

ASSEMBLYMAN BURDICK: Thank you very much.

And thank you for your testimony, and congratulations for your appointment. And I appreciate your testimony about what your agency is doing to try to help recover from natural disasters. And I represent a portion of Westchester County, which got hit pretty hard by Hurricane Ida. And the federal infrastructure bill appropriates a huge amount of money to FEMA, and I'm wondering the extent to which some of those monies --
which I understand are still in the process
of being distributed to the states -- might
be coming to New York State and the extent to
which you see it coming into Westchester
County.

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

DHSES COMMISSIONER BRAY: Yes, thank
you.

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

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

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

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

DHSES COMMISSIONER BRAY: Yes. We are
waiting for FEMA to release those
opportunities, but we certainly expect them.

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

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

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

DHSES COMMISSIONER BRAY: Absolutely.

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

DHSES COMMISSIONER BRAY: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

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

CHAIRWOMAN WEINSTEIN: So let us go to
Assemblywoman Rajkumar.

ASSEMBLYWOMAN RAJKUMAR: Thank you.

And congratulations, Commissioner

Bray, on your appointment.

DHSES COMMISSIONER BRAY: Thank you.

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

There are approximately, as you know, 2,800 non-executive agencies, local governments and public authorities, with which the Department of Homeland Security's Cyber Incident Response Team is tasked to provide cybersecurity services. However, a report from the State Comptroller's office found that CIRT was reaching only a small percentage of these entities, had only offered five sessions on phishing emails, only conducted 11 risk assessments for entities from August 2019 through 2020. And moreover, most of the team's work is by request instead of proactively evaluating systems and educating the government entities.
So my question for you is, do you believe that CIRT has the capability to support the cybersecurity of 2,800 government entities? And if not, how can we help and what additional resources would you need?

DHSES COMMISSIONER BRAY: Thank you for the question.

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

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

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

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

DHSES COMMISSIONER BRAY: Thank you.

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

ASSEMBLYMAN WALCZYK: Thank you, Chairwoman.

And congratulations on your appointment, Commissioner.

DHSES COMMISSIONER BRAY: Thank you.

ASSEMBLYMAN WALCZYK: Sort of following up on what Senator Ritchie brought to your attention, I appreciate your cooperation with any investigation that has
to do with Peyton Morse's death, which was tragic.

Were you able to read the PESH report?

DHSES COMMISSIONER BRAY: Yes.

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

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

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

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

ASSEMBLYMAN WALCZYK: I appreciate that. And I brought this up with your predecessor. Have you had the opportunity or have you taken the opportunity to call the family?

DHSES COMMISSIONER BRAY: The family reached out to me with -- through a letter. I have responded to that letter. I understand the family has retained counsel, and I want to respect the process that the family is engaged in. But if they wanted to talk to me, I would be absolutely happy to talk to them.

ASSEMBLYMAN WALCZYK: I think it might go a long way.

Shifting gears -- and I appreciate the continued dialogue on that topic -- on
January 13th I sent you a letter about fraudulent testing kits and masks that have been in circulation in some cases. When should I expect a response on that?

DHSES COMMISSIONER BRAY: Well, sir, your letter in mid-January was about masks that were sent out -- we've sent well over 30 million masks out. In the last month alone, we've sent over 6 million. Less than 5 percent of them, when they arrived in the counties, were found to be counterfeit.

These were masks that were bought in the spring of 2020 and were reviewed at that time by the Department of Health. We have an ongoing process to bring legal action against any of the vendors that have provided the state over the past two years with any counterfeit goods, and these masks certainly triggered that.

I will say I believe the ones that you were holding up in the photo were 3M masks. That's an incredibly high-quality brand of mask. So I wouldn't worry about the masks that you got. But I think the reference is
to some masks that were sent -- less than
5 percent in the last month. We've gotten
those masks back and have replaced them for
the counties that got them.

ASSEMBLYMAN WALCZYK: I see that I'm
out of time.

CHAIRWOMAN WEINSTEIN: Thank you.

We now have Assemblyman Palmesano to
ask a question.

ASSEMBLYMAN PALMESANO: Yes,
Commissioner, thanks for your time. And I
apologize, this is probably repeating a
little bit of what Senator O'Mara asked
earlier -- I wasn't there when he asked --
relative to the FEMA reimbursements to
localities of $4 billion. And it's my
understanding it's the same level as last
year's. It goes to -- you know, for
disasters that happened, and it's to
reimburse localities.

So is this funding available? I mean,
I know maybe it's -- we had terrible flooding
in Steuben County that received a FEMA
disaster declaration, which would be
75 percent from the federal government, and then it's a 12.5 percent state share,
12.5 percent local share.

Isn't this funding available at the discretion of the administration, working with your office and the Legislature, to be able to use this funding, this $4 billion that's there to provide to pick up the local share for those local municipalities? As there is precedent for, it's been back as far as Sandy, Lee, Irene, Yates County in 2014, Lake Ontario flooding.

Isn't this something, if worked out with the Governor's office and DHSES -- which you guys have been very helpful, your office and staff, which we appreciate it. Isn't there something that can be done to their -- when it talks about reimbursements for locals, whether it's a pass-through or not, that can be allocated to provide that assistance to pick up that local share for these communities that were affected by particularly Tropical Storm Fred on August 18th? I know Ida in New York City was
another one.

I mean, isn't that -- this funding available for that purpose that could be used? Or is there a way to make it work under those circumstances?

DHSES COMMISSIONER BRAY: So the $4.15 billion appropriation specific for FEMA is really only for federal pass-through dollars. And for Steuben and Fred specifically, obviously we've got the public assistance money coming and the Small Business Administration loans.

As I've said to Senator O'Mara and I will say to you, I want to come out and see the damage. Let's arrange to do that quickly. And I understand that there's real pain there and that people lost property, and we should continue the conversation. But that 4.15 billion, that's unfortunately just for the federal dollars to come to the state.

ASSEMBLYMAN PALMESANO: That would be like putting the -- if that's the -- that total storm was like $36 million, that would be like to cover that 75 percent of local
share, the $27 million, which would be the federal share, possibly.

DHSES COMMISSIONER BRAY: It would cover that and then the COVID dollars that we expect to be flowing this coming year.

ASSEMBLYMAN PALMESANO: But we would welcome you to come out to see what happened there, and it was disastrous.

DHSES COMMISSIONER BRAY: Yeah.

ASSEMBLYMAN PALMESANO: Jasper-Troupsburg School was decimated. You see videos of the flood coming, breaching the doors. I mean, homeowners and businesses were decimated.

And we've been pushing, and we want to see the state provide individual assistance because the federal government failed and did not provide that individual assistance. And there's precedent for the state providing direct grant assistance to individuals and businesses over the past storms Lee, Irene, Sandy, Lake Ontario, Yates County flooding.

So we want to push on that front too, because these individuals -- they announced
SBA grants. They don't need grants, they
need loans {sic}. And this is an area that
needs that help.

So you coming out there would really
send I think a positive message and hopefully
we can make the case to the administration
that they need to provide that direct
assistance, both on picking up the local
share for -- and not just for Steuben County,
other counties -- pick up that local share
for those communities that were decimated and
devastated by this flooding. And also to
provide direct grant assistance to
individuals and businesses who were also
impacted.

So we would welcome to have you come
up there to see the devastation of the
schools, see the devastation of those
communities. It's been five months, and they
haven't really received anything yet, and
they -- they need help.

Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

Thank you. So I do not believe -- at this
moment we do not have any further speakers.

Thank you, Commissioner Bray, for being here, and congratulations also on your appointment.

So the Senate?

CHAIRWOMAN KRUEGER: Yes, Commissioner Bray, thank you for being with us today.

Of course the Senate Finance Committee had an opportunity to interview you extensively yesterday, so I think we didn't have enough time to come up with more questions today. And so thank you and good luck to you. Thank you.

DHSES COMMISSIONER BRAY: Thank you.

CHAIRWOMAN KRUEGER: All right, the next testifier will be Rossana Rosado, New York State DCJS, the new commissioner -- although many of us know her as our previous Secretary of State.

Commissioner, are you here with us?

DCJS COMMISSIONER ROSADO: I am. Can you see me?

CHAIRWOMAN KRUEGER: Thank you, yes, we can now. Welcome. You have up to
10 minutes to offer your testimony. We'll be listening.

DCJS COMMISSIONER ROSADO: Thank you.

Good afternoon, Chairs Krueger and Weinstein, legislative fiscal committee members, and other distinguished members of the Legislature. I am Rossana Rosado, acting commissioner of the Division of Criminal Justice Services. Thank you for the opportunity to be with you today to discuss Governor Kathy Hochul's fiscal year '22-'23 budget for DCJS.

Before I begin, I would like to take a moment to share my heartfelt condolences with the families of the fallen and wounded officers from this past weekend's tragedy, and the extended family of the New York City Police Department. As the Governor expressed, we are here to fully support our city partners in any way.

While I know many of you from my previous position as Secretary of State, I wanted to share a little about myself before outlining how the Executive Budget expands
the critical work of DCJS.

I joined the agency eight weeks ago, after serving as Secretary of State since 2016. I chaired the state's Council on Community Re-Entry and Reintegration since 2014.

I came to state service after a 30-year career in media, including as CEO of El Diario La Prensa, the nation's oldest and largest Spanish-language newspaper. As a journalist, I got to hear and share stories about society's most vulnerable. Those experiences shaped my life and inspired me to earn a master's degree in criminal justice from John Jay College. I also taught at John Jay College and in four of New York State's prisons.

Now, this leadership role at DCJS and the Governor's proposed budget provide a tremendous opportunity to positively impact the state's criminal justice system.

Later this year, DCJS will mark its 50th anniversary. We have continued to evolve with the criminal justice system and
gained invaluable experience working with
each and every stakeholder. We also have the
knowledge to see where the system has been,
where it is now in a moment of change, and
the vision to help guide it forward. That is
the very mission of DCJS: to enhance public
safety by providing resources and services
that inform decision-making and improve the
quality of the criminal justice system.

The work of talented professionals at
DCJS, often in partnership with state and
local colleagues, has advanced New York
toward a more fair, equitable, and efficient
justice system. New York is the safest large
state in the country and maintains the lowest
rate of incarceration. However, our work is
unfinished. Our statewide progress has not
been shared across all of our neighborhoods.
We know that communities of color are
disproportionately affected by violence.

Just as New York's recovery from the
COVID-19 pandemic has been challenging, so
too have the persistent issues of gun
violence and violent crime. While overall
reported crime remains near its statewide historic low, we have seen a surge of gun violence within our state and across the country, in the wake of the pandemic and social unrest in 2020. Preliminary data from 2021 reveal a continued decrease in overall crime but a slight increase in violent crime, indicating that we have not returned to a pre-pandemic state.

While last year's data are still being finalized, we estimate there will be more than 800 homicides statewide for the second consecutive year. This has not happened since 2008. This trend mirrors the nation, where homicides increased by 29 percent in 2020 -- the largest one-year increase on record. Alarmingly, more than three out of every four of those homicides involved a firearm.

In response to the continued epidemic of gun violence in 2021, Governor Hochul extended a disaster emergency, which leveraged interagency resources and expedited funding. This allowed DCJS to administer
$8.3 million to support 129 new positions within hospitals and community-based organizations that participate in the SNUG Street Outreach Program and the New York City violence interruption network.

The Governor's proposed budget provides DCJS with an additional $100 million. This significant investment will allow us to provide law enforcement and communities with resources, programs and strategies to better address the persistent problem of crime. This budget also continues our agency's evidence-based and innovative practices that have been nationally recognized, placing New York at the forefront of public safety in the nation.

To support our law enforcement partners, DCJS will invest $18.2 million in our Gun-Involved Violence Elimination initiative, known as GIVE, and $15 million in our Crime Analysis Center network. These investments reflect a combined increase of $10.7 million and will provide local law enforcement agencies with resources to solve
gun crimes, build community trust and
relationships, and expand an evidence-based
community supervision model.

To support our communities, DCJS will
provide $24.9 million to support street
outreach and violence interruption throughout
New York. This commitment sustains emergency
funding from 2021 and provides an additional
$6.1 million to add gun violence prevention
specialists within hospitals, expand the SNUG
program to three new cities, provide
wraparound social and employment services,
and recruit and retain outreach workers.

The division will also provide
$20 million for collaborative programs in the
areas hardest hit by gun violence. This
funding will foster new partnerships between
government and community organizations, with
the goal of repairing and rebuilding
neighborhoods by meeting the complex needs of
individuals and families living in those
communities.

To support the successful reentry of
justice-involved people, the Governor's
proposed budget includes the Clean Slate Act, which would seal certain criminal history records after the completion of a sentence, including any incarceration or supervision and a defined period of time -- seven years for a felony, three years for a misdemeanor.

The Governor also announced a new Jails to Jobs initiative, which includes a plan for DCJS to train Department of Corrections and Community Supervision parole officers on a comprehensive employment curriculum to better support each person's return home and transition to the workforce.

Recognizing that recent pretrial reforms were implemented without dedicated resources from the state, this Executive Budget also provides $10 million to support pretrial services outside of New York City. This funding, paired with the existing resources, will expand the continuum of these services, including screening and assessments, supervision, case management, and information-sharing with the court system.
Finally, the proposed budget includes another round of the Securing Communities Against Hate Crimes grant program within DCJS, providing up to $25 million to safeguard New York's not-for-profit organizations at risk of hate crimes or attack.

At DCJS, public safety is paramount. We look forward to building upon our evidence-based work, strengthening police-community relationships, and enhancing the capabilities of our local partners to reduce crime and save lives.

Thank you for your support and time today. I look forward to answering any questions you may have.

CHAIRWOMAN KRUEGER: Thank you very much.

I don't see a Senate hand yet, so I'm going to actually start with a couple of my own questions as chair. So thank you very much, Commissioner.

So you talked about your role as sort of an agency that tries to pull together the
siloes of different criminal justice agencies. And certainly from New York City, currently much of the conversation is about people with mental illness behaving dangerously in public and ending up being thrown into Rikers -- perhaps before they do something heinous, or after, but clearly the services we intended to provide the people who suffer from mental illness and act out in ways that are dangerous to themselves and others, you know, are inadequate at best.

Does your agency have any role or can it have any role in expansion and improvement of these programs -- I believe that are called AOT?

DCJS COMMISSIONER ROSADO: Senator, I don't believe that DCJS has a direct role in that. I think that is an issue for OMH. I'd be happy to look into that for you.

CHAIRWOMAN KRUEGER: So you don't see a role for yourself in trying to help figure out why we simply don't have the right services or aren't getting them, you know, through the court system. Because my
understanding is that AOT is something that
you might be assigned into when you are
arrested or when you are ready for parole.

DCJS COMMISSIONER ROSADO: I see
ourselves in a role to help everyone in the
criminal justice system figure these things
out. We don't have a direct role right now
when it comes to issues of mental health.
And I'd have to do a deeper dive on that
specific issue in Rikers and the city and in
mental health.

CHAIRWOMAN KRUEGER: Okay, thank you.
I hope you will because I think this issue
is -- it crosses mental health lines, it
crosses criminal justice lines. It's clearly
a major concern for public protection, you
know, I think throughout the state but
certainly in my city at this point in time.

You also talked about, you know, the
research component of the Office of Criminal
Justice. So at one point in time the state
passed a law that required the tracking of
guns and even a database on bullets that was
never actually implemented. Are you familiar
with that law, and do you see a role for your agency at this time in that?

DCJS COMMISSIONER ROSADO: I am familiar with that you're referring to. I think that is mostly State Police.

CHAIRWOMAN KRUEGER: You think it is State Police. But you do research and tracking of criminal justice data, is that correct?

DCJS COMMISSIONER ROSADO: That's correct.

CHAIRWOMAN KRUEGER: And do you do any tracking of gun crimes or guns?

DCJS COMMISSIONER ROSADO: Yes. Yes, we do.

CHAIRWOMAN KRUEGER: And what is that that you do?

DCJS COMMISSIONER ROSADO: Well, we do collect the data and we post that data. We do that in -- you know, in collaboration with the individual police agencies. And we use that data to help both folks on the local level and at the state level, you know, work on solutions. And we post it, you know, for
the public, we try to track that.

CHAIRWOMAN KRUEGER: Okay. So perhaps

my primary question is then for State Police

a little later in the hearing today. All

right, thank you.

Assemblywoman Weinstein.

CHAIRWOMAN WEINSTEIN: We go to our

chair of Codes, Assemblyman Dinowitz.

ASSEMBLYMAN DINOWITZ: Okay, thank you

very much.

Good afternoon.

DCJS COMMISSIONER ROSADO: Good

afternoon.

ASSEMBLYMAN DINOWITZ: One of the

issues which remained unresolved in the last

session dealt with Clean Slate. We had a --

I guess a two-way agreement between the

Assembly and the Senate. Assemblymember Cruz

sponsors the bill in the Assembly.

There is a Clean Slate proposal in the

Executive Budget, as you alluded to. But

while both proposals contain the three- and

seven-year waiting periods, under the

legislative proposal those waiting periods
would begin to run when a person is released from custody, but on the Executive proposal it will begin to run upon the expiration of the maximum sentence imposed by the court, regardless of when the person is released from custody.

Those two dates could be very different dates. There could be years in between. And I was wondering if you could comment on that and why that aspect of the two proposals is so radically different.

DCJS COMMISSIONER ROSADO: Well, I can tell you that we are ready, you know, to implement Clean Slate as it is passed by the Legislature. We're ready to implement -- implement whichever one of those -- we are ready to implement.

I think one of our -- not so much a concern, but we'd like to do it as quickly as possible, and we believe we're prepared. We believe in this -- in this. We estimate there are about 2 million records that we can seal immediately upon passing that legislation.
ASSEMBLYMAN DINOWITZ: Okay. So let me just make sure I understand this. If the Assembly and the Senate pass the bills as is, let's say, next week, it's your opinion that that would likely be signed into law then, as opposed to waiting for the -- with the proposal in the Executive Budget?

DCJS COMMISSIONER ROSADO: I think it has to be in the Executive Budget in order to be passed.

Upon -- you know, as soon as we have the green light to implement, we're ready to seal, and we estimate it will be 2 million right at the start.

ASSEMBLYMAN DINOWITZ: Okay. Well, I mean --

DCJS COMMISSIONER ROSADO: We have the ability to do that rather quickly.

ASSEMBLYMAN DINOWITZ: Right. I mean certainly there may be costs attached, but I think some of us believe as a general rule that major policy decisions such as this would be best done not in the budget.

But in either case, I'm glad to hear
that there's room for discussion in terms of
the specifics of the proposal as we just
discussed.

DCJS COMMISSIONER ROSADO: Yes, I'm

aware that those conversations are happening
right now.

ASSEMBLYMAN DINOWITZ: So the

legislative proposal also contained an
exception that would allow access to sealed
records of convictions for entities required
under state and/or federal law to request
criminal history background information such
as public schools, childcare facilities,
adult care facilities and nursing homes.

But in the Executive Budget proposal,

that piece is not included. Do you have any

explanation for that?

DCJS COMMISSIONER ROSADO: I

understand that we are working on that right
now with the Legislature in sorting that out.

ASSEMBLYMAN DINOWITZ: Okay. There's

another -- there's another significant
difference between the two proposals. The

legislation -- the legislative proposal, that
is, provides for private right of action for people who are aggrieved by violations of the sealing statutes, and it makes it a discriminatory act under the Executive Law for employers to inquire or base employment decisions upon sealed convictions.

Now, the proposal in the Executive Budget doesn't get into that at all. Comments?

DCJS COMMISSIONER ROSADO: I don't really have a comment on that directly.

As I said, we remain poised to implement what is passed, you know, both in the budget and through the Legislature. We have the ability to seal those records, and we take that responsibility very seriously. I think it's a positive move.

ASSEMBLYMAN DINOWITZ: I know this is not common for legislators to do, but I'm not going to use up all my time. So thank you very much.

DCJS COMMISSIONER ROSADO: Thank you.

CHAIRWOMAN KRUEGER: Well done, Mr. Chair.
CHAIRWOMAN WEINSTEIN: Okay, back to the Senate.

CHAIRWOMAN KRUEGER: Thank you.

Chair of Codes, Jamaal Bailey.

SENATOR BAILEY: Thank you, Madam Chair.

And thank you, Chair Dinowitz, for ceding me your additional five minutes in time. I truly appreciate it.

(Laughter.)

SENATOR BAILEY: Commissioner, good to see you. Thank you for the work that you've done throughout your career.

Briefly on Clean Slate, which in the Senate is carried by Senator Zellnor Myrie. You mentioned the number of people that would be affected -- did you say roughly 2 million people would be affected?

DCJS COMMISSIONER ROSADO: Correct.

SENATOR BAILEY: And the amount of time that it would take to seal these records, it would take approximately how long?

DCJS COMMISSIONER ROSADO: About a
year and a half.

SENATOR BAILEY: About a year and a half. And the additional resources required to do so? Just want to make sure we're continuing to take up the req.

DCJS COMMISSIONER ROSADO: We're working with OCA and the Legislature to, you know, come up with the cost.

SENATOR BAILEY: Okay. I would just like to figure that out, because again, you know, I go on record as a proponent of the legislation. I think that being able to provide individuals with economic justice and the ability to sustain themselves economically is the best prevention method in terms of justice involvement.

And I think you sort of alluded to it in your opening remarks, but I don't want to put words into your mouth.

DCJS COMMISSIONER ROSADO: Oh, I agree that it's a positive thing to say, and I think it's our responsibility to do it in the most efficient way possible so that someone is -- you know, we're affecting people's
livelihood. And if they can have a clean
slate, we should deliver that.

SENATOR BAILEY: Certainly.

I want to talk about gun violence,
because I think some of my colleagues will
touch on the -- the sponsors will touch on
the Clean Slate bill in a little bit.

Gun violence -- you mentioned in your
opening remarks that this was a problem
that's not just happening in New York State,
it's happening across the country. And you
mentioned that you have a background in
criminal justice. Is there any data that
shows us what this spike is being caused by
nationwide?

DCJS COMMISSIONER ROSADO: Senator, as
you know, communities across the country,
including those in New York State,
experienced increases in gun violence over
the past two years -- 2020, 2021. The
researchers, academics, pundits and everyone
will debate the causes.

There is a complex confluence of
factors that occurred in 2020 and throughout
the pandemic that shouldn't be discounted. It may not be the cause, but it cannot be discounted. Right? Unemployment, we had closure of schools and other essential programs, we had isolation from family and friends and support systems, we had disruptions within the criminal justice system itself. And obviously we had social unrest and anti-police sentiment in communities.

As I mentioned in my testimony, the Governor's proposed budget for DCJS includes an additional $100 million, and most of that funding is dedicated to reduce gun violence by scaling our existing programs that have been -- you know, they're tried and true, and establishing new ones to address the complex causes of violent crime and meet the needs of the victims.

In 2019, New York State reported 304 firearm-related homicides, the second-lowest number during the most recent 10-year period. Only 2017 had fewer, at 296. I don't know if you want to hear all these
numbers, but -- in addition, shooting
incidents involving injury and the number of
shooting victims reported by police
departments in communities with these
programs declined annually from 2016 to 2019,
when both reached 10-year lows.

New York uses programs like GIVE and
SNUG, applying evidence-based strategies and
proven practices. And the state has been
recognized nationally as a leader for its
comprehensive statewide investment to reduce
gun violence.

In GIVE, we work with the folks in the
law enforcement community, you know, we bring
them all to the table and we work on not just
solving crimes, solving them quickly, but
also, you know, identifying all the crimes
that involve guns.

And in SNUG we work with street
outreach teams and folks in the community at
the very grassroots level in trying to
prevent the use of guns.

SENATOR BAILEY: So in sum and
substance, based upon what you created as --
would it be fair to say that there is no one particular causation factor that we could attribute to the rising gun violence? Would that be a fair statement?

DCJS COMMISSIONER ROSADO: That's a fair statement. None of the experts here in the city or across the country have been able to point to -- you know, to prove that it's one thing.

SENATOR BAILEY: Certainly. So let me first -- and I was hasty to begin my question, but let me also echo your sentiments in giving my condolences to the families of the officers who were taken from us far too soon with this scourge of gun violence.

But I wanted to ask you about the SNUG programs. I'm a long-time proponent of them. The expansion, you mentioned expanding to three new cities. When we're expanding these programs, are we looking -- is this money that's in the budget going to be able to expand the catchment area of existing programs? Because in one of the recent -- in
one of the unfortunate incidents in my
borough, in the City of New York, there is a
Credible Messenger group that stops just a
couple of blocks away from where that took
place.

Are we going to be able to get funding
to expand it? And quite frankly, are we
going to be able to get that money out the
door, as it were, yesterday in order to be
able to effectuate that sort of change?

DCJS COMMISSIONER ROSADO: Yes. The
answer is yes. The short answer is yes. We
work with the data. You know, we follow the
data based on the communities where we
already are, and we use the data to determine
the new communities where we're going. But
the answer is yes.

And -- I'm sorry, I forgot the last
part of your question. But we are able to
get the money out of the door because these
are programs that already exist. And so, you
know, we know how to do it. I mean,
obviously we have, you know, procurement
processes and things to follow. But we
consider this -- I mean, under the leadership of Governor Hochul, this is an emergency.

SENATOR BAILEY: And I certainly appreciate that. The exigent circumstances that we're in, I would hope that we could figure out a much more streamlined way to get this money out the door, because as you well know, with these Cure Violence programs, it is not merely just about sending these Credible Messengers into the street, it is often removing these individuals from the neighborhoods, taking them somewhere to do something as simple as taking them bowling or getting something to eat, away from the areas in which these traumatic incidences are taking place.

So our Credible Messengers need to be able to get this funding, and they need it sooner rather than later because the cost fluctuates. I just want to make sure that we're trying to get it out the door as soon as possible because we are in the midst of an incredibly important crisis.

I would ask another question in
relation to the capital funding. There are
some buses that -- Erica Ford and LIFE Camp,
they have these buses that go around. Would
this funding be able to utilize some of these
mobile trauma centers in order to -- would
this be able to be purchased or procure some
of those centers as well?

DCJS COMMISSIONER ROSADO: Yes.

Again, the short answer is yes. We have a
$50 million budget for that, for capital.

And so we're working with the folks we
already work with, with Erica Ford and other
guys on the ground, and so we are -- and
they have tons of ideas on how to put this
money to work, and we intend to do that.

SENATOR BAILEY: Certainly. And
again, Erica Ford is just one of the many
guys doing this incredible work.

I would ask, I guess the last couple
of minutes of my questions would be related
to the bail reform conversation that began
with Judge Marks in terms of the data. He
mentioned that DCJS would be able to further
illuminate us on some of the data as related
to bail eligible or not eligible. What information would you have to be able to further illuminate that point?

DCJS COMMISSIONER ROSADO: Okay. Well, you know bail takes more than a few minutes, Senator.

But I'll start with one of the main arguments for reforming cash bail was to make pretrial release decisions more equitable and remove the perverse connection between financial means and freedom. Whether or not a person was detained or released from pretrial was associated with, you know, an increased likelihood of conviction and sentences to incarceration. We went through all this several years ago, right?

Given that important fact, an evaluation of bail would have to include pretrial release decisions and court appearances, both of which are available, and court case outcomes, which are not yet available. And so our position is that we need to have -- you know, wait till that information is available to make what I think
someone referred to earlier, in very scientific language, as an apples-to-apples comparison. Right?

A review of pretrial data shows that 48 percent of New York City arraignments in 2020 for violent felony offenses was still pending as of September 2021, and 42 percent was still pending outside of New York City.

To evaluate the impact of bail reforms on appearances rates and racial equity in release decisions and final case outcomes, many more of these cases would need to be disposed. We continue to work with the researchers to best understand the dynamics of pretrial reform implementation and its impact on the criminal justice system and New Yorkers.

And you will recall, or you may recall that in this year's budget, the Governor added money -- 20 million? -- 10 million for the pretrial services outside of New York City to address those concerns.

SENATOR BAILEY: Certainly. And I guess that leads me to my final question, at
least for now. Like that $10 million for
discovery reform, right -- I guess that's
primarily going to be utilized for it -- how
is it going to be utilized? Do you have a
breakdown for it, or is it going to be based
upon what the county's specific need would
be?

DCJS COMMISSIONER ROSADO: Yeah, it
will be based on what the specific needs of
the counties are, but that has not been
worked out yet.

SENATOR BAILEY: Okay. Perfect
timing. Thank you, Commissioner, for your
indulgence.

DCJS COMMISSIONER ROSADO: Thank you.

SENATOR BAILEY: Thank you, Madam
Chair.

CHAIRWOMAN KRUEGER: Thank you.

Assemblymember Weinstein.

CHAIRWOMAN WEINSTEIN: We go to
Assemblyman Ra, Ways and Means ranker, for
five minutes.

ASSEMBLYMAN RA: Thank you, Chair.

Good afternoon, Commissioner. Good to
see you again in your new role.

Just continuing on the conversation you were just having with Senator Bailey with regard to bail reform and some of the data. And I think that's I guess an important point as we go forward and have more -- right, as this is beginning to affect more and more, we have more data. But certainly if you don't have a full conclusion of a case, you know, so that makes -- you can't fully evaluate that individual matter.

I was just wondering if you could just clarify -- you know, there was this whole issue -- obviously you have to work in conjunction with OCA regarding this data. There was, you know, the data that had been put up and then taken down and then re-put up. Exactly what happened there? And, you know, for the public, why we should be confident that, going forward, the data will be properly compiled.

DCJS COMMISSIONER ROSADO: Sure. You should be confident because when we see that there's something wrong, you know, we deal
with it immediately.

There was nothing wrong with the data per se. It's just that the data that was posted included some post--post-trial information that should not have been included. Because in order to measure the effectiveness of the bail reform as it was passed, you need the apples-to-apples comparison, which is the pretrial to pretrial.

Our researchers at DCJS noticed that and decided to repost, you know, with the right information.

ASSEMBLYMAN RA: Okay. And so according to the data that you do have, in terms of kind of an apple-to-apple comparison do you have numbers on, you know, what you've seen in terms of rearrests and then what, you know, they were for, whether they were violent felonies or weapons charges?

DCJS COMMISSIONER ROSADO: Sure. But I'll start by repeating, you know, what I said earlier, that we don't feel that there -- we don't have enough numbers to
have, you know, the -- to reach -- to have a complete picture, I should say.

The public perception of bail reform is that it has increased violent crime and made us less safe. But in fact the preliminary data is far from a complete picture.

As required by law, DCJS collaborated with OCA to publish the data on pretrial release and detention, and that data is available on our website as well as OCA's website. However, the data does not include roughly half of the arraignments outside of New York City that are current town and village courts, nor does it include Superior Court arraignments.

So OCA will begin to collect that information over the coming year. And again, when the data comes to us, it comes to us through OCA.

Furthermore, given the ongoing impact of the pandemic, there has been a fundamental disruption to the criminal justice system, and I think the judge spoke about that
earlier. The time from arrest to arraignment has increased, and so has the time from arraignment to disposition. We also see that more than a third of all cases from the most recent data are still pending. All of that makes comparing the current system to the pre-COVID one an exercise in comparing apples to oranges.

We are working with the best minds in the state to continue to review the information we and OCA have to -- you know, what we have access to.

So I just want to run through the numbers that we do have in terms of the number of arrests. From June 2019 to June 2021, the number of arrests dropped 36 percent in New York City, and 28 percent in the rest of the state. And I'm happy to take any of you on a deep dive of these numbers, you know, in the coming days if you're interested.

Arraignments. From June 2019 to June 2021, the number of arraignments fell 38 percent in New York City and 29 percent in
the rest of the state. Notably, the types of
arraignments shifted. Proportionally, there
were fewer misdemeanors and more violent
felony charges.

In terms of releases, from January
2020 to June 2021, 87 percent of people were
released at arraignment in New York City, and
81 percent in the rest of the state.

In terms of the pretrial jail
population, from September 2019 to December
2021, the average number of people detained
in New York City's jails dropped 25 percent,
25 percent being like 1,726 -- in New York
City -- and 24 percent, which is about a
total of 3,000, in the rest of the state.

And then rearrests after release. For
a limited analysis of 2020 arraignments where
defendants were released, first, most
individuals released after arraignment,
72 percent in 2020, were not rearrested while
their case was pending. Secondly, of those
who were released and rearrested, most were
rearrested for nonviolent felonies and
misdemeanors. Third, rearrests for firearm
charges occurred the least often -- only
1 percent of all of those who were released.

Does that give you a picture? I mean,
I have --

ASSEMBLYMAN RA: All right, so you
said just in terms of misdemeanors, what was
that percentage of those rearrested?

DCJS COMMISSIONER ROSADO: So of those
who were released and rearrested, most were
rearrested for nonviolent felonies. That's
12 percent. And misdemeanors was 10 percent.

So to translate that, the 12 percent
is 12,542 of 108,552, to be precise. And the
misdemeanors, 10 percent, which is 10,561 of
108,552.

ASSEMBLYMAN RA: Great. Thank you
very much.

CHAIRWOMAN WEINSTEIN: The Senate?

CHAIRWOMAN KRUEGER: Thank you.

Senator Diane Savino.

SENATOR SAVINO: Thank you, Senator
Krueger.

Good afternoon, Commissioner.

I'm not sure if people saw the news
that the police commissioner just announced
the second police officer passed away just a
few minutes ago. So we might want to take a
moment of silence for him. It's a bad week
for all of us.

But I want to thank you for providing
your testimony. And I want to just focus --
because I only have three minutes, I just
want to focus on a couple of things. I know
many people will continue on the discussion
of the statistics on bail reform. I just
want to direct you to the issue of the SNUG
program, which I'm glad we're continuing.
The SNUG program was born in the New York
State Senate, in fact in the Senate
Democratic Conference. It was an idea that
was the brainchild of the current mayor of
the City of New York, Eric Adams, when he was
a member of the Senate.

But as we move forward and put money
out there, not all of the SNUG programs work
as well, and so I would hope that we actually
invest in the ones that are working, the ones
that have an anti-violence collaborative
approach, that they bring in the local
precinct, local social services, healthcare
providers. I have one in Coney Island, it is
amazing, and you can see the effects of it.
It has driven down gun violence tremendously
and also worked on other issues.

They have a saying that in social
work -- it's very simple: Hurt people hurt
people. And so you need a collaborative
approach. So hopefully we'll put money where
it works.

On the issue of pretrial detention, I
just have a simple question. Why -- it's
$10 million, it's not a lot of money. But
why is it only going to areas outside of
New York City, which as we know, New York
City is more than 50 percent of the
population, and a significant number of the
cases are in the five boroughs.

So if there's a reason that that makes
sense, it's just not evident to me. I'm
hoping you can explain it to me. Why aren't
we helping with discovery and pretrial
services in the five boroughs of the City of
New York?

DCJS COMMISSIONER ROSADO: It's -- we already fund in New York City, I think it's about $30 million. And so, you know, New York City is already covered in that sense.

SENATOR SAVINO: Okay. See, that was simple. Thank you.

(Laughter.)

DCJS COMMISSIONER ROSADO: And I just want to say, you know, you mentioned the second officer. Really, you know, it's --

SENATOR SAVINO: It's heartbreaking.

DCJS COMMISSIONER ROSADO: It's really heartbreaking because, you know, these kids are the same age as, you know, my children -- my daughter's 27, my son is 30, so -- and they're the same age as the students I taught at John Jay College, you know, at least a dozen of whom are in the -- you know, have gone through the academy and are in the police force.

So I think it's appropriate that we take time -- that we take time to mourn them,
you know, to honor them, and then to work
together, you know, to find solutions.

SENATOR SAVINO: Absolutely. Thank you.

CHAIRWOMAN KRUEGER: Thank you very much.

Assemblywoman.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Weprin, three minutes.

ASSEMBLYMAN WEPRIN: Thank you, Madam Chair.

Thank you, Commissioner Rosado. I'm very excited about your new appointment --

DCJS COMMISSIONER ROSADO: Thank you.

ASSEMBLYMAN WEPRIN: -- and working with you. This is now my seventh year, going into my seventh year as chair of the Corrections Committee, and we've spent a lot of time together at various facilities with educational programs, seminars and what have you.

So I've had a bill for educational release in correctional facilities for a number of years, and one of the oppositions
to it was not having TAP available to
incarcerated individuals. The Governor, of
course, has proposed in her budget that that
change. And that goes back to an old Pataki
law.

So I'm looking forward to working with
you on some of these educational programs. I
don't know how much you know about the
proposal on the educational release and
furlough for those eligible, but if you could
maybe talk a little bit about it. And I look
forward to working with you on that
expansion.

DCJS COMMISSIONER ROSADO: Thank you,
Assemblyman. And yes, you and I have visited
many of those facilities together and seen
evidence of the value of the educational
programs. We've seen them graduate, and
we've actually seen them come home as well.

The work release program, which I had
been involved with when we were on the
reentry council in talking about it, you
know, and kind of including it, you know, on
a list of things every year, is really
something you should talk to Commissioner Annucci about, something he's passionate about, and he would have the details.

We do not have a direct role. DCJS does not have a direct role. Except, you know, I would love the opportunity, regardless of what agency I'm in, I'd always love an opportunity to go and visit and to help in any way possible people coming home from prison, you know, find employment and get those opportunities.

ASSEMBLYMAN WEPRIN: Well, I look forward to visiting other facilities with you, hopefully when COVID dies down a little bit. We thought it was over, but obviously now, you know, it's come back a little bit. But hopefully the worst is behind us.

DCJS COMMISSIONER ROSADO: Agreed.

Thank you so much.

CHAIRWOMAN KRUEGER: Thank you.

Our next testifier is -- excuse me, our next questioner is Senator Sepúlveda, three minutes.

DCJS COMMISSIONER ROSADO: Hi,
SENATOR SEPÚLVEDA: Thank you. {In Spanish.}

DCJS COMMISSIONER ROSADO: Gracias.

SENATOR SEPÚLVEDA: So I just read an article -- I can't remember what paper it was in, I'm having senior moments. But they indicated that if you look at Texas and New York, Texas is the easiest state to get a gun. New York is one of the most difficult. However, if you look gun violence involved in Texas, something like 75 to 80 percent of the guns were purchased in Texas. And something like less than 10 percent of the gun violence in New York were guns that were purchased or manufactured in New York.

Now, why do I mention this? There is a case before the Supreme Court, the New York Rifle and Pistol Association vs. Bruen, which I believe if the Supreme Court rules the way I believe they're going to rule, it's going to be a disaster for New York State. I believe you're going to see more guns sold.

Unfortunately, where you have an
explosion of guns as you had during the pandemic -- we had an article by The Atlantic that said that they believe that one of the causes and one of the main causes of gun violence in the country, it's the explosion of gun -- purchasings of guns in the country. And I know there's a segment in our society that just refuses to have that discussion, that the main reason why we have so much gun violence now is because there are more guns in circulation, especially here in New York.

With what I believe is the impending decision that's coming, what is the State of New York going to do to fight back against what I believe is going to a massive amount of more sales of guns into our communities and our communities of color where we don't produce guns, we don't make them, we don't sell them, we buy them many times illegally. But what preparation do you have to combat this potential crisis?

DCJS COMMISSIONER ROSADO: Well, Senator, I can tell you that we use our crime analysis centers that are funded through DCJS
to keep track of guns and to stop them from coming into the state.

I understand the Governor is having a major gun discussion tomorrow, right here in the area, and bringing everyone to the point that that effort is being led by State Police. But we are all in this space -- you know, those of us in the criminal justice space are all greatly concerned and newly motivated to get these guns off the street.

SENATOR SEPÚLVEDA: Well, I'd like to see hopefully what kind of a plan of action your agency has, the New York State Police has, because if we're not ready on Day 1, I believe we're going to see even more gun violence, we're going to have more tragedies like, you know, the deaths we had of our police officers.

I'm not going to talk about bail reform because many of my colleagues have asked you the questions. I just hope that the Governor doesn't fall prey to the massive amount of fearmongering and misinformation that's out there in the media and other
sources, because it's just not accurate.

Thank you.

DCJS COMMISSIONER ROSADO: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

I've been asked to pinch-hit for Chair Weinstein while someone fixes her Zoom, so Assemblymember Mike Reilly, you're up.

ASSEMBLYMAN REILLY: Thank you, Madam Chair.

Thank you, Commissioner, for joining us today.

You know, I'm a little shaken up. I mean, losing the -- Officer Mora now, as a retired member of the NYPD, you know, you never lose that brotherhood and sisterhood. So thank you, Senator Savino, for asking everybody to take a moment of silence. We all will.

So I have a couple of questions, just on Raise the Age. The firearms portion of Raise the Age at 16 and 17 years old, where just the mere possession goes to Family Court, it's not eligible to go to Youth Part Criminal Court -- do you have the numbers on
how many arrests there were for 16 and 17
year olds, or under 18 with loaded firearms?

DCJS COMMISSIONER ROSADO: Senator{sic}, I'm going to have to get back to you
on -- is he a Senator or Assembly?

ASSEMBLYMAN REILLY: That's all right,
I'm not -- you can -- just don't call me
late.

(Laughter.)

DCJS COMMISSIONER ROSADO: I'm going
to have to get back to you on that. I do not
have that data -- I'm sure the agency has it,
but I don't have it in front of me broken
out. And I can turn that around for you
pretty quickly.

ASSEMBLYMAN REILLY: So just -- I have
some data from New York City, and I'm
thinking that, you know, there's a carveout
there that we can help in Raise the Age where
we can have loaded firearms as one of the
extraordinary circumstances that could remain
in Youth Part.

Over the last two years, 2020 and
2021, 947 people under 18 were arrested for a
firearm. In 2020 there were 411, and in 2021 there were 536. Now, we see the uptick -- yes, I know there's a whole bunch of issues that could be responsible for it. But I think one of the key issues that we have to look at is the street violence with gangs. They know that those under 18 are not going to be held criminally responsible, potentially, for holding a firearm for those older gang members.

And I think this is a loophole in there that's actually endangering us, you know, endangering public safety. And of course we want to make sure that we have the resources in there -- not necessarily to -- you know, it is to hold them accountable, but we also want to stop them from repeating it. And unfortunately we saw in the Bronx that the officer who was shot was shot by a defendant who was convicted in Family Court -- or I should say, right, it was not convicted, because it's not convicted in Family Court, but they took a plea deal for the firearm but now committed another
firearm case and now the officer was shot.

So I think these are the things that we could use to stop recidivism. And I'm hoping that we can get changes. What's your thoughts on that?

DCJS COMMISSIONER ROSADO: Well, Senator {sic}, we're looking at these issues now. And as I mentioned, the Governor is holding a big conversation about guns tomorrow. I'm aware that the Mayor proposed some things yesterday. I've been preparing for this, and I haven't seen his plan.

I would just say, on Raise the Age, that -- that Raise the Age, you know, dramatically changed how New York State's justice system processes cases involving kids who are 16 and 17. The goal of Raise the Age, to keep those kids out of adult prisons -- and we're doing that. Raise the Age is doing what it set out to do.

But as with, you know, Raise the Age and bail and all of these other initiatives, they came about and they were passed by the Legislature to solve problems of the past. I
don't think anybody believes that they're
perfect solutions, but we remain open, you
know, to all the conversations. We're in
touch with, as I said earlier, through the
CACs we're in touch with folks on the ground
trying to solve crimes. We're in touch,
through SNUG, with folks at the community --
and you're right, you know, we're in touch
with the folks who are working with the gangs
to prevent these things from happening.

So I think we all have to be --
collectively we all have to be open to, you
know, new conversations.

ASSEMBLYMAN REILLY: Thank you.
CHAIRWOMAN KRUEGER: Thank you.

Next is Senator Gounardes.
SENATOR GOUNARDES: Thank you,
Senator Krueger.

Hello, Commissioner. Really
appreciate your dialogue on a lot of these
issues today.

I want to focus a little bit on hate
crimes. There was a recent report that said,
based on NYPD data, that there was a
361 percent increase in hate crimes specifically against Asian-Americans in New York City over the last year. And so I'd love to hear you talk a little bit more about what more we can be doing in relation to helping to stop these hate crimes from being committed.

I know the Governor proposed the $25 million I think in capital costs for enhanced security for Securing Communities Against Hate Crimes, but that's for capital.

What more should we be doing to address this outrageous spike in hate crimes targeting some of our neighbors?

DCJS COMMISSIONER ROSADO: Thank you, Senator. As you know, you know, we believe that hate doesn't have a place in New York State.

And we -- at DCJS we collect and report the data on hate crimes incidents, and we give that data back, you know, to all of you, to the communities and to the law enforcement agencies. Police agencies are required to report hate crime incidents to
DCJS. The investigating police officers are responsible for determining if an offense is a hate crime and identifying the specific bias or motivation.

And then using that information, DCJS publishes an annual report providing an overview of hate crime incidents and arrests throughout New York. To ensure the completeness of the information, DCJS staff follow up with all reporting agencies to ensure that the data is submitted each month. And to ensure the accuracy of the information, staff review the incident report as it is received and then contact the submitting agency to correct any details.

From the most recent data, through the first months of 2021, hate crimes are up 52 percent compared to the same period in 2020. The most notable increase was an anti-Asian bias --

SENATOR GOUNARDES: Commissioner, I just want to cut you off a second. We know the data. We know what the numbers are showing. I don't need to hear the process.
I'd love to hear your thoughts.

What else should we be doing from a funding perspective, from a law perspective? Clearly we know there's a problem. And so based on your experience and your expertise, where do you think we can be improving and moving the ball down the field to keeping these neighbors safe, who literally fear walking down the street based on their -- you know, their ethnic, their cultural, their physical attributes?

Do you have any thoughts, any suggestions, anything you can be doing more of, looking at more? I'd really appreciate your insights there.

DCJS COMMISSIONER ROSADO: Yeah, sure.

I think that, you know, we have the $25 million in the Securing Communities Against Hate Crimes grant program, and I think we should do what we do with our other programs, which is listen to folks on the ground and try to help them with the resources that they need.

And in the case of the Securing
Communities Against Hate Crimes grants, we had over 352 applications. And we got more money in the new budget for more of those. Those are -- and those are the organizations that are not only just being targeted, but also work with folks, you know, in those communities. And so we should listen to them and help them access the resources they need.

SENATOR GOUNARDES: I'd love to carry on this conversation with you offline, as my time has expired. Thank you.

DCJS COMMISSIONER ROSADO: Any time.

CHAIRWOMAN KRUEGER: Thank you.

I believe the next Assemblymember up is Assemblymember Harvey Epstein.

ASSEMBLYMAN EPSTEIN: Thank you, Chair Krueger.

And thank you, Commissioner, for being with us today. I really appreciate your time.

I'm wondering -- this is a different conversation point about trainings for police officers in using firearms and tasers. You know, we had an incident recently where, you
know, someone was tased and unfortunately
they were set on fire. I'm wondering if you
think there should be a centralized process
for training people how to use firearms and
tasers before they have access to them.

DCJS COMMISSIONER ROSADO: Well, we do
have a centralized process, Senator {sic}.
We have, as you may know, the Office of
Public Safety at DCJS. We have an incredible
staff of folks who work every day to help law
enforcement, you know, both implementing kind
of the Professional Policing Act, but also
trainings -- a long list for trainings for
existing what we call in-service officers,
people who, you know, came through the
academy a long time ago. And so that
includes firearms.

And I want to --

ASSEMBLYMAN EPSTEIN: Commissioner,
you know, I don't have a tremendous amount of
time, so I don't mean to cut you off, but --

DCJS COMMISSIONER ROSADO: Oh, no,
please.

ASSEMBLYMAN EPSTEIN: But my
understanding is for every officer statewide there isn't one centralized training program so that every officer across the state -- but maybe we can continue this conversation offline and talk more about it.

DCJS COMMISSIONER ROSADO: I'm happy to talk to you offline. We have basic courses at BCOP --

ASSEMBLYMAN EPSTEIN: And it's mandatory for everyone?

DCJS COMMISSIONER ROSADO: Yes. Except for State Police.

ASSEMBLYMAN EPSTEIN: And so I just wanted to follow up with you around some of the information you said around rearrests.

I'm wondering what the numbers are for people who are rearrested who when they initially were arrested, bail was set and then they were released. Were they -- what data do you have about those people being rearrested who had bail the first time and then maybe were rearrested for violent or nonviolent offenses or not rearrested?

DCJS COMMISSIONER ROSADO: Let me see
what I have, if I have the numbers.

Rearrests -- did you say after paid bail?

ASSEMBLYMAN EPSTEIN: Yeah, after bail was set and they paid bail.

DCJS COMMISSIONER ROSADO: Got it. So here are the numbers I have for rearrests after paid bail. This is, again, from a limited analysis of 2020 arraignments where defendants posted bail.

Thirty percent -- which would be 906 out of 2986 -- of individuals who posted bail in New York City were rearrested. And 32 percent in the rest of the state, the 32 percent being 619 out of 1963.

The individuals who posted bail were rearrested at a greater rate than those released on their own recognizance.

ASSEMBLYMAN EPSTEIN: And do you know, were they rearrested for violent or nonviolent offenses?

DCJS COMMISSIONER ROSADO: That I would have to get back to you. We'd have to do a deeper dive into those cases.

ASSEMBLYMAN EPSTEIN: I'd greatly
appreciate that. Because, you know, the
conversation around bail, we need facts.

DCJS COMMISSIONER ROSADO: Absolutely,
yes.

ASSEMBLYMAN EPSTEIN: You know,
obviously -- I represent one of the seven
neighborhoods across the state where we see
75 percent of incarcerated folks coming
from --

DCJS COMMISSIONER ROSADO: Let me tell
you that I am extremely motivated that we
have conversations around accurate data.

ASSEMBLYMAN EPSTEIN: Thank you
Commissioner. Thank you, Chair Krueger.

CHAIRWOMAN KRUEGER: Thank you very
much.

CHAIRWOMAN WEINSTEIN: Senator, do you
have any other Senators?

CHAIRWOMAN KRUEGER: Hello. I've been
just going down the Assembly list,
Assemblywoman.

CHAIRWOMAN WEINSTEIN: Okay. So I'm
back. They certainly fixed my computer; now
I can see everybody.
So we're going to go to -- I see Assemblywoman Walker is here. She was next on the list, so we'll go to her.

CHAIRWOMAN KRUEGER: Great.

ASSEMBLYWOMAN WALKER: Awesome. Thank you much.

And thank you so much for your testimony as well.

So one of the things that we have noticed here is that there's some contradictory data between the Mayor's Office of Criminal Justice and then the report that your office has placed out. And so one of the things that we saw was that the data from the Mayor's office includes information post -- pre, sorry, pre-bail reform, and then they looked at it juxtaposed -- with respect to the rearrests, they looked at it juxtaposed to post-bail reform.

Does your data show, you know, any analysis of that pre-bail reform information? Because, you know, for whatever reason, people think bail is a phenomenon that just began in 2019, as opposed to recognizing that
people have been paying bail and being
released since, you know, the beginning of
time. For the State of New York, at least.

DCJS COMMISSIONER ROSADO: Yes,
Senator (sic), I do not have the city's data.
I know that they collect that and that they
report it in that way, but we don't have
access to that data.

ASSEMBLYWOMAN WALKER: So one of the
things that I wanted to just also ask is
whether or not the Division of Criminal
Justice Services, with respect to desk
appearance tickets -- there's also been this
conversation about these sort of repeat
arrests with respect to desk appearance
tickets.

Now, if a person is arrested for,
let's say, a petty -- stole a bottle of
aspirin and they go to the precinct for a
desk appearance ticket, it's DCJS that has to
approve that desk appearance ticket. Part of
the question is whether or not there's
another rearrest before that person actually
appears in court.
Is it possible, through your agency, that you can have a shortened time period for when that person actually appears in court so that there isn't as much of a time period for another rearrest during that wait?

DCJS COMMISSIONER ROSADO: I understand the question that you're asking, and I'd like to look into it for my own curiosity. But that information is not reported to DCJS.

ASSEMBLYWOMAN WALKER: No, the -- so it's DCJS who actually approves the desk appearance ticket -- no?

DCJS COMMISSIONER ROSADO: No, it's not.

ASSEMBLYWOMAN WALKER: Okay. So do you know which agency that provides that approval?

DCJS COMMISSIONER ROSADO: No. There may be an entity in the city. I mean, I'd have to look into that. I'm sure someone in this agency will be able to answer that question.

ASSEMBLYWOMAN WALKER: Okay. All
right. So that --

DCJS COMMISSIONER ROSADO: It's not --

it's not DCJS.

ASSEMBLYWOMAN WALKER: Okay. And then

the information that was provided with

respect to the rearrest -- no, so one of the

things, too, does your organization also deal

with like maybe the algorithm or the system

in terms of how a person gets determined to

get release on their own recognizance because

there was some --

DCJS COMMISSIONER ROSADO: (Shaking

head.)

ASSEMBLYWOMAN WALKER: No, you don't
deal with --

DCJS COMMISSIONER ROSADO: (Shaking

head.)

ASSEMBLYWOMAN WALKER: So none of

those pretrial services gets included in, you

know, sort of looking at -- because it's the

pretrial services that determines whether or

not someone gets -- when they are released on

their own recognizance, how that scorecard

gets, you know, utilized, the community
check-ins and all of the other things with respect to bail reform.

DCJS COMMISSIONER ROSADO: We collect the data, but we don't provide the services. We don't -- you know, that would be somewhere between OCA and -- you know, and the city.

ASSEMBLYWOMAN WALKER: Okay. Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to Assemblywoman Wallace now.

ASSEMBLYWOMAN WALLACE: Good afternoon, Commissioner. Thank you so much.

A few times today you were asked about if we implemented this initiative or that initiative, how quickly would DCJS be able to get that up and running. And I believe you mentioned a few times that once it was passed by this Legislature, DCJS has the ability to get the programs up and running pretty quickly.

I want to talk about a program that we passed in last year's budget. In last year's budget you may recall we allocated $10 million for the purchase of police body
cameras by local municipalities to help offset the costs associated with acquiring them, because we recognized that there was a need to increase transparency in policing, and we thought that that would be a good practice.

But to date, to my knowledge, none of that money has been allocated, and I don't even think that there's a plan for allocating or granting that money. There has been -- I know the police agencies that I work with have been looking -- asking questions about how can we apply for it, and I haven't really received any answers yet.

So I'm wondering -- I just wanted to flag that for you, and I wanted to see if you had any sense of how quickly it is that you can get that up and running. And if you don't have an answer to that, I guess I'd ask that you look into that and reach out and let us know.

DCJS COMMISSIONER ROSADO: Yes, I am aware, because you sent me a letter.

And as I mentioned earlier, I've been
here for eight weeks. And within the eight weeks, I got your letter, we have a response, I believe there is an RFI, we do have a plan. And I don't know what the delay was. As I said, I got here on November 30th and I am extremely motivated to move solutions out the door. So I will -- I believe we have a response to you or we sent a response to you, Assemblymember. I will look -- you know, I will look into it and definitely get back to you directly.

ASSEMBLYWOMAN WALLACE: Okay. And when do you anticipate once the RFI goes out, how quickly do you think you might be able to get those funds out the door?

DCJS COMMISSIONER ROSADO: For me, it's as soon as possible.

ASSEMBLYWOMAN WALLACE: Okay. Thank you.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Lawler.

ASSEMBLYMAN LAWLER: Thank you, Madam Chair.

And thank you, Commissioner, for
I know you're two months in, and so I understand, you know, you're not going to have everything at your disposal. But I want to follow up on something that my colleague Mr. Reilly focused on a short while ago with respect to Raise the Age.

According to DCJS, in 2020 only 3 percent of 16- and 17-year-old AOs were arrested for a felony -- that were arrested for a felony received a felony conviction. So that was only 119 out of 3,727 AOs received a felony conviction. And of that, only 44 were sentenced to one year or more of imprisonment. And that is -- notwithstanding the fact that 48 of those folks were arrested for homicide, 52 for attempted homicide, 55 for sex offenses, 460 for firearms and dangerous weapon offenses.

So when we talk about the rise in gun violence in New York City and we're looking at some of these stats from DCJS, isn't it concerning to you in some way that we aren't going after violent offenders, even if
they're 16 and 17 years old? As my colleague pointed out, many of those folks are being used by gangs in furtherance of crime, because they're not going to be treated the same as adults.

And so some of these violent offenses and gun violence really needs to be reexamined. And in light of the Governor's comments the other day, the Mayor's comments the other day, many of my colleagues' comments today, don't we need to kind of reevaluate that a little based on those statistics?

DCJS COMMISSIONER ROSADO: I think it's the job of -- I mean, I think it's appropriate to reevaluate, you know, all initiatives. I reiterate that the goal of Raise the Age and our responsibility was to implement what was passed and agreed upon. The goal of Raise the Age was to keep 16 and 17 year olds out of adult prisons. We've done that.

ASSEMBLYMAN LAWLER: Right. But -- but -- but -- and I understand that was the
goal. And in most cases I think that's a fair goal. But when you're talking about violent offenders -- I mean, 48 people were arrested for homicide, 52 for attempted homicide, 55 for sex offenses, 460 for firearm or dangerous weapons -- and only 44 were sentenced to a year or more in prison, and only 119 were actually convicted of a felony offense.

So I get we want to keep them out of an adult prison, but not at the expense of public safety. And certainly if they're committing violent felonies, that needs to be the priority, not keeping them out of an adult prison just for the sake of reaching some laudatory goal.

DCJS COMMISSIONER ROSADO: I think as I mentioned earlier, you know, the Governor -- I mean, this is an appropriate moment to talk about gun violence. Which, you know, I would only, you know, continue to point out that it's not a New York problem, it's a national problem. And we need help, you know, from the federal government in that
regard too, across the board, with all crimes
that involve guns.

Our job at DCJS is to track them and
to give the data back to law enforcement and
to work with all of you and people in elected
office to, you know, find the right
solutions.

ASSEMBLYMAN LAWLER: And I know my
time has expired, but I --

CHAIRWOMAN WEINSTEIN: Thank you.

We go to Assemblyman Tannousis. Thank
you.

ASSEMBLYMAN TANNOUSIS: Thank you so
much.

Thank you, Commissioner, for
testifying before us today.

I know that you went through some
statistics in regards to defendants that were
released because of bail reform and how many
of those individuals reoffended. I just -- I
know that you divided it with misdemeanors,
violent felonies and nonviolent felonies.

What I'm interested in is a total
picture of how many of those individuals were
arrested again, whether it be a misdemeanor, felony or violent felony. Do you have those total statistics for us?

DCJS COMMISSIONER ROSADO: I don't have them in front of me, but we have them available. They're posted on our website. And I'm happy to do a deep dive with our research people -- anytime, you know, you're available, we can give you precise data based on, you know, what we've posted so far.

ASSEMBLYMAN TANNOUSIS: Okay. But I just want to be clear about something. Because before you testified, Judge Marks testified, and he threw out a number, and I want to ask you if this is accurate. He said 22 percent of individuals that were released because of bail reform recommitted another crime. Is that accurate? Is that specific to felonies or nonviolent felonies or misdemeanors, or was he mistaken as to that number?

DCJS COMMISSIONER ROSADO: I can't say if he was mistaken because I'm not looking at the data that he's looking at. I can look
at -- I am certain that we're both looking at
the same data that we posted on both of our
websites and I'm happy to go through that.
And I don't remember -- I was watching
his testimony; I don't remember the
20 percent number. But I'm happy to take a
look at that for you.
ASSEMBLYMAN TANNOUSIS: Okay. Thank
you very much.
And I also just want to ask you one
more question in regards to Mayor Adams, his
press conference yesterday where he stated
that there are changes that need to be made
in regards to the Legislature's bail reform
laws that were passed a few years back.
What is your position as to those
laws, being that you do have the statistics?
Do you think that there needs to be a change
in regards to these laws for the safety of
New Yorkers, or is there another solution
that you see going forward?
DCJS COMMISSIONER ROSADO: I think
that, you know, the role of DCJS is to
implement the laws as they are passed, and
we've done that. And I think that the
conversations are taking place -- I did not
get to watch, you know, the Mayor's. I think
that based on this weekend's events, you
know, we're all feeling incredibly sad and
motivated, you know, to address all of these
policies. And I think that those
conversations should happen.

ASSEMBLYMAN TANNOUSIS: Okay. Thank
you very much.

CHAIRWOMAN WEINSTEIN: Assemblyman
Brown.

ASSEMBLYMAN BROWN: Thank you,
Madam Chair.

Commissioner, thank you for being
here. I wanted to ask you -- I'm the ranker
of the Assembly Committee on Alcoholism and
Substance Abuse. And with bail reform, a
very powerful tool was taken away to treat
individuals with substance abuse problems by
having an opportunity to go in front of a
judge and take involuntary treatment in lieu
of incarceration.

So my question to you is, how can we
get back that tool, get people into treatment
more easily, you know, get them in front of a
drug court judge to allow them the
opportunity to choose treatment in lieu of
incarceration? Thank you.

DCJS COMMISSIONER ROSADO: Thank you.
Thank you for the question. I think that
question is a good one, and it's appropriate
for both OASAS and OCA, who really -- that's
their bailiwick, and we're not -- we don't
have a direct role in that.

ASSEMBLYMAN BROWN: That was my
question, Madam Chair.

DCJS COMMISSIONER ROSADO: Thank you.

ASSEMBLYMAN BROWN: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.
So our last -- oh, we have Assemblyman
Burdick and then Assemblyman Palmesano.

But Assemblyman Burdick, the floor is
yours.

ASSEMBLYMAN BURDICK: Thank you.

And congratulations, Commissioner, on
your recent appointment.

I represent Bedford, which has two
correctional facilities, as you may know. And there are several community-based organizations which have done really and are continuing to do a stellar job in providing correction programs for those who are incarcerated there. And I notice that in -- your website sets out the core services of your agency, which includes funding and oversight of probation and community correction programs.

So I have two questions related to that. One is, where -- what funding is in the Executive Budget for such programs, and how might it be accessed? Is it done through grants? And if you don't have the answer to that, I'm fine with hearing back from you on that.

And the other is, can you explain how your agency coordinates and collaborates with DOCCS in terms of the oversight of probation and community correction programs?

DCJS COMMISSIONER ROSADO: Sure. On the first question, we work through existing communities -- you know, through the existing
community organizations --

CHAIRWOMAN KRUEGER: Sorry. Could
everyone else please mute your lines so we
can hear the commissioner? Thank you.

DCJS COMMISSIONER ROSADO: Sorry about
that.

And I've been to both of the
facilities in your district. I'm also a
Westchester resident. So we work through the
organizations that exist, and we work through
our office -- OPCA, I'm learning all the
acronyms, works directly with the
organizations, with probation officers in the
communities, and we, you know, provide
funding for tons of organizations doing this
work at the very local level.

And your second question, you know, we
work closely with DOCCS. As you know, at
DCJS we oversee probation directly, and DOCCS
oversees what we used to know as parole, but
is community supervision now. And those are
people who are mostly released from the state
prisons and have still time to serve, you
know, under supervision.
But we collaborate -- as I mentioned in my testimony, in the new budget we have some money, we're going to use our trainers to help do some training of parole officers in the Jobs to Jail program, you know, in workforce development and to help the folks -- you know, to help them with their clients who are on parole. And, you know, we have a lot of mutual, you know, support between DOCCS and DCJS. They don't report to us and we don't report to them, but we collaborate on a lot --

ASSEMBLYMAN BURDICK: I'm sorry to interrupt, but could you get back to me with how we can get information to some of these local groups on accessing some of the funding that you mentioned, you know, for the programs?

DCJS COMMISSIONER ROSADO: Absolutely. Absolutely.

ASSEMBLYMAN BURDICK: That would be wonderful.

DCJS COMMISSIONER ROSADO: I'm interested to know if you have organizations
that haven't received our funding or who, you know, may qualify. You know, some organizations are tiny and we work with them, you know, to partner with others so that we can move the money to them more efficiently and help them --

ASSEMBLYMAN BURDICK: That would be great if I could get some information on that.

DCJS COMMISSIONER ROSADO: Absolutely.

ASSEMBLYMAN BURDICK: Thank you so much, Commissioner. Appreciate it.

DCJS COMMISSIONER ROSADO: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

And our last questioner is Assemblyman Palmesano.

ASSEMBLYMAN PALMESANO: Thank you, Commissioner.

I know there's been a lot of talk about the rising gun violence that's going on in our cities across the state. You know, we talk about New York City a lot, obviously.

Isn't it time -- we all know that Mayor de Blasio got rid of the Anti-Crime Unit, whose
job and focus was to track down and find
illegal guns that are used in the commission
of a crime. Wouldn't you agree it's time for
us to reinstate the Anti-Crime Unit in
New York City to maybe help on this
situation? And if there's a -- we could make
a direct correlation in the closing down of
that Anti-Crime Unit with the increase in gun
violence that you're seeing in New York
City -- and isn't there a direct correlation
there?

And shouldn't they re-set that up
again so we can have the Anti-Crime Unit on
the streets trying to find the gun
trafficking and the illegal guns? Which they
were tasked to do before the mayor closed it
down.

DCJS COMMISSIONER ROSADO: Thank you,
Assemblyman.

I -- you know, as I said earlier, I
believe, you know, that we're all in this
moment in time based on the incidents of the
last few weeks. We have a new mayor. I
understand -- I think he spoke about that
yesterday too, and I haven't had time to
really focus on it. But I believe that we're
all looking for solutions and that it's time
to -- you know, to reevaluate all the things
that happened. Sometimes things that worked
in the past can work again.

And we stand ready, again, when all
those conversations are done and those of you
who are elected into these positions, as well
as the Governor and the Mayor, and everyone
agrees on what to do, we stand ready to
implement at every level any innovative ideas
that will work to (a) reduce gun violence and
keep our communities safe.

ASSEMBLYMAN PALMESANO: One of my
colleagues, Mr. Lawler, was talking about
the -- and Mr. Reilly were talking about the
Raise the Age, and Mr. Lawler brought up some
of the statistics. Along with those
statistics, do we have -- do you have --
where are the rearrest statistics for those
individuals who qualify under Raise the Age?
Where are those numbers as far as rearrests
and reoffense, so we can see them for
transparency purposes?

And wouldn't you agree that there are
a multitude of crimes that are being
committed that we don't even know about? And
doesn't this really kind of -- not
having these numbers or not being transparent
with the numbers really kind of question the
accuracy of the statistics that are really
being provided by DCJS and OCA?

DCJS COMMISSIONER ROSADO: As I --
I'll make you the same offer as everyone on
this call. I'm happy to take you through a
deep dive. I'm sure the numbers exist. I
don't have them on my screen. We can help
you find them. You know, we can help to find
them and, again, help you make the --

ASSEMBLYMAN PALMESANO: Appreciate
that.

DCJS COMMISSIONER ROSADO: -- with the
most accurate information and make the
comparisons.

I understand --

ASSEMBLYMAN PALMESANO: Wouldn't you
agree that it's important for the public to
know those numbers as well? I mean, not just
the --

DCJS COMMISSIONER ROSADO: Yes, we
post -- all of the numbers that I would take
you through, you know, with the research
folks are already posted. You know, we post
all of our numbers online.

But those -- you know, that doesn't
mean they're easy to analyze. One of my
visions for the agency is that we also spend
some time, you know, on the narratives, you
know, on helping folks understand what those
numbers mean. You know, bring that back to
the communities as well.

But I thank you for the question.

ASSEMBLYMAN PALMESANO: Thank you,
Commissioner.

CHAIRWOMAN WEINSTEIN: Now we go to
Assemblywoman Kelles, who I believe is our
last questioner for this witness.

ASSEMBLYWOMAN KELLES: Hi, and
congratulations, I want to add my
congratulations as well.

DCJS COMMISSIONER ROSADO: Thank you.
ASSEMBLYWOMAN KELLES: Absolutely.

I see that you're starting a program
to reduce rural juvenile delinquency. That's
one of the programs that there's I think an
RFP out. I'm curious, the criteria -- when
you put your programs together, are you
looking at things like programs that are
providing community services, housing
stability, mental health supports, substance
use issues, some of these issues that we have
seen that are highly critical correlated with
criminality, to help reduce some of those?

Or is this specifically addressing,
you know, helping getting people who are
committing crimes off the street? I'm trying
to get a sense of what you're looking for in
the program.

DCJS COMMISSIONER ROSADO: Yes -- no,
I don't know about the actual one you
mentioned, but I can tell you that, for
example, before I got here -- as I said, I've
been here eight weeks and kind of focused on
confirmation and this, which -- I haven't
been confirmed yet, though. But I've been
focused on preparing for the -- you know, on
the budget.

But I can tell you, for example, I
want to say two years ago in the SNUG
program, you know, we had a very important
collaboration between the folks doing SNUG
and the Office of Victim Services, OVS, where
OVS provided funding from some of the federal
funding to provide social workers in those
SNUG sites.

Because, you know, we know from the
people on the ground that some of these
issues can be solved, you know, with case
management, with alternatives to
incarceration, with redirecting of resources
where someone may -- you know, I don't know,
may need a notebook or some tool that they
need, you know, for -- especially in the work
we do with youth.

So, you know, in all of our work, both
with law enforcement and with community
folks, we try to have a holistic approach,
which is --

ASSEMBLYWOMAN KELLES: Great.
DCJS COMMISSIONER ROSADO: -- why the money that we got in the budget this year allows us a little more flexibility to address those things that are not, you know, in the budget line. You know, whether you have to try to help someone get a pair of shoes or a shirt for an interview. I mean, we have to --

ASSEMBLYWOMAN KELLES: I'm going to throw in -- thank you so -- I'm going to definitely be one of those people and get in line to meet with you, because I would love to hear more in depth about these. I'm going to just throw a few things --

DCJS COMMISSIONER ROSADO: (Inaudible.)

ASSEMBLYWOMAN KELLES: Thank you. Thank you. So I'm going to throw a few things out there about the training with law enforcement on implicit bias. If you could describe some of that, community policing efforts.

And the third one, I'm particularly
interested in your focus on or support of or
help in expanding Law Enforcement Assisted
Diversion programs, LEAD programs.

DCJS COMMISSIONER ROSADO: So I can
tell you I'm -- first of all, thank you for
providing an opportunity to talk about the
professional policing. You know, we had an
executive order, 203, which allowed us to
work with, you know, the local law
enforcement.

I think as I mentioned earlier, one of
my goals is to tell the positive stories. I
mean, we've focused on all the things we've
talked about today, but this agency has a lot
of, you know, great things to demonstrate
how we've worked with law enforcement and how
we have provided tools.

You mentioned implicit bias. We
have -- you know, DCJS was consulted on the
guidance that the administration provided to
the police agencies as a result of EO203,
which is where, you know, the police
departments submitted plans last year. And,
you know, I was on the outside of the agency
and I said, I wonder whatever happened to those plans. And, you know, we were busy dealing with COVID, and so everybody just assumes nothing happened.

And I came to this agency and I was -- it was heartwarming to know that a lot of things were being done, in fact, as a result of that. And we've talked to folks outside of the agency who are also looking at the plans and really saying to police departments, We want to help you accomplish these plans. As you remember, that process involved bringing stakeholders and communities to the table, and we want to help them go back to those communities and say, Here are the solutions, how can we help?

Some of that is resources, and some of them are learning modules. We've already been involved, our Office of Public Safety has already been involved over the last year in training law enforcement, specifically officers and folks both in the academy and what we call in-service, training on implicit bias, on deescalation, on, you know, kind of
all of these -- you know, the buzzwords of
the things that we actually provide training
on how to do these things in the spirit of --
in the spirit of professional policing.
    And we've had a lot of success --
CHAIRWOMAN WEINSTEIN: Commissioner,
I --
DCJS COMMISSIONER ROSADO: Yes?
CHAIRWOMAN WEINSTEIN: I hate to cut
you off --
DCJS COMMISSIONER ROSADO: Oh, is that
the clock? I'm sorry.
CHAIRWOMAN WEINSTEIN: -- because it's
exciting information you're sharing with us.
And perhaps, you know, we can have some
follow-up conversations offline on it.
DCJS COMMISSIONER ROSADO: I'm happy
to do that.
CHAIRWOMAN WEINSTEIN: Right now I've
been -- and also I've known you for a while.
Congratulations in this new role --
DCJS COMMISSIONER ROSADO: Thank you.
CHAIRWOMAN WEINSTEIN: -- and look
forward to continuing to work with you.
I would like to turn it back over to
the -- our chair Senator Krueger for the next
witness.

CHAIRWOMAN KRUEGER: Thank you. Thank
you very much.

And yes, thank you, Commissioner
Rosado, and welcome to your new assignments
in Albany. We all look forward to continuing
to work with you. Clearly there are many
members who have I think some really
excellent ideas as well as proposals, so
thank you very much for your time today.

DCJS COMMISSIONER ROSADO: Thank you.

CHAIRWOMAN KRUEGER: And we're going
to move now to -- for people who are
following, we have a very long agenda for the
remainder of the day. We're really only on
No. 5, Anthony Annucci, the New York State
Department of Corrections and Community
Supervision. And Anthony has been the acting
commissioner for a very long time, but
apparently he likes that job and doesn't want
to become the commissioner.

Are you with us, Commissioner?
ACTING COMMISSIONER ANNUCCI: Good morning, Senator. Yes, I am with you.

And I'm also pleased to announce that my name was submitted in nomination by Governor Kathy Hochul. So I'm very pleased about that and look forward to the confirmation process.

CHAIRWOMAN KRUEGER: Wonderful. And you had the illusion you'd be testifying in the morning, but for the record it is actually a quarter to 3:00 in the afternoon.

(Laughter.)

ACTING COMMISSIONER ANNUCCI: I apologize.

CHAIRWOMAN KRUEGER: It's not your fault.

ACTING COMMISSIONER ANNUCCI: Good afternoon --

CHAIRWOMAN KRUEGER: It's our fault; we have so many questions for everyone.

So please, you have 10 minutes to submit your testimony to us.

ACTING COMMISSIONER ANNUCCI: Sure.

Thank you.
Good afternoon, Chairwoman Krueger, Chairwoman Weinstein, and other distinguished chairs and members of the Legislature. I am Anthony J. Annucci, acting commissioner for the Department of Corrections and Community Supervision. It is my honor to discuss some of the highlights of Governor Hochul's Executive Budget plan and the various initiatives that will benefit public safety.

Over the past year, while COVID-19 has plagued our nation and state, the department was not spared from its effects. Accordingly, at the start of the pandemic I convened a multidisciplinary COVID-19 Task Force to guide our comprehensive response. Throughout the pandemic, there have been many heroes along the way. Our essential workers, including corrections and community supervision staff, came to work every day and consistently carried out their professional duties in a superb manner, oftentimes going above and beyond their traditional responsibilities. I am very proud of the dedication and sacrifice staff
have displayed throughout the duration of the pandemic, and I thank them for their tireless efforts and resoluteness, despite the obvious risks.

Similarly, incarcerated individuals have shown resiliency in the face of the many changes in policies to keep them safe. They too contributed to the response effort in a variety of ways, such as manufacturing millions of masks, gowns, and hand sanitizer, that significantly helped to support and protect fellow New Yorkers.

The dramatic reduction in the incarcerated population has assisted our ability to manage the system safely during this pandemic. Through the efforts of the Legislature in enacting various laws, and the good work of DOCCS staff, New York leads the nation with the lowest imprisonment rate of any large state. Remarkably, the incarcerated population, now under 30,500, has decreased by more than 40,000 since 1999, marking the lowest total since 1983, and representing a 58 percent decline from its
all-time high of 72,773. More significantly, the total population reduction since January 1, 2020, exceeds 13,700.

Even with these drastic reductions in incarceration, New York proudly remains one of the safest large states in the country.

With this significant reduction in population, the state has safely eliminated excess capacity through the closing of correctional facilities and the removal of all double bunks in our medium-security facilities. This year's closure process is underway with the transfer of staff to vacant positions at other facilities or offices, while the incarcerated population is transitioned into vacant beds elsewhere. There are no additional closures contemplated in the upcoming fiscal year.

Despite the pandemic, the department has worked hard on last year's new laws that included implementing voter registration for those being released from prison; moving individuals to facilities in close proximity to their children; preparing to enact the
HALT and Less is More laws; and continuing to expand our Medication Assisted Treatment program. I look forward to seeing these bold new initiatives come to fruition, and I believe that they will lead to better outcomes for both the incarcerated and releasee populations.

The Governor has set a vision for this state in the coming fiscal year, and the department is excited to pursue many new initiatives that will be more humane and better prepare individuals for reentry to their communities. In addition to gender-affirming treatment for incarcerated individuals, the Governor's Jails to Jobs initiative prioritizes education by the restoration of Tuition Assistance Program funding for incarcerated students and an expansion of eligibility for educational release.

I have been a strong supporter of education throughout my tenure as acting commissioner, and I look forward to implementing the Governor's vision to elevate
education behind the walls to a whole new level altogether.

Additionally, the other initiatives include starting new programs that will align with today’s workforce and conducting a comprehensive review of existing vocational programs to meet today's challenging job market. We will work with the Division of Criminal Justice Services to train reentry managers and parole officers around the state on career planning and job placement and retention.

We will also leverage one of our residential treatment facilities as a pilot for use as transitional housing for undomiciled parolees returning to New York City.

Furthermore, we will offer stipends to the head of households that provide opportunities for those individuals to transition to stable housing, and we will eliminate the parole supervision fee.

Lastly, the Governor has proposed a constitutional amendment to allow for
public-private partnerships that would enable hybrid work-release programs within our facilities.

In conclusion, while we will continue to tackle the many challenges posed by COVID-19, under the Governor's vision, we will continue to move this department forward in support of a more just criminal justice system that delivers necessary programs and services while simultaneously advancing safety within our facilities and in the community.

I look forward to furthering the Governor's agenda with the assistance of our professional, well-trained and dedicated workforce that performs its responsibilities in an exemplary manner, often under dangerous and difficult circumstances.

Thank you, and I will be happy to answer any questions.

CHAIRWOMAN KRUEGER: Thank you very much.

And our first questioner is the chair, Julia Salazar.
SENATOR SALAZAR: Thank you, Chair Krueger.

Thank you so much, Commissioner, for taking the time to testify today.

I wanted to begin by asking you about the Governor's proposal to allow gender affirming treatment for incarcerated individuals. Does DOCCS currently take an incarcerated individual's gender identity into consideration when determining where they will be housed?

ACTING COMMISSIONER ANNUCCI: The answer, Senator, is yes, we do. We've had a process in place for a number of years. We have a central office committee composed of deputy commissioners for program services and facility operations and class and movement, assistant commissioner for prayer and mental health, counsel, and I believe program services as well.

And every case is considered on an individual basis. And we have moved individuals -- I will just call them trans, for purposes of this exchange. But we take
them into consideration, they have been moved.

A quick anecdotal story: When I was in Rikers island doing a tour and I toured their unit, one individual recognized me. She was from a state facility, and she came up to me and said, "Commissioner, I want to thank you. I had been in a male facility, you allowed me to be moved to a female facility, Taconic. I'm much happier there."

And I said, "Always happy. We want you to succeed and be safe."

So with that, we're prepared to implement this new law, which will formalize many of the existing processes and do many other things; in particular, bring the locals online so that we can better coordinate, in advance, the information that we need before transfer happens.

SENATOR SALAZAR: Thank you.

I'm curious about what effect the Governor's proposal would have on DOCCS online search -- you know, search of incarcerated individuals. Will it display
the gender identity that the person prefers
or their sex assigned at birth? Do you know
yet what the impact would be there?

ACTING COMMISSIONER ANNUCCI: Well, I
can tell you that currently -- the sex that
appears currently matches the gender
classification of the facility.

But we are in the process of updating
the system to remove the sex field from
display from the lookup.

SENATOR SALAZAR: And I wanted to ask
also about the proposal to expand educational
release and furlough.

According to DOCCS' 2020 Temporary
Release Report, it looks like only six
individuals applied for educational release,
and none were approved. And according to
previous temporary release reports, since
2014 a total of only about 23 individuals
applied for educational release, and none
were approved.

So I wanted to clarify, based on what
the reports show, does zero participation
mean that zero applicants were approved? Is
that correct, or were potentially some
approved and didn't participate for some
other reason?

ACTING COMMISSIONER ANNUCCI: More the
latter, Senator. We have a number of
temporary release programs, and people can
simultaneously be approved for work release
and educational leave, and they might choose
to participate in work release.

We have a number of other different
types of temporary release programs, and a
number of individuals may not have been
eligible by virtue of their crime.

The Governor's initiative changes this
dramatically, because it takes a whole cohort
that can't apply now, by allowing them to be
eligible. And these are people that have
been in the system a long time. Many of them
are doing very well in college programs, and
this will raise it to a whole new level by
letting our incarcerated students learn side
by side with students on the outside
campuses. Sometimes we brought the outside
students in; it has opened their eyes.
This will open the respective individuals' eyes to each other as they side by side learn at the same time in classrooms.

SENATOR SALAZAR: Great. And assuming that this policy is adopted in this year's budget -- or, rather, it's in this year's adopted budget -- and for the record, I hope it will be -- how will incarcerated individuals be informed of the policy change of the expanded eligibility, both actually for educational release but also for furlough?

ACTING COMMISSIONER ANNUCCI: Well, we will assuredly make sure that we put out the formal notices to the population. It may be a memo from me to the entire population; it's easy enough for me to write something detailed to explain how it would work.

It's very exciting. We already have so many in the college programs. We have, for example, people at Otisville that might be interested in continuing to apply and participate in John Jay or wherever they would be accepted.
And the other benefit, it allows them to participate in furlough at the same time. So you would go temporarily to like Queensboro, and then you would have a furlough approved and you'd be allowed to go there. And after a year and a half of combined total, you would meet the limited credit time allowance to allow you to actually be released six months early.

So we will get the notice out. There will be changes in the regulation. There will be -- everyone that will need to know will know how to do it and be eligible to apply and be approved.

SENATOR SALAZAR: I want to pivot to a different subject entirely, and that's the Inspector General's report that was recently released that revealed that DOCCS had administered previously faulty drug tests, which led to false positives and of course in some cases -- in many cases -- led to punishments for incarcerated people that jeopardized their release dates or resulted in punitive segregation.
What action has DOCCS taken to respond to this and remedy the situation where there was harm caused by the false positives?

ACTING COMMISSIONER ANNUNZI: Yes, Senator, thank you very much for that question. It is one of the most regrettable things that happened in the past couple of years.

I always say: If anything, a corrections system has to be fair. We have to hold ourselves accountable if we're ever to teach individuals entrusted to our custody to respect the law. We committed a terrible mistake here.

I can tell you that we no longer have that vendor and we've dramatically changed our policies going forward. We (a) have a new vendor for the preliminary test, and now we have an outside laboratory that must confirm any test that indicates a positive result -- and only then will we take action.

Moreover, we have changed our disciplinary system so that a positive drug test is only a Tier 2, it's not a Tier 3.
You can only get SHU or segregated confinement with a Tier 3 offense. So we're moving in a whole new direction altogether on that.

What I also did, once we realized the terrible mishap that had happened, I convened a major task force of every single discipline in our system, and we met on a regular basis. So we had class and movement, we had guidance and counseling, we had grievance, we had temporary release. We had every program imaginable -- we had discipline, facility operations -- and we would review and counsel everything about unwinding every individual that had been affected, which included everybody that legitimately was positive. It wasn't everybody that was a false positive, but in the interests of correcting this harm, we simply took everybody that had a positive test during that period and we took every possible action to restore good time, to expunge their records, to restore them to temporary release, closer to home transfers, whatever was involved. It was a massive
effort.

And I can also tell you that we do have a lawsuit pending against the original vendor, and I believe PLS and perhaps another law firm also has a separate lawsuit on behalf of the harmed incarcerated individuals.

SENATOR SALAZAR: Thank you. It's encouraging to hear that.

I wanted to ask you a bit about the incarceration of older adults. When does an incarcerated older person generally begin to be defined as an older individual or as aging? At what age would they be designated that way by DOCCS?

ACTING COMMISSIONER ANNUCCI: Senator, it's more or less an informal designation. It is not something that is defined as an official classification.

So for example, for our senior program, which is a program we're very proud of, the age is 55 and older. For Adirondack it's 65 and older.

I think generally speaking, because
we've compared ourselves to the regular
population, whereas you might look at
somebody 65 and older as a senior, it's fair
to use 55 as the cutoff, for a variety of
different reasons. Many individuals come to
us with having not had the best healthcare in
their lives. They may have had addiction
issues, they may have had smoking issues,
they may have high blood pressure. And then
of course add to that the stress of being
confined and being separated from family;
that could exacerbate any health problems.

So generally speaking, 55 and older is
kind of looked at by us as a senior category,
but it's an unofficial classification.

SENATOR SALAZAR: Thank you,
Commissioner. I have many more questions,
but I realize that I'm out of time, so I'll
give it back to you, Chair.

CHAIRWOMAN KRUEGER: Thank you very
much.

Assemblymember Weinstein.

CHAIRWOMAN WEINSTEIN: Yes, we're
going to go to our ranker on Corrections,
Assemblyman Giglio.

ASSEMBLYMAN GIGLIO: Thank you. Thank you. Can you hear me?

ACTING COMMISSIONER ANNUCCI: Yes.

ASSEMBLYMAN GIGLIO: Good afternoon, Commissioner. It's good to see you.

ACTING COMMISSIONER ANNUCCI: Good to see you.

ASSEMBLYMAN GIGLIO: And I've got some questions. My first question is, you've mentioned population. And you mentioned that population keeps dropping. And you use 1999 as your base point. Of course it's going to seem excessive at that point when you go back that many years. I'd be more curious to -- a closer part. How about like 2015 to 2021, to give us actual numbers, and see how much the drop -- you know, how dramatic that was.

ACTING COMMISSIONER ANNUCCI: I can give you all those numbers. I can even go back 50 years to give you the entire numbers.

I can tell you that prior to twenty -- prior to COVID, which was 2020, that in 2019 we had the single biggest drop in the history
of Corrections. And so we -- our decline matched the declining crime rate and came well past all the Rockefeller drug laws.

I have a chart here, I can give you the population totals from 2021 going back to 1970. I think 2018 we were at 47,459; 2017, 50,271; 2016, 51,466; 2015, 52,344.

ASSEMBLYMAN GIGLIO: Okay. Well, thank you. Thank you.

I'd like now to get to what nobody's talked about yet, is the men and women that work in Corrections. How much overtime costs are included in this budget, and how many of these people are forced to work overtime?

ACTING COMMISSIONER ANNUCCI: I don't have the current overtime numbers for you, Assemblyman. I certainly can get them for you. It's something we try to avoid.

It was a real challenge managing through COVID, it really was. There were huge numbers of people at any one time who had to be quarantined at home or tested positive, et cetera.

I can tell you that right now we're
making big inroads into redistributing the
staff where they're needed, because the staff
are moving from the closed facilities to the
facilities where there are huge numbers of
vacancies. So we're making some significant
progress there. There's another whole
movement of staff scheduled in a couple of
weeks, in February. That will further help.

            ASSEMBLYMAN GIGLIO: Thank you. Can
you give me a ratio of how many inmates to
one correction officer, say on the midnight
shift?

            ACTING COMMISSIONER ANNUCCI: One to
three, I believe, is the current number.

            ASSEMBLYMAN GIGLIO: Okay, thank you.

            Now, the other thing I'd like to know
about is what kind of training are you
providing for the men and women that work
within Corrections to help them deal with the
COVID problem and every other problem that
they're facing right now?

            ACTING COMMISSIONER ANNUCCI: Well, we
have a whole slew of different resources from
our health services staff that are
continually providing updated information.
We make the vaccine available, we provide
protective equipment, masks, et cetera.

Training in general is something we
always pursue. I have a task force that I've
just formed where I've invited and I'm
getting participation by union
representatives so that we can work together
to address prison violence. We train on
implicit violence {sic}, deescalation
training. And I also make it a big priority
to provide them with all the latest equipment
as a safety -- not just the regular pepper
spray, but new pepper spray that -- MK that
should help in certain situations like when
there's a melee in the yard and it's a group
of individuals fighting.

ASSEMBLYMAN GIGLIO: Okay. So what
kind of mental health services again are you
providing for these folks that are under such
pressure to perform on a daily basis?

ACTING COMMISSIONER ANNUCCI: I have a
huge priority centered around wellness, and
my associate commissioner for mental health
is chairing it.

We deal with corrections systems across the country so that we can learn what they are doing, and we have new apps that we're putting on phones to make available for them. We have telephone contacts that they can make if someone's feeling stressed and potentially wanting to harm themselves. Many other things --

ASSEMBLYMAN GIGLIO: They know all this is opportunity for them and all's they have to do is ask?

ACTING COMMISSIONER ANNUCCI: We're making it available. We have systems staff to make it available for them, and many other things.

We have an employee assistance program, and they have all kinds of contacts that they make available to our staff. So we try very hard --

ASSEMBLYMAN GIGLIO: I have one more question -- I don't mean to cut you off, sir, but one more question. What are you guys doing about recruitment to get people to come
and take these jobs now under the conditions that they're being offered?

    ACTING COMMISSIONER ANNUCCI: We aggressively advertise at different fairs. We put notices out to different individuals so that we can get the word out.

    I want people to understand that we are a very progressive system. We prioritize wellness, we prioritize our people. And I think our last announcement was about 5,000 that it went out to. So I think the word is getting out. And people are interested, especially who know -- who know people that have families, and they know it's a good place to work.

    ASSEMBLYMAN GIGLIO: Thank you, sir.

    CHAIRWOMAN WEINSTEIN: We go to the Senate.

    CHAIRWOMAN KRUEGER: Thank you very much.

    Our next questioner is Senator Pat Ritchie.

    SENATOR RITCHIE: Thank you, Chairwoman.
Commissioner, I have a couple of questions starting with the issue of violence in our facilities that I'm really concerned about. You sent out a memo in November, I believe it was, that described some of the violent actions as savagery. And that is definitely concerning.

So part two of that question is instead of closing correctional facilities like Ogdensburg Correctional Facility -- where the staff feels safe, where those individuals who are incarcerated there wrote letters to myself and the Governor begging for the facility to be kept open because they felt safe there -- instead, the facilities continue to be closed, including OCF, in a time when we have 60 to one -- 60 individuals incarcerated to one officer at midnight, on the midnight shift during COVID, when you would think that it would be the best time to space out not only staff but those individuals who are incarcerated.

So I would like to know what caused you to send out that memo, but also what
caused you to close Ogdensburg Correctional Facility, given the positives there, including $10 million that was just spent on upgrading the facility that I believe is supposed to be completed this month, and the fact that we have an incidence of rise in violence. And would not it make more sense to keep those incarcerated separated more and keeping these other facilities open, at least during COVID?

ACTING COMMISSIONER ANNUCCI: A lot to address there, Senator. Let me try to do as thorough a job as I can.

First of all, never an easy decision to close any correctional facility. The staff at Ogdensburg have always done a great job. It's very difficult to tell them that we need to close. They did nothing wrong.

There's no density problem whatsoever. We have thousands and thousands and thousands of vacancies throughout the system. I'm not sure where you got the 60-to-1 ratio. We've taken down all the double bunks in the system, which means the maximum number at any
one time at any medium-security prototype
dorm is 50.

I can tell you that what prompted me
to send out that memo was that there were
some serious assaults -- it's not raw
number -- serious assault where somebody was
seriously beaten and the individual was in a
rage at the time. There's about three or
four of them at a time.

And I put that memo out there because
I wanted the individuals to realize that
there are going to be serious consequences.
We have liaisons with outside prosecutors
throughout the entire state. And if you
seriously assault an officer or any staff, if
you commit a Class B violent felony offense,
that is punishable by a consecutive 25-year
determinate sentence. And I wanted everybody
to understand that.

We continue to work together with the
union. We created the Prison Violence Task
Force, and we will work together, we'll get
their recommendations, we'll look at a number
of different things to make sure that we run
the safest possible system.

One thing I'm very thankful of, since being acting commissioner I've never had to add another name either to the Correction Officer Memorial or the Parole Officer Memorial. And that is something that is very important to me, and I want to keep going in that direction.

SENATOR RITCHIE: Well, my time is up, but I would just like to say I find it totally in opposition to what I believe should be happening in COVID. I am certainly not saying COVID is not serious. I wholeheartedly think we all should be doing everything we can.

But I don't -- I don't understand why we would be closing facilities in the middle of a pandemic and sending people away from their families at this moment.

Thank you, Commissioner.

ACTING COMMISSIONER ANNUCCI: Sure.

CHAIRWOMAN WEINSTEIN: Thank you.

Just want to remind everyone, including chairs, to please make sure -- if
you want to speak, please raise your hand virtually. We can't just look over at you.

I want to next go to Assemblyman Weprin, the chair of our Corrections Committee. Ten minutes, Mr. Weprin, please.

ASSEMBLYMAN WEPRIN: Thank you, Madam Chair.

Thank you, Commissioner Annucci. This is now my sixth year, starting my sixth year as chair of the committee, and I've enjoyed working with you for these many years. And I know you've been involved a lot longer, but I look forward to your tenure under Governor Hochul once you're confirmed.

I wanted -- as you know, we've been on a number of panels together on educational release. I've had legislation for years about educational release, which -- and the answer, the pushback has always been that we didn't have TAP for incarcerated individuals. Obviously the Governor has proposed changing that, and I'm hoping with TAP there will be a way to pay for it.

Can you just get into, for me, how
this new initiative on educational release as well as furlough will be operated? And how are you going to see that you have the maximum amount of people that are eligible? Because I know you're very committed to education in facilities.

ACTING COMMISSIONER ANNUCCI: Thank you, Assemblyman. And you're right, it's a pleasure working with you. I look forward to continuing to collaborate, and especially on something like education. We've both been at events where education and higher education, college has been prioritized.

So let me say that first of all we already have a fairly developed network of college programs. And I can also tell you that I just came from a conference where I heard a briefing on the potential rules and regulations for the restoration of Pell funding, which will be coming in about a year, I believe. And so the eligibility for TAP will coincide nicely.

And I believe that that will help further build the option of the different
colleges that are out there and can build
upon what they're able to offer.

I can tell you that if there is one
single thing that really addresses
recidivism, it is the word "education." More
than anything else, education is
transformative. I think that's the key thing
for everybody to understand. And you not
only see that from the studies that are
performed, you see that from the individuals
who have been through the system and
completely changed their lives around.

And I can tell you that we will work
with the current students that are there, we
will look at who becomes eligible for
educational release, meaning that if they're
in a college program and they come within two
years of their earliest release date, and
they have one year already of college under
their belt, they can then transfer into the
general confinement facility, but probably a
facility like Queensboro in New York City,
and start there and then enroll in classes
and then get approved for a furlough on the
weekends and come back to the facility, you know, when they have to.

So they gradually get -- almost like a work release inmate -- to the point where they fully get LCTA credit. And then when they release their -- reach their LCTA release date, they get released.

So they'll be studying in the same classrooms, on the same campuses with other individuals, and I think it's a great learning experience for everybody.

ASSEMBLYMAN WEPRIN: Can you tell me, as a follow-up, how many and approximately what percentage of incarcerated individuals in DOCCS custody are enrolled in college-degree-granting programs? And how many facilities are offering a degree-granting program?

ACTING COMMISSIONER ANNUCCI: So right now I think it's -- we have a college program in 30 different facilities. And I think we currently have about 23 different higher education institutions that are delivering at 30 different correctional facilities.
I have to get you the exact number. I think obviously with COVID we had our challenges. But we have been able to deliver programming through the tablet program, through the Ashland College that delivers it through the tablets, and we have the ability for others to use that technology as well. So I'll get the exact number of current participants, but I think I -- it's about 2056 right now is the current number of college participants. I'd have to do an analysis of how many of them are within two years of their earliest release date, and that's the ones. And if they have one year of college under their belt, they'd be able to go into educational release.

ASSEMBLYMAN WEPRIN: Okay, I just want to talk a little bit about deaths in prison. As you know, we passed legislation to prevent the redaction where you can't even determine what the deaths were.

And of course the Rikers Island situation with the highlighting of how many people have died in the last year in prison,
you know, has gotten obviously a lot of airing in the public.

It was the Columbia university report that found that an incarcerated person in New York State prisons dies every three days. How many total incarcerated people have died in DOCCS custody in 2021?

ACTING COMMISSIONER ANNUCCI: I think I have that number here. And I may have misplaced it. One second. Give me a few moments.

There were 136 deaths reported in 2021. Which is an increase of 14 from the year before, 122. And 97 were considered natural causes; that's about 71 percent.

(Pause.)

ASSEMBLYMAN WEPRIN: Hello?

ACTING COMMISSIONER ANNUCCI: I can hear you.

ASSEMBLYMAN WEPRIN: Okay, I lost you for a second. Technology problems.

CHAIRWOMAN KRUEGER: Okay. Are you still with us?

ASSEMBLYMAN WEPRIN: I'm still with
CHAIRWOMAN KRUEGER: Are there any more --

ASSEMBLYMAN WEPRIN: Yeah, along the same line as deaths in prison, I know there are a number of states that actually publish online various deaths in prison. Is that something that DOCCS would be able to consider?

And also I know there's been a lot of information about, you know, deaths related to COVID, but I think it's important that we know what the cause of a lot of these deaths are in facilities. Commissioner, would you be able to comment on that?

ACTING COMMISSIONER ANNUCCI: Yeah, certainly we'll consider that, Assemblyman.

One of the things is sometimes we don't always know the cause of death for a little bit of time. As you know, every single death is required, under the County Law Section 674, to have an autopsy performed. If it's an outside hospital or if it's inside a facility, wherever it occurs,
an autopsy must be performed, even if
seemingly it might be natural causes, like
somebody has cancer or what have you.

Now, that may take a little bit of
time before we get the final results. So
we're always a little bit behind where we
are. COVID deaths are posted.

But we'll consider whether or not at
any one time we would post that. Certainly I
think -- I can see giving the accurate
information. But the final determination as
to whether or not something is a
natural-cause death or a drug overdose death
is something that may have to wait until nine
months or whatever until we get an autopsy
report.

ASSEMBLYMAN WEPRIN: Okay, thank you,
Commissioner.

One last question on the area of the
public/private partnership and increasing
work release programs with the private sector
once it's allowed. I know there was an issue
with paying labor.

I mean, what's contemplated as far as
how much incarcerated individuals will be
paid by the private sector? Have you
determined that? And has there been
discussions about, you know, what wages would
be paid to those incarcerated individuals
doing, in many cases, skilled labor?

ACTING COMMISSIONER ANNUCCI: They
would be paid the exact same salary that
John Q. Private Citizen would get doing that
same job in the private sector. If somebody
is, on the outside, making $X dollars an hour
working in a food establishment, and that
same food establishment is working them
behind the walls, they would get the same
exact rate of pay. There's going to be no
difference whatsoever.

Just like now in work release. You
participate in work release, you get the same
salary, the labor laws are applicable, you
pay taxes on your salary, et cetera. Just
like that, it would work behind the walls.

ASSEMBLYMAN WEPRIN: I know you've
been doing a lot of work on vocational
programs, so I look forward to a
public/private partnership with expanded
opportunity for incarcerated individuals. So
I look forward to that.

ACTING COMMISSIONER ANNUCCI: Thank
you, Assemblyman.

CHAIRWOMAN KRUEGER: Thank you.
ASSEMBLYMAN WEPRIN: Thank you,
Madam Chair. I don't know if my time's up,
but it probably is.

CHAIRWOMAN WEINSTEIN: Sure, you gave
us back 13 seconds.

CHAIRWOMAN KRUEGER: Thirteen seconds.
CHAIRWOMAN WEINSTEIN: Senator?
CHAIRWOMAN KRUEGER: Thank you so
much.

Senator Pete Harckham.

SENATOR HARCKHAM: Thank you,
Madam Chair.

Commissioner, good afternoon. Thank
you for your testimony. Good to see you.

ACTING COMMISSIONER ANNUCCI: Good to
see you, Senator.

SENATOR HARCKHAM: And congratulations
on your appointment. That's good news.
ACTING COMMISSIONER ANNUNCI: Thank you.

SENATOR HARCKHAM: Let's talk a bit about medication-assisted treatment. As we know, the largest per-capita group of deaths from overdose are from recently released folks from incarceration.

So in the beginning of your testimony you alluded to expanding medication-assisted treatment. So if you could tell us in detail what you're doing, but also how we're going to have a continuum of care so when people leave from behind the walls to get out into society, that medication-assisted treatment prescription is going with them in some sort of continuity of care.

ACTING COMMISSIONER ANNUNCI: So let me first address people leaving.

We've made it a big priority to make sure that individuals get registered on Medicaid before they leave. We've hired a number of clerks that their job is to go around and register individuals so that they have the Medicaid card when they leave.
We have all forms of MAT right now in a number of different facilities. I may be able to give you the breakdown, but we are expanding it. We have methadone, we have buprenorphine and -- naltrexone? I'm sorry, it's eluded my mind for a moment.

But we're expanding the program now, and we were planning to put out an RFP in February so that we have one provider that will be able to respond to all of our facilities. Our target is to be able to have MAT present in 40 facilities I think by sometime later this year -- I'll get you the exact month. But we are moving forward aggressively with that. We strongly believe in it. It will have to continue with the appropriate connections to the providers in the community when we get out. It's part of discharge planning. It is lifesaving.

We also do training for the population so that they can take with them kits when they leave to be able to resuscitate someone who might be on an overdose that they encounter in the community.
So it is an initiative we're proceeding on multiple fronts. It is lifesaving. There's no question people dying of drug overdoses in the communities is on the rise. We need to do everything possible to safeguard that.

SENATOR HARCKHAM: Thank you. That all sounds very promising.

Do you know what the increased number of individuals from those who are receiving medication today to when you expand the program to the other facilities?

ACTING COMMISSIONER ANNUCCI: I do. I have a projection, it was based upon screening that we've done in the population. And I have a number, I just don't have it at my fingertips --

SENATOR HARCKHAM: If you want to get it to me offline, that would be great.

ACTING COMMISSIONER ANNUCCI: Sure, absolutely, Senator.

SENATOR HARCKHAM: All right. Thank you for your testimony.

CHAIRWOMAN KRUEGER: Thank you,
Senator.

Assemblywoman Weinstein.

CHAIRWOMAN WEINSTEIN: Yes. Next we have Assemblyman Lawler.

ASSEMBLYMAN LAWLER: Thank you. And thank you, Commissioner, for being with us.

Over the past six months or so I've visited Sing Sing, Rikers, and my county jail, and one of my biggest takeaways from visiting these facilities was really the need to support our corrections officers, as well as the need for some level of punitive segregation.

And I note that in November you sent a memo to the incarcerated population where you described some of the violent actions as, quote, unquote, savagery. And I want to know what exactly prompted this memo, and why did you specifically use that terminology?

And you talk about holding individuals accountable to the fullest extent of the law in that memo. What does that mean, in your mind?

ACTING COMMISSIONER ANNUCCI: So as I
said earlier, there were several different attacks that rise to the level of something I hadn't seen in a while -- cutting an officer seriously on the face, breaking orbital bones, knocking a female officer down and trying to stomp on her with boots. Those are the examples that I was talking about. They're very serious.

And the message I wanted to send was that for those small number of individuals that think it's okay to do that, there are going to be serious repercussions. We have a saying in corrections: 95 percent of the problems that are caused by incarcerated individuals are caused by 5 percent of the individuals. It's a small number that disproportionately cause the most harm.

And in order for them to understand what might happen, I put that memo out that described in detail these are the convictions that will happen if you commit these acts. We have liaisons with every single prosecutor office in the state. We pay -- by operation of law, we pay for all the costs related to
incarceration. So if this is going to happen
and we have these liaisons, we are going to
pursue a consecutive sentence of imprisonment
for these types of acts.

Again, it's a small number, but they
need to have their --

ASSEMBLYMAN LAWLER: I appreciate -- I
appreciate that explanation, and I support
you in that. And absolutely do what you need
to do to keep your corrections officers safe.

With the time I have left, I just want
to make a statement to you with respect to
community supervision and the Parole Board.
I think the Parole Board is an absolute
disgrace. I think what they have done in
just this past calendar year -- in my
district, they've released a domestic
terrorist and cop killer who was responsible
for the deaths of two law enforcement
officers in the 1981 Brinks robbery, and they
released a child rapist and murderer who
killed a 16-year-old girl on her way home
from school -- from work at the library.

It's an absolute disgrace what has
happened, and I hope you'll support my
efforts to reform the Parole Board and stop
the release of unrepentant cop killers and
child rapists and murderers.

CHAIRWOMAN WEINSTEIN: Thank you, we
go to the Senate.

ACTING COMMISSIONER ANNUCCI:
Assemblyman, I just need to respond that I
have the utmost respect for the chairwoman
and the Board of Parole. They work very,
very hard. It's basically a thankless job.
No matter what they decide, someone is going
to be upset with the decision. And it's
never an easy decision. I respect your
opinion, and you may be critical of them for
that, but they work very hard and in an often
thankless job.

CHAIRWOMAN KRUEGER: Thank you.

Senator Bailey.

SENATOR BAILEY: Thank you,
Madam Chair.

Thank you, Commissioner, for
appearing.

Senator Harckham asked a lot of the
questions related to the MAT in prison facilities that I was going to ask, and I was going to ask -- I was going to thank you for what DOCCS has been doing in order to make sure we implement this lifesaving treatment, which is quite frankly -- and I see my good friend Senator Akshar on the Zoom. We've spoken about this, and this is clearly a bipartisan issue and this is something that we can all agree on. So I thank you for understanding that, that this expansion is critical.

I just wanted to ask I guess one brief question, yes. And I see I do only get three minutes, I do not get the 10 minutes on this one. I just wanted to ask a brief question about the TAP for incarcerated individuals.

If its place is in the budget and it goes through the process, at what rate would it be able to expand within DOCCS facilities? And how would you see that expansion in facilities?

ACTING COMMISSIONER ANNUCCI: I didn't hear the first part of the question, Senator.
The expansion of MAT, did you say?

SENATOR BAILEY: No, no, I was

thanking you for MAT because I was talking

about the expansion of TAP.

ACTING COMMISSIONER ANNUCCI: I'm

sorry, I apologize for that.

I can't really predict exactly how

this is going to play out at this time. I

know that we're involved with State Ed. I

know that we previously used to have a number

of individuals who received the benefit of

TAP funding and Pell funding. Certainly

we'll work with the colleges.

I think, you know, it's just like in

years gone by when they dealt with the

applicants and they decided who was eligible.

There might be a statutory structure to what

might be involved. If we need to enter into

MOUs with colleges or other types of legal

arrangements, we will.

Presently when we deal with the

colleges, we don't require them to enter into

anything formal. But whatever the

Legislature would want us to do to ensure the
integrity and the fairness and the
distribution of funding for incarcerated
students, we will certainly support and make
it happen.

Again, I repeat, education is
transformative. It's the single most
important thing to deliver for incarcerated
individuals to lower recidivism.

SENATOR BAILEY: Without a doubt. And
I would say that I had a chance to tour Green
Haven and I saw the BPI individuals and I got
to witness the magic, for lack of a better
term, in that classroom, and it was quite
incredible.

And I would just hope that -- I know
my actual formal time is ending shortly. I
just wanted to make sure I underlined the
point that in having these conversations with
our SUNY and CUNY institutions that we should
make sure that us as legislators and you as
DOCCS, we're having substantive conversations
about the expansion and making sure that we
can take on as many individuals as possible.
Because as I tell my kids, as I will tell any
kid, we should never be discouraging anybody from being able to pursue an education.

So I just want to say thank you for your time, Commissioner, and thank you, Madam Chair.

ACTING COMMISSIONER ANNUCCI: Thank you, Senator.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Walczyk.

ASSEMBLYMAN WALCZYK: Thank you, Chairwoman.

Commissioner, the inmate on staff violence is increasing at a faster rate than inmate on inmate violence, at least according to the numbers that we've got from your department. Drugs are like a sieve in our facilities, and you've ignored some of the recommendations that this body has sent to you. Retention is bad, morale is terrible. You're continually closing facilities and moving families all over New York State. The Academy is short and not graduating as many as it used to, so your advertising at fairs probably isn't going to cut it when it comes
to some of those shortfalls.

As far as incentives go, are you looking at raises for corrections officers, doing any staff increases? Or how about tuition reimbursement or loan forgiveness for corrections officers?

ACTING COMMISSIONER ANNUCCI: I don't believe we have any of those in the pipeline. But we're always looking at a number of different things to improve morale or wellness.

I think that their participation on this task force is very, very important. We didn't just want superintendents or central office types, we want the rank and file to be represented. We want to hear from them directly what they think.

And I think you're seeing, in society in general -- it's not just the violence in the streets, you're seeing it on airlines, you're seeing it with traffic accidents, you're seeing generally Americans being intolerant with one another, and it's playing out in a lot of different forms, including
our correctional facilities.

ASSEMBLYMAN WALCZYK: Well, commissioner, respectfully, this isn't crime on the streets, this is crime in your facilities. This is inmate-on-staff violence increasing at a faster rate than inmate-on-inmate violence. How do you square that? What's responsible for that?

ACTING COMMISSIONER ANNUCCI: I don't have an easy answer. I intend to get feedback.

But back to your question on raises, I can tell you that the collective bargaining agreement does call for increases, and that's in our budget presently. And I think there is a provision for tuition reimbursement as well.

ASSEMBLYMAN WALCZYK: How does your staff that works in these facilities every single day, doing a dangerous job, that is getting assaulted with more frequency, feel about free college for the individuals under their care?

ACTING COMMISSIONER ANNUCCI: I can't
speak for them. They'd have to speak for themselves. But ultimately if they're taxpayers and it results in less people coming back to prison and more people becoming law-abiding citizens and more people paying taxes, I think they would be happy as taxpayers.

ASSEMBLYMAN WALCZYK: Will the inmates receiving free college be screened for drugs?

ACTING COMMISSIONER ANNUCCI: They won't be separated out. We have general random testing of the population, all with probable cause. That will be continued.

And if somebody misbehaves while they're in a college program, as is the case now, they could forfeit their place in the program.

ASSEMBLYMAN WALCZYK: I'm glad you brought that up. What misconduct would disqualify them from free college?

ACTING COMMISSIONER ANNUCCI: Well, any misconduct of a serious nature. It doesn't have to be just one particular type. It could be an assault, it could be
destruction of property, it could be paraphernalia. Anything of any serious nature could result in your being removed from a college program -- or any program, for that matter.

ASSEMBLYMAN WALCZYK: I'm out of time.

CHAIRWOMAN KRUEGER: Thank you.

Senator Sue Serino.

SENATOR SERINO: Thank you, Chairwoman.

And thank you, Commissioner. I have a couple of questions. And I just want to say I also share Senator Ritchie's comments that she had mentioned earlier.

You know, as you know, I represent the district where Downstate Correctional Facility is located, and Downstate employs more than 600 residents who have made their homes in and around Dutchess County. I have to say I'm deeply disappointed with how we received news of the proposed closure. And in your letter in November, you noted that you were mindful of the impact the closure would have on the community. However, to
date, I'm not aware that any stakeholders, whether local lawmakers, union representatives, the facility employees or others, were consulted before the closure was announced.

You claim you also did a detailed review, but where are the details and why weren't critical stakeholders consulted or a public meeting held?

ACTING COMMISSIONER ANNUCCI: Senator, respectfully, if we were to consult in advance of announcing a closure with any interested stakeholder anywhere in the state, we would still have 72 correctional facilities and a population of 30,000, which the taxpayers would not tolerate.

I am so sensitive to the impact on communities. We look at a whole number of factors, we look at programs that are offered, we look at infrastructure, we look at capital improvements that are needed, we look at neighboring facilities that are close by -- there's a whole host of factors that we look at in determining to close.
Once closure is announced, the number-one priority I have is to try as hard as we can to arrange a soft landing for all affected staff. I want them to have the opportunity to continue to be employed in our system in as close-as-possible other location or at least with the state.

We've met with the staff. I send my HR directors down there, they explain what their rights are, they meet with the union individuals, they go through this, and then we try and arrange the transfer so that they can continue in our employ. Which --

SENATOR SERINO: With all due respect, Commissioner, because you were just talking about employees having continued employment, so can you tell us, did they have to uproot their families and move elsewhere? Do you know where the employees are being reassigned?

ACTING COMMISSIONER ANNUCCI: Oh, yes. When they're being reassigned, they're given the option -- we can tell you where they've gone, to each facility and how much of a
distance it is.

I don't have that at my fingertips,

but I can give you that information for those

that are --

SENATOR SERINO: I'd like to follow up

with you with that also. And there's another

concern.

The Glenham Fire District is located

like directly adjacent to Downstate and has

been providing fire emergency response there

for over 20 years through a contract with the

state. And this contract actually provides

fire protection coverage, which includes

mutual aid protection in the event that a

firefighter is injured or equipment is

damaged during a mutual-aid response.

Given that the need for fire and

emergency response will remain for the

facility after its closure, will continue

once the facility is closed, so are -- is

there going to be aid for the fire companies

for the facilities?

ACTING COMMISSIONER ANNUCCI: I'll

have to look into that, Senator. I'm not
aware that we've ever done that in the past. 
But if there is a legitimate need and there's 
a way to do it, we'll find a way to do it. 

    We have a whole process that we follow 
when we're closing a correctional facility, 
in the maintenance that we have to do and 
ensuring that it still is a viable asset for 
potential reuse. There's a lot of different 
things that we will look at. 

I'll certainly take that under 
advisement and see if there's anything that 
can be done. 

    SENATOR SERINO: I hope that that -- 
the contract will just continue and not have 
a lapse. 

    And I just want to say, again, how 
disappointed I was in the way this has 
unfolded, especially when the Governor 
promised to be someone who governs by 
listening. These employees never even got a 
chance to make their voice heard -- in a 
surprise holiday announcement, and with just 
a couple of months' notice. It's just not 
right. These men and women put their lives
on the line every day to do a very dangerous
job, and the way they were treated here isn't
right.

And I really urge my colleagues to do
all that they can to prohibit these 90-day
closures and enact a better process going
forward.

Thank you, Commissioner.

ACTING COMMISSIONER ANNUCCI: I
respect your position, Senator.

CHAIRWOMAN KRUEGER: Thank you.

Assemblymember Weinstein.

CHAIRWOMAN WEINSTEIN: We go to
Assemblywoman Mitaynes.

ASSEMBLYWOMAN MITAYNES: Thank you.

Good afternoon. Are you aware that
the state owes a legal duty to incarcerated
people to prevent their death, including by
suicide? And how many people died by suicide
in DOCCS custody last year? And can you
describe what conditions in DOCCS facilities
are causing incarcerated New Yorkers in DOCCS
custody to take their own lives?

ACTING COMMISSIONER ANNUCCI: So thank
you for that question. And preventing suicide is a challenge to every single correction commissioner in the country. And I belong to an association, we meet periodically. There's 50 of us in the country, and it is something that is very challenging and very difficult.

I have many different initiatives that are related to suicide prevention. I have two hours of annual training mandated for every single employee. I have every single employee that works in one of our mental health treatment units, they receive an annual amount of training I think of either six or eight hours.

We have all kinds of new initiatives to remind families of individuals that if they become aware of any indicia that someone may be thinking of taking their own life, they should let the officials know in the facilities. There's a prompt that is activated when a phone call is made to the family. They hear that. There's a prompt that is made when someone sends a secure
message. We have posters.

We have downloaded a video on the tablet that was made by an incarcerated individual at Attica Correctional Facility as part of a TEDx talk where he talked about his own journey and why he was at one point thinking of taking his own life and why he sees value in his own life.

This past Christmas we played, for the entire population -- donated 100 copies of the movie "It's a Wonderful Life" and a message to the population by two of the surviving actors. The message of that movie is everybody's life matters, everybody's life touches another life.

So we are trying so many different things to make the population understand, regardless of what they've done in the past, it's never too late to do good. Your life still matters. You still have value. We need to look after each other.

ASSEMBLYWOMAN MITAYNES: Thank you.

And really quickly, in 2016 the Second Circuit Court of Appeals found DOCCS
grievance procedures were so opaque and confusing that they were, practically speaking, incapable of use and so confusing that no ordinary prisoner can discern or navigate them, and recommended that DOCCS revise its grievance procedures to make them more usable.

Can you explain what DOCCS has done since then to improve its grievance procedures and whether the filing of grievances has been added as a function to the electronic tablets distributed to incarcerated people?

ACTING COMMISSIONER ANNUCCI: Yes. We have added the grievance process to our tablets. I'm not -- well, it's in the process of being worked on but it's not yet been done. But it is certainly an area that definitely needs improvement, and it is something that we'll give our attention to going forward.

The prior question you asked was the total number of suicides in 2020-'21. I think it was 16.
ASSEMBLYWOMAN MITAYNES: Thank you.

SENATOR HOYLMAN: Thank you. I --

this is Senator Hoylman. I think Chair

Krueger --

CHAIRWOMAN WEINSTEIN: Yes, I was

going to call on you, Senator Hoylman.

SENATOR HOYLMAN: Oh, thank you.

Thank you.

CHAIRWOMAN WEINSTEIN: You're next.

SENATOR HOYLMAN: Thank you,

Madam Chair.

Thank you. Good to see you, Acting

Commissioner. First I just wanted to

compliment you for your defense of the use of

TAP for incarcerated individuals. And I want

to thank you and the Governor for your

support of that and particularly the Bard

Prison Initiative, which we've seen such

success come from.

I wanted to ask you about various

studies from newspapers like the New York

Times and Albany Times Union, NYU Law School,

the Vera Institute for Justice, that have

shown that the Parole Board grants release to
white individuals far more frequently than
Black and Latinx people, even when you
control for factors such as crime and
disciplinary record.

Do you have any comments about that
disparity? And what can we do to address it
in terms of the Parole Board's release rates?

ACTING COMMISSIONER ANNUCCI: Well,
first of all, Senator, let me say that the
Parole Board is the most diverse Parole Board
that -- throughout my experience with
Corrections, and I've been here 37 years.

I can give you the breakdown -- I'll
separately send it to you -- are women of
color, men of color and Hispanic and all the
different categories. So it's the most
diverse it has ever been.

Second of all, these studies I
question significantly, because there's no
way anyone on the outside can actually have
all the information in order to do an
apples-to-apples, oranges-to-oranges
comparison. You have to even actually do a
further dive. You have to look at, you know,
Empire apples to Empire apples, McIntosh apples to McIntosh apples, because there's so many different factors in an individual's background, starting with his criminal history or her criminal history.

We have a second felony offender law that we keep applying, and it could be the sixth, seventh or eighth time someone --

SENATOR HOYLMAN: With my remaining -- thank you. With my remaining few seconds, is that something you would commit to examining from within, since you do have the data to make these comparisons?

ACTING COMMISSIONER ANNUCCI: Well, Senator, that's probably a huge study, number one.

Number two, the Board of Parole is independent. And when we merged, the Legislature wisely separated them out, and my responsibility is to give them all the support -- we have a wonderful partnership. I give them access to all the records they need. But their decision-making is independent. And any type of study of the
nature you're proposing I think would be extremely labor-intensive.

I am completely confident that with their diversity, they are making the decisions on the merits, they are completely color-blind.

SENATOR HOYLMAN: With all due respect, I don't think you can question outside analyses and then say this is beyond our ability to double-check the numbers, given the importance of the issue at hand, racial disparities in the, you know, release of incarcerated individuals.

I'd urge you to think about that, sir.

Thank you.

ACTING COMMISSIONER ANNUCCI: Thank you, Senator.

CHAIRWOMAN WEINSTEIN: Thank you. We're going to go to Assemblyman Burgos.

ASSEMBLYMAN BURGOS: Thank you, Madam Chair.

Thank you, Commissioner, for being here today.
I think the State Comptroller released reports that one in four incarcerated folks are older New Yorkers. He even went as far as making the suggestion that policymakers should be decreasing the prison population, especially for older New Yorkers, because they pose much less risk to our society.

I wanted to ask you, are you in agreement with the State Comptroller on this?

ACTING COMMISSIONER ANNUCCI: Well, I don't like to comment on potential legislative matters, and I know it's the subject of a lot of legislative bills out there that want to look at the issue.

Generally speaking, people tend to age out of the criminogenic behaviors as they get older. But you also have to look at how they came to prison. Are we talking about somebody that's been in prison a long time, or are we talking about somebody that at age 50 was a child molester? And that's a whole different paradigm altogether.

I can tell you that sometimes when we release somebody to a nursing home -- it took
us a long time to find a nursing home for a sex offender, then he managed to abuse one of the patients there and it really blew up in our face. So it's a complicated issue.

There's no question the older population requires a lot more attention. I'm trying to deliver to them meaningful programs. We have a senior dorm at one facility for 50 and older where we've selected programs that are just right for them for wellness, for engagement and a number of other things. If somebody requires skilled nursing care, they're placed in regional medical units. But --

ASSEMBLYMAN BURGOS: And I have a -- I'm sorry, just because I have a question that I think you were kind of diving into, so I wanted to take it in that direction.

In the same report the Comptroller reported that older adults, it costs nearly a quarter million dollars more to incarcerate them. So I think you were kind of alluding to that. Can you explain why it does cost so much more to incarcerate an older adult?
ACTING COMMISSIONER ANNUCCI: Well, in general they have a lot more health problems at that age. Once you get to be a senior citizen in a correctional facility, your conditions, whether it's diabetes or you require, you know, heart treatments or you may be HIV-positive, you may have hepatitis C -- the treatment for that is rather expensive -- whatever your medical problems are, like all of us, as we get older they seem to come to the forefront.

And if you have a background where you've neglected your health a little bit or you've also taken drugs or you've smoked or you've abused alcohol and you haven't exercised and you've eaten poorly, those problems will manifest themselves in compromised health conditions as you get older.

ASSEMBLYMAN BURGOS: Okay, thank you.

One last question. I've had difficulty getting a pretty clear and concise answer on this. I guess it can vary sometimes. But I'm really focused on the
reentry, right, when individuals are released from these prisons. And I wanted to know what is the DOCCS policy for individuals that are set to be released? How exactly are we releasing individuals? What are we giving them on the day of release, and how are we setting them on a path, you know, to a fruitful life?

ACTING COMMISSIONER ANNUCCI: It's going to require a little bit of a detailed answer. There's a lot that we do with reentry. In fact, that was a big reason why we merged, so that we can have a smooth hand-off to community supervision when the people are being released from our correctional facilities.

We have transitional accounting plans and Phase 3 is when we really focus on the individual who's leaving prisons. One of the Governor's priorities is to make sure that we facilitate the process of giving them identification so that when they leave, they have the birth certificate in hand, they have their Social Security card -- I'm trying to
advance the date when we can apply for that
from four months to six months. We're
working with DMV to expand a pilot. We're
making them connections in the community. We
have reentry managers that we hand off to.

We're going to focus significantly on
job retention, so we train our parole
officers to get them actively engaged in
employment, because ultimately it has to be a
smooth transition. We want them to succeed
when they reenter society.

ASSEMBLYMAN BURGOS: I appreciate your
time, Commissioner. Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

To the Senate.

CHAIRWOMAN KRUEGER: Thank you.

Our next questioner is Senator Savino.

Senator Savino, are you there? I see
you, but you're not listening to us. Hi, can

Senator Savino, can you hear me?

SENATOR SAVINO: Yeah, but I wrote in
the chat to let Senator Akshar go first
because I'm doing something. I'll come back.
CHAIRWOMAN KRUEGER: Oh, I didn't see that, I'm sorry.

Okay, we're going to go to Senator Akshar first, thank you.

SENATOR AKSHAR: Madam Chairwoman, thank you. Senator Savino, thank you as well.

Commissioner, good to be with you.

I want to just turn your attention to HALT, obviously a piece of legislation that had been dated -- excuse me, debated for nearly a decade. We know now that there's no longer debate, it is now law. I've been here for seven years, and you have consistently stated that you cannot, nor will you, opine publicly on pending pieces of legislation.

I'm curious to know, now that this piece of legislation has been enacted, do you believe that the HALT Act will make the prison system safer or more dangerous for both the incarcerated and those that are charged with their care and custody?

ACTING COMMISSIONER ANNUCCI: Sure.

First let me say when I don't comment on
pending legislation, I'm not trying to be obstructionist. I always try to take -- whatever the Legislature inquires about, I try to be responsive to your questions. But there's a forum to discuss pending legislation, and it's not a public forum. There may be issues, so we communicate our questions to the Governor's counsel's office and let them --

SENATOR AKSHAR: Let me just publicly say I meant no disrespect by that.

ACTING COMMISSIONER ANNUCCI: Sure.

Sure.

So HALT is now the law. And I will be honest, when it was first passed I had some concerns. But I can tell you that we have marshaled tremendous resources in order for us to implement this law as the Legislature intended.

I created an executive steering committee, and then I created four subcommittees, and they have worked extremely hard to structure an elaborate program to go forward to implement it, from infrastructure
to changing our disciplinary guidelines to
developing programming for the individuals
when they come out of their SHUs and their
RRUs and also for movement of incarcerated
individuals from the SHUs to the RRUs.

So it was a very labor-intensive
process. I am very comfortable where we are
that we'll hit the ground running. I believe
that we will change behavior for the better,
especially when I heard the program
presentation. We're not just providing them
out-of-cell time. Other systems will provide
out-of-cell time, let them play cards. We
are really trying to focus on the behavior
that got them into segregated confinement to
begin with. And I'm confident that we'll be
able to make some changes that ultimately
they'll reintegrate into general confinement
and not return. Or -- oh --

SENATOR AKSHAR: So do you -- I'm
sorry, Commissioner. Do you feel comfortable
with its full implementation in the timeline
that's been prescribed?

ACTING COMMISSIONER ANNUCCI: It is an
aggressive timeline. But at this point, I am. We worked very, very hard coordinating with a lot of different forces within our agency, coordinating with OGS to do all the infrastructure changes, doing the training for the hearing officers, the memos that went out to the field. I feel very confident -- it certainly didn't hurt that the population also continued to decline as well. So that has kind of been the wind at our back somewhat.

But we're confident that we can deliver this. I have a breakdown of every facility where the RRU's are taking place, when they'll be ready, and I'm confident we'll hit the ground running.

SENATOR AKSHAR: Commissioner, with respect, with this looming threat of savagery, as you author in your letter -- I mean, how can you be so confident that, you know, its full implementation will in fact occur, with all of the violence that we've seen? Do you feel like you're being -- a tool is being taken away from you?
ACTING COMMISSIONER ANNUCCI: No.

Because at the end of the day, our ability to separate is still intact. The theme going forward is separation, not isolation.

So we'll continue to separate the troublemakers, and we even put a memo out to the population, who may have been under the impression that they can do some act, go into SHU for 15 days, and they'd be back into general population. If that's what they're thinking, they're sadly mistaken, and that's not going to be the case.

They'll get out-of-cell structured programming and treatment, but my number-one priority is when we do this, we're going to keep everybody safe. Other incarcerated individuals, staff, volunteers, whomever, everybody will remain safe. That's my number-one priority.

SENATOR AKSHAR: Commissioner, why hasn't the department reimplemented the Secure Vendor Program?

ACTING COMMISSIONER ANNUCCI: It is something I still intend to pursue and to
follow. I'm looking for feedback from my
task force on violence; that might give me
some recommendations on that.

We learned the last time; we've talked
to the advocates. We think it's valuable.
We think it will save lives if it ultimately
keeps dangerous drugs like fentanyl out of
the system and ultimately be safer for
everybody.

It's a question of timing. I need to
be able to do this at a time when there is a
lot more steadiness to the system. We have
implemented so many programs in the last
year. We are still in a state of change with
closing facilities and new programs that are
coming online. So it's a question of when
the timing is appropriate, and I fully intend
to pursue that at the appropriate time.

SENATOR AKSHAR: I would just
respectfully --

CHAIRWOMAN KRUEGER: Thank you. I'm
sorry, I have to cut you off, Senator Akshar.

SENATOR AKSHAR: Thank you,
chairwoman. Thank you.
CHAIRWOMAN KRUEGER: You can follow up with the commissioner later.

Assemblywoman Weinstein.

CHAIRWOMAN WEINSTEIN: Yes, we go to Assemblyman Palmesano.

ASSEMBLYMAN PALMESANO: Yes, Commissioner, over the last two cycles we've seen 10 prison closures, Willard and Southport included, which I commented which is a bad idea, given the programs they provided, given the fact that none of these facilities are getting any dollars for their communities for repurposing, and given the fact that the short-term 90-day prison closures were disrespectful and an insult to the correctional facilities.

What's used over and over again is a decrease in prison population. But even as the prison population has decreased, the alarming results of assaults continue to rise. I've said over and over again I believe these closures, coupled with bad policy, taking away and not providing tools and resources for our correction officers and
staff, is creating a dangerous powder-keg environment.

We talked about restricting special housing units and now HALT. There's no discipline for these actions. Your letter talked about savagery, but a letter's fine, but that's not -- what are you going to do about it? HALT I'll say is a disaster, it's going to be a disaster and going to lead to more violence inside our facilities.

Even your own numbers show you inmate-on-staff assaults are up 55 percent over the past six years, to an all-time high of 1176 this past year. Yet at the same time, Commissioner, drugs and contraband continues to be a great problem in our facilities -- 3500 last year and 4,000 each year of the past four years.

But yet as we mentioned, we're still here without a Secure Vendor Program. You said the time needs to be right. The time was right several years ago when it was canceled. When we talk about drug dogs in our correctional facilities, you always say
it's a budget issue. You know, TSA-type screening devices to keep the -- we know the drugs get in through the mail and through visitation. Adequate staffing for our staff so they can be safe and not have mandated overtime.

You know, all the savings that are supposed to be realized through closures, why isn't any of it being reinvested back into the communities to provide tools and resources to keep them safe? We talk about iPads and TAP and free college tuition, but nothing seems to be going into the facilities.

Commissioner, you're a career guy. You know what's going on in these facilities isn't working, and you know it's not safe. You need to be speaking out. So why not the Secure Vendor Program now? It was due before. What are we doing about the assaults? Are there any charges being charged for individuals on the assaults since your memo went out? What about drug dogs at each facility? What about technology
screening devices like TSA-type that screen individuals when they come in?

Aren't all these things going to be helpful and make things better? If so, why not advocate to the Governor and say we need to do these things? Better staffing and, you know, speaking out on all of this, I think.

So Secure Vendor, drug dogs, technology screening devices, staffing resources. What's going on with the assaults as far as charges? Where do we stand? because this is not safe and it's not fair to these corrections officers who work a dangerous job, Commissioner.

ACTING COMMISSIONER ANNUCCI: So first of all, Assemblyman, we have invested significantly in K-9 teams. We are significantly expanding them. I think the number is going to be, when all is said and done, about 28.

So we have our own school, we've been -- we've had our people certified by DCJS, and we keep the dogs fresh. And they've been doing a tremendous job
uncovering contraband and leading to the arrests of many individuals. There are serious consequences for bringing in contraband.

With respect to closures, I can tell you that the Governor has created or will be creating a new commission that's going to have private as well as public officials, ESD leading the charge so that we can find a use for these facilities consistent with the job needs of New York State and what all the different possibilities are. So we're paying a lot of attention to that.

The task force, I look forward to its first meeting and hearing feedback, whatever the recommendations are. We're continuing to look at technology, all the different devices that are out there. We're continuing to experiment -- from Cellsense to cameras to you name it, we've invested millions into our facilities. The body cameras and the fixed cameras alone, they show what's happened. So if someone is assaulting somebody and we have it on film, then the district attorney can
easily bring a prosecution based on that
evidence.

So there's a lot that we're doing.

ASSEMBLYMAN PALMESANO: Has there been
any increase in the --

CHAIRWOMAN WEINSTEIN: Thank you.

(Inaudible overtalk.)

CHAIRWOMAN WEINSTEIN: We're going to
go to the Senate, but I just want to remind
members to -- and Senators -- to leave enough
time for the answers in the time.

So Senate?

CHAIRWOMAN KRUEGER: Thank you very
much, Assemblymember.

Now Senator Diane Savino.

SENATOR SAVINO: Thank you, Senator
Krueger.

Good to see you again, Commissioner.

ACTING COMMISSIONER ANNUCCI: Good to
see you, Senator.

SENATOR SAVINO: We've been doing this
dance so many years. At least I'm not
yelling at you about overtime this time.

A lot of the questions I had have been
addressed by other members, so I'm not going
to belabor the point. I do want to go to the
issue of the $45 million that's going to be
utilized to support the implementation of
HALT -- which I supported. But I'm curious
as to -- I heard you describe to I think
Senator Akshar and others how a lot of time
and effort has gone into how you're going to
implement it and the training, et cetera.
That has always a concern of mine, how do we
train the staff.

So I just -- I'm curious, were they --
did they participate in the development of
the training that's going to be used when
HALT goes into effect? That's the first
question. Because as you pointed out, inmate
assaults against other inmates and against
COs is -- in very limited areas are very
high, and they are very violent, and so
there's a real concern there that they're
prepared to deal with this. So that's one
question.

And then the second thing is we're all
focused on some of the challenges we're
seeing in the city with respect to the
mentally ill, some of whom have been released
from prisons to their own communities with no
support services. One of the criticisms of
Kendra's Law, among many, is that there's a
loophole in it that does not require DOCCS to
notify local mental health providers when a
prisoner or inmate who has been receiving
mental health services while they were
incarcerated -- to notify local mental health
providers in their home community that
they're being released so they can, if
necessary, be connected with a local mental
health provider or be evaluated to determine
whether they have a propensity for violence.

Is there a possibility that, absent a
change in the statute, do you think this is
something that DOCCS can do? Because people
are being released, sent without -- with no
resources -- I see in your budget the
Governor is putting aside $2.5 million to
support transitional housing for people who
are released with no resources. But this
seems to be, you know, a glaring loophole
that perhaps absent a change in the statute, it could just be a change in policy to connect people at their home base with the necessary services that they need.

ACTING COMMISSIONER ANNUCCI: Okay, Senator, so addressing that question first, there is a statute that does require us to provide notice to law enforcement whenever anybody's getting released, every single --

SENATOR SAVINO: Law enforcement, but not mental health services. That's different.

ACTING COMMISSIONER ANNUCCI: Right, you're right. Not mental health. But there is a unit that we work with directly with OMH for anybody that is diagnosed as seriously mentally ill. We work together four months prior to their potential release to line up potential resources in the community for them so that there is a smooth hand-off. Which includes, by the way, us doing a direct transport to ensure that the individual arrives at the destination. We don't want to just release them and send them
on their way to public transportation.

Sometimes that's to a residential program, sometimes it's directly to community supervision, so that there's a hand-off.

A lot of times with some of these individuals after they're out there, if they abscond, if they stop taking their medication, there's a problem. So it's not one that's amenable to an easy solution.

I know that they are protected under HIPAA. There's limited information we can give right now, under current law, about somebody's mental health status. I don't know if, you know, that would help public safety if they were giving that information to law enforcement.

I think, you know, we have to continue to make sure we coordinate our services. We're working with OMH. We make sure that they get their Medicaid card, they have that available so that they can continue -- we give them a 30-day supply of their psychotropic medications, if they're on that, when they leave, and they have to continue to
take it when they're in the community.

    So there's a lot of different forces
at play when these terrible events happen.
They just shock everybody's conscience.

    Back to your training question,
there's a lot of training that's going to go
out there, especially for hearing officers.
Most of this is going to come from our
central office. I'm going to record a
message in, you know, a few days as part of
that training. It is an all-encompassing
effort. A lot has to be done. And certainly
we want to listen. It's an ongoing process,
listening to the feedback from the rank and
file as we roll this out.

    CHAIRWOMAN KRUEGER: Thank you.
    SENATOR SAVINO: My time is up.
    CHAIRWOMAN KRUEGER: Sorry, we do have
to cut you off, Senator Savino.

    Assemblywoman Weinstein.
    CHAIRWOMAN WEINSTEIN: Yes, we're
going to go to Assemblyman Epstein now.
    ASSEMBLYMAN EPSTEIN: Thank you,
Chair.
And thank you, Commissioner, for being with us today.

So I note that the average death of folks behind the wall based on natural causes is between 56 and 59 years old. I'm wondering how you define natural causes for such an -- and how do you -- I mean, it's such a low death average compared to what we see out in the general public.

ACTING COMMISSIONER ANNUCCI: Well, natural causes is something that's basically a health services determination. It is not, you know, an operations determination.

And every single individual has to have an autopsy performed, and that will tell us what the cause of death is. When death happens, that generates what's called an unusual incident report, where we have to put down what seems to be a cause of death, which can change once we get the ultimate autopsy report.

It also might be listed initially as "unknown," because we simply -- if we find somebody who's dead, unfortunately deceased
in their cell, we have no idea if it's natural causes, we have no idea if it's a drug overdose or anything else. We also will have BCI come in and do an investigation.

But you're right about the average age of death for natural causes. It's the same as basically in the general public. If the health services, if the medical examiner tells us natural causes and he writes it up for arterial sclerosis or brain tumor or cancer or whatever the cause of death may be, that's what we go by.

ASSEMBLYMAN EPSTEIN: I would just hope that we could explore that a little more, because it just seems, you know, much lower than the general public and I believe there's something we should be doing about that.

I want to focus on, you know, access to phone calls. I know inmates, folks behind the walls are -- you know, really need to stay connected to their family and their community. And this is an issue that keeps coming up when we hear from advocates. And
I'm wondering, you know, like expanding opportunities for free phone calls -- you know, I know there were free phone calls that's been available during the pandemic -- and looking at extending that. And what's your view on giving them access to more free phone calls to stay connected to their community?

ACTING COMMISSIONER ANNUCCI: Well, let me say I support generally, you know, the practical means to connect incarcerated individuals with their families. That's why I continue to have a family reunion program so that they can have an intimate visit and be a family again, and I put a lot of time and effort into upgrading them so they look like family environments.

Staying connected to family is critical. We have among the lowest phone rates right now because by statute we are not allowed to take any commissions. Other jurisdictions, around the state and local, they use commissions from phone calls and they'll apply it to subsidize their
operations. We do not do any of that at all.

ASSEMBLYMAN EPSTEIN: So,

Commissioner, I'm almost out of time. I'd love to, you know, talk to you more about that.

And I just have one last question, because I do think free phone calls is important. I'm wondering if there's any formerly incarcerated people on the Parole Board right now. And what's your thought about having a formerly incarcerated person on the board?

ACTING COMMISSIONER ANNUCCI: I don't believe anyone who's formerly incarcerated is on the board.

I won't speak for the board, but I'll tell you that we hire a lot of formerly incarcerated, they're volunteers in our system. I think they're the most credible people to deliver messages about what their experience has been and get other people to turn their lives around. So I strongly support hiring formerly incarcerated individuals.
ASSEMBLYMAN EPSTEIN: Thank you, Chair. Thank you, Commissioner.

CHAIRWOMAN WEINSTEIN: Senate?

CHAIRWOMAN KRUEGER: Thank you very much.

We're actually up to me. Thank you, Commissioner.

So following up I believe on Senator Savino's last point, a real concern to me -- even though I am very pleased that the agencies have been merged with the intent of far more focus on what happens when people are released from prison and go back to community and the importance of rethinking all of that -- I am still not clear even who is eligible, say, for these housing services. I am very worried that when we release elderly prisoners and/or mentally ill prisoners to New York City, we are releasing them to the streets right in front of the Bellevue Men's Shelter, and then no one ever knows what happened other than I'm pretty sure it's a less humane model than whatever was happening in our prisons.
And so I feel that it is imperative that there be a mechanism to ensure not just notification of criminal justice people -- I mean, with all due respect to NYPD, they're not going to go out there and get mental care health services or housing or senior services for returning prisoners -- that we need a very specific construct of how people are going to be coming back to the city and being placed in a residential site that actually can deal with their needs.

So I'm particularly, again, concerned about seniors and about people with mental health issues. And I'm curious, do we have any pilots that we know anything about that are working or not, or are we -- are we changing the policy that -- I think the last time I checked, you were releasing about 2,000 people from buses to the entrance of the men's shelters in my city and my district.

ACTING COMMISSIONER ANNUCCI: Okay, Senator, let me take it one step at a time.

First of all, the Governor's new
initiative is a bold new initiative with a residential treatment facility where voluntarily, they'll be able to stay for 90 days. It will be without many of the restrictions that we usually have with a correctional facility. They'll be able to have cellphones, they'll come and go.

And then that -- the purpose of that is so that they're otherwise homeless, they can have the right to stay at Edgecombe for up to 90 days. And to help them gain houses, we're going to pay a stipend to the head of the household that agrees to take them for 12 weeks, $100. So -- and if that works like we think it might work to help people get a toehold, we think we'll start to move the needle with respect to homelessness.

I think the average stay, for those arriving at Bellevue now, is I think 37 days. So they end starting there, many of them, but then they are -- they do end up finding housing after that.

So you're right, this is a big challenge. I mean, we are not in the
business of finding, you know, housing for
people that are otherwise homeless. We do
provide notifications, under the law, like
we're required, to all social service
districts when someone who appears to require
homeless housing is going to be released to
that jurisdiction.

So we do that throughout the state.
It is a challenge, and I think this is one
initiative that will help.

There's many programs out there that
are coming online. Right now, if you call --
Fulton Correctional Facility was given to the
Osborne Association. That is almost ready,
from my understanding, to start accepting
people from DOCCS who might otherwise be
homeless. There are all kinds of
not-for-profits, especially that deal with
releasing elderly individuals that may have
lost their connections to families.

I know one initiative that's out there
in the Ossining area where Hudson Link, the
executive director has purchased housing,
he's rehabbed them, and he's allowing them to
be used for otherwise people that have no place to go when they're released from Sing Sing.

So there's a well of goodwill out there with a lot of not-for-profits and people that want to help returning citizens get homes, get adjusted. And I can help that in one way by maintaining the family connections while they're still with us. There's a lot that can be done there, a lot that is being done to reestablish family connections while they're with us. So it's a multifaceted approach to a very complex problem.

CHAIRWOMAN KRUEGER: And you described a stipend for this new program beyond the 90 days. So that's $100 a week that you're offering?

ACTING COMMISSIONER ANNUCCI: Yes. To the head of the -- if they find -- if they can find someone that can say, look, my brother-in-law will take me in and he'll let me live with him, finances are tight, but he'll let me in if you agree to pay him $100
a week for the 12 weeks.

So we hope that that's enough to give
them a toehold, get them on their feet, get a
job and then either stay there or find
permanent housing after that.

CHAIRWOMAN KRUEGER: And do you have
any data that shows that elderly people and
mentally ill people coming out of prisons
have any success with getting employment?

ACTING COMMISSIONER ANNUCCI: I know
that a lot of the not-for-profits do work
with them and they're able at some point to
get employment, but it's a big adjustment for
somebody that's been incarcerated for many,
many years. It's a complex problem.

I don't have any statistics on who
gets employed, who doesn't. I mean, the
number-one concern is immediate housing,
where they're going to live as soon as
they're released from the correctional
facility. And employment is right on its
heels as well. Coupled with sobriety
thereafter.

CHAIRWOMAN KRUEGER: Okay. And you're
not going to be using halfway houses as the
model? Which I don't think have been very
successful.

ACTING COMMISSIONER ANNUCCI: There
are people that can avail themselves of
halfway houses. There's a lot of resources
out there.

But this is going to be different.
This is going to be not unlike a halfway
house, but it's going to have structure.
There's going -- you're going to have to
agree to abide by certain conditions. And
the punishment is if you don't, then you
can't participate anymore. You're going to
have to, you know, go elsewhere. Most people
probably don't want to go to a homeless
shelter if they can avoid it.

CHAIRWOMAN KRUEGER: That is
absolutely true.

And again, my particular focus here is
the discussion around the most vulnerable
people leaving prisons, which I do believe
are the elderly and the mentally ill, and
they are the least likely to have had an
ongoing relationship with family, you know,
either because they've been in the prison
system so long or because they, with mental
illness, had burned bridges with their family
even before they went to prison.

So I'm particularly interested in
seeing what we can do that are models that
actually work for these populations. Because
I know everyone in the world is calling for
us to, you know, pass legislation that says
just release these people. And my
perspective is I certainly don't want anyone
to spend a day more in prison than they need
to. But I also feel very strongly that
releasing them to the streets of New York
City with no supports and no future is
actually a worse storyline than in many of
the situations they find themselves.

So I appreciate your response. I
congratulate you on becoming the actual
commissioner. I feel like my whole life
you've been the acting commissioner. I'm not
sure -- that's not really true, but I feel
like that.
And I'm going to not use my last two minutes and pass it back to Chair Weinstein.

ACTING COMMISSIONER ANNUNZI: Thank you, Senator.

CHAIRWOMAN WEINSTEIN: Thank you.

We'll go to Assemblyman Burdick.

ASSEMBLYMAN BURDICK: Thank you.

And Senator Krueger, you touched upon the very topic that I wanted to discuss as well, and thank you for those questions.

And Commissioner Annucci, thank you for your responses on it.

And I wish to first commend you for embracing Clean Slate and other recent reforms to ensure that they're implemented well. And we do hope that the Governor will be supporting further reforms such as Fair and Timely and Elderly Parole.

And I noticed your reply to the question about what constitutes elderly, and I think you mentioned that there is no definition, but generally thought of as 55 or more. I share the Senator's views that we need to be sure that there is sufficient
supports in the community for those who are released.

And along those lines, and further to the question about those that are released to homeless shelters, I recall in the budget hearings last year there was a question -- not mine, but whether you happened to know, you know, what percentage or what number of those that are released go to homeless shelters. And I'm not looking for an answer now, but if we could try to get that, that would be helpful.

But my question actually goes to what work DOCCS does in coordination with the Division of Housing and Community Renewal, which as I'm sure you're aware, the Governor has provided a great deal of funds for addressing homelessness.

ACTING COMMISSIONER ANNUCCI: Off the top of my head, Assemblyman, I'm going to have to check on that.

I do know that our reentry managers are working very diligently with individuals when they get released to find them housing.
And I'm sure that they have connections with every entity that's out there that could offer housing.

I know that we've worked with MOCJ, which is the Mayor's Office of Criminal Justice. They're making funding available for us that will help with the placement of those with serious mental illness as well as other individuals that are homeless. There is a lot more resources that are available in the city versus in the rural areas of the state, so we are taking advantage of that.

There are, you know, a lot of not-for-profits that --

ASSEMBLYMAN BURDICK: Thank you. And I don't mean to interrupt, but I think that it would be very helpful if there's more of a connection directly with HCR on this. And those community organizations are terrific that you mentioned, and working with the Mayor's programs I think are terrific too.

But I think this needs to be an interagency approach. And it would be terrific if something could be developed
there. This is something that became
apparent to me since I serve on both the
Housing Committee and Correction Committee,
and I would love to pursue that further with
you.

And my time is out, but if we could
try to set something up where I can discuss
it further with you, I would greatly
appreciate it.

ACTING COMMISSIONER ANNUCCI: Happy to
do it, Assemblyman.

ASSEMBLYMAN BURDICK: Thank you so
much.

CHAIRWOMAN WEINSTEIN: Senate?
CHAIRWOMAN KRUEGER: Thank you very
much.

And now we have Senator O'Mara.

SENATOR O'MARA: Thank you.

Good evening, Commissioner. It's a
long day. You're No. 5 on a list of 30-some.
So thanks for your time; thanks for being
with us.

I had a couple of questions on the
prison closures that came about this year.
In prior years there has been local economic
development money attached to the prisons
that have been closed. Can you outline for
me what's being put in place for these
localities for the prisons that are slated to
be closed this year?

          ACTING COMMISSIONER ANNUCCI: The
prior appropriation has been reappropriated
for this year, so that money will be
available going forward. That's my
understanding.

          SENATOR O'MARA: And how much is that?
          ACTING COMMISSIONER ANNUCCI: I don't
know off the top of my head, but I'll get
that for you, Senator.

          SENATOR O'MARA: Okay. And in regards
to the prior prison closures over the last
decade or so, how many of those facilities
have been reused, repurposed for something
else? And how much of that local economic
development money for those facilities was
used, and how much remains for those?

          ACTING COMMISSIONER ANNUCCI: I know
that of the closures we've done -- including
these, will total 27 -- that six have been
either purchased or repurposed for public use
or local use or private use. One was turned
over for a not-for-profit in New York City,
Fulton, to the Osborne Association. The
Buffalo work release facility was converted
for use by us. And a number of others are
still potentially there for reuse.

Again, I will refocus on what the
Governor's initiative -- the proposal going
forward to create this commission to have a
lot of different perspectives, private
individuals who can bring to the table their
perspective of how to reuse a closed
correctional facility going forward, taking
into account the needs, what's best for the
community, what the job needs are for the
state.

SENATOR O'MARA: In regards to the
economic development money available, is that
money -- is there a certain amount for each
facility, or is there a lump sum to be used
across the state?

And do those dollars have to be used
on a site-specific economic development project -- in other words, the actual repurposing of the facility -- or can they go to another economic development project in the community?

ACTING COMMISSIONER ANNUCCI: I believe the entity to answer those specific questions, Senator, is ESD. They would control the money and the flow, and they can answer your questions as to what is a permissible use and would not be a permissible use.

SENATOR O'MARA: Okay. I will follow up with them. Thank you for that.

And if you could, you know, get me the current dollars that are -- were appropriated last year and will be reappropriated this year for these current closures underway.

Another follow-up question in regards to the free college for inmates. You know, we've in recent years enacted the Excelsior Scholarship Program for SUNY students with some pretty rigorous requirements of full-time attendance, certain GPA levels, or
you risk losing that free tuition and
actually have to pay that back.

Are there any of those types of
requirements being proposed with this free
college tuition for inmates at this point?

ACTING COMMISSIONER ANNUCCI: Senator,
I think those details will have to be worked
out.

But the other thing I'll tell you is
this. The students that participate in
college behind the walls, they work very
hard. I just -- this is anecdotal, I just
got the notice from all the recent graduates
I think at Washington Correctional Facility.
And out of 21 graduates, something like 20
made the Dean's List, and one made the
President's List or something along those
lines.

They work very hard. They don't take
it for granted. They're not there to pass
the time away. They really want to get a
degree because they know what it means. And
the multiplier effect is very often members
of their family then follow suit and also are
incentivized to get their college degree as well.

So those kinds of details are still what consequences there would be for not attending class or not following through. I think those things can be worked out. And, you know, they make sense.

SENATOR O'MARA: Thank you, Commissioner. Thanks for being here.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRWOMAN WEINSTEIN: Yes, we go to Assemblyman Carroll.

ASSEMBLYMAN CARROLL: Thank you, Chair Weinstein. And thank you, Commissioner Annucci, for your testimony.

During this current administration, only one incarcerated person -- who was actually physically incarcerated -- has been granted clemency. Of the thousands of people who currently have requested clemency, do you think that only one is worthy of clemency?

ACTING COMMISSIONER ANNUCCI: I'm not sure if your numbers are accurate.
I do know that clemency wisely, by the Constitution of our state, is reserved to the Governor for her to decide, or him to decide. I know that since the start of the pandemic, the population has decreased by 13,000-some-odd, many of them by the Governor's direction to implement now the spirit of Less is More. I can give you those numbers; it's either 600 or 700 that have been released from our correctional facilities.

I know that we do have a --

ASSEMBLYMAN CARROLL: But clemency specifically, sir, I do believe that this current Governor has only granted clemency to one person who was actually physically incarcerated. I think she has granted it to 10 people, but they otherwise were not in custody when she granted that.

But the reason I ask you is not to say if it was one or 10, but you have spoken passionately previously about individuals who are committing suicide behind bars and what you've done to stop suicide rates in our
jails. And my question really is as our jail population ages -- now one-quarter of our jail population is considered elderly -- don't we think that we are going to see more suicides, we are going to see more extreme outcomes if we do not figure out a way to make sure that more people who are aging in prison are released?

ACTING COMMISSIONER ANNUCCI: I can tell you that my big focus is to give every individual in my system a reason to hope. And hope is something that can come in many ways.

Now, this Governor had to take the reins of state government at a quick time, she had to wrestle with the State of the State, the budget, appointments, a number of things. At some point she will probably have more time to devote to clemency. I'm not going to speak to her --

ASSEMBLYMAN CARROLL: Commissioner -- Commissioner, I believe you believe in hope, and I'm sure you believe in grace. But if somebody is facing down an indeterminate
sentence or a sentence that is so long it
might as well be indeterminate, why should
they have hope? Why wouldn't they start to
believe that they have no hope and that the
policy of the State of New York is for them
to die behind bars, and thus why not make it
quicker and kill themselves?

Aren't we going to see more people
kill themselves if we keep having
indeterminate sentences where there is no
hope?

ACTING COMMISSIONER ANNUCCI: Senator
(sic), I can only say that people that have
long sentences, when I meet and speak with
them, a lot of them have turned their lives
around, a lot of them believe in giving
something back to society, and they find
purpose where they are.

Whether or not they will someday have
the ability to get out and that's what
they're hoping for, that is a personal,
individual decision for them.

ASSEMBLYMAN CARROLL: Thank you,
Commissioner.
CHAIRWOMAN KRUEGER: Thank you.

I think our final Senator is Senator Salazar, who's the chair, and she gets a three-minute follow-up question or questions, plural.

SENATOR SALAZAR: Thank you, Chair.

I just want to quickly note, because Assemblyman Walczyk asked about it, all DOCCS staff actually are eligible for tuition reimbursement, but it's administered through GOER rather than through DOCCS.

I wanted to ask you, Commissioner, about the work release program. My understanding is that currently individuals at maximum-security facilities are categorically excluded from eligibility for work release. Is that correct?

ACTING COMMISSIONER ANNUCCI: Well, you have to be eligible under the rules and regulations. There's nothing that says you can't apply for work release if you are confined in a maximum-security prison.

There are very detailed regulations. You have to be within two years of your
earliest release date. So if you're still in
a max, you're probably not within two years
of your earliest release, or you're there
because of some complicated reason like your
mental health or medical reasons.

The statutes are extremely complex
that deal with work release, and there are
crimes of restriction that are involved. And
at some point maybe before I die or -- I'll
try and straighten out those statutes and
make them a little more understandable.

But for example, if you're convicted
of any homicide offense, you're ineligible
for work release. And maybe that needs to be
reexamined. Sex offenders, for good reason,
are barred as well, and other types.

But work release is a very important
program. It is a way of transitioning back
into society where you're given some degree
of liberty. You, to participate, are
transferred to a facility designated as a
work release facility, and then you gradually
furlough and get an approved residence and
reintegrate with your family and earn real
money like John Q. Public does as well, and
pay taxes.

SENATOR SALAZAR: Thank you. Yeah, I
agree with you, it's a very good program, and
would also like to see eligibility expanded
to include people even if they have been
convicted of certain crimes that currently
render them ineligible.

Wanted to ask quickly about the
Executive proposal to waive fees for
non-driver IDs for formerly incarcerated
people. Under the current law, when do
incarcerated individuals apply for a
non-driver ID? Can they begin the process
while they're incarcerated, for example, or
is it only after?

ACTING COMMISSIONER ANNUCCI: We
intend to allow that to happen under the
pilot that we're going to work on with DMV.

Right now what we do have is a program
that's operated out of a community
supervision in New York that is funded by
outside money where they can get their
non-driver ID when they report there. So --
and that's for parolees in the entire five boroughs. And they have the physical machinery there at the office, so we make it easier for them to apply.

Now, what we're going to do -- and we have to work out the details, and we're currently in intensive discussions with DMV, an excellent partner on this -- we're going to pilot it at least at a couple of sites. There's a lot of logistics that have to be worked out, and what equipment is needed and technology, et cetera. But the idea is to give them, for this pilot, non-driver ID when they leave the correctional facility.

So if that works the way we think it can -- and there's a lot of details that we'll work out, but we're working together, it's an excellent partnership --- it will give us a leg up on that.

SENATOR SALAZAR: Thank you. Appreciate it.

CHAIRWOMAN KRUEGER: Thank you.

I am now playing Chair Weinstein for a little while. The next Assemblymember is
Linda Rosenthal.

There you are. There you are, yes.

ASSEMBLYWOMAN ROSENTHAL: Yes. Thank you, Senator.

Hello, Mr. Commissioner. I have a couple of questions for you. DOCCS has suspended programs and limited visits because of COVID-19. Is the COVID release policy still in place?

ACTING COMMISSIONER ANNUCCI: The COVID release policy?

ASSEMBLYWOMAN ROSENTHAL: Yeah.

ACTING COMMISSIONER ANNUCCI: We have not had to do that recently. So -- but we are implementing the Less is More, we're still continuing to do that and release people that are under -- the spirit of Less is More. Totally, I think it's about 573 that have been released.

Right now we are on program pause. We reevaluate that every two weeks because of the recent spike. But I'm hopeful of reinstating that in the not-too-distant future.
But visits are not suspended, by the way. We're still allowing visits. A visitor comes, they get the test, if it's negative, then they can visit with their loved one.

ASSEMBLYWOMAN ROSENTHAL: So the move from delta to omicron, how has that affected this policy?

ACTING COMMISSIONER ANNUCCI: Because of the spike in numbers, we basically just look at who's positive. And it causes us to -- when we're seeing the spike, and it happened pretty significantly. We think we're on the downswing now.

But we've decided, in the best interests of everybody, just put a program pause on so that that is on hold -- and it's been on since December of whatever date, not too terribly long. And we're watching the numbers, and I'm hopeful of reinstating that in a couple of weeks.

But still delivering program related things with our outside colleges, through the tablets and other means of getting them the materials they need. And then hopefully
bringing the volunteers back as well.

ASSEMBLYWOMAN ROSENTHAL: So what
determinants -- do you have like a list of
determinants that will guide you in terms of
when you --

ACTING COMMISSIONER ANNUCCI: We look
at the raw number of positives at every
correctional facility, we look at the number
of staff that are out, we look at who's
positive, pending tests, who's quarantined,
who is in an outside hospital. There's no
magic number, but it's just when we sit
down we'll meet with our deputy commissioner
and chief medical officer, who works hand in
glove with DOH. And when there's a consensus
that we may need to do this now to stay ahead
of it before it overwhelms things, we act it.

We want to avoid what happened in
2020, and we're pushing as many things as we
can. We just now crossed 53 percent for the
number of population that have been
vaccinated. It's a lot of cajoling and
incentivizing that we're trying to do. I
wish I could get that number up higher, but
we'll continue to show them educational materials and anything else that can get them to change their mind and accept the vaccine.

CHAIRWOMAN KRUEGER: Thank you.

ASSEMBLYWOMAN ROSENTHAL: Is it that many people who don't want a vaccine, or for what reasons?

ACTING COMMISSIONER ANNUCCI: People make their own decisions. Just like people in the outside world, they'll decide that they want the vaccine or don't want the vaccine.

We've made the vaccine available going way back, and we keep making it available. And the best we can do is just keep giving them the educational materials, but you can't compel someone to accept the vaccination if they don't want one.

CHAIRWOMAN KRUEGER: Thank you.

ASSEMBLYWOMAN ROSENTHAL: Okay, thank you.

CHAIRWOMAN KRUEGER: I have to cut you off, Assemblywoman. Thank you.

ASSEMBLYWOMAN ROSENTHAL: Thank you.
CHAIRWOMAN KRUEGER: Thank you.

Next is Assemblymember Ra, who's the ranker and gets five minutes.

ASSEMBLYMAN RA: Thank you, Chair.

Commissioner, thanks for being with us again.

So just a couple of questions relative to the staff there. And, you know, a lot of people have brought up the situation. And I'm sure you're familiar that last fall Governor Hochul made an agreement for two-and-a-half-times overtime for nurses and other healthcare professionals, which I believe includes healthcare workers that work in DOCCS facilities.

Do you think that perhaps the corrections officers should get a similar overtime rate?

ACTING COMMISSIONER ANNUCCI: I could tell you, Assemblyman, that that's an issue that we're looking at. I've received an official letter from the president of the union.

Our initial approach was to be very
surgical and try to deal with those positions
that really were -- we were losing to other
agencies. So it was an immediate response to
put us on par with other agencies and not
have our nurses -- and we already have very
high vacancy rates with our nurses and
similar healthcare titles leaving. So this
was an immediate surgical step.

From Day 1, both myself as well as the
Governor has recognized that our staff, all
of our staff who have come to work in our
correctional facilities during COVID are
heroes and heroines, and they deserve our
appreciation. And she has come to our medals
event, and she personally conveyed the
appreciation to the entire audience, which
was a cross-section of superintendents and
representatives of the union and medal
recipients as well.

So I'll tell you that it's something
we're studying right now. There's a big
fiscal to it, a huge fiscal to that. I'm not
sure if we can balance that. But I
understand why the request was made, and
we'll give it careful consideration.

        ASSEMBLYMAN RA: Sure. And I -- you
know, well, fiscal things are what we're here
to talk about today, so just wanted to get
your thoughts on that.

A few different -- you know, of my
colleagues have talked about violence.
Obviously there's been a huge uptick. You
did talk about, you know, the relationship
with the DAs. Do you have any data you can
share in terms of how many cases the last
couple of years have been referred to DAs for
criminal charges for inmate-on-inmate or
inmate-on-staff violence?

        ACTING COMMISSIONER ANNUCCI: I don't
have that number at my fingertips, but it's
something I believe we do track and I'll see
if I can get that for you.

        ASSEMBLYMAN RA: Thank you, yeah. And
likewise, if you could, you know, any that
have resulted in convictions with, you know,
additional concurrent or consecutive
sentences.

        ACTING COMMISSIONER ANNUCCI: Sure.
ASSEMBLYMAN RA: Great. And then, you know, really along the same lines, I know you mentioned -- you know, I and the rest of the Legislature I think are well aware of this, that there are tons and tons of programs that you have been -- initiatives that you've been asked to implement after the last few years. And my colleagues from the Senate have talked a little bit about HALT.

And, you know, when we look at the fact that over the last few years the inmate population, you know, is half yet, you know, I saw a chart, and it's almost like the violence is going up, you know, in the opposite direction of the number of inmates, which is very alarming.

So, I mean, do you think that implementing something like HALT while the situation seems to be the way it is in the facilities is a problem? Is it something that perhaps needs to be looked at to slow the implementation of that?

ACTING COMMISSIONER ANNUCCI: Well, first let me say one of the potential drivers
of what we're seeing is how the percentage of
the population, the numbers that are
convicted of violent felony offenses, it's
about 76 percent. So the reduction in the
population has been disproportionately
nonviolent. It wasn't that long ago it was
at 66 percent; now it's 76 percent. So that
may be one of the drivers of it. I don't
know. I hope that the task force will give
us better ideas.

I will repeat what I said earlier: We
are still going to be able to separate, which
is the number-one thing you need to do when
you have violence. Whether it's an
incarcerated individual against another one,
or against staff, they need to be removed
physically from where they are, they can't
remain in general confinement.

The conditions of SHU, traditional
SHU, are going to change. RRUs are going to
change. But they will still be managed
safely. We're going to deliver out-of-cell
programming and treatment safely so that
everybody can still feel safe. If anybody
thinks they can commit serious crimes or, you
know, be involved in gangs and they'll still
be able to run their game in the yard or
whatever -- not going to happen.

ASSEMBLYMAN RA: Thank you,
Commissioner.

CHAIRWOMAN WEINSTEIN: Thank you.
We go to Assemblywoman Kelles now.

ASSEMBLYWOMAN KELLES: Wonderful,

thank you so much.

Hello, Commissioner.

ACTING COMMISSIONER ANNUCCI: Hello.

ASSEMBLYWOMAN KELLES: Good afternoon,
not morning.

Just a couple of comments, a few
questions. One of the things that has been
brought up before is programming,
specifically for rehabilitation.

I just want to mention -- I know I've
spoken to your staff about this, others have
as well. But I would love to see the Roots
of Success program initiated and expanded
within the prison system, the program that is
a 10-module program to teach about
sustainability and work development in
housing, electrification, water resources.
It's an amazing program in 34 states,
20 years of experience, two countries. It
has shown to reduce costs of waste and water
usage and energy usage, reduction in
recidivism rates, reduction in violence to
corrections officers -- you name it, this
program has been really {unintelligible}.

I'd love to see that put in place in
our system. I know Ohio has been doing this
for 10, 20 years and they have seen huge
turnarounds in their system.

Another thing I wanted to mention from
my conversations -- I think I asked you a
similar question last year and in talks with
some of the prisons that I've visited -- the
people who are released from prison, between
40 and 50 percent of them go directly into
shelters. So I think relying specifically on
the goodwill of nonprofits is not going to be
enough to absorb that level. I think putting
in state funding and supports specifically
into transition housing is going to be
necessary. So just wanted to add that.

And you had mentioned -- a quote-ish
from you: Whatever you've done in the past,
there's still a chance to turn your life
around, and your life matters. I believe in
this. I agree with you deeply. And wanted
to just add, then, if the way that people can
build a sense of meaning and self-value in an
incarceration system is to actively
participate in college courses that build a
sense of self-worth and provide valuable life
skills that could be used in the community
once they're released as well as reduce their
likelihood of recidivism, would it not be
logical, then, to maximize access to these
merit-time programs?

And a previous questioner specifically
asked what disqualifies someone from
participating in college courses and other
programs, alluding to a mindset of punishment
in a system that's supposed to be about
corrections.

Do you not believe that giving a
person hope and a sense of self-worth through
these types of programs could actually be
seen as a way to reduce crime in a prison and
protect corrections officers?

ACTING COMMISSIONER ANNUCCI: So very
good points. First of all, we'll always look
at any new programs. The one you just
described -- I meet with my corrections
commissioners from across the country
regularly. We stay in touch with each other.
When I go there I look at their programs,
whatever's being showcased. There's a lot of
good stuff out there. So we'll certainly be
happy to look at that.

The shelter issue number is a
challenge. I think I mentioned that a lot do
go to shelter, but at least they don't stay
too terribly long. The average stay in the
New York City shelter system for those being
released to it is about 37 days. I'd like it
to be zero days, but it's 37 days.

Back to who is eligible to participate
in college, we don't put up any barriers for
anybody to participate in college. We
welcome them. I continually showcase the
success stories. When I was out in Phoenix recently there was a presentation by an individual, he gave me his book. I'm going to distribute it in my library. He was a significant drug dealer. His book is From Prison Cells to Ph.D. He got his Ph.D., he's an endocrinologist at John Hopkins. I'm going to put his book in our library so he can further incentivize other individuals.

And his point is we should be as open as we can to everybody to participate in college. It's not just get them a vocational job -- which is very important, but people can go beyond college. They can get master's degrees, they can get Ph.D.s. And if it was possible for him, it could be possible for just about anybody.

CHAIRWOMAN WEINSTEIN: Thank you.

Thank you, Commissioner.

We're now going to go to our final questioner, Assemblyman Weprin, chair of Corrections, for a second round of three minutes.

ASSEMBLYMAN WEPRIN: Thank you,
Madam Chair.

Commissioner, thank you for the long day of participation.

The racial diversity study that Senator Hoylman referred to was a little disturbing, based on the statistics that they cited. I think the answer is the diversification of the Parole Board, which has happened since I'm chair. We've filled a number of spots, and they've been a much more diverse board, as you pointed out earlier today.

I believe there are still even three or four vacancies. I think we passed legislation to allow up to 19 members, and I think it's either 15 or 16. I think your website says 15; I've heard 16. So there are either three or four vacancies on the Parole. Can you recommend to the Governor that they be filled as soon as possible? And I would hope that, you know, video interviews not be a substitute for in-person post-COVID. because I know they've been emphasizing video visits because of COVID, but I would like to
see more in-person, especially if we can get
more parole commissioners up to speed, up to
19, and then they can travel all over the
state. And I think that is certainly the
best way to give people a fair chance at, you
know, being released and being welcomed back
into society.

    ACTING COMMISSIONER ANNUCCI: So,
Assemblyman, the Governor has already done
that. She's announced in her State of the
State and it's in the budget that she wants
to have all 19 positions filled. There's
also a provision in there that they can't do
any outside employment so that they can
devote their full time and attention to the
job at hand, which is making informed
decisions following parole release
interviews, setting conditions, et cetera,
and doing all related work.

    So that's her intention. I fully
support that. I think it makes sense. And
I'm sure they'll come up with continuing
diversity to represent all New Yorkers on the
Parole Board.
I'll convey your sentiments on the second point to the chairwoman, and it will be her decision what to do with that.

ASSEMBLYMAN WEPRIN: Okay, thank you.

Again, I will also emphasize to the Governor the importance of filling these, because as you know, since I've been chair since 2017, we had about six or seven vacancies, and I urge filling them and have made recommendations of various diverse members.

So, you know, I do think that the newer members are much more diverse than the older members, and certainly more reflective of the population of New York State. So, you know, I strongly would emphasize that as well.

ACTING COMMISSIONER ANNUCCI: Very good, Assemblyman. Thank you.

CHAIRWOMAN WEINSTEIN: Thank you, Commissioner. I'm going to turn -- thank you for being here with us this year as well as so many other years.

I'm going to turn this back to
Senator Krueger.

CHAIRWOMAN KRUEGER: Thank you very much. And indeed, Commissioner, thank you for spending much of your afternoon with us. We will now allow you to go back to the rest of your day.

And we will be calling up, from the New York State division of State Police, Kevin Bruen, the acting superintendent.

Are you with us, Superintendent?

SUPERINTENDENT BRUEN: I am.

And I'm no longer acting, which is good.

CHAIRWOMAN KRUEGER: Okay. Well, welcome, Superintendent.

SUPERINTENDENT BRUEN: Thank you.

CHAIRWOMAN KRUEGER: And you know the drill around here.

SUPERINTENDENT BRUEN: I do.

CHAIRWOMAN KRUEGER: We have your testimony, but try to summarize your key points in 10 minutes or under, and then we will start to ask you questions, those of us who are still standing ourselves. Thank you.
SUPERINTENDENT BRUEN: I will. Thank you, Chairs Krueger and Weinstein and distinguished members of the joint committee, for the opportunity to discuss Governor Hochul's Executive Budget for the Division of State Police.

I'm Kevin Bruen, superintendent of the New York State Police.

I want to thank the Legislature for its continued support of the New York State Police. Because of your support, Troopers continue to uphold this agency's reputation as one of the finest law enforcement agencies in the country.

For more than 100 years, the New York State Police has consistently provided a high level of professional public service. We learn and adapt to the needs of a constantly changing society, and we strive for continuous improvement in every aspect of our work. Our mission priorities remain the same: Highway safety, professional police services, investigative support, detecting and preventing terrorism, preparing for and
responding to emergencies and disasters.

As you are aware, the majority of the appropriations for the State Police operations are in support of personnel service obligations. Most non-personnel service appropriations are non-discretionary expenditures for things like vehicles, equipment, facilities, and communications. These expenditures are essential for providing the tools necessary for the men and women of the State Police to fulfill their law enforcement missions.

Getting the State Police back to an adequate staffing level is a top priority. To that end, we currently have an Academy class, and we are expecting a second, and potentially a third later this year.

In addition, we are currently offering our Trooper Entrance Exam, and we continue to seek the highest-quality candidates. We want to hire and retain the most diverse group of individuals that reflect our communities and the communities we serve. To that end, we have made our exam more accessible by moving
to a computer-based platform, making the exam available at testing centers across the state, upwards of 50, 250 nationwide, and across the military installations around the world.

We have also enhanced our recruiting efforts and implemented a marketing plan to expand our reach into minority communities. I know that many of you reached out to your constituents on our behalf to help build awareness of the exam, and we appreciate any continued assistance you can provide.

Another top priority is addressing gun violence. The Governor has included in the proposed budget expenditures that would help expand our efforts to reduce the threat of gun violence across the state.

One such proposal is funding expanded Community Stabilization Units, where we partner with local law enforcement to proactively address gun violence with an intelligence-based approach that identifies and concentrates on the greatest threats of gun violence. We have had success since this
initiative was started last year, and these additional resources will allow us to assist more communities.

We also seek to improve our crime tracing abilities so that we can identify and break up illegal firearms trafficking operations. We are already working closely with our federal, state and local partners, including the NYPD and the ATF, and have had success in taking illegally possessed guns off the streets.

Governor Hochul's proposal to fund a team of analysts at the New York State Intelligence Center will provide much-needed additional support that would help the State Police and our partners identify, disrupt, and shut down such gun trafficking operations. Our focus on gun trafficking is already paying off -- our gun seizures, as an agency, are up over 200 percent from last year.

Another pressing concern relates to the analysis of smartphones and other digital devices by our Computer Forensic Laboratory.
There has been an exponential increase in the lab's caseload and the complexity of the devices being used to commit crimes has highlighted the need for additional resources. The Governor's proposed budget includes funding for new equipment and software to expand our Computer Crime Unit to combat the proliferation of crimes being committed using highly technological means.

In addition, highway safety remains one of our core missions. I would like to update you on our ongoing efforts to ensure highway safety following the legalization of adult-use cannabis. One part of our safety strategy includes training all Troopers in something known as ARIDE, Advanced Roadside Impaired Driving Enforcement.

This is a federally developed program that allows Troopers with additional training to help identify drug- and alcohol-impaired drivers, and it fills the gap between the standard field sobriety tests and something known as the highly specialized Drug Recognition Expert training.
So far, nearly 80 percent of our Troopers on the road have received ARIDE training, and all new Academy recruits are instructed and trained in ARIDE.

Our highest priority continues to be public safety and the safety of our members. With your support, the Executive Budget continues to provide Troopers with the necessary equipment, training, and other valuable resources to ensure their safety as they carry out their duties in serving and protecting the public.

Again, I am honored and privileged to represent the nearly 6,000 dedicated men and women of the State Police who serve and protect the people of this great state. They do so selflessly, with tremendous pride, and at sometimes great personal risk.

Thank you very much for your support for the State Police and for the opportunity to address you all. I welcome any questions you may have.

CHAIRWOMAN KRUEGER: Thank you very much, Superintendent Bruen.
I believe our first questioner will be the chair of our Codes Committee, Senator Jamaal Bailey.

SENATOR BAILEY: Thank you, Madam Chair.

And Superintendent, good to see you again. We briefly -- we were able to converse last year during your confirmation when you went from "acting" to "superintendent." So I just wanted to congratulate you and thank you for your testimony today.

SUPERINTENDENT BRUEN: Thanks, Senator. Good to see you.

SENATOR BAILEY: Yes, sir.

CHAIRWOMAN KRUEGER: Jamaal, one second. Whoever's on clock, please end the superintendent's 10 minutes. Oh, there you do. Perfect. Thank you, Jamaal.

SENATOR BAILEY: No problem.

So you mentioned the -- obviously the issue of gun violence is something that has permeated a lot of the conversation today in the Public Protection hearing, regardless of
who's been testifying. And you mentioned there was an effort by the Governor in the Executive Budget, speaking about, you know, local law enforcement and the State Police. What does that look like in practice?

Like, for example, how does the State Police -- like how does a certain troop, Troop A or Troop B or whatever the troop number is, how would that troop partner with local law enforcement in order to be able to assist with gun violence prevention?

SUPERINTENDENT BRUEN: It looks different depending on the community and on the problem. When they reach out to us, we assign the right number of supervisors and investigative support. They gather intelligence, they come up with a plan. And it could be, for example, problems on weekends in particular areas, so we may deploy both uniformed Troopers or investigators, and we may do follow-up, depending on arrests or intelligence developed around gang violence.

A lot of this -- unfortunately, a lot
of this gun violence is associated with gang
activity, which may mean things like local
disputes and if you have enough intelligence
you might be able to get ahead of that and
disrupt that violent event.

So it will look different at different
places.

SENATOR BAILEY: Okay. Because again,
there's been conversation about the Troopers
and their presence in the City of New York
in -- I also represent Westchester County as
well, and so I'm just always curious as to
how the interagency I guess synergy, for lack
of a better term, would work.

SUPERINTENDENT BRUEN: Great question.
And quite frankly, the way it works when it's
the City of New York or other communities, I
may speak initially with the police
commissioner of the City of New York, we'll
talk about things to develop new plans or
things that -- ways that we're not already
cooperating.

But we're already cooperating with
NYPD on guns. Their intel units and their
people are right up -- the Troopers who
develop some of these cases may not in fact
be in New York. They may be somewhere else
and -- but the destination of these illegal
guns, let's say is Westchester or is New York
City, and in that case we'll reach out and
develop a strategy with them on any
particular case.

SENATOR BAILEY: Thank you.

So my understanding is that there's
roughly $6.1 million allocated towards
recruitment efforts. You mentioned in terms
of recruitment that there were efforts afoot
to attempt to reach out to communities of
color and to engage communities of color in
relation to the tests. I know it's a
conversation that you and I have had before
about the diversity within the ranks of that.

How does that money get spent in
actuality? And also I'd like to ask a
follow-up question in terms of diversity
within the leadership structure of the State
Police.

SUPERINTENDENT BRUEN: Right. Let me
answer the first one.

I don't think I have that much money dedicated to recruiting. I would love if I could go into the couch and pull out $6 million for that. We have used asset forfeiture money and are approaching a million dollars in terms of it, but I don't think we're approaching 6 million.

I would say, more importantly, is what we've done is -- I've told you that we've changed that test. And that was a great idea, internally driven. When I looked at our diversity numbers, I said: "You've got a great idea here, we need to now exploit it."

And so I created a dedicated recruiting unit that is a full-time recruitment and development unit that has developed recruiting teams and these community outreach programs, and also revamped our advertising, which -- where we spend significant money there, and internet-based advertising, and our own kind of social media presence.

The other thing we've done is we've reached out to community partners across the
state -- Rochester, Buffalo, Syracuse, the
Hudson Valley, Poughkeepsie, we've got
meetings in New York City -- where we'll meet
a range of community leaders -- youth group
leaders, church folks, elected officials --
and we'll have sort of a meeting with
influencers, community influencers, pitch
that idea, and then use those contacts and
connections to then get in and do active
recruiting.

So -- and I have something to tell you
which is -- I don't want to lose the good
news for all the details -- we have a testing
period right now, people have signed up to
take the test, people have actually taken the
test. And our numbers, in terms of the
minority sign-ups, are double, triple what
they were the last cycle. So we're over
20 percent African-American signed up, four
times Asian-Americans, increase in Hispanics.

It's early days yet, but this effort,
this targeted effort -- and I sometimes like
to say it's a targeted effort to someone who
doesn't necessarily see themselves as a
Trooper. But you do the social media, and then you do the one-on-one kind of recruiting saying to this person, hey, we see qualities in you that would make you an excellent State Trooper, and here's why.

So the effort has paid off so far.

SENATOR BAILEY: That certainly does bode well for the efforts of improving overall diversity within the ranks of the department.

The second question I guess dovetails off of that in relation to leadership positions within the State Police. You know, and we would hope that the leadership would also be reflective of the great diversity of the state. How is that effort going? How is that taking place in practice? How are we diversifying the ranks of leadership within the organization of the State Police?

SUPERINTENDENT BRUEN: So the second mission of that group I created that's headed up by a commissioned officer -- a captain, which is a significant rank inside the State Police -- the second part of that mission
is -- the first is get people in the door right now. The second part of it is I want you to look at the whole process, holistically. Are there barriers, are there barriers to promotion coming on the job or promotions through the ranks?

The good news is that there doesn't appear -- at first blush, there does not appear to be barriers, that the number of commissioned officers, which is our highest group of supervisors, reflects the number of the overall ranks. So just sticking with African-Americans, I have 4 percent African-American Troopers, I have 4 percent African-American commissioned officers.

But we still have to look at those, are there -- and beyond barriers, is there support we could provide? You know, hey, there's -- to develop leaders, to retain leaders longer into their career to reach the higher level commissioned officer and supervisor ranks.

I still go back to my initial problem, which is I do not have a diverse enough
workforce. We need to put maximum effort into that. I do believe, although it's longer term, that once we get those numbers up, the promotion and supervisory thing will work out, we'll benefit from that. But again, the direction is look at every piece of it, defend every piece of what we're doing, and expand our efforts for minority and women in terms of the higher-ranking officers.

SENATOR BAILEY: Superintendent, so I guess my last couple of minutes will be utilized in terms of speaking about the body cameras, the recent body cameras, I guess. In sum and substance, how many body cameras have you purchased and how many will be purchased this year, and how is the program going thus far in its implementation?

SUPERINTENDENT BRUEN: We have rolled out the body cameras to the vast majority of the Troopers. The number of body cameras will be roughly 3,000. The last troop that's being rolled out is A Troop. That's the Buffalo area. I expect that that rollout
will be completed by the end of next month,
and that will be -- and Troopers will have
that fully done.

The experience has been very good.
The Troopers have accepted it and in fact
embraced it. It's been very useful so far,
and I think it's a great program.

You know, I've got a concern, which is
we've got to make sure that we're able to
reproduce and get the video out the door, so
that's an effort. It takes a fair amount of
time to redact the video and make -- get it
ready to be disclosed in a public -- under
our FOIL system. But I really wish people
could watch the videos I've watched, just
randomly. You'd see Troopers helping people
and being professional and great all the
time.

SENATOR BAILEY: Without a doubt.

And I would imagine -- so I guess the
final -- I guess the final question is let's
say that there is a violation. What happens
if an officer is found not have turned on the
body camera? What are the rules and
regulations of the State Police if it's not being recorded during their time of duty?

SUPERINTENDENT BRUEN: Well, it's a requirement. You are supposed to use it. You are supposed to utilize it, engage it when appropriate and required.

If you don't, you're going to be subject to discipline. If you've done it accidentally, if there's a minor inattention to detail, you'll get one set of punishments; if you're really doing it on a routine basis, your job is in jeopardy. You know, there's a wide range of ways that you could create this. So far we have not run into that problem.

SENATOR BAILEY: Okay. Thank you, Superintendent. Madam Chair, I may have a second round. But for now, thank you so much.

SUPERINTENDENT BRUEN: Thank you, sir.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to chair of the Assembly Codes Committee, Assemblyman Dinowitz, 10 minutes.

ASSEMBLYMAN DINOWITZ: Thank you.
Superintendent, good afternoon. It's still afternoon, right, it's not evening yet?
Oh, it is evening. Sorry about that.

SUPERINTENDENT BRUEN: We're getting closer.

ASSEMBLYMAN DINOWITZ: We are.

Well, listen, we've made progress. You are the sixth of 26 witnesses, and we have managed to do that in just a little -- about six and a half hours. So pretty good.

So several years ago when we passed the SAFE Act, New York extended -- wrongly, in my opinion -- I should say ended wrongly its own attempt at creating a database to collect and submit all ballistics evidence of weapons sold in New York.

And as I'm sure you know, the Assembly Codes Committee, which I chair, held a hearing that examined in part this database. Now, your agency, for whatever reason, chose not to appear at that hearing, which was unfortunate because I thought it could have been very helpful to try to get to the bottom of why it's taken so long to get this done.
So my question is, when will the state create its ammunition database to track sales to residents who may be assembling deadly stores of ammunition, as mandated by the SAFE Act? Because too much time has passed already.

SUPERINTENDENT BRUEN: The -- if I understand the -- I think you're talking about the ammunition check as opposed to the CoBIS database that was shut down years ago, which was the storage of expended shell casings. So I think we're talking about the SAFE Act, which is the ammunition check.

There are significant problems and challenges with creating that system. The most significant and the biggest problem we face is that federal law prohibits the use of the NICS system to check the eligibility or suitability of someone purchasing ammunition. So the only database that we could check is New York's criminal records system.

The next problem is the problem of infrastructure. We do not have an existing infrastructure or a technology infrastructure
to create the check of the suitability for
sale. However, I've spoken to Director
Riddick, and he and I both have agreed that
he and I need to start meeting on this again
and re-look at it from our team's point of
view, to see if there are things that we can
advance the ball here on. Because I agree
with you, it's gone too long and we need to
move this further down the road.

ASSEMBLYMAN DINOWITZ: Okay. I mean,
nine years. I think the state built the
Tappan Zee Bridge, or the Cuomo Bridge, in
just a few years, so I'm pretty sure we have
the capability of getting this done if we
really wanted to.

So about three years ago the
Legislature enacted a law that allows law
enforcement to remove firearms from people
charged with domestic violence offenses and
the courts to revoke or suspend their
firearms licenses. And this info is then
reported to the State Police and DCJS,
presumably for inclusion in the statewide
license and record database established in
the SAFE Act.

However, as far as I know -- and tell me if I'm wrong -- this -- it's my understanding this license and record database, like the ammunition sales database, is not operational, and it's been -- it's been quite some time.

So I just want to first find out, is that correct, what I just said?

SUPERINTENDENT BRUEN: I don't think so. I mean, the -- there -- a couple of years ago there was something called the ERPO law that was passed, and that's one thing. The -- if you have your license revoked by a county -- or suspended -- based on domestic violence, that county licensing officer would communicate to the State Police that that's occurred, and we'd make a record of it.

The license database years ago was very crowded, had multiple platforms -- in other words, when -- a license that was just issued in the '30s was on paper and, you know, it was done in very different ways around the state. That's been cleaned up
through the recertification process. I think we're now into the second round of pistol permit recertification.

So a lot of that has been cleaned up, and we have a pistol permit database and we also have a -- it obviously mirrors the county records, licensing. The State Police does not issue pistol permits. And we have a registry of assault weapons, which we're in the second round of recertification of that as well.

ASSEMBLYMAN DINOWITZ: Okay.

Regarding the first one that I talked about, the ammunition, what is your sense in terms of being able to adhere to the -- what we decided to do so many years ago? Like how soon?

SUPERINTENDENT BRUEN: I don't have an estimate on it right now. I'm telling you that my -- my read and understanding of this is the challenges are very significant. The biggest challenge is that we could only -- due to the federal law, only check records generated in New York. So if you come in
from Iowa, there's no check. So we have that
initial problem that's built in.

The next problem is similar to -- you
know, is a technological one, which is in the
middle of Hamilton County when there's not a
lot of connectivity, how do you check that
system against the database -- and these
databases are in place and owned by DCJS and
OMH -- against that?

What I'm telling you is that we're
going to -- the director of ITS and myself
are going to sit down and grab people and
really examine what it is we're doing, what
can we do, and what recommendations we can
make based on this. I get the frustration.

ASSEMBLYMAN DINOWITZ: Okay. Well,
obviously I would encourage that to happen
expeditiously. Thank you very much.

SUPERINTENDENT BRUEN: Thank you, sir.
CHAIRWOMAN WEINSTEIN: To the Senate.
CHAIRWOMAN KRUEGER: Thank you.
Senator Pete Harckham.

SENATOR HARCKHAM: Thank you, Madam Chair.
Superintendent, thank you for your testimony thus far. Good evening. And please accept my thanks to all the women and men of the State Police for everything you do to keep us safe.

In my brief time I want to discuss the opioid crisis and overdose. As we know, very often it's law enforcement who are the first to arrive on the scene of an overdose. And we have a spectrum of responses to that. We have some local police that treat an overdose scene like a crime scene, and other departments treat it like a behavioral health crisis and actually will bring peers and social workers to connect those people, if they survive the overdose, with services and treatment.

Where does the New York State Police fall in that spectrum?

SUPERINTENDENT BRUEN: Well, I would say we do both. For one thing, we understand that an individual who's overdosed has a certain set of problems. And I don't think there's anybody in the State Police --
members of the State Police family are not
excluded from being aware of people who have
had real tragedies with the opioid crisis.

But we also are a police agency and we
want to know where they got -- who provided
this to them, who's profiting off of this.
And so we have a -- I won't get into the
details, but a robust effort put on by the
Bureau of Criminal Investigation to
backward-track how that person got the
opioid, how was it dealt, and who was the
person profiting from this outrage.

SENATOR HARCKHAM: What are you doing
at the scene to hook that individual up with
services, whether it be a peer, a warm
handoff to treatment? What is the State
Police's role, what do you view your role as
in that interaction?

SUPERINTENDENT BRUEN: We have crime
victim specialists and other people that we
make that referral to, but we would also --
it would vary from county to county and place
to place depending on the services available.

It's sometimes hard in that very
particular situation, as much as I would like to control and have the response be the same in every community, depending on available services we would do it differently in different places.

SENATOR HARCKHAM: Are all of your Troopers trained in the use of naloxone, and are they required to carry it with them at all times?

SUPERINTENDENT BRUEN: The answer is they are all trained and they all have it in the vehicles, troop cars.

SENATOR HARCKHAM: All right, terrific, thank you. I would like to offline discuss with you, when we have some time, some of the innovative programs that are being done in some of the counties across the state.

SUPERINTENDENT BRUEN: Outstanding.

Thank you, sir.

SENATOR HARCKHAM: Thank you.

CHAIRWOMAN KRUEGER: Thank you very much, Pete.

Next, Assembly?
CHAIRWOMAN WEINSTEIN: We go to Assemblyman Lawler.

ASSEMBLYMAN LAWLER: Thank you, Madam Chair.

Thank you, Superintendent, for joining us. I know it's been a long day of waiting around.

So on the issue of bail reform, the mayor of the City of New York put out yesterday, as part of his plan to combat gun violence, the need for judicial discretion and the ability of judges to look at the dangerousness of the individual, look at the evidence, look at their prior history.

Do you support what the mayor has said on this as a means of reforming the bail law that was passed?

SUPERINTENDENT BRUEN: You know, we make it a point of sticking to our lane, and decisions about bail reform or changes or tweaks to the bail, you know, I would leave to all of you and the courts.

You know, we follow and implement the rules as they are. You know, I understand
the general concept that it was difficult to
see someone stay in jail when there was --
you know, for failure to be able to post a
small amount of bail for a minor offense, and
I understand the other end of the spectrum,
which is what status do we give to a person
when police officers have made an arrest in
what's an armed felony offense and the
person's armed with a gun? I understand
that.

But, you know, we pretty much stick to
what my job is, and that whatever you
implement, we live with.

ASSEMBLYMAN LAWLER: Okay. And
further along those lines, the mayor also
indicated that he would be bringing back the
anti-crime unit, which has focused primarily,
in the past, getting illegal guns off the
streets. Obviously the Governor has made it
a priority of hers to address the scourge of
illegal guns coming into the state. She has
also talked about the State Police going down
to New York City and working cooperatively
with the NYPD on this effort.
Do you support or do you think it necessary for the anti-crime unit to be brought back? And would you support using the State Police to help in that effort?

SUPERINTENDENT BRUEN: I wouldn't presume to tell the NYPD what units to stand up or not stand up. We don't have a similar unit. We have a different approach, and that's the Community Stabilization Unit.

I have been in conversations with the police commissioner, the new police commissioner, and we have discussed a range of options. We want to do something on gun violence. We're already doing it together. We -- as I told Senator Bailey, we'll -- we, the State Police, can develop intelligence that guns are coming -- heading to a particular area in New York City, open that case up, gather information, do surveillance and other things. And we work directly with the New York City Police Department, and those cases have led to arrests within the last few days. We're doing that constantly.
The Troopers are already there. They may not be wearing the Stetson and the full uniform, these may be investigators who are developing intelligence and listening to phone calls and doing surveillance and that sort of thing. So we're doing it, we're expanding it. The Governor has made it a priority and, in essence, told me, you know, get going. And the new police commissioner and I have had very productive conversations and are really looking forward to continuing to work together and even work together more collaboratively and in sort of a more free police agency-to-police agency way.

ASSEMBLYMAN LAWLER: I appreciate that.

And the last thing, you know, I think there certainly can be bipartisan support for increased training for law enforcement, and especially with some of the reforms that have been put in place in recent years, ensuring that our police officers have the resources they need to implement many of these laws.

And so I've introduced a bill that
would create a $250 million fund for training
for law enforcement as well as other first
responders. And so I would just encourage
you to talk with the Governor, certainly, and
certainly I will talk with my colleagues.
But I think creating a designated fund to
support training for law enforcement -- and
truly ensuring they have the resources they
need -- is critical. And so I would
certainly encourage you to support that
effort.

SUPERINTENDENT BRUEN: We certainly
would.

But, Assemblyman, we spend a great
deal of time and effort training New York
State Troopers. It takes a very long time to
become a State Trooper, more than six
months -- it's almost a year to become a
fully functioning State Trooper, and they get
thousands of hours of training and then
continued training. So -- and that's due to
your support.

ASSEMBLYMAN LAWLER: My cousin is one,
and they do a great job. So thank you very
Superintendent Bruen: Thank you, sir.

Chairwoman Weinstein: Thank you.

Chairwoman Krueger: Thank you.

Next is Senator Andrew Gounardes.

Senator Gounardes: Thank you, Senator Krueger.

Good -- I guess it's almost evening now, Superintendent.

I want to talk a little bit about the executive order that former Governor Cuomo issued in 2019 that basically gave your department operational control of the New York State Park Police. And my first question to you is in the last two years, I would like to get your assessment as to how you think that transfer of operational control has been thus far.

Superintendent Bruen: Yeah, the State Police has had operational control of the Park Police for about two years.

The relationship between the State Police and the Park Police, in my judgment,
has been excellent for years. The cooperation between the Troopers and the Park Policemen and Park Policewomen has been fantastic. They were tremendous partners during COVID. They have, like us, not had new recruits for some time, so they've got falling numbers. And my Troopers have had to fill the gaps and provide some services there.

You know, I've met with the Park Police union upwards of half a dozen times, particularly early on. So we're making it work.

We're going to provide the support to the Office of Parks and Historic Preservation going forward in terms of looking at areas that the Park Police -- where they need to be, what's the right size of them, where they should be physically present all the time, what parks can operate as response parks.

The parks downstate --

SENATOR GOUNARDES: I'm sorry, superintendent, I want to piggyback -- I appreciate that answer. I only have a little
bit more than a minute left.

SUPERINTENDENT BRUEN: Sorry.

SENATOR GOUNARDES: I do appreciate your answer.

I know over the last two years the Park Police has lost about a hundred members and I think they're under 200 officers right now for the entire State of New York, which is shocking in many ways.

They've had no -- like you said, no new academies, but they've also not been eligible for any transfers or promotions every since this effective merger or operational control was made. And so while it's great, I'm glad to see that the Governor's proposing a new class specifically for the Park Police to graduate in a few years, I really wonder whether or not it makes sense to continue to have the Park Police operate under the State Police control and whether or not you would agree or you would support rescinding that executive order from December of 2019 to allow the Park Police to operate the way that they used
to, with fuller resources, under the Office of Parks and Historic Preservation.

SUPERINTENDENT BRUEN: So I'm also at -- I've lost nearly 600 Troopers during that same period due to retirements and what have you. We're at staffing lows.

The good news for the State Police and the Governor is if the Governor asks us to do something, we'll do it. So we'll either administer and work with our brothers and sisters in the Park Police and serve and protect the patrons of the parks just like we do the citizens of the state, or not.

But in any case, whether we're operating -- using operational control or we're not, I have to say that the working people, Troopers and Park Police officers, work fantastically well together and the relationship is great.

SENATOR GOUNARDES: I appreciate that.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Chair Weinstein.

You're on mute.
CHAIRWOMAN WEINSTEIN: I want to just actually go to myself to -- since my question was a follow-up to Senator Gounardes' question about the Park Police.

Are the Troopers going to be responsible for conducting the next Park Police Academy?

SUPERINTENDENT BRUEN: The Park Police has run their own academy. And to the extent they needed discrete help from us, we would certainly provide it. We've done that in the past and would continue to do it.

They have capabilities in training that we've taken advantage of from time to time. So the Park Police have the capability of running their own academy.

CHAIRWOMAN WEINSTEIN: And as you said to Senator Gounardes, so for the time being you're continuing with the operational control of the Park Police? There's not an end date set for that?

SUPERINTENDENT BRUEN: I've not been told of one.

CHAIRWOMAN WEINSTEIN: Okay, great.
SUPERINTENDENT BRUEN: So we're trying to -- yeah, trying to right-size it, trying to make sure that they're in the right places and where they're not able to do things, we're going to follow up and support.

CHAIRWOMAN WEINSTEIN: Great, thank you, Superintendent.

I'm going to send it back to the Senate.

CHAIRWOMAN KRUEGER: Okay, thank you, Assemblywoman.

Our next Senator is Senator Savino.

SUPERINTENDENT BRUEN: I think Senator Savino has left the hearing.

CHAIRWOMAN KRUEGER: Oh. Well, thank you. I guess -- you're right, I'm looking for her box and I don't see her.

All right, so then I'm going to jump in with my questions, Superintendent.

Let's start with under the Cuomo administration he had a policy of taking I believe up to 250 State Troopers and moving them into New York City at a time. And I'm in New York City, so I'm certainly not
unhappy to see State Troopers, but I never
saw any real demand for them from NYPD or
other city government agencies, while I've
heard from many of my colleagues from upstate
that they desperately are looking to find
more State Troopers.

So I'm curious whether there might be
a change of policy with the new Governor.

SUPERINTENDENT BRUEN: The Governor
has instructed me to make sure that what
we're doing in New York City is not
duplicative of the NYPD. And we're not doing
that.

And that's part of the discussions
I've had with the police commissioner, that
we're going to do things that support them,
add value to public safety, and are different
than what they would normally do. And we've
had plenty of great conversations with the
NYPD, and you will be seeing some things that
I think really add to the public safety
picture of the city.

But there's no doubt, we are not a
replacement to the NYPD, nor would we dream
to be. We're the State Police, and we have capabilities and talents that are different and can mesh well with the NYPD.

And the relationship and existence of the State Police in New York City has been there for a long time. I know there was much made of it recently, and there were more uniformed Troopers then, but there have been State Police in the city for over 50 years.

CHAIRWOMAN KRUEGER: And I don't have a conflict with there being a good relationship between the State Police and NYPD, obviously. But 250 is a significant head count. And given that I hear from colleagues in other parts of the state how worried they are that they don't have an adequate supply of State Troopers, I just wondered whether it was a discussion worthy of changing the formula or the number of people on New York City duty --

SUPERINTENDENT BRUEN: There's no doubt -- there's no doubt that we're looking to make sure that we have the right size for the mission that we have in there. There's
no doubt. And that we can support the
mission in New York City -- I said this
before. That gun task force or gun operation
that we're doing, and gun interdiction, the
Troopers may in fact -- may not be anywhere
near New York City. But the guns they're
investigating, the destination is New York
City.

So that's a lot of -- a fair piece of
what we're doing as well. But we--

CHAIRWOMAN KRUEGER: That's a
perfect -- yes, go ahead, sorry.

SUPERINTENDENT BRUEN: Yes, there are
things we've done in the city in a uniformed
basis, but I can't tell you -- I can't stress
enough the Governor has said not to duplicate
efforts.

CHAIRWOMAN KRUEGER: Great.

So on a very similar topic, what role
is your department taking in investigating
and following up on a growing trend in human
trafficking that appears to be going up and
down the Thruway from different parts of the
state, movement of people brought into the
country at Kennedy and then human trafficked through Long Island, through upstate New York. I am told by my colleague in Syracuse, Pam Hunter, that Syracuse is a center of sort of human trafficking intersections going north, south, east, west.

There were definitely reports of growth in this serious problem during the pandemic. Is there a role that the State Troopers have been playing to try to capture the people involved in human trafficking?

SUPERINTENDENT BRUEN: Yes. Those cases develop either from, you know, local intelligence, one-off arrests where the Troopers or the local police interview the people involved.

And they can lead to very significant cases. That's one of the resources that the NYSIC is involved with, and some of the commitments that we've talked about in terms of additional tools -- cryptocurrency detection and the cellphone capabilities of analyzing that.
Cryptocurrency and cellphones go with every major crime, organized crime function that currently exists, from drugs, gun trafficking and human trafficking. So that capability is going to explode and ramp up.

CHAIRWOMAN KRUEGER: Thank you. I look forward to learning more about that.

At the time the state passed its "Enough Is Enough" legislation to try to address the growth in campus sexual assaults, there was supposedly the creation of a campus sexual assault victims unit within State Police, with a funding allocation of $4 million for that unit.

Does that unit exist? And are we spending $4 million, and how is that going?

SUPERINTENDENT BRUEN: Yes, that unit exists and was at one time fully staffed. But like every aspect of my agency, it's been impacted by my dramatic drop in Troopers. I'm at 10-year staffing lows, or close to it.

I do think these next three classes -- the one that's in there in the academy right now, and the two that are proposed in the
budget -- will start to allow us to get back
up to being fully staffed.

But that is one place the BCI --
that's a BCI function, and that's a place
that I've had to slow the fill. Because if
you take -- you get BCI members by promoting
uniformed Troopers. And then if you've taken
the uniformed Troopers off the road, there's
nobody to respond to radio, you know, calls
and 911 calls.

So we're in that delicate spot of I've
got a lot of great Troopers who are ready to
be promoted to investigator and take on some
of those roles and work in what we call a
backroom, which is like a precinct detective
unit. They're ready to go, but I need people
out the door.

CHAIRWOMAN KRUEGER: Thank you very
much.

I'm going to not need my -- the rest
of my time, Assemblywoman Weinstein.

CHAIRWOMAN WEINSTEIN: Okay, so we'll
go to Assemblyman Reilly, three minutes.

ASSEMBLYMAN REILLY: Thank you,
Madam Chair.

Hi, Superintendent. Thank you for joining us.

SUPERINTENDENT BRUEN: Thank you.

ASSEMBLYMAN REILLY: I wanted to talk to you on what we spoke about last year during the budget season -- and I was happy to hear that you mentioned it earlier, of course, the ARIDE and the DREs. And I'm glad that you're going forward, everybody -- all the Troopers are being trained for ARIDE, which is an enormous task, and I thank you for that.

Being that in last year's budget we allocated an additional $10 million for DRE training, have we seen any turnkey with that in the State Police?

SUPERINTENDENT BRUEN: We are up over 100 DREs, which is significant.

You know, the real drag -- and I think we talked about this last time -- is there's only so much training capacity in the nation for DRE training, due to the complexity of it and the nature of it, and how advanced that
Trooper or police officer has to be in order to get into the training.

But we're increasing it, and we're over 100. And I think we're shooting for a number that's over 110. And I would like to get there.

ASSEMBLYMAN REILLY: Awesome. Thank you. And I thank my colleagues for actually pushing for that in the budget and making it happen. So thank you.

One thing I want to touch on with the gun violence, with the shootings, especially in New York City. Raise the Age seems to be a point of contention with the 16- and 17-year-olds that are armed with a loaded firearm. Currently that case would go to Family Court because it wouldn't fit under the exception where it could stay in Youth Part Criminal.

So right now we're trying to push for getting that part of the Raise the Age changed to allow loaded firearms to proceed in youth part. Do you know how many firearms the New York State Police have recovered from
those under 18 years old?

SUPERINTENDENT BRUEN: I do not. I do not have that number. We can get it.

I would say that it is probably significantly lower than NYPD's number. They have a different operating environment than we do.

But I can have someone provide that number to you.

ASSEMBLYMAN REILLY: Yeah, if we can get the state one. I have --

SUPERINTENDENT BRUEN: Well, remember, there would be two different numbers. One would be a statewide number outside of the City of New York, and one would be our internal number, how many have we done. So there would be two different numbers.

DCJS would probably have the -- well, we could -- we'll find both numbers for you. But I want to emphasize that, you know, the State Police would have one number and that that would be subsumed into the greater number, which is how many outside the City of New York.
ASSEMBLYMAN REILLY: Yeah, for all jurisdictions besides the State Police. I get it, yeah.

So like in New York City we had -- in 2020 there were 411 arrests for under 18, and in 2021, 536. So I want to see what that comparison is, and I think that's a tool that really needs to be used.

SUPERINTENDENT BRUEN: No doubt that gun arrests and the numbers have been skyrocketing.

ASSEMBLYMAN REILLY: Thank you, Mr. Superintendent, I appreciate it.

SUPERINTENDENT BRUEN: Thank you, sir.

CHAIRWOMAN KRUEGER: Thank you.

I think now we're back to Senator Diane Savino, who's returned.

SENATOR SAVINO: Thank you. Sorry, I was on a phone call, I didn't hear you guys calling me.

Good to see you, Superintendent.

SUPERINTENDENT BRUEN: Good to see you.

SENATOR SAVINO: I'm not going to
touch on some of the issues that have already
been raised. I'm happy to hear you guys are
focusing on computer crimes and cyber crimes.
They are certainly becoming a much more
complicated problem.

I do want to ask you about the issue
of cannabis. As you know, we legalized
cannabis for adult use, we expanded medical,
we have a thriving hemp program that's
operational. But there seems to be, out
there in the general public, this idea that
because we decriminalized marijuana for
personal use, that you could have up to
3 ounces for personal use, that you could
pretty much do whatever you want.

And no one seems to be enforcing this
statute that you're not allowed to sell
marijuana in the state yet. Anybody that
doesn't have a license to sell is operating
outside of the law. And yet and still, we
have people flouting the law all over the
place. They're setting up cannabis shops,
they're operating stores, they have mobile
vans, they're driving around Manhattan, and
nobody seems to be enforcing the law.

So -- and it upsets me only because if we're going to set up a legal regulated system where we're going to have licenses issued and we're going to expect people that we regulate to play by the rules, how is that going to work if people are openly, you know, violating the law and nobody's doing anything to stop it? Not the State Police, not the NYPD, no local government. Nobody's doing anything to stop this, and I'm just baffled as to why.

SUPERINTENDENT BRUEN: Well, we continue to enforce marijuana penal laws as they exist, and continue to make arrests related to marijuana trafficking.

To the extent that something was regulatory in nature, unlike the NYPD, I don't have the authority to enforce non-criminal regulatory laws. I must --

SENATOR SAVINO: I understand that.

SUPERINTENDENT BRUEN: -- only criminal laws. And we continue to do it, obviously, though, we're not arresting for,
you know, small amounts of marijuana because
it's no longer a crime.

SENATOR SAVINO: So not to interrupt
you -- because I only have a few seconds
left -- so the other day the Albany Times
Union wrote a restaurant review of a local
restaurant that is getting into the cannabis
business now.

And instead of charging people for the
cannabis products, they're giving them away:
Come into our restaurant, pay a fee and we'll
serve you food and then we'll give you
cannabis products. And they don't seem to
have any concern about having this widely
advertised.

Now, would you say that that's
something your office or the State Police
should notify this restaurant, that they are
in violation of existing law because you
can't give or sell marijuana yet legally in
the State of New York without a license? Or
should the Albany police do it? Or what role
do you think you should play in enforcing
this law so that we don't have a system where
people are just doing what they want?

Because otherwise it doesn't make any
sense for us to create a regulatory structure
if we're just going to let people do whatever
the hell they want.

SUPERINTENDENT BRUEN: I have to fall
back on the fact that I can't enforce civil
regulations.

So to the extent they violate the
Penal Law, and to the extent that was a
violation, a crime, to set up your own shop
and that was a violation -- I mean a
misdemeanor or a crime, you know, we would be
able to enforce it.

But to the extent that it's a
violation of regulations and it's civil in
nature, I don't have that power, based on the
way the Executive Law is written and about
the jurisdiction of the State Police.

Local town, villages, the NYPD can
enforce their city codes and enforce other
kind of regulatory schemes, and I don't have
that ability.

SENATOR SAVINO: I would just suggest
we might want to rethink that.

I don't have any more time. I'm happy
to talk about it offline with you at some
point.

SUPERINTENDENT BRUEN: Sure.

SENATOR SAVINO: Thank you.

CHAIRWOMAN KRUEGER: And just for the
record, as the I guess lead sponsor of the
marijuana legalization bill, I completely
agree with Senator Savino.

This is not legal. They were never
intended to be allowed to give away cannabis
as a freebie with very expensive food or in
some places very expensive T-shirts that come
with free cannabis.

And I know that the Office of Cannabis
Management has told me that they are
exploring also how they insert themselves to
stop this from happening. So hopefully they
will reach out to you, Superintendent, and
somehow we all can coordinate. Because yes,
we wanted cannabis use to be out of the
criminal justice system as much as possible,
but it's the same issue. We have liquor
laws, and you can't sell liquor illegally.
And we want to have the same approach with
cannabis. So thank you.

SUPERINTENDENT BRUEN: Thank you.

CHAIRWOMAN KRUEGER: And now back to
Assemblymember Weinstein.

CHAIRWOMAN WEINSTEIN: We next have
Assemblywoman Rajkumar up, for three minutes.
Thank you.

ASSEMBLYWOMAN RAJKUMAR: Thank you,
Madam Chair Weinstein.

Good evening, Superintendent.

SUPERINTENDENT BRUEN: Good evening.

ASSEMBLYWOMAN RAJKUMAR: Our state and
our entire country has seen an uptick in hate
crimes recently, particularly directed
towards the Asian-American community. The
NYPD reported that New York City actually had
a 100 percent increase in hate crimes in one
year. This included a 361 percent increase
in anti-Asian hate crimes. And last summer,
one individual in Queens was arrested for
four separate hate crimes against people of
Asian descent. This included assaulting a
75-year-old woman with a hammer.

Last summer in my South Queens District there was a string of crimes targeted at Muslim Americans. And just a few weeks ago, on January 3rd, there was an attack on a Sikh American taxi driver at JFK Airport, one of many completely unacceptable hate crimes against the Sikh American community.

In her State of the State address the Governor included a proposal to combat hate crimes through a new hate and bias prevention unit. The State Police runs the Hate Crimes Task Force, so I wanted to ask you what your division will do to stem this tide of hate crimes and what resources you may need, and how can we help?

SUPERINTENDENT BRUEN: I think you're already helping by getting my staffing back up to acceptable levels. A lot of these things require people.

Even without the increase in staffing, I've doubled our commitment to the NYPD's hate crime unit, which we're part of, and
we've also got our hate crime unit up and
running. That provides active support to
incidents that occur upstate, mainly upstate.
We'll either take the case over or work
discrete leads.

We also have -- a big part of that is
an education and support training program for
other -- for local agencies. While COVID did
not disrupt most police operations, it did
put a crimp in in-person training, which this
hate crimes training is in-person training.
But we're ramping that back up and hope to be
looking at that -- be expanding that back up.

The increase in anti-Asian hate crime
in the city is extremely concerning.

ASSEMBLYWOMAN RAJKUMAR: What have
been some of the greatest challenges that
you've seen in stemming the tide of hate
crimes against this community?

CHAIRWOMAN WEINSTEIN: That's --

SUPERINTENDENT BRUEN: I'm sorry?

(Off-camera interruption.)

ASSEMBLYWOMAN RAJKUMAR: I'm saying
what are some of the greatest challenges --
SUPERINTENDENT BRUEN: Well, some of
the challenges are what they are, which is,
you know, policing in this age is difficult,
getting cooperation from communities that may
or may not, you know, trust the police.

We have not seen a huge barrier
upstate to that. By and large we've had very
good relationships with -- the State Police
have, with Muslim communities and Asian
communities upstate. So we're continuing to
work hard and do what we can in terms of
training support and apprehension of these
folks.

ASSEMBLYWOMAN RAJKUMAR: Thank you.
Please let me know what I can do to help
bridge any cultural sensitivity gaps with the
communities. And thank you for all of your
work.

SUPERINTENDENT BRUEN: Thank you.
CHAIRWOMAN KRUEGER: Thank you.

Senator Brad Hoylman.

SENATOR HOYLMAN: Thank you,

Madam Chair.

Good evening, Superintendent. I just
had a couple of quick questions about the budget and gun tracing.

I see that there's $6.2 million to support expansion of the gun tracing teams, and there is a Gun Tracing Task Force that the Governor is convening. Are you and your organization going to have a role in that?

SUPERINTENDENT BRUEN: That is -- yes, the Governor's directed that we do that. A meeting is occurring tomorrow and is with State Police and state fusion center folks from around the Northeast, as far away as Ohio.

That's an interstate group to look at trafficking, leveraging some new techniques, and leveraging -- I have to compliment the ATF and the person who runs the ATF in New York State. They have been, in my mind, a game-changer in terms of providing information, support and data for us to exploit and analyze. And a lot of that money that we're -- that's coming to the State Police is going to come with folks to analyze information that's been provided by the ATF,
raw information, and then lead to, you know, the criminal-side cases that we're going to be doing.

SENATOR HOYLMAN: Thank you.

I just wanted to bring your attention to -- and I'm sure you're familiar with -- microstamping technology such as the case in California where guns are required to have a stamp on the firing pin that leaves like a serial number on the spent shell casings so you can connect the shells you recover at a crime scene to a particular gun.

We carry -- I carry legislation with Assemblymember Linda Rosenthal in connection with that.

Do you have any thoughts on gun tracing technology and how it might be useful for this task force?

SUPERINTENDENT BRUEN: Well, there are kind of two different concepts. There's the serial number tracing, which is point of sale, and then there's identification of two bits of evidence, either the shell casing or the lead, and tying that back to the gun.
That technology is fairly robust.

Experts can generally identify, due to
machine marks on the expended casing, that a
particular casing has come from a gun.

The thing we're looking to develop is
more on the lines of the flow -- what we're
doing now is more this flow of guns through
interstate trafficking and also tying them to
prior crimes by what you're talking about,
expended or recovered shell casings and tying
that back to the gun.

SENATOR HOYLMAN: Thank you very much.

One final quick question. What do you
think about the feasibility of Mayor
Adams' idea of doing spot-checks for people
bringing guns into New York City?

SUPERINTENDENT BRUEN: You know, I
don't wish to express too many opinions. But
searches that the State Police conduct have
to always be in full harmony with the Fourth
Amendment. And if you're coming into
transportation infrastructure or getting on
an airplane or getting on a train or coming
into a public building, you may be subject to
searches or magnetometers.

If you're out on the street or driving your car, the rules are much more stringent in terms of what amounts to probable cause to stop and search somebody.

SENATOR HOYLMAN: Thank you for that.

CHAIRWOMAN KRUEGER: Thank you.

I believe the Senate is now done.

We're handing it over to the Assembly.

CHAIRWOMAN WEINSTEIN: We have Assemblyman Burdick, then Assemblyman Walczyk, and then Assemblyman Palmesano, if no one else raises.

So Chris, you're up.

ASSEMBLYMAN BURDICK: Thank you, Chair Weinstein. I appreciate it.

And Superintendent, thank you very much for the work that you do and the women and men who every day do such an outstanding job in their duties.

I represent eight towns in Westchester County, each of course with their own local law enforcement agencies. And could you describe the relationship between
the State Police and local law enforcement, meaning what shared services are there, what programs, training, and so forth? Can you delve into that a little bit?

SUPERINTENDENT BRUEN: Well, we have a relationship with all the police agencies in Westchester County. And it varies depending -- and in other parts of the state. And it varies based on the department.

Some departments upstate are -- contain two or three part-time police officers, so our relationship with them would be very different. We would come in and handle all their investigative work and all their major crimes.

In the case of Westchester County towns, who have a fully functioning, full-staffed department, it may be that we're working cases jointly, we're working a particular problem area together.

In some areas that are heavily policed, we -- our relationship would be different in terms of providing investigative support. We may be more on the highway in
certain spots of Westchester County, doing commercial vehicle enforcement or other things.

But frequently what happens in Westchester County is something happens and multiple agencies respond. And we've assisted all those departments, and they've assisted us in apprehending bad actors.

ASSEMBLYMAN BURDICK: And can you tell me, do you feel -- and obviously I think we're all concerned about staffing levels and we're delighted to see that we're on our way to trying to rectify that in terms of appropriations.

But have there been instances in which it's been difficult for you to have the personnel in order to respond to requests for assistance? And I'm not speaking so much about an emergency situation, which you'd find the resources to do it, but in situations which were less dire.

SUPERINTENDENT BRUEN: There's no doubt about it. It's happening every day.

I'm concerned about burnout on
Troopers who are in on overtime. The COVID response was a massive undertaking by this agency -- staffing locations, testing locations, the Javits Center, upstate locations, in addition to doing our ordinary jobs.

I've already indicated the CSAVU unit, you know, is suffering from people -- there -- our backrooms are -- my main-line detective units are understaffed right now but still have the same number of cases. You know, it's hurting.

And you have done what you can do, which is allocate money in the budget -- or hopefully will allocate money in the budget for two new classes.

The one thing I can say about State Troopers is they can't be made in two months. It's a long process, and so -- it's a long process and a process that has to be planned out, you know, years in advance. They just don't -- I just can't hire them right off the street. It takes a long time to train them.

ASSEMBLYMAN BURDICK: Thank you very
much. Appreciate it.

CHAIRWOMAN WEINSTEIN: Thank you.

We now go to Assemblyman Walczyk.

ASSEMBLYMAN WALCZYK: Thank you, Chairwoman.

Superintendent Bruen, thank you for joining us today. You spent time in the
district attorney's office, lots of time with the Troopers, spent some time over at the
Department of Corrections. Welcome. I think that is very relevant experience that is
going to do great things, I hope, for the New York State Police.

Earlier one of the members brought up the old CoBIS program, which required us to
fire projectiles out of every single weapon that got sold in the State of New York. It was ongoing for a while -- I think it was the Pataki administration that originally had put it in. That this was going to be the, you know, gun DNA that would be such a great solver of crimes for New York. And that ran for a while, I think until after 2010, maybe '11 or '12, and was shut down.
Do you remember how many crimes that CoBIS program, the gun DNA solved in the State of New York?

SUPERINTENDENT BRUEN: Yes, I do. It was quite expensive, and the answer is it solved no crimes.

ASSEMBLYMAN WALCZYK: I'm sorry, it was very expensive and not a single crime?

SUPERINTENDENT BRUEN: Not a single crime was solved with it.

ASSEMBLYMAN WALCZYK: Not even one crime in the State of New York.

SUPERINTENDENT BRUEN: No.

ASSEMBLYMAN WALCZYK: All right. Well, thank you very much, Superintendent.

Now that you're out of the Department of Corrections, what do you think about the Secure Vendor Program over there? Can we get it done?

SUPERINTENDENT BRUEN: I will say this, that I think it's wonderful that Tony's getting the commissioner -- is going to be the full-time commissioner and confirmed. I think that's spectacular. And I will keep my
opinions to myself.

ASSEMBLYMAN WALCZYK: (Laughing.) Is it the lawsuits that are the main deterrent over there, is why we don't get the Secure Vendor Program done? Or what do you think it is?

SUPERINTENDENT BRUEN: I -- like I say, I keep my opinions to myself.

ASSEMBLYMAN WALCZYK: That's fair. I will --

SUPERINTENDENT BRUEN: I will say this, that it's my honor to be superintendent and the State Police have done way for me for me than I will ever do for the State Police, I can tell you that.

ASSEMBLYMAN WALCZYK: Well, good deal. It's exciting to have you. Thank you for the time.

And I will yield back the rest of it, Madam Chairwoman.

SUPERINTENDENT BRUEN: Thank you.

CHAIRWOMAN WEINSTEIN: Okay, I see that Senator O'Mara has raised --

CHAIRWOMAN KRUEGER: Yes, I see
Senator O'Mara snuck in there very --

(Overtalk.)

CHAIRWOMAN WEINSTEIN: I'll send it back to the Senate.

CHAIRWOMAN KRUEGER: All right, thank you.

So Ranking Member Senator Tom O'Mara.

SENATOR O'MARA: Yes, thank you. I snuck in at the end.

Sorry, Superintendent, to prolong this any more. But a few questions about the hate crimes, which is, you know, obviously a very growing concern -- my -- my video was stopped by -- I don't know, the host? Okay. There it goes. I'm back on. I don't know why they cut me off. I think I'm dressed appropriately.

But on the hate crimes and the reporting of hate crimes, there has been an effort in my district to encourage the reporting of hate crimes. And there was an entity, a large business in my district that was interested in promoting this, and they did some investigating, some research on
their own and asked my office to look into it, and kind of hit a brick wall on what exactly is being done with the reporting of hate crimes. And there really didn't seem to be any kind of funnel, so to speak, on what either local law enforcement entities did with that or how people could go directly to the State Police too, because there is something for the State Police on a hate crimes reporting system.

So where does that stand? And are we making use of that? Because, you know, we certainly have these crimes -- I'm a very rural upstate New York district. These are not just New York City or larger-city issues. Where we have individuals that want to be more proactive on this, to highlight this, you know, where do I send them? Or how do we better coordinate this?

SUPERINTENDENT BRUEN: Well, I'm not exactly sure what the issue is. If somebody is reporting a crime, they should call 911. If they want to come to the State Police barracks in their communities, whether it's
SENATOR O'MARA: It's not about reporting crimes in progress, it's about incidents that were likely hate-related, after the fact. Maybe nobody made a report about it.

You know, how does that -- how can that kind of thing be followed up on?

SUPERINTENDENT BRUEN: Well, I would say that that's the same -- it's not necessarily a crime in progress, but you go and report it to a State Trooper and we'll do follow-up investigation on it.

If we can't develop suspects, which sometimes happens in these things -- for example, you know, graffiti left on a park bench or on a road sign, that -- you know, a swastika -- it can be very hard to figure that out. We've managed to figure out, in some cases, when someone finally told us who it was, you know, when they've done it on a number of occasions.

But for the most part, that's the way it should operate, are the Elmira Police
Department, in your case, the sheriff's
department, or my Troop E folks should pick
up that case, run it down, and investigate
it. And then do the reporting that's
necessary up through DCJS for a hate crime.

SENATOR O'MARA: Well, I can tell you
that we kind of ran down those lines a little
bit and there was no real coordination, it
seemed. And even reaching out to the
State Police and to DCJS on where this whole
hate crimes reporting system stood, we were
just unable to get a clear answer.

So I don't know, maybe I should touch
base with you further on getting an actual --

(Overtalk.)

SUPERINTENDENT BRUEN: Yeah, I'd be
willing to look into that and discuss that
with the commissioner of DCJS. Generally
speaking, I don't produce those sorts of
reports, but I would be a submitting agency
to DCJS.

I can certainly also refer to my major
in Troop E, Major Staniszewski, and have him
follow up on what's going on in that area
vis-a-vis hate crimes, do we feel that it's a sufficiently coordinated response. I know the sheriff and the chief out there I'm sure would be willing to look into it as well. And I'm sure there are other village police departments beyond Elmira and Horseheads and what have you.

SENATOR O'MARA: Yes. Yeah, absolutely. So thank you, I appreciate that. I look forward to working further with the coordination of these agencies. So thank you.

SUPERINTENDENT BRUEN: Any time. Thank you.

CHAIRWOMAN KRUEGER: All right. Do you have any more, Assemblywoman?

CHAIRWOMAN WEINSTEIN: Yes, we still have Assemblyman Palmesano, with our final three minutes, our final questioner.

ASSEMBLYMAN PALMESANO: First, Superintendent, I just wanted to say thank you to you and the brave men and women of the State Police for the dangerous job they all do each and every day to keep us safe in our
communities, especially in light of the
rising and dangerous crimes and violence
we're seeing in our cities and communities
all across New York State.

So first and foremost, I wanted to say
thank you to you and, again, the brave men
and women of the State Police for what they
do for us. So thank you.

SUPERINTENDENT BRUEN: Thank you.

ASSEMBLYMAN PALMESANO: I just have
one question, and it really stems around the
issue of the legalization of marijuana.

I was opposed to the recreational use
of marijuana and passing that. I had spoken
to local law enforcement before this, spoken
to local social services agencies and
substance abuse agencies, and some of the
things they brought up over and over again
was the increased -- concerns regarding
increased drug use associated with other
drugs. Certainly point out the fact that it
certainly could lead to more increased
illegal and black market sales of marijuana
and also lead to other crimes, the cost to
our communities, but particularly the issue
of safety.

And I was wondering, do you have any
statistics relative to the percentage of guns
and victims and crimes that are associated
with the illegal or illicit sale of marijuana
and how that might be -- is there any
association with that that you could share
with us on how those crimes might be
associated with that relative to guns and
violence and victims?

SUPERINTENDENT BRUEN: We -- we
certainly have made arrests in the past year
where large amounts of marijuana were present
with other drugs and guns. I don't know as
my -- the Division of State Police numbers on
that issue would be dispositive, since we
don't track arrest numbers apart from our own
agency.

So I can certainly make -- you know,
have our analysts look and see, you know,
what we could find for the last year in terms
of that, but I don't have that specifically
broken down right in front of me.
ASSEMBLYMAN PALMESANO: I'd certainly like that information, because I really just think the point I'm trying to get at is, you know, not everyone thinks, you know, this is a positive -- many people think that this is a positive thing, the recreational use of marijuana. But, you know, the concerns that were brought up before we passed this and made this the law of New York, which I understand the ramifications of that that were brought up by law enforcement and others about -- with the passage of this and are we seeing that increase in percentage of guns being involved in crimes, more victims, and more dangerous crimes taking place relative to this, you know, black market, illegal sale of marijuana.

So yeah, it would be good to have, because I think that's something we should be paying attention to.

CHAIRWOMAN WEINSTEIN: Thank you.

And I'm going to throw it back to -- Senator Krueger, I believe we have exhausted all of the questioners for the
superintendent.

CHAIRWOMAN KRUEGER: Perhaps we've literally exhausted them, but I don't know about that.

So I want to thank you very much, Superintendent. And we also, all of us, appreciate the hard work of the men and women of the State Police. So we just pass our appreciation back, and excuse you for the rest of the day. Thank you.

SUPERINTENDENT BRUEN: Thank you. And I will definitely pass on all your good wishes to the Troopers. Thank you.

CHAIRWOMAN KRUEGER: Thank you. And I am going to -- just for a little variation in topic, I will now be calling up, from the New York State Office of Information Technology Services, the interim CIO and director, Angelo Riddick.

Angelo, are you here with us?

INTERIM CIO RIDDICK: I certainly am.

Good afternoon.

CHAIRWOMAN KRUEGER: I think it's evening by now. Good evening.
(Laughter.)

CHAIRWOMAN KRUEGER: All right, so I think you know the rhythm of these hearings. We have your written testimony, as does the public. We'd like you to summarize in 10 minutes or less the major themes of your testimony.

INTERIM CIO RIDDICK: Absolutely. Thank you, Chairs Krueger and Weinstein and distinguished members of the State Legislature. It is the honor of a lifetime to partner with you during this pivotal moment in history.

I am Angelo "Tony" Riddick, New York's chief information officer and director of the state's Office of Information Technology Services.

For the last 22 months, ITS has been at the forefront of the state's COVID response. I've had the honor and challenge of being on the job for 14 of those 22 months.

We enabled fully remote and then hybrid work for tens of thousands of state
employees, rapidly built applications and revamped state websites, and provided the tools that allowed New York to ensure uninterrupted services during a pandemic.

ITS created the vaccine scheduling system and the state's return-to-work portal to safely bring workers back to their offices.

We offered 24/7 support for the mass testing and vaxx sites, and provided the necessary upgrades to support online meetings and virtual government.

And we worked with our partners in the public and private sectors to build the Excelsior Pass platform, becoming the first state in the nation to offer digital proof of a COVID vaccine.

In fact, we recently partnered with the federal government and our friends at the Division of Veterans Services and the Department of Health to extend the Excelsior Pass to veterans who received their COVID shots at a VA facility. This information was once outside the state's jurisdiction and
could not be included in our immunization
databases. Now, hundreds of thousands of
New York veterans are able to access the
Excelsior Pass so they can share proof of
immunization and be easily welcomed into
businesses and venues across the state.

As a 30-year active-duty veteran who
was vaccinated at the VA, I cannot thank
Governor Hochul enough for her leadership and
commitment to getting this done.

So often in the last two years, when
New York was challenged in new and varied
ways, ITS was there with the solution. And
while a number of long-term modernization
projects were already underway in March 2020,
the pandemic forced our state government to
continuously pivot and adapt.

Now that we've entered a new phase, we
are leaning forward and working to cement the
progress that has already been made. The
truth is there are countless opportunities to
be smarter, better and more agile.

We are focused on accelerating
modernization projects at multiple state
agencies, and understanding which solutions
can help bridge the gap while we move to
retire legacy technology.

We have enhanced our support model to
give more state employees the ability to work
remotely, so they can better support their
agencies and more quickly and confidently
respond to the next crisis.

As a state, we should be embracing
technology as a solution -- not only in times
of crisis, but also in times of calm. We
know technology can support processes and
help government operate more efficiently, and
it can provide greater access to many more
New Yorkers. Digital enhancements are
ongoing and will continue to improve citizen
interactions with their state government.

New tools are helping state agencies
and their hardworking employees deliver
faster results for all New Yorkers.

And right now our agency is
implementing the technology to support a new
law, which originated right here in the
Legislature, that will require state agency
websites to be accessible in each of the
12 most commonly spoken non-English
languages. We have procured the necessary
language translation tools and, following
additional testing and configuration work,
expect to deploy this new technology on time
and to the benefit of many more New Yorkers.

We know technology can provide a
lifeline to families in difficult times.
During the height of the pandemic, ITS
utilized technology to assist the Department
of Labor in clearing their unemployment
insurance backlog and delivering benefits to
families in need.

We know technology can even help
provide enhanced cyber-protection for the
state's network and its data. And that
brings me to cybersecurity, which is fast
becoming the defining IT issue of our time.

No agency is better prepared or better
positioned than ITS to tackle this diverse
set of cyber challenges. We start by taking
every threat seriously. We have endpoint
detection tools already in place which
provide an extra layer of protection against intrusion, and in the coming year we will work with our partners at the local level to extend these protections.

We have top-notch security professionals who monitor the state's network and global threat landscape all day, every day. Prior to coming to New York I had extensive experience with the Army's Cyber Command and taught cybersecurity courses at the National Defense University, and yet I have never seen more attempted attacks than we are seeing today.

I urge you to join us in making this a priority now. To fight this new cyber war, we need more resources, we need more people and new recruiting techniques, and we need better intelligence-sharing at all levels of government. I am pleased to say Governor Hochul's budget achieves all of this and more.

The Executive Budget funds Year 1 of a multiyear investment that will allow the state to establish a strong "Zero Trust"
framework. "Zero Trust" means everything we do is secure and there are checks and balances on every device, every transaction, and every request for access. This will better protect the state's data from intrusion or attack.

If this budget is approved, we will use a portion of the new funding to enhance our Red Team, a group that tests security across executive agencies by identifying and launching attacks in a controlled environment. They are critical to the state's readiness to respond to a real threat.

The Executive Budget also recommends new cyber resources to provide local governments with expert strategic assistance and security solutions to mitigate ransomware attacks so they can better protect their own assets. I thank Governor Hochul for her leadership on this important issue and know it will allow us to make a strong statement to the world that New York State takes cybersecurity very seriously.
Thank you for your service, leadership
and commitment to the State of New York. I
am happy to take any questions you may have.

CHAIRWOMAN KRUEGER: Thank you very
much, Commissioner.

And I believe that the first
questioner will be Senator Diane Savino, our
chair of Technology and all those topics that
commitee is covering.

SENATOR SAVINO: Internet and
technology. Thank you, Senator Krueger.

CHAIRWOMAN KRUEGER: Thank you very
much, Diane.

SENATOR SAVINO: Commissioner, it's
good to see you again. I think the last time
we saw each other was in early 2020, at the
budget hearing then.

INTERIM CIO RIDDICK: Absolutely.

SENATOR SAVINO: You were just barely
days on the job, not really -- I remember we
met in my office and we talked about your
extensive history and how you would be an
amazing asset, not really understanding just
how important your experience would be as the
state was about to shut down and go completely virtual.

    Thank God you were part of the team; otherwise, I'm not really sure we would have been able to transition to a virtual workforce either on the state side or with local governments.

    INTERIM CIO RIDDICK: Thank you very much.

    SENATOR SAVINO: I want to talk a bit about, though, the area that you and I spoke about that day and you are an absolute expert on, and that of course is the issue of cybersecurity and the threats, which as you point out is really the threat of our lifetime right now.

    We confirmed earlier today Jackie Bray as the new DHSES commissioner, and we talked with her yesterday about the role that homeland security plays with it. We also spoke to the State Police and the role that they play.

    But we've had somewhat of a haphazard approach in this state of who's really
responsible. And I'm happy to see you're playing a bigger role certainly with the state agencies. The threats that we're seeing during the pandemic -- school districts being hacked on a regular basis, small local governments under attack constantly. And I know that there are limited resources and there have been up until now.

So I just want to ask a bit about what the Governor's proposing in her budget where she's talking about the hiring of an additional 248 people on your Red Team. And also in the infrastructure bill that was passed in Washington, there was $2 billion set aside for states to apply for cybersecurity grants to enhance their protection.

So I'm wondering, are we going to use this -- are these 248 people, are they going to be part of the team to help local governments and school districts, et cetera, become more responsive and protect themselves better? And were we able to apply for any of
that infrastructure money?

INTERIM CIO RIDDICK: As I understand it, we're working on applying for that infrastructure money. Unfortunately, I don't have visibility on that process. But I can assure you -- and thanks for meeting with me last year -- that absolutely cybersecurity is a priority.

As a matter of fact, after we met, I worked with my team to develop our strategic plan, and the number-one priority was and remains cybersecurity.

The increase in the budget will allow us to hire a number of technicians, some of which will be working specifically cyber, as we look to a whole-of-state approach outside of just the state's infrastructure. But as we look to work with local governments, we have to help with ensuring that that infrastructure is also secure.

There are a number of methods that we can use, and my team is looking very deeply at the methodology that we have to use to get these people on board quickly. And yes,
personnel are a priority and cyber will be inside of that priority stack. Thank you. I think that's a great question.

SENATOR SAVINO: So also because we're a home-rule state and we allow localities and school districts and, you know, villages to make their own decisions and purchase their own equipment, there seems to not necessarily be a cohesive approach to this.

Do you have any recommendations, as a person who's an expert in this, about the way we currently handle issues like technology purchases and software purchases? Should we allow that type of, I guess, autonomy because of the inherent risks of cyber leaks?

INTERIM CIO RIDDICK: I support that autonomy, and I think that's a great question, thank you.

I support the autonomy, but we need to partner with these local governments to make sure that they have the resources that they need, including tools and the sophistication to delivering cyber solutions to their own internal infrastructure.
SENATOR SAVINO: And finally, because I know there's a lot of people that have questions, the State of Pennsylvania two days ago passed a bill -- I'm not sure if the governor is going to sign it, though -- that would ban the payment of ransomware attacks from government funds.

I introduced a bill last year that would essentially do the same thing. It was a little controversial, but it's reflecting how challenging it is for us to deal with ransomware attacks. You know, when we reach out to either, you know, the FBI or the Justice Department, their response to policymakers is not to pay them. Because ransomware -- first of all, you're never going to get your data back anyway. It's just costing taxpayers an extraordinary amount of money. And you're contributing -- my discussion with the FBI was you're contributing to a criminal enterprise, you're aiding and abetting, you know, international criminals. So you shouldn't pay it.

But at the same time, what do we say
to, you know, school districts, what do we say to healthcare facilities who have been hacked and whose data has been encrypted and they can't get access to it? So, you know, we're going to move the bill through the Senate's Internet and Technology Committee, and I'm sure I'll get a million phone calls from people who say that this is not the way to go about it.

But there has to be a way for, you know, states to develop policies that kind of send a message that we are not going to continue to be victims of cybercriminals. The answer, of course, would come from Washington. They're not doing anything on this issue, in spite of, you know, their rhetoric. They actually have not passed any meaningful legislation or adopted any policies.

So what would you suggest we say with respect to ransomware payments?

INTERIM CIO RIDDICK: First, Senator Savino, I absolutely respect your position on not paying ransomware. I don't want to tilt
my professional hand and talk about the strategies that we're discussing in ITS to mitigate these vulnerabilities, to make sure that we have resources available to help our localities and our agencies within the infrastructure recover from a ransomware attack.

Unfortunately, the best we can be in cybersecurity, and I've said this for years, is one town ahead of the posse. So being actively involved in establishing a relationship with localities, and establishing a solid relationship with the agencies that we support, is the first step, so that they understand what our strategy is. And hopefully one day we'll be able to totally defeat the ransomware attack. But until then, my team discusses this daily, and we have a plan.

SENATOR SAVINO: And then finally, do you find that local governments are notifying you when there are ransomware attacks?

INTERIM CIO RIDDICK: They certainly are. We get the notification from our
resource as well as the call from local
governments at times. But we usually know
just as they know, and we reach out to them,
we provide ourselves -- we provide them the
availability to discuss mitigation 24/7.

SENATOR SAVINO: Thank you. I look
forward to working with you more on these
very complicated issues. Good luck.

INTERIM CIO RIDDICK: Thank you so
much. Look forward to talking to you again.

SENATOR SAVINO: Thanks. I yield my
time back, Senator Krueger.

CHAIRWOMAN KRUEGER: Assemblywoman
Weinstein.

CHAIRWOMAN WEINSTEIN: We do not have
any Assemblymembers as of yet looking to ask
questions of Mr. Riddick. So I will send it
back to you, and you can go through the
Senators that have questions.

CHAIRWOMAN KRUEGER: Thank you. All
right.

Next up is Senator Zellnor Myrie.

SENATOR MYRIE: Thank you,
Madam Chair.
And thank you, Director Riddick, for your patience and endurance in bearing with us and testifying now.

I just had a question around -- you know, you mentioned some of the great work the state has had to do during this pandemic to stand up programs and applications. You know, there was just a news article about Guidehouse and the ERAP program and application. And I understand that that is somewhat breaking news, and so you don't really have the opportunity to think and respond to that.

But I wanted to ask, in a somewhat relevant way, what the implications are for the Homeowners Assistance Fund application, which I think is largely being utilized online and that has a short window -- that we are approaching in about a week -- for people to apply.

One, I wanted to see if there were any concerns with what you're seeing as far as those applications and people utilizing it online. And, two, whether the Legislature or
the public is going to get any breakdown on
where those applications are coming from and
sort of whether they're being highly
utilized, underutilized, or whether we need
to do some more promotion.

INTERIM CIO RIDDICK: Well, Senator, I
can assure you that the applications are
being utilized, that the system is working to
date, that we work with the agency to ensure
that we provide the support that they need.

I make myself available. The nuances, of
course, always involve privacy and
cybersecurity. Our team is actively involved
with that.

SENATOR MYRIE: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Senator Brad Hoylman.

SENATOR HOYLMAN: Thank you,

Madam Chair.

Good evening, sir. Thank you for
being with us, Mr. Riddick. And thank you
for your acknowledgment of the legislation
that Assemblymember Yuh-Line Niou and I
passed to require the translation of websites
into the 12 most widely spoken languages in New York State, and for your assistance in getting this bill signed. It's greatly appreciated.

Given concerns around COVID, and you just heard my colleague Senator Myrie around ERAP and other applications for homeowner assistance, do you have any sense of whether perhaps pushing the bill a little farther than it currently stands -- the statute, which says you have to translate within 60 days for COVID-related websites of the State of New York, six months for everything else -- do you think with some of the more important websites like around ERAP, like around COVID, like around hate crimes, at NY.gov you could maybe get it done sooner than 60 days?

INTERIM CIO RIDDICK: I've made sure that my priority has always been the customer's priority. We understand the prioritization of COVID-facing websites, those agencies that have interaction with COVID business, if you will, for lack of a
better term, are prioritized.

Can we get that done in 60 days?

Absolutely, with that prioritization.

SENATOR HOYLMAN: Thank you.

And what's your perspective, looking back, on the Department of Labor and their -- the websites that had crashed repeatedly during the height of the pandemic and the applications for unemployment insurance? Do you have any lessons learned from that?

INTERIM CIO RIDDICK: You know, the biggest lesson I learned is working personally with the commissioners and the senators who have questions, and making sure that I meet with them so that we can prioritize as a unit what their concerns are.

I don't have any future concerns with working with DOL and the infrastructure that's in place. We work continuously to improve not only relationships but the operation itself.

Again, as I stated last year, I'm a people person first, a process person. We've got to look at the products to make sure that
we have the right products in place to
deliver the services that residents need, and
we also look at policy to make sure we stay
and guide them.

SENATOR HOYLMAN: And finally, are we
investing enough in your department? Do you
have any staff to -- I mean, it's an enormous
task that you have before you.

INTERIM CIO RIDDICK: That's a tricky
question, Senator.

I will tell you I did relate to my
staff just recently that this is the first
time that we received more money in any
operation that I've ever had the honor of
working with as a leader. I compliment and I
commend Governor Hochul on her effort to make
sure that resources are available.

Can we use more? Absolutely. But do
we have enough to operate? I assure you we
do.

SENATOR HOYLMAN: Thank you very much.

CHAIRWOMAN KRUEGER: Thank you.

And if the Assembly still doesn't
have --
CHAIRWOMAN WEINSTEIN: We do not have anyone.

CHAIRWOMAN KRUEGER: Then I have one more question for the commissioner. Also recognizing that we met, and suddenly you were in the middle of COVID and all the complications therein. I think I asked you this question then, but I'm asking you again.

The state has a system called WMS, Welfare Management System, that OTDA and Office of Children and Family Services operate on and parts of the Medicaid program operated on and our local governments' departments of social services all interact with. It was outdated in 1989 when we first turned it on.

Even yesterday I was in a conversation with a state commissioner who said, "We really want to do this, but WMS is never going to be able to do the simple thing that would really help."

So do you imagine in your tenure with the state we might finally get a system to replace the, again, beyond antiquated, beyond
not working correctly WMS system?

INTERIM CIO RIDDICK: Thank you so much for that question. And thank you for last year's education as well. I did a lot of homework to find out exactly what the impact of upgrading WMS would be.

Number one, I found out that most of the infrastructure itself resides on a mainframe. Now, the challenge with mainframes and moving to newer technologies is to keep life in that mainframe while you build a new solution. Therefore, I asked my technology team to look at mainframe as a service so that we can literally fix the car with the tires rolling.

As we do that, I found out -- thanks to you -- about the new instantiation that we're evolving to, and that's the Integrated Eligibility System. We've hired a new director in IES, a very, very skilled employee who's been with ITS for a number of years. She's taken on that monster, if you will. She's developed a program. We have a now deputy secretary who oversees the
agencies that that particular solution will provide for our residents.

We've had several meetings. I'm very confident that with the collaborative efforts that we've taken thus far, understanding what the mission is, that we can be on track to deliver this IES system in a reasonable amount of time. And we will not be slowed down by an antiquated system because we're breathing life at the same time.

CHAIRWOMAN KRUEGER: Thank you. I take that as very encouraging, and I look forward to living long enough to, I don't know, turn off WMS for the State of New York at some point. So thank you very much.

And I think, with that, we're going to excuse you for the evening and thank you for your hard work and urge you to move forth to do so many things, because we're in a world of everything being driven by technology and we just need to get better and better at it.

So thank you very much for joining us.

INTERIM CIO RIDDICK: Absolutely.

It's definitely an honor. Have a good
 evening.

CHAIRWOMAN KRUEGER: Thank you.

And now I'm going to be calling up our last government representative for this hearing. You thought it would never end.

That's only part one of the hearing, folks.

The New York State Office of Indigent Legal Services, Patricia Warth.

Are you with us, Patricia?

ILS DIRECTOR WARTH: I am here.

CHAIRWOMAN KRUEGER: Great. Welcome.

ILS DIRECTOR WARTH: Thank you.

Good evening, everybody.

So as Senator Krueger said, I am Patricia Warth. I was nominated by the Indigent Legal Services Board earlier this year to replace Bill Leahy in June of 2021 when he stepped down as director. So I'm happy to be here. This is my first time testifying on behalf of ILS.

And I want to thank you on behalf of the ILS board and the ILS office for the support that this Legislature has shown our office in the 11 years of our existence. And
of course I also want to thank you for this
opportunity to talk to you about the
Executive Budget as it pertains to indigent
legal services.

And, you know, the Executive Budget
for ILS is a story of good news and
not-so-good news. So I'm going to start with
the good news.

And the good news is that once again
the Executive has included in the budget full
funding for ILS to work towards one part of
our mission, and that is improving the
quality of mandated criminal defense. And
this takes the form of, you know,
$23.8 million to fully fund implementation of
the Hurrell-Harring settlement in five
counties -- but, just as importantly, an
additional $50 million over last year's Aid
to Localities budget to fully fund extension
of the Hurrell-Harring settlement to the
entire state, so all of the
non-Hurrell-Harring counties and New York
City. And so this year that will be a total
of $250 million in our Aid to Localities
Budget for that endeavor.

And so that's the fifth year of the five-year phase-in for full implementation of the Hurrell-Harring settlement extension to the entire state.

And I know that this funding, both the settlement funding and the funding to extend it statewide, would not be possible without this Legislature's support for the work that we do, and we very much appreciate it. We work diligently to ensure that the funding is being spent responsibly and in accordance with the goals of the settlement and its implementation statewide. And, you know, when I'm done I'm happy to answer questions about our progress in statewide implementation and progress with the settlement.

So that's the good news. But then there's the not-so-good news. The not-so-good news has to do with that part of our mission regarding improving the quality of mandated parental representation for parents in Family Court proceedings.
And, you know, this is just as legally mandated, constitutionally mandated and statutorily mandated as criminal defense, and yet once again, you know, the Executive Budget, at $2.5 million in Aid to Localities for improved-quality Family Court representation is insufficient for the work that we need to do.

And, you know, I feel confident that based on last year's enacted budget, I don't need to convince you of how important it is to fully fund this initiative for ILS, to fully fund our request of $9 million in Aid to Localities for this. And I think I don't need to fully convince you because it's because of you that last year's enacted budget included $2.5 million for improved-quality Family Court representation. This was a legislative add in last year's budget, and we were gratified to see that the Executive in this year's budget honored what you did last year and included it in her proposed budget.

But the 2.5 million in this year's
Executive proposed budget is 6.5 million less
than our request of 9 million and just a
count of what is needed to address the
lack of resources under which public defense
attorneys currently work in the Family Court
part of their practice.

And we recognize that the Legislature
alone cannot fix this problem. The right to
counsel in Family Court matters is a
foundational constitutional and statutory
right. It's no different from the right to
counsel in criminal proceedings. And so it
deserves a commitment by both the Executive
and the Legislature to fully fund the quality
improvements for mandated parental
representation.

And I think that you appreciate the
consequences of failure to address the crisis
in Family Court representation. I think you
understand that currently our public defense
providers in their Family Court part of their
practice work under crushing caseloads, that
they don't have the resources that they need
to fully investigate and litigate their cases
or to connect their clients with the supports that can prevent, you know, children from being removed from their parents. And I think that, you know, you understand what the model is that we're looking for in the funding.

In my written testimony I talk about sort of the various lenses through which one can view the importance of adequate funding for Family Court representation. I talk about the importance of family integrity and how fully funding this will not only honor, you know, the constitutional rights that parents have to legal representation, but it will also guard against children from being needlessly removed from their parents. Because currently, under our current system, public defense attorneys don't have the time and resources that they need to get courts the full information courts need in making decisions that are in the best interests of the children about these cases.

I also talk about the racial justice implications of this. I mean, we know that
currently our system is biased towards families of color and that bias plays out every day in our Family Courts. And, you know, the antidote to that is sufficient funding for attorneys who represent parents in Family Court issues.

And I also talk about the problems inherent in fixing one part of the mandated public defense system -- you know, the criminal part of it -- but not fixing the other part of it, which is the Family Court part of it.

So, you know, I encourage you to read my written testimony and to ask any questions that you have about it.

But my ask to you today is that over the next several weeks you make it a priority to include the additional $6.5 million for Family Court defense in the final enacted budget. And like I said, I recognize that it can't just be a legislative add, that this has got to be an Executive and Legislature joint commitment.

And in asking you to do this, I want
to emphasize that this funding does not need
to come from the General Fund. There is a
special fund available, the Indigent Legal
Services Fund, which has adequate funding
right now to pay both for mandated criminal
defense and to fully fund our request for the
9 million for parental representation. And
so I'm happy to answer any questions you have
about that.

But before I finish I just want to
touch very quickly on two additional issues
that, though not in the ILS budget, are
directly within our statutory mission.

And the first, of course, is the dire
need to increase the Assigned Counsel Program
rates. And I don't think I can explain the
need for increased rates any better than
Senator Bailey did in his editorial for the
Daily News, so I'm not going to, you know, go
on about it. But I will say that his
editorial echoed a 2019 letter that
Chief Judge DiFiore sent to the Legislature
about the need to increase assigned counsel
rates. And of course Judge Marks talked
about it earlier today in his testimony. So
I think we can all agree that this is very
important and now is the time to do it.

I would also just add, you know, from
ILS's perspective we're starting to see that
the failure to address this issue is starting
to have an impact on our ability to fully
implement the Hurrell-Harring settlement and
to extend it statewide. Because as you know,
an important component of that is caseload
relief. But if the Assigned Counsel Program
rates are not increased, we will continue to
see attorneys just abandon the assigned
counsel panels. And as Judge Marks told you
earlier today, when attorneys leave the
panels, there's not enough attorneys for
which courts can assign cases, and the
attorneys that are left have overwhelming
caseloads.

So that's the perspective that we
have. And, you know, I would encourage you
to also address this issue as an ongoing
discussion with the Executive about the final
enacted budget.
And then finally, as we do every year -- and we do this every year because it's important -- we do request full funding for our partner, you know, the New York State Defender Association. NYSDA's work is incredibly important to the work that ILS does. I describe it in a little more detail in the written testimony.

But we see the work of NYSDA as, you know, critical to the ongoing work of improving the quality of both criminal defense and mandated parental defense. So again, I ask you -- you know, reiterate that request, as we do every year, that NYSDA receive full funding.

And so with that, I'm a little bit short of my 10 minutes, and I will pause and entertain questions.

CHAIRWOMAN KRUEGER: Thank you.

All right. So first up out of the box is chairman of Codes, Jamaal Bailey.

SENATOR BAILEY: Thank you, Madam Chair.

And thank you, Patricia, for being so
patient with today's testimony. It has been, as Chairwoman Krueger mentioned, it's been quite an extended hearing.

I want to thank you, and you've already said a lot of what I was going to already ask you about, the 18-B and the necessity for a raise for assigned counsel.

Just to put it in context, the last raise was in 2004. And in 2004 I, you know, was a few pounds -- a lot lighter and I was only an intern in the State Legislature.

That tells you how long it's been since there has been a raise for assigned counsel.

But in all seriousness, could you -- if you could flesh out what that means to the average indigent person, to that family who can ill afford not to have representation, especially in a Family Court proceeding.

Could you give me an example of what an overburdened attorney pool or what overburdened assigned counsel means for the folks that you advocate for?

ILS DIRECTOR WARTH: Sure. I mean, I think it means two really critical things.
First, there's often a significant delay in the assignment of counsel, as the ACP administrator or the judge, you know, calls around trying to find somebody who will take the case. And so what it means is that somebody’s not represented at their first court appearance. And that's true for both criminal cases and Family Court cases.

And, you know, that undermines the goals, of course, of the settlement and its expansion statewide.

But then the second thing that it means is that you're not -- you don't have time to -- your attorney doesn't have time to fully investigate or litigate the case or to meet with you. So practically speaking, as a litigant, you're seeing your attorney for five minutes at the beginning of a court appearance and at the end of a court appearance, and that's pretty much it. You do not have the time to talk to your attorney about the situation, about your life circumstances, to really sort of flesh out the situation.
And so as a result, you don't fully understand the proceeding against you. You're confused, you're anxious and you're upset. But more importantly, you're not able to convey to your attorney really critical information that the attorney can use to fully investigate the case, whether it's a Family Court case or a criminal case. And so what that means is that critical information is left uninvestigated and not presented to a court in whatever type of proceeding it would be key.

And so, you know, from a person's point of view, you know, you walk away from the situation feeling like the system didn't work for you. And often -- you know, I see this a lot in criminal cases, but people give up. And often they take a plea even if they're not guilty, but because they're just -- they know the system isn't working, they know it's not fair for them, and so they just throw in the towel and they just, you know, take whatever plea is recommended to them by the attorney.
And the same thing happens in Family Court proceedings as well. And so sometimes people lose their children, when they really shouldn't have to, because of the lack of resources that their attorney had.

SENATOR BAILEY: So it's fair to say that the raise is not simply just about compensating individuals more, it is about providing families throughout the State of New York with greater support systems via the legal system and the surrounding system. I think that would be a fair assessment to make.

ILS DIRECTOR WARTH: You know, and I'm glad you said that, because what that goes to is that, you know, we're asking for two things. Right? We're asking for the $9 million in Aid to Localities for parental representation, improved parental representation. And we're asking for this Legislature to, you know, work hard on increasing the ACP rates.

And I know you and I talked about that earlier as parallel asks, and I really see
them as intertwined asks, because they both
achieve the same thing: Ensuring that
there's justice for our families and ensuring
that children are not needlessly taken from
their parents. And they're both needed to do
that.

SENATOR BAILEY: Absolutely. Look, I
think that -- you know, I think that we need
to fund defense, we need to fund prosecution,
we need to fund family attorneys, we need to
fund everybody. If we're not funding
attorneys or offices or agencies that
dispense the representation of the people,
then I think that, you know, we're not -- I
think we're doing ourselves a major
disservice.

My final question before I yield the
rest of my time. Is there any -- you
mentioned that -- and I think it's something
that, if you're paying attention, that these
unfortunate circumstances affect people and
children of color more adversely. Is there a
geographical bent to this in this state? Do
you find that this is happening more
downstate or upstate? Or is it something
that happens throughout our great state?

    ILS DIRECTOR WARTH: It's --

unfortunately, it's something that happens
throughout our great state.

    People are discriminated against
because they're Black or brown and sometimes
just because they're poor. You know, I see
it every day in our courts, playing out, the
moral judgments against people who are poor.
And, you know, the sort of implicit biases
that play out because of those judgments.

    It's unfortunate, but again, you know,
I can tell you -- you know, I was a lucky
attorney. My first gig as a criminal defense
attorney was working for the Capital Defender
Office here in New York, and we were
adequately funded. And so I had the time to
meet with my clients, to meet with their
family members, to learn about their life
circumstances. And I truly believe that that
armed me -- the information I learned from
them armed me with the tools that I needed to
be able to fend off that type of implicit
bias.

Because it's that ability to humanize our clients, to tell their stories, that -- that's the best anecdote that I can think of to the implicit bias in decision-making that is natural that we see play out every day in our court system.

SENATOR BAILEY: So it's fair to say that whether it's the Bronx County or Broome County, that we need to do this throughout the state. I think that would be a fair assessment.

This is my actual last question, because I just thought of another one. Obviously we have seen the -- based upon the Hurrell-Harring settlement, we have seen increased strength in representation along with a decline in caseload.

Would you venture to say that if the caseloads decline on the parental side, on the family side, that we would see that same quality of representation go up?

ILS DIRECTOR WARTH: Absolutely. I mean, they go hand in hand. And that's not
to say that it happens automatically. And that's -- you know, that's the value of having a state agency like ILS work with the counties on the plan for using the funding effectively to not only reduce caseloads but increase quality.

You know, it's that plan that's effectuated through contracts that we issue to the counties that I think is accountability for everybody involved. And we've seen that it's working very effectively in the Hurrell-Harring counties. We're starting to see it work effectively with, you know, extending Hurrell-Harring across the state. And we have an opportunity to see it work just as effectively with the 2.5 million that was part of ILS's Aid to Localities budget this year, and this week we are sending out the contracts to the five counties that were awarded $500,000 each over three years for that 2.5 million. And we're already starting to meet with the counties to talk about how do we measure the improvement in representation that we're going to realize
through even that small amount of funding.

But yes, you know, the -- reduce the caseloads, monitor what is happening, and you will see improved quality.

SENATOR BAILEY: Thank you. I just want to say thank you for all the work that you do at ILS. I just want to say that the agency remains in excellent hands. Thank you for the work that you do in the agency, Patricia. It's a pleasure to work with you.

Madam Chair, I yield the rest of my time.

ILS DIRECTOR WARTH: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Chair Weinstein. We'll roll it to you for dueling chairs.

CHAIRWOMAN WEINSTEIN: Yes. And we'll go to Assemblyman Dinowitz, chair of the Codes Committee first, for 10 minutes.

ASSEMBLYMAN DINOWITZ: Thank you.

Well, first let me just say thank you to you, Patricia, and to ILS for the work that you do and for the impact that you've had on so many people, so many families in
New York. It makes a difference.

I just have a couple of questions.

One is kind of a very general question and then the other is a little more specific.

So your office, your goal is to be able to represent people who need representation. My question is in terms of people who should be eligible for representation, like how many are actually getting representation assigned to them?

ILS DIRECTOR WARTH: That's a really good question.

As part of that, we -- and as part of the settlement, we were required to develop standards for determining financial eligibility for assignment of counsel in criminal cases for the Hurrell-Harring settlement. And those standards are -- our authorizing statute, our implementing statute authorizes us to do those as well. So the settlement, you know, inspired us to do that.

And we have done those standards. We did a very extensive training program in partnership with NYSDA statewide to implement
these standards. I should also say OCA worked with us and the Office of Justice Court Supports on training judges, so we had training of providers and judges. And what we've been hearing, and particularly in Hurrell-Harring counties, is that they've been very effective at ensuring that people who cannot afford to retain counsel in criminal cases are getting counsel. And that because they streamline the eligibility process, people are getting counsel quickly. It's not a long, belabored process.

This past year we updated those standards pursuant to a recommendation of the Chief Judge's Commission on Parental Representation. We updated those standards to include Family Court representation as well. And we're starting to work very closely with counties on -- and we worked with NYSDA on a training -- again, training providers in how to implement those standards in Family Court cases. And, you know, we're looking forward to having, you know, the
capacity to start to see how that's working too.

But what we're hearing is that when the standards are applied, that people who need counsel get it. In other words, that most people who apply for counsel get counsel.

ASSEMBLYMAN DINOWITZ: Okay. Well, that's good. That's very good to hear.

Coming from the Bronx, one of the big issues we have is the tremendous need for representation of people in our immigrant community, immigrant proceedings where people are facing deportation. And, you know, I don't know what the numbers are, but I'm sure it's quite significant.

Has your office been involved in establishing and improving representation to immigrant-related proceedings for persons who can't afford representation? Which I'm sure are a very significant portion of the community.

ILS DIRECTOR WARTH: Yeah. Our office isn't. That's not part of our statutory
mandate. Again, our mandate focuses on criminal defense in criminal court and parental representation in Family Court.

However, as you may know, several years ago the United States Supreme Court issued a decision saying that in criminal cases it's an obligation of the defense attorney to advise his or her noncitizen client of the immigration consequences of both the arrest and a possible conviction.

And so towards that end, we've developed six what we call regional immigration assistance centers. And so there are six centers across the state, they essentially cover the whole state, and they assist criminal defense attorneys and also Family Court attorneys in advising their clients as to the immigration consequences of either a criminal proceeding or a Family Court proceeding or, for clients who are involved in both, of both proceedings.

And so, you know, it's not quite, you know, what you were asking, but it's still the work that we can do on our end to ensure
that noncitizens have the representation that
they need, at least in one part of their
involvement in the justice system or the
Family Court system.

ASSEMBLYMAN DINOWITZ: Okay. Thank
you very much. And again, thank you for
everything that you do.

ILS DIRECTOR WARTH: Thank you.

CHAIRWOMAN KRUEGER: I think we'll go
back now to our other chair, Senator Brad
Hoylman.

SENATOR HOYLMAN: Thank you, Chair
Krueger.

Good evening, Ms. Warth. Thank you
for your advocacy and all of your work -- and
your colleague Burton Phillips, who used to
be my colleague in the Senate.

And wanted to also acknowledge all the
work that my colleagues did last session in
getting your -- and now the Executive having
bought in, if you will, to the increase that
we were able to provide last year.

But when it comes to Family Court, you
know, we look at Hurrell-Harring as kind of
the doomsday scenario, if you will, in terms of the Legislature being able to dictate its own budget.

Are you concerned that we might see something similar -- you know, a court case, a class action lawsuit where it might be mandated for us to require the funding of representation in Family Court?

ILD DIRECTOR WARTH: Absolutely. I mean, you know, Burton talks about this, right? He frames it as we're seeing historical echoes right now. Right?

The Hurrell-Harring lawsuit, you know, as people know was instigated by sort of a couple of key components: One, a constitutional and statutory right to counsel in criminal proceedings; two, you know, the counties having the responsibility of paying for that, you know, implementing that, right, which is really a state obligation; and three, a commission that studied it and found that the current system was deeply flawed and wasn't meeting constitutional and statutory obligations. So those were the essential
components that led to the Hurrell-Harring litigation.

Well, they all exist right now for Family Court representation. You know, you have the constitutional and statutory right to counsel of parents in Family Court proceedings. You have the state not stepping up to the plate, essentially, and doing its part in funding that but instead, you know, requiring the counties to do it. And then you have -- in 2019 you have a commission convened by a chief judge, in this case Chief Judge DiFiore, which did extensive hearings and collected a lot of information and produced a report that just basically mirrored the report that was issued back in 2006 by then the Kaye Commission, really just outlining just how broken the system is for the delivery of legal representation for parents in Family Court proceedings.

And I also want to add one thing to that. You know, I was rereading a case, a 1972 case called Matter of Ella B., and that was a case in which the Court of Appeals
reminded everybody that the right to counsel
for parents in Family Court proceedings is a
constitutional imperative. And it was
interesting because the argument made to the
court at that point for defending a judge's
decision to not advise a mother who was at
risk of losing her child that she had the
right the counsel -- the argument that was
made to defend that decision was, Well, it's
Family Court, it's not the same as criminal.
This isn't a right that is important.

And the Court of Appeals rejected that
argument and said we're talking about a
fundamental interest that a parent has in his
or her children. Of course that's
fundamental. Of course that's just as
important as the right to counsel in criminal
proceedings.

And, you know, what I think is key
about the DiFiore Commission's report is that
they not only frame the issue as the right
for parents, but they also talk about the
issue as the right for children to make sure
that cases are fully and fairly litigated so
that judges have the full and complete information that they need to make decisions that are in the best interests of the children.

And so I think the DiFiore Commission sort of closed the loop in that regard and really sort of talked about the importance of this funding both, you know, to honor the constitutional right for parents but also to honor the importance of family integrity.

SENATOR HOYLMAN: It's so interesting. So like -- so basically the sanctity of parenthood is viewed as integral, as important as the sanctity to one's liberty in a criminal case.

ILS DIRECTOR WARTH: Yeah. I mean and I've had clients who had both a pending Family Court proceeding and a criminal proceeding, and almost uniformly they were more worried about the Family Court proceeding. That meant more to them. You know, losing their children meant more to them.

SENATOR HOYLMAN: Meant more.
Now, so we're talking about 6.5 million to make up the differential, is that correct?

ILS DIRECTOR WARTH: That's correct, yes.

SENATOR HOYLMAN: And practically speaking, what does that look like in terms of the number of families that would then be represented?

ILS DIRECTOR WARTH: Well, you know, that -- I would love to be able to give you that answer. I think with the 2.5 we're going to find out more, you know, the exact number of how the families -- or how that works.

But it's also -- you know another way to think about it is if, you know, you have one public defender office, even just adding one attorney reduces the caseloads of all the attorneys in that office. So it really impacts all of the clients for that office.

And so, you know, whatever number I gave you -- you know, if I just gave you a number of what that one attorney -- the
number of clients that one attorney represented, it really would underestimate the full impact. Still, that's the kind of information we're going to try to get.

SENATOR HOYLMAN: And then finally, can you help us understand why Family Court representation is part of the Public Protection budget hearing? How are those two connected?

ILS DIRECTOR WARTH: Yeah. I mean, I think I go back to Ella B. for that one. You know, as soon as the Court of Appeals said this is the same, right, these two interests are both so foundational that the state really has a requirement to make sure that there's the right to counsel.

And so after Ella B., the right to representation of parents in Family Court proceedings was added to County Law Article 18, which was already established for criminal cases. And so, you know, it's now the same offices, the same providers do both. They do both criminal representation and the representation of parents in Family Court
And so that's our office's mission. You know, we work to improve the quality of representation provided under County Law 18-B. And so that's sort of where it all came together. But that also speaks to why, you know, I'm sort of reiterating the problem of trying to fix one part of the system and not the other part of the system.

SENATOR HOYLMAN: Thank you.

Finally, on the ILS -- (overtalk). Sorry, my 4-year-old interrupting. On the assigned counsel rates -- I'm not sure if you touched on this with Senator Bailey -- why do you take the position that the cost of any increases should be shoudered by New York State rather than by the counties or localities?

ILS DIRECTOR WARTH: Well, you know, I think we need to learn the lesson that we learned from 2004. And in 2004, you know, when the rate was increased, the counties had to fully assume fiscal responsibility for that increase. And so what we saw across the
state is that in order to pay for that
increase, counties cut costs and mandated
representation in other ways. Right?

And so we saw public defense
providers, you know, their budgets were cut.
We saw the creation of these conflict
defender contracts that, you know, would ask
one person to represent an inordinate number
of clients in both family and criminal case
proceedings.

And, you know, I really felt like --
you know, my first several years at ILS was
working as the chief attorney for the
Hurrell-Harring settlement implementation
unit, and truly I felt like a lot of what I
was doing was undoing the damage from the
decision made in 2004 to require the counties
to pay the increase.

You know, and I'm not asking the state
to pay the full cost for assigned counsel
rates. You know, I think for the counties to
continue to pay the current rates and the
counties to, you know, to pay the increase I
think is a sort of fair resolution of that.
SENATOR HOYLMAN: Thank you very much.
Thank you, Madam Chair.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to Assemblyman Lavine, chair of
the Judiciary Committee, 10 minutes. And
he'll be followed by Assemblyman Epstein.

Go ahead, Mr. Lavine.

THE MODERATOR: I think you're still
muted.

CHAIRWOMAN WEINSTEIN: No, you are not
muted, but we cannot hear you.

Why don't we go to Assemblyman --
since there are no other Senators, we'll go
to Assemblyman Epstein while we figure out
Mr. Lavine's issue with sound.

CHAIRWOMAN KRUEGER: And it might be
the best to just turn yourself off, Chuck,
and then try to come back into Zoom.
Sometimes that takes care of it.

ASSEMBLYMAN LAVINE: Well, that
worked.

CHAIRWOMAN KRUEGER: Oh, okay. Fine.

CHAIRWOMAN WEINSTEIN: Since Harvey's
busy talking on the -- yes, go ahead.
(Laughter.)

ASSEMBLYMAN LAVINE: Thanks. And

sor

Patricia, I was once a public
defender. I did 18-B work in the cr
realm and in Family Court. And I was also
learned counsel on death penalty cases and
did CJA work in the federal courts. So

neccessly to say, I could not be prouder of
what you do. But I want to share what my
experience was as an 18-B attorney.

Sure enough, whenever I needed an
expert, whenever I needed an investigator, I
had to engage in a lengthy piece of motion
practice -- and that's assuming on some of
these cases I could find a qualified
investigator or the experts would be willing
to work at what were the 18-B rates in those
days. Now, this is a long time ago.

I never had that problem on death
penalty cases. I never once had that problem
in representation in the federal courts.

What's the experience these days in
terms of attorneys being able to work with
experts and investigators who actually will be paid?

    ILS DIRECTOR WARTH: Yeah. Well, the experience is different depending on whether it's a criminal case or a Family Court case. Because of the Hurrell-Harring settlement and its extension statewide, we've worked with the counties on making funding available -- and this is state funding available -- in criminal cases for the ACP attorneys to access experts without having to go through that difficult motion process.

    And so we're working with the assigned counsel programs, you know, so part of what we're doing is we're building the infrastructure for the assigned counsel programs so that there's somebody within the program. And every program designates somebody different to review a request for an expert and then to review vouchers for an expert. But it doesn't have to go in front of a judge, and it's not a complicated request process.

    And in some cases, you know, if you
need an expert like an investigator --
sometimes you need the investigator
yesterday. And if you have to go through the
complicated process, evidence is going to be
lost. And so now the ACPs have systems in
place in their criminal cases where, you
know, the person can get the expert and then
get the ACP to pay for it with the, you know,
post hoc application, if you will.

And so that's working really, really
well for the criminal attorneys. The same
thing isn't available for Family Court
attorneys because the funding isn't there.
And that's the type of thing we want to do,
is to make sure that we can do that for both
the criminal side of a public defense
practice but also the Family Court side of
it.

ASSEMBLYMAN LAVINE: Well, good
lawyering and good lobbying, Patricia.

If we are able to make some progress
in terms of being able to take care of this
differential, does the amount that you
suggested cover not simply just the attorneys
but experts and investigators as well?

ILLS DIRECTOR WARTH: So for -- you
know, we're issuing -- you know, again I go
back to the 2.5 that was added as a result of
this Legislature's work. We worked, you
know, very quickly to get board approval to
issue an RFP. We issued an RFP for five
awards of $500,000 each over three years. So
that's not a lot of money. It's $167,000 per
year.

We had 25 counties apply, all of
them -- I mean, just really excellent
proposals. You know, we had a scoring
system. We're issuing contracts to the top
five awardees this week. And I think three
of those contracts include that type of
funding. And so like Cortland County was one
of the awardees, and so they're funding an
attorney to reduce caseloads. And then the
extra funding that they have that -- you
know, they're having a pot of money so they
can access experts in their Family Court
cases as well.

And so, you know, it's a small amount
of money, but it's going to have a
significant impact in that county. And it's
going to jump-start the process of improving
the quality of representation.

Now, to be fair, when I talked to the
public defender, he said, you know, "I wish I
had enough money for a social worker. That's
what I really need." You know, so that's why
we're asking for more.

ASSEMBLYMAN LAVINE: And let me
advocate for that, because as part of the
training to be learned counsel on death
penalty cases, the fact that social workers
play such a critical role in adopting a
holistic approach to handling a case is
something I will never forget.

So I didn't mean to leave out social
workers from the equation. And I simply want
to say thanks for what you do. And whatever
time I have left, I rest my case.

ILS DIRECTOR WARTH: Thank you.

CHAIRWOMAN KRUEGER: Thank you. I
think, Assemblywoman, we're still done, so --

CHAIRWOMAN WEINSTEIN: Okay, we have
now Assemblyman Epstein. Three minutes on
the clock, please.

ASSEMBLYMAN EPSTEIN: Thank you, Chair
Weinstein.

Appreciate you being here, Director.

So, you know, we've talked about
limited resources for -- just to disclose,
I'm a former civil legal services lawyer for
decades, ran programs. And so this is
something that is deeply meaningful to me as
well.

And I'm wondering, since we always
talk about limited pots, I'm wondering,
instead of focusing on an area of law,
focusing on a population. And I'm wondering
what -- if you've had those conversations
internally that say, you know, with a
population of veterans, they need family law
help, housing help, you know, public
benefits. Can we do comprehensive services
to that population instead of driven to an
area of law?

ILS DIRECTOR WARTH: Yeah, I mean, I
think that's a really good question.
Except the issue that we would have with that is that the constitutional statutory mandate doesn't just target a population. You know? It targets everybody who is entitled to counsel. And so I think we'd be doing a disservice to our mission if we were to just limit it to a population.

Having said that, I will admit that for the 2.5 million that we received in Aid to Localities for improved-quality parental representation, we did focus -- for the RFP that we issued, we did focus that funding on one type of Family Court matter, and that's state intervention matters. Those are the matters that involve parents, you know, potentially losing their children.

And so yes, we did -- you know, given the limited funding, we did focus, you know, sort of along the lines of what you're talking about.

I would also say, though, that, you know, I understand the issue of limited funding. But we do know that this year we do have a healthier economy and a healthier
state budget. And I also reiterate what I said about the Indigent Legal Services Fund: The additional funding that we're requesting for parental representation can and should come out of that fund. That's exactly what it was made for.

ASSEMBLYMAN EPSTEIN: Just so you know, I think we should have a right to counsel. I firmly believe in the right to counsel statewide on a whole host of issues for lower-income New Yorkers. And so, you know, I agree that the pot doesn't have to be limited. But I think once we continue to show successes, like you said, like in a certain type of Family Court case if we create a right, in a certain type of, you know, population we create a right -- that, you know, whether it's -- we talked about, you know, more money for housing, but that's still -- then the lawyer is making the choice -- you know, the Governor.

Instead of saying you have a right, now you can exercise this right to get free services because you're entitled to it,
instead of the program saying, oh, we're
going to choose which case based on this
initial money we got that we think has the
most merit.

ILS DIRECTOR WARTH: Right, yeah.

ASSEMBLYMAN EPSTEIN: So I wonder how
you'd feel -- I know I've run out of time,
but it would be great to continue the
conversation about how we reframe the
conversation.

ILS DIRECTOR WARTH: Yeah, I mean --
and I think that's how our mandate is
different from normal civil legal services.
There's already been a court decision that
somebody has the right to counsel for the
work that we do. You know, so -- so, you
know, it's not quite in the same area.

CHAIRWOMAN WEINSTEIN: Thank you.

We have Assemblywoman Kelles to close
for this witness.

ASSEMBLYWOMAN KELLES: Thank you.

And my deepest apologies. All of us
are running in between three different
meetings all at the same time, so I'm sure --
you know, I may have missed some things. And
I understand the questions that are being
asked.

I see that the budget increases by
50 million in funding for the continued
expansion of performed guidance for -- by the
Hurrell-Harring. Is that the funding you're
referring to that you are requesting?

ILS DIRECTOR WARTH: No. That is
already in the Executive Budget. And that is
part of the five-year plan to implement the
extension of the Hurrell-Harring settlement
statewide in a five-year increment. So the
first year was 50 million, the second year --
and so this is the fifth year, so this is the
full 250 million needed.

ASSEMBLYWOMAN KELLES: Okay. And in
the request I'm curious if it incorporates
for all the specialty courts like the Mental
Health Court -- you were speaking about
Family Court earlier -- to cover the legal
counsel -- right to counsel.

I agree with my colleague who just
spoke. Absolutely huge supporter of right to
counsel across the whole state for everyone who is low-income and needs it. So I'm trying to get a sense of what the request would cover. Does it cover all specialty courts? Does it also cover resource coordinators for these courts that I know help once -- you know, once cases are finalized, help individuals access the resources that they're required to, for example? A really important position on top of the social workers.

So I'm trying to get a sense of what is incorporated into that request.

ILS DIRECTOR WARTH: Well, the extension of the Hurrell-Harring settlement statewide is all criminal cases where somebody's entitled to counsel and financially eligible for assigned counsel.

And so that would cover any specialty court that's a criminal court. Which tends to be the -- you know, substance abuse courts, the opioid courts, the mental health courts. So that involves people arrested for a criminal offense.
For the Family Courts, it's a little bit different. And so, you know, you can face a situation where somebody has, you know, both a pending criminal case and a Family Court case, in it might be an integrated court, and they're going to have one attorney, the criminal attorney, who's going to have sufficient resources because of everything this Legislature has done in supporting our work to implement the settlement and extend it -- but then the Family Court attorney on the Family Court proceeding isn't going to have the same resources.

ASSEMBLYWOMAN KELLES: Right. So the request is to -- but that's not --

ILS DIRECTOR WARTH: The additional 6.5 million in Aid for Localities for improved-quality parental representation.

ASSEMBLYWOMAN KELLES: Got it. And that was the other piece you were speaking with Assemblymember Lavine about.

ILS DIRECTOR WARTH: Right.

ASSEMBLYWOMAN KELLES: And with
respect to the resource coordinators and the investigators for the criminal courts, I had heard earlier a little piece. But does this funding request also cover those types of services and positions?

ILS DIRECTOR WARTH: So our funding can pay for staff or people associated with the public defender. Right? But we can't -- we don't pay for court staff.

ASSEMBLYWOMAN KELLES: Got it. Thank you so much.

CHAIRWOMAN KRUEGER: Thank you for testifying. And I think that our chairs did a good job of grilling you, so we covered a lot of territory. Thank you for being with us tonight.

And for others who have been waiting patiently, we are now shifting into the second part of this hearing. And in the second part, with non-governmental representatives, we have panels that people have been put on.

Each individual will get three minutes to testify. Then legislators will have three
minutes in total to ask questions of the
panel. So hopefully that's not too
complicated. And the panels aren't that many
people. We have two or three -- oh, on one
or two we have four reps.

So I know some of you are thinking,
Will I ever leave for dinner? Maybe not.
But we're trying to make sure that everybody
has a chance to testify and that legislators
have a chance to ask a few questions.

And again, for anyone watching,
everyone is welcome to submit written
testimony, even if you feel that you don't
have a chance to go over all your critical
points in your presentation. Or you might
not have gotten a slot to testify. I'm
getting questions even today, now, can people
be added to today's hearing. The answer is
no, of course.

But you can submit written testimony.
And every legislator and all of the staff and
the central staff that work on the budget on
behalf of the Assembly and the Senate do get
all of this.
So now I would like to call up

Panel A: The Vera Institute of Justice, Shayna Kessler, senior planner; and Neighbors Link, Karin Anderson Ponzer, director,
Neighbors Link Community Law Practice.
Are both of our panelists here with us? I see them, yes. All right, so let's -- in the order you were called up.

Hi, Shayna. Take your mute off and please testify.

MS. KESSLER: Good evening. Thank you very much, Madam Chair.
And thank you to the full committee for your time and perseverance today.

My name is Shayna Kessler. I am a senior planner with the Vera Institute of Justice. I am pleased to testify today in support of two areas in which Vera leads work in New York: Legal representation for immigrants, and pretrial reforms in the criminal legal system.

Regarding immigration, we support an increased investment in New York's immigration legal services, specifically a
$15.3 million investment in the Liberty Defense Project and a $9.1 million investment in the Office for New Americans, totaling $24.4 million. This would support critical legal services for immigrants facing deportation, including the pioneering New York Immigrant Family Unity Project, or NYIFUP.

New York's investment in such representation provides a beacon of hope for those torn from their homes by immigration enforcement, which continues to be an enormous risk.

Immigrant New Yorkers are deeply woven into the fabric of our state. One in three New York children has an immigrant parent, and more than one-quarter of our workforce is foreign-born. During the pandemic, immigrants performed work that sustains our economy and safeguards public health, and they'll continue to do so long after it ends.

Providing lawyers to people is key. Immigrants in detention with lawyers are 10 times more likely to prove the right to
remain in the United States than those
without lawyers. Governor Hochul included
$20 million in her Executive Budget for these
services, but that falls short of the need,
and thousands are still forced into detention
and immigration court without access to
counsel.

Just this month we're seeing the worst
COVID-19 outbreak in ICE detention since the
pandemic began. We call on the Legislature
to increase funding to $24.4 million this
year and simultaneously to pass the Access to
Representation Act, which would establish a
permanent right to representation for people
facing deportation in our state. The public
understands that this is the fair thing to
do, and polling shows that 93 percent of
New Yorkers support government-funded lawyers
for people in immigration court.

Regarding the public safety budget, we
appreciate the Governor's proposal to triple
Executive funding for community-based gun
violence responses and for $10 million in new
funding to support pretrial services. These
represent an important investment in
evidence-based approaches to gun violence and
criminal legal system involvement.

We hope the Legislature will continue
its long-time commitment to these issues by
providing additional funding, especially for
pretrial services. We also urge that this
money go to non-law enforcement entities that
are better suited to support the success of
individuals and communities.

Thank you very much for your time and
support for these issues.

CHAIRWOMAN KRUEGER: Thank you.

And Shayna Kessler -- I'm sorry, that

was Shayna Kessler.

Karin Anderson, excuse me. It's

getting a little late.

MS. PONZER: Absolutely. Thank you so

much for the opportunity to testify this
evening.

My name is Karin Anderson Ponzer, and

I'm the director of the Neighbors Link
Community Law Practice. The mission of
Neighbors Link is to make the whole community
stronger through the healthy integration of
immigrants.

Neighbors Link is grateful to the
Assembly and the Senate for convening this
important hearing today. We've long been
vocal advocates for access to legal
representation for immigrants in removal
proceedings and in applications for
immigration benefits.

We urge the inclusion of 24.4 million
in funding for immigration legal services in
the fiscal '22-'23 New York State budget.
Our legal team represents hundreds of
immigrant New Yorkers every year in
immigration matters ranging from deportation
defense to naturalization. But we still must
turn away many more because our attorneys and
our Department of Justice-accredited
representatives simply can't handle any more
cases.

Our community-based organization has
witnessed the devastation that immigrant
New Yorkers have experienced in recent years
due to harsh immigration policies. But we
also know the transformative power of
immigration law to protect the vulnerable and
to keep families together and transform
lives -- if and when an individual facing the
immigration system has access to
representation.

Our clients are low-to-moderate-income
New Yorkers who are balancing jobs, family,
and a lot of other responsibilities with
limited resources. They're the backbone of
the communities where we live and work.
They're healthcare workers, food service
workers, teachers, child and healthcare
providers, construction, building and trade
workers, and so many more.

When they are able to achieve
permanent legal status, naturalization as
U.S. citizens, and reunite with families, our
communities are stronger. But when their
families are torn apart by deportation,
separated by delays in immigration
application processing, and preyed upon by
unscrupulous practitioners, our communities
are weaker and we all feel the pain.
The experience of the past 10 years demonstrates that immigration law will always impact the lives of New Yorkers, whether it's through overbroad civil enforcement that tears families apart or changes in federal law that may create new opportunities to achieve legal status.

Whether it's through barriers to federal benefits like the CARES Act funding, because of a lack of immigration status -- which made it impossible for many people to access those funds -- or the urgent need of New Yorkers that we see these days for legal assistance to help friends and family who fled persecution and violence in their countries of origin, robust funding for immigration legal services is an investment that makes all New York stronger.

Neighbors Link endorses the continued funding of the LDP and ONA, and the expansion of funding to 24.4 million.

Thank you so much.

CHAIR KRUEGER: Excuse me. I see Senator Pete Harckham's hand up.
SENATOR HARCKHAM: Thank you, Madam Chair, and thank you both for your testimony. Thanks for bearing with us so late in the evening.

And Karin, always great to see you.

I'm proud that Neighbors Link is in my district and Assemblyman Burdick's district.

You both spoke of the $24 million and the need for more funding. We've been speaking tonight with a number of folks about structural issues with the legal system as it pertains to our most vulnerable. So is this just a fiscal issue for you and your partner agencies? Or are there other structural things that we need to be doing on New York's side of the ledger to improve legal services for our immigrant communities?

I know part of it is dealing with federal law, but there are still some state issues as well. So are there other things we can do to be helpful? And that question goes to both of you.

MS. KESSLER: Thank you very much. I can begin -- and Karin, happy for you to
follow up. Thank you very much, Senator, for the question, and I think it's a terrific one and thank you for considering it. There's certainly an enormous need for funding for legal and social services. There's insufficient access to not just attorneys but social worker support and a wide variety of things.

And so there's a bill, the Access to Representation Act, which would at the structural level really advance New York's leadership in this area by establishing a right to representation for people in New York facing deportation. And that bill would -- the funding that we're seeking would do a significant amount of good, but it wouldn't come close to meeting the full need of all the people that go unrepresented, of all the people that go without the full scope of services that they should have when they're facing permanent family separation and deportation.

And so, you know, passing the
Access to Representation Act would advance New York's leadership and really -- and ensure that no one in New York faces the terrifying prospect of deportation without an attorney. And so I think that's really the next step.

There's some great work that can be done through the budget by funding this work, and we very much look forward to advancing the Access to Representation Act and advancing New York's leadership on that level.

CHAIRWOMAN KRUEGER: Thank you.

And next I see --

CHAIRWOMAN WEINSTEIN: -- Assemblyman Burdick.

CHAIRWOMAN KRUEGER: Oh, you're back.

CHAIRWOMAN WEINSTEIN: Thank you. The microwave is working.

I see Assemblymember Burdick, to close on this panel.

ASSEMBLYMAN BURDICK: Yes, thank you.

And thank you both for your testimony.

And Neighbors Link, without any
question, is an absolute gem in the district
that I represent in Mount Kisco -- but they
operate, of course -- you operate throughout
Westchester County, and you do some
trailblazing work. And I was pleased to be
able to get some funding to Neighbors Link
earlier this year.

And I just -- a couple questions. One
is on the budgetary request. Do you know
what agency that would be -- is that going to
be -- what agency would that be a part of a
budget to? Because I may have missed it in
your testimony, but I didn't see what part of
the budget it would relate to.

MS. PONZER: The Office for
New Americans.

Shayna, if you would like to speak to
that.

MS. KESSLER: That's correct. It's
under the Office for New Americans. There's
two lines --

ASSEMBLYMAN BURDICK: But there are
two parts, right? One is the -- that there
are two different asks on the money side.
Are they both to the Office for
New Americans?

MS. KESSLER: That's correct.

Yes. They're both --

ASSEMBLYMAN BURDICK: Okay. That's
fine. I just need to know when we're putting
together budget letters and that sort of
thing to try to get support for it.

And the Access for Representation Act,
do you have any idea how that's coming along?

I assume that there might be other states in
the country that have similar statutes, and
could you tell us a little bit about that?

MS. KESSLER: Certainly, yes. This is
a growing movement across the country. There
is a bill -- Maryland is the other state with
the most active bill on this level. Colorado
is considering one, and several other
states -- there's a total of eight states
right now that fund deportation defense. All
of them followed New York's lead in doing so.

And really the sort of next step in
this movement is the leadership of New York
in passing the Access to Representation Act.
And this is really, you know, to both serve New Yorkers facing deportation and providing really critical services to New Yorkers, but also really modeling for the federal government that it should be the federal government stepping up to foot this bill.

And it will be with the leadership of New York and the states that are following New York, I believe, that will ultimately make this happen at the federal level and ensure that everybody does have access to representation.

ASSEMBLYMAN BURDICK: And lastly, and my time is running out, but then it would be made -- by putting it in here, then, it would be grant funding that would then be available to agencies like Neighbors Link, correct?

MS. KESSLER: That's exactly right.

Yes.

ASSEMBLYMAN BURDICK: Okay. Thank you very much, and keep up the good work you're doing.

CHAIRWOMAN KRUEGER: Thank you, ladies, both for being with us and hanging
out all day. Although at least you don't
have to sit in a conference room all day.

CHAIRWOMAN WEINSTEIN: We have --
we do have another.

CHAIRWOMAN KRUEGER: Oh, you have
another --

CHAIRWOMAN WEINSTEIN: Assemblymember
Kelles --

CHAIRWOMAN KRUEGER: Assemblymember
Kelles likes to come in last.

ASSEMBLYWOMAN KELLES: I apologize. I
like to listen to the conversation. I learn
so much from it.

But I will be quick. I actually both
wanted to thank you both on the work that
you're doing. And my deepest apologies, but
I'm pivoting slightly. I support -- I'm just
going to put that out there -- I will
certainly fight -- Chris, I'll second what he
said.

But Shayna, I actually wanted to speak
with you very briefly about a conversation
that I had earlier today with OCA with
respect to a report from the Vera Institute
on the worsening of the racial disparities in bail being set that has been significantly increased, actually, for people of color, particularly men of color, and get a sense from you of what needs to be -- what information do we need.

What needs to be done, in your opinion, from the research that you did? How can we address that issue?

MS. KESSLER: I will say I will have to refer you to my colleagues whose expertise is in bail. My expertise is on the immigration side.

But what I can say with certainty is that standing firm on bail reform -- that the reforms were solid. We are grateful that they were enacted, and we certainly support their continuation. And that will be what will enable us to ensure that we have the policy in place to address the racial disparities in the system.

Apologies that I can't speak in detail to that report.

ASSEMBLYWOMAN KELLES: Don't worry
about it.

MS. KESSLER: But certainly I will inform my colleagues and refer them to you as well.

ASSEMBLYWOMAN KELLES: Wonderful. If they could reach out, that would be amazing.

I have worked with your institute for many years as a county legislator as well, so I know you cover many issues. So no worries that you are not an expert in every single one of them. I know you work with a great team.

So thank you to both of you. I relinquish my last minute.

CHAIRWOMAN KRUEGER: Okay. And now -- I just don't want to cut off anybody else accidentally. No? All right.

Now I will thank these two testifiers and go on to Panel B, Legal Services of the Hudson Valley, Rachel Halperin, CEO; New York State Coalition Against Domestic Violence, Joan Gerhardt, director of public policy and advocacy; Treatment Not Jail Coalition, Anthony Maud; and Families Civil Liberties
Union, Sebastian Doggart, executive director.

Good evening, everyone. Okay. Is Legal Services' Rachel Halperin in here?
Yes, she is. I'll start with you.

Good evening.

MS. HALPERIN: Good evening. I'm Rachel Halperin. I'm the CEO of Legal Services of the Hudson Valley. We provide comprehensive civil legal services in seven counties in the Hudson Valley.

I'm also here tonight on behalf of the Legal Services Coalition of New York, which is a membership organization of over 50 civil/legal services providers throughout New York State.

We are requesting that New York State dedicate state funding to ensure the continuity and sustainability of New York's legal services for crime victims, which is in jeopardy because of the decline in federal VOCA funds coming into New York State.

In 2018, OVS issued an RFP for attorney services for crime victims and awarded $16.7 million a year to over
60 providers, which created an extensive network of civil legal services support for crime victims. As a result of this funding, for example, my organization created 20 new positions and has provided legal services to almost 1200 crime victims in close to 2,000 cases since 2018.

Last month, OVS notified all the providers under this contract that the contract was going to be terminated one year early, effective September 2022. OVS did explain that was because of a decline in federal VOCA funds to New York State and they could no longer afford these contracts.

OVS invited current providers to compete in an RFP that was issued this month that lumps all three of the OVS programs together so we would compete against each other for a smaller pot of money.

Immediately upon receipt of this notice, LSHV, like other providers, had to close our intakes.

These legal cases in custody, immigration, divorce, orders of protection,
take months and years. And as attorneys, we're ethically obligated -- once we enter our appearance, we have to provide representation to clients despite losing our funding. We also put a hiring freeze on any open positions.

Legal Services Coalition, in coordination with NYSCADV, who you're going to hear from after me, met with the Governor's staff prior to her releasing her budget to explain this issue and encourage her to please put funding in the budget to keep providers whole. Unfortunately, this funding was not included in the budget.

Now is not the time to cut back on these critical and life-saving supportive services. You've heard all day about the increase in crime and gun violence. It is not the time to cut services to victims of crime. Respectfully, we ask the Legislature to ensure adequate funding for all providers serving crime victims under the OVS legal services funding for the next two years so that services can remain intact and steady.
And finally, we support our colleagues at NYSCADV and their advocacy to keep all victim service organizations whole in all the OVS organizations they have.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Next, Joan Gerhardt from NYSCADV.

MS. GERHARDT: Thank you. Thank you, Chair.

Yes, that's the New York State Coalition Against Domestic Violence, and we were established more than 40 years ago as the statewide nonprofit organization of local domestic violence service providers committed to preventing and ending domestic violence.

In New York, nearly 100 domestic violence programs operate 250 locations around the state. NYSCADV is recognized by the U.S. Department of Health and Human Services and the U.S. Department of Justice as the information clearinghouse and resource center on domestic violence for New York State. We provide education, training, and technical assistance to service providers and
support policies to enhance domestic violence intervention and prevention.

What makes this Executive Budget so troubling is its funding cuts to victim services and new government mandates. Here are four specific concerns. First, OVS is cutting funding for hundreds of victim assistance providers in the next round of awards -- providers that offer essential services to victims of domestic violence, sexual violence, child abuse, and many other crimes.

These cuts are due to decreases in New York's federal VOCA grant. Despite New York State's surplus, and with millions of dollars available in pandemic aid, there is no proposed solution to these cuts in the Executive Budget. Other states have implemented fixes to protect their victim service providers -- New York has not. New York's VOCA grant is $140 million less today than it was just four years ago.

We are therefore asking for $140 million in the state budget and again
next year. In total, the federal Crime Victims Fund, which fuels state VOCA grants, is expected to return to prior levels. One hundred forty million dollars represents 0.06 percent of the proposed $216 billion budget and will ensure the continuity of these critical services.

Second, we have several concerns about Part H in the PPGG budget, which would mandate a 40-hour training for all DV advocates. We ask that you remove the proposal from the budget. Domestic violence programs are finding it hard to recruit and train new employees because of high turnover, but creating new mandates and increasing state oversight will not ease this burden.

Frankly, when providers are facing significant funding cuts, the state should be focused on making programs whole so they can retain advocates, not placing more burdens on them. We were not asked to collaborate on this proposal despite our federally designated role as a domestic violence resource center for the state.
Third, we ask the Legislature to increase the TANF set-aside for nonresidential DV services. The Executive Budget returns the set-aside to $3 million, the same level it was when it was first proposed in 2000.

So we're asking for $6 million, and we're also seeking to maintain $5 million of new Aid to Localities funding for an OCFS-directed flexible-funding pilot project.

Thank you very much.

CHAIRWOMAN KRUEGER: Thank you.

Our next testifier is Anthony Maud. I believe I'm -- I'm hopefully saying that correctly.

MR. MAUD: Yes. My name is Anthony Maud, and I'm 35 years old. I'm a proud member of the Treatment Not Jail Coalition, which is what I'm here today to discuss.

I grew up in Buffalo with a developmental and learning disability, including dyslexia and ADHD. As a child, it always took me time to catch on to things. I was also emotionally disabled due to being a
victim of physical and sexual abuse by a trusted family member.

I was in group homes from ages 9 to 12, at which time I experienced additional abuse. My father was severely addicted to crack cocaine, which trickled down to me as a teenager. I turned to drugs as a way to cope. I have a record and have spent time in prison, mostly due to my drug use and untreated mental health issues.

Notably, despite having been through the criminal legal system many times, I have never been offered the opportunity to participate in court-ordered diversion.

I'm not alone. Our justice system currently does not provide enough non-incarceratory opportunities for people like me who are struggling with mental health and substance use issues.

Our default is always jail and prison, but it doesn't address the root causes that bring people to engage in criminal behavior. In fact, studies consistently show that jail and prison exacerbate these underlying issues
and make people more likely to reoffend.

Treatment courts, as specialized court parts that allow judges to mandate alternatives to incarceration, are shown to work. They are better at healing those who are struggling with substance use and mental health issues. They are better at breaking the cycle of recidivism and promoting public safety. And finally, they're substantially more cost-effective.

Unfortunately, only a small fraction of those charged with crimes are eligible for these types of courts. The Treatment Not Jail Act subsequently expands access to courts by involving existing law, CPL 216, which in 2009 created drug courts in every county in New York.

TNJ extends eligibility to those with mental health concerns and moves away from arbitrary charge restrictions, instead allowing judges to accept those they determine would benefit from treatment and whose treatment would benefit the public.

The TNJ Act also makes significant
improvements to the model outlined in 2009,
building on the research that we have learned
over the last 13 years to implement a
treatment court program rooted in harm
reduction, due process, and procedural
justice principles.

Please note that speaking today is the
single most scariest thing I have done in my
life. But I'm doing this to help others who
will get in trouble due to their own genetic
backgrounds.

I welcome questions.

CHAIRWOMAN KRUEGER: Thank you.

And our last testifier on this panel
is Sebastian Doggart, from the Families Civil
Liberties Union.

MR. DOGGART: Good evening. I am
Sebastian Doggart, executive director of the
Family Civil Liberties Union, an independent,
nonpartisan, nonprofit group assisting
families and kids across the U.S.

Four years ago, the FCLU testified
before this same body. We presented
extensive evidence to you to show why the
New York Unified Court System is causing untold harm to our children.

We called on you to deny Lawrence Marks' funding requests until independent, effective oversight of the judiciary was established. We warned you of specific judges and court officials, including Mr. Marks, and showed how they were all perpetrating fraud, waste, and abuse on the public. You ignored all those warnings.

Hoping we are not a 21st-century Cassandra, the FCLU is now here again to warn you of the harm being inflicted by this broken judiciary on millions of New York families. Our request is that you deny the funding requests in their entirety by both the UCS and Commission on Judicial Conduct.

We also ask that you fund cameras in courts; insist on a radical review of the corrupt Attorney for the Child program; enact a total overhaul of the procedures for appointing or electing judges; and work to end the toxic Title IV-D program that is tearing families apart.
Your task is to protect the public, and that means to ensure that there is effective oversight on expenditure. You have failed in this task dismally. For the last five years, the Center for Public Integrity has given the State of New York's judicial accountability a failing grade of F, ranking 48th out of 50 states in terms of judicial accountability.

The organization which you fund to oversee the judiciary is the Commission on Judicial Conduct, the CJC. It is a sham. Every complaint presented by private citizens is dismissed with a boilerplate letter. And guess who is on the CJC letterhead? Robert Tembeckjian, to whom you gave a plum position as a witness today. Robert Tembeckjian, who has ruled the CJC, unelected, for a Putin-style 17 years. Robert Tembeckjian, who you have rewarded with ever-rising wages, over $200,000 due to him the next year, not including add-ons.

Of the hundreds of criminal complaints filed by the FCLU, the CJC has investigated
precisely none. The CJC has shown it does not need reform, it needs to be shut down. Tembeckjian needs to be investigated and audited, and a new judicial oversight body set up that is truly independent and made up at least partly by non-attorneys. The foxes cannot be allowed to run the henhouse.

Now the consequences of Tembeckjian's negligence have been tragic. In the report we submitted to you four years ago, we warned you of the conduct of a rogue Suffolk County judge, Hope Zimmerman. It was Zimmerman who willfully ignored the pleas of a mother that her 7-year-old child Thomas Valva was in mortal danger.

Siding with the father, an NYPD cop, Zimmerman ignored ample evidence of imminent danger. The result? Tommy Valva was left in a freezing garage overnight and died of hypothermia. If Tembeckjian had recommended Judge Zimmerman's suspension earlier, Tommy Valva would still be alive today.

We also warned you and the CJC of the abusive practices of Douglas Hoffman, the
supervising judge for the New York Family
Court since 2009. Hoffman is being sued for
sexual harassment by his own court attorney,
Alexis Marquez.

In an age of Me Too, when Governor
Hochul and many in this Legislature have
called on us to believe women, you'd have
thought that Judge Hoffman would at least
have been suspended until the outcome of a
trial with independent investigation, right?
Not at all. Hoffman, a friend of
Mr. Tembeckjian, has continued to sit pretty
on the bench and even had his wages
increased.

The allegations here are strikingly
similar to those which brought down
Governor Cuomo.

Why does this Legislature apply double
standards to the executive and judicial
branches of government? This Legislature
needs to do a line-by-line audit of
Mr. Marks' application. That budget is a
blatant attempt to defraud the public. Why
are the salaries of judges not identified
anywhere there? Where in this budget are the
generous fringe benefits they reward you to
lavish upon them?

In Mr. Marks' budget, no reasons are
given for renewed funding of the appalling
Attorney for the Child program --

CHAIRWOMAN KRUEGER: Your time is up.

Thank you very much.

MR. DOGGART: I'm wrapping up now.

We ask you to please read our detailed
2022 report on the New York court system,
which provides evidence on why you need to
deny the Judiciary's demand for funding, to
shut down the CJC, and order Mr. Tembeckjian
to fund cameras in court. To radically
reform --

CHAIRWOMAN WEINSTEIN: Your time is
up, sir.

CHAIRWOMAN KRUEGER: Your time is up.

Thank you.

Zellnor Myrie for the first question.

MR. DOGGART: -- tearing families
apart.

SENATOR MYRIE: Thank you.
CHAIRWOMAN KRUEGER: Thank you, Sebastian.

SENATOR MYRIE: Thank you, Madam Chair.

Thank you to all of our panelists, and a special thanks to Anthony for your testimony and for being vulnerable and sharing your story. That is very much appreciated.

This is really for anyone on the panel. You know, I empathize with the request that you have made regarding the lack of resources that you have to do your job. We've introduced a bill that has to deal with the Victim Compensation Fund and fair access to it. We know that many individuals who are unfortunately victims of crimes do not take advantage of the resources that are available to them because of the current structure and the requirements that they either interface with law enforcement or the short window in which they can apply after the crime, the reporting requirements, et cetera.

And I'm wondering if you can talk
about whether you are supportive of this
effort or you can speak to the challenges
that victims face in getting the resources
that they need.

MS. GERHARDT: I would be happy to
step in on that, Senator.

Yes, we're very supportive of the
bill. We think the more resources that can
go to all victims in New York State, the
better. They just don't have enough
resources.

And I think, you know, the very
compensation reimbursements that you're
talking about are the same VOCA grants that I
was talking about in my testimony. The VOCA
that comes into New York State is really
split into two buckets of money: Assistance
grants that go out to service providers, and
compensation that goes out directly to
victims. So I think, hand in hand, both of
these buckets are so critical to New York
State, and the compensation is working very
well. I think people are getting their
resources.
I think there's another proposal that the Governor has to bump some of the compensation reimbursement for private property, with which we also agree. So I think the more that we can get compensation reimbursement to victims of all types, that's great.

But I think right now our focus has to be on the grants to victim service providers, because we're talking about significant cuts to the very organizations that help those victims. Whether it's legal services, mental health, medical, domestic violence advocacy, it runs the gamut for all types of victims, and it's something the state really needs to address urgently.

CHAIRWOMAN KRUEGER: Assemblymembers?

CHAIRWOMAN WEINSTEIN: Yes, we do have -- we have Assemblyman Ra first, and then Assemblyman Walczyk, and then Assemblyman Epstein. Three minutes each for these members.

ASSEMBLYMAN RA: Thank you, Chair.

I just had a question for Ms. Gerhardt
regarding this training requirement proposal.
I'm just wondering, you know, if you know
of -- relative to something similar in other
states, or whether there's any type of
standard that may be something that should be
advocated for as an alternative to this.

MS. GERHARDT: That's a great
question, Assemblymember.

There are many states that have
training and certification programs for
advocates. We in New York State already have
requirements in our regulations for domestic
violence advocates, but all of those states
rely on the coalitions or other domestic
violence service providers for that training.

And the reasoning is New York State is
the only state in the country that I'm aware
of that has a state-level agency focused on
domestic violence, which we really
appreciate.

But what we don't want to see is, you
know, with so much need out there with
respect to survivors, and so much support
that domestic violence service providers
need, we really don't need to be duplicating efforts.

And NYSCADV, as the state coalition, does a tremendous amount of training and TA, as coalitions do across the country, and as we are federally designated to do. So we'd rather see the state-level agency do a bunch of other things that are frankly already in their enabling statute -- updating policies for other state agencies and counties, employee awareness programs, training for court personnel and judges, which the Governor's Blue Ribbon Commission on Forensic Evaluators just called for.

So there is a critical need for a lot of support. We just don't think it's wise to have the state agency focus on training when it's already happening throughout other entities in New York State.

ASSEMBLYMAN RA: Great. Thank you.
CHAIRWOMAN WEINSTEIN: Thank you.

We go to Assemblyman Walczyk.

ASSEMBLYMAN WALCZYK: Yeah, my first question -- thank you, Madam Chair -- my
first question is for Joan as well.

I was just looking at some crime statistics statewide, some of the reports from our cities showing over the last few years what direction -- and we know, we've seen large reports about crime waves, but something that really stuck out to me was, well, homicides are going up, shooting victims, burglaries, grand theft auto has doubled -- all of these things.

You have seen a decline in reports of rape across New York State. How do you square that? What's -- what do you think is responsible for that? And what should we be concerned about right now?

MS. GERHARDT: I'm not really familiar with the decline in reports of rape. That might be a question better posed to my sister coalition, the New York State Coalition Against Sexual Assault.

What I can tell you is throughout the pandemic, certainly, demand for domestic violence services increased. Because I think we have seen a lot of increases in reports of
violence in domestic settings, and that of
course has to do with a lot of people working
from home, not having the escape of working
outside of the house or the potential to meet
with advocates outside of the home.

So, you know, in the early days of the
pandemic, with respect to domestic violence,
we were actually referring to it as the
pandemic within the pandemic because we saw
such increases in the number of police
reports, calls to hotlines -- really
throughout the entire state.

So I can't quite square the data point
you're suggesting about the decrease in rape,
but I offer you the crime statistic increase
in domestic violence.

ASSEMBLYMAN WALCZYK: Yeah, neither
can I. I appreciate that perspective.

Is Mr. Doggart still with us?

MR. DOGGART: Yes, I am. Yes, I am.

Hi.

ASSEMBLYMAN WALCZYK: I was just
wondering -- right at the top of your report,
Dr. Steven Baskerville said, "The family
courts are operating a kidnapping and
extortion racket." What are you talking
about, good sir?

I'll yield the rest of my time.

MR. DOGGART: Oh. Well, the family
court had become a racket in which there is a
huge amount of money going on, and the
victims of this are the kids.

Let me give you one example of
what's the -- part of the racket, which is
where the Legislature is in fact a
beneficiary of it. Your General Fund accepts
millions of dollars a year in federal funds
provided under the Title IV-D program of the
Social Security Act. And this provides
matching funds from all child support orders
made by family judges -- family court judges.

Now, that in turn incentivizes those
judges to always allocate a winner and a
loser, with that loser almost always being
the monied parent. This scheme tears
families apart. And it's a racket because
the Democrat -- or the judges, often
Democrats, are helping their Democrat
colleagues to earn huge amounts of money
through the Title IV-D money -- program.

So one of the -- and the consequences
of that, as we've heard -- and if you don't
pay the child support because of these
orders -- and I have seen orders which are
300 percent of someone's salary -- these
people go to jail. And many of them then
commit suicide. It's a terrible cycle. But
it's all there because of the money.

So that's why we call on the
Legislature to voluntarily withdraw from the
toxic Title IV-D program. There are many
other ways that this corruption is going on,
and it's a racket, and Dr. Baskerville is
correct in saying that --

CHAIRWOMAN WEINSTEIN: Thank you.

Your time is up.

CHAIRWOMAN KRUEGER: Time is up.

CHAIRWOMAN WEINSTEIN: I see that

there is a Senator?

CHAIRWOMAN KRUEGER: Yes.

CHAIRWOMAN WEINSTEIN: Senator --

CHAIRWOMAN KRUEGER: Yes, I see that
Senator Bailey has joined us. Thank you.

Senator Bailey.

SENATOR BAILEY: Thank you,

Madam Chair.

I just wanted to express my
appreciation for the Legal Services of the
Hudson Valley, being a representative of
Westchester County.

Thank you for the work that you do,
not just in your testimony but in ensuring
that we continue to provide excellent legal
services, specifically in the area of the
City of Mount Vernon, around the housing that
you do. It does not go unnoticed.

And Anthony, thank you for your
courage and for being willing to tell your
story today. It is very difficult to do that
in such public forum, and I just wanted to
say thank you for your bravery in doing so.

It takes a lot to do that.

And look, I just wanted to, I guess,
make a long statement in that I appreciate,
you know, you all taking your time for this
testimony.
But mostly, Rachel, I just want to say thank you. Especially in Mount Vernon, in the four square miles of Mount Vernon obviously we've had some concerns with the housing issues. And I just wanted to thank Legal Services of the Hudson Valley for really stepping up, and I figured this would be the optimal time.

Madam Chair, I yield the rest of my time.

CHAIRWOMAN KRUEGER: Thank you very much.

MS. HALPERIN: Thank you, Senator Bailey.

CHAIRWOMAN KRUEGER: I think we have Assemblymember Epstein.

CHAIRWOMAN WEINSTEIN: Epstein, yes. Mr. Epstein, who's the final Assemblymember.

ASSEMBLYMAN EPSTEIN: Thank you, Chairs.

Yes. I also -- Anthony, thank you for your testimony. I deeply appreciate it.

And Rachel, I just -- kind of on the civil legal services front, I'm just trying
to figure out where the holes are, you know. Because I know, you know, we've seen a lot more money for housing representation and -- on the ground and in your offices across the state. And, you know, obviously you talk to other legal service partners.

Where do you see the biggest need, and where do you see us not really having really stepped up to kind of meet those needs?

MS. HALPERIN: Thank you. That's a great question.

I mean, I think overall we have been very happy, the civil legal services community, with the Governor's budget. The additional funds for tenant defense were obviously much needed, she put money in there for our foreclosure -- our HOPP program -- as well as our Disability Advocacy Program, which is why we were just very surprised that with -- we know there is a focus and that people understand the value civil legal services brings to communities and the importance of the work that we do -- that this statewide network that was just built in
2018 of legal services attorneys supporting crime victims would be dismantled, you know, a couple of years after it was built.

And this is really essential work that we all do across the state. Victims of consumer fraud, of identity theft, victims of domestic violence, sexual assault, elder abuse, bankruptcy -- this is really, soup to nuts, supporting crime victims in our state. And so we are very concerned that this funding was just abruptly terminated with no plans to keep providers whole and enable us to keep services going.

Just additionally -- this is a bit off topic, but since you asked, the LSAF funds, which are always very needed, we are asking this year, the Legal Services Coalition, for funding to be added to the LSAF for civil legal services. So rather than money being transferred from that to general revenue, it's to keep it in LSAF to support civil legal services. It's $9.2 million, is the coalition's ask in that.

ASSEMBLYMAN EPSTEIN: And how would
that be distributed around the state? Do you
guys have a formula?

Because I know the LSAF funding
doesn't fund all the providers around the
state.

MS. HALPERIN: Right. So we would be
asking for that new money to then be RFP'd.

ASSEMBLYMAN EPSTEIN: Thank you.

MS. HALPERIN: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Just one more question from myself to
Joan Gerhardt.

You were talking about a loss of some
federal money that you're confident you're
going to get back next year, so you're asking
us to keep you whole in the absence of some
federal dollars that will come back.

Can you just clarify what that story
is?

MS. GERHARDT: Sure. We're talking
about the Victims of Crime Act funding at the
federal level, and those grants, that VOCA
grant bucket, is funded out of the Crime
Victims Fund, again at the federal level.
And that big, huge pot of money that fuelled grants to all the states has been depleted really since 2018. So in New York State, our grant now is $140 million less than it was in 2018.

Congress took steps to fix the Crime Victims Fund to essentially divert more money from general resources into the Crime Victims Fund, and the forecast is that the Crime Victims Fund will replenish itself in two to three years to a level enough to return the state grants to levels that we saw back in our 2018-2019 timeframe.

But for now most states are trying to, you know, take care of that shortfall for the short-term period of two years. And they're doing it by either using state general revenues or using pandemic relief. So we know states like California, Washington State, Iowa, Alaska, Maryland have all taken precautionary steps to ensure that the victim service providers remained whole as this fund at the federal level replenishes. That's what we're asking New York State to do in
this budget. And likely next year's as well --

CHAIRWOMAN KRUEGER: Okay.

MS. GERHARDT: -- until we know that that grant comes back up.

CHAIRWOMAN KRUEGER: Thank you for the clarification of that.

I want to thank everyone for joining us tonight -- yes? Sorry, Helene.

CHAIRWOMAN WEINSTEIN: Senator, we have Assemblyman Burdick who has a quick question.

CHAIRWOMAN KRUEGER: Oh. Sorry, Chris.

CHAIRWOMAN WEINSTEIN: He snuck in there.

ASSEMBLYMAN BURDICK: That's right, and I apologize because I was over on another meeting.

So -- and first of all, I want to thank you folks for doing the tremendous work that you do.

And Rachel, it's so good to see you and to represent you in the Assembly. We
have met, and you just -- you're doing an
awesome job with the services that you
provide.

And I'm wondering if you could explain
a little bit more -- that 200 million that's
obviously -- that you're looking for, it's
obviously statewide. And can you tell me
what the needs are? They would be
distributed, as we were discussing a minute
ago, throughout the state.

And can you give me an idea of what
your agency is needing out of that 280?

MS. HALPERIN: Well, I can tell you in
Westchester, for example, all of the agencies
in Westchester receive about $8 million a
year. And so that would be legal services,
that would be domestic violence providers, My
Sister's Place, Hope's Door, WestCOP, the
Office for Women. So I know for Westchester
it's a total of $8 million.

I think Joan can talk a little more
precisely about the numbers.

Part of our issue is we really need
information from OVS as to how much money
they currently contract and what their
deficit is going to be. And it's that
number, it's that difference of what programs
are currently funded at and what the cuts
they're anticipating for next year are --
it's that number that would close the funding
gap so that programs can remain whole and
continue providing the services they're
providing.

ASSEMBLYMAN BURDICK: Okay. I think
I'm trying to get -- what I think that we
should do is to try to discuss this offline
so that I have a better idea of what the
needs are.

And I think you do -- you know,
obviously 280 million is a fairly big number.
And I think Helene would tell you that too.
And so we have to get an idea of how we're
going to approach this. But I certainly am
very sympathetic to wanting to see this
funded somehow.

You know, one concern that we in the
Legislature have is that, you know, where we
normally get funds from the federal
government, and we start funding it through state funds -- then guess what -- we no longer get funds from the federal government. And so, you know, it's a little bit of a balancing act to make sure that we can continue to get the funding that we need from the federal government. But let's -- if we could, I would really like to talk to you offline about it.

MS. HALPERIN: Thank you.

ASSEMBLYMAN BURDICK: Thank you.

CHAIRWOMAN KRUEGER: So I'm going to thank the panelists, and we're going to move on to Panel C.

And I will read off the groups and names first. Prisoners' Legal Services for New York, Karen Murtagh, executive director; Releasing Aging People in Prison Campaign, Theresa Grady, community leader; Center for Community Alternatives, Sirena Sharpe, community leader; and JPMorgan Chase PolicyCenter, Nan Gibson, executive director. Not familiar with that.

Anyway, welcome, everyone. You know
the rules. Three minutes, and we will go
down the list starting with Karen Murtagh,
Prisoners' Legal Services.

  MS. MURTAGH: Thank you.

  Good evening, Madam Chairs Krueger and
Weinstein and esteemed members of the
Legislature. It's so nice to see you all.
Thank you for inviting PLS to testify before
you today.

  As you know, PLS was founded in 1976
in response to the uprising. This past fall
we commemorated the 50th anniversary of the
uprising. PLS provides legal representation
and assistance to incarcerated New Yorkers to
protect their civil and human rights and help
them prepare for reintegration into society
upon release.

  PLS currently has six offices
statewide located in Albany, the Bronx,
Buffalo, Ithaca, Newburgh, and Plattsburgh.
Our work focuses on addressing conditions of
confinement in New York State prisons,
including medical and mental healthcare, jail
time and sentence calculations, illegal
disciplinary hearings involving solitary
confinement and loss of good time, visitation
rights of parents with their children,
educational and vocational training for
people with disabilities, and preparing
people who are maxing out of prison for
successful reintegration into their
communities through our Pre-Release and
Re-Entry Program -- we call it our PREP
program.

For fiscal year 2022-'23, Governor
Hochul has maintained PLS' prior executive
funding by including PLS in her Executive
Budget for $2.2 million. We are requesting
both houses of the Legislature to jointly add
an addition 2.4 million, 1.2 from the
Assembly and 1.2 from the Senate, resulting
in total funding for PLS of 4.6 million.

This funding will allow PLS to
adequately staff our six offices across the
state, continue providing critical legal
services to incarcerated people in state
prisons, and help address a significant
portion of the unmet needs. And it will
expand PLS's Pre-Release and Re-Entry Program beyond the Bronx and Manhattan.

In my testimony I share in detail a number of the court decisions and settlements that we have entered into with DOCCS over this past year that demonstrates how PLS holds DOCCS accountable and ensures that the incarcerated population is treated justly and fairly. I also attached a very lengthy appendix that summarizes PLS's advocacy efforts over this past year on behalf of hundreds of incarcerated people.

This advocacy and our litigation highlights the need for PLS to be present -- because if left unchecked, our prisons could quickly return to pre-Attica conditions. A prime example of this is the recent release of the New York State Inspector General's investigation and findings where it found that DOCCS's drug testing program needed to be completely overhauled.

In her report, Inspector General Lang lays out PLS's role in bringing the false-positive issue to the attention of
DOCCS, a role that was critical in DOCCS's
final decision to suspend the buprenorphine
testing, reverse all of the sanctions that
had been given over the past year for
positive drug tests, and alert the Inspector
General's office.

I have said in the past, you know, PLS
saves the state money in thousands of
disciplinary hearings that we are -- that are
reversed over the years and seriously
restoring thousands of years of jail time and
sentencing time to people's sentences. But
more important than that, than the monetary
savings, is what PLS does for public and
prison safety.

CHAIRWOMAN KRUEGER: Thank you.
Karen, I have to cut you off; you have been
past your time for a little while.

MS. MURTAGH: Okay. Thank you,

CHAIRWOMAN KRUEGER: But thank you.
We will look at the testimony.

Next is Release Aging People in Prison
Campaign, Theresa Grady.

MS. GRADY: Thank you, Chairperson.
My name is Theresa Grady, and I am a community leader for the Release Aging People in Prison Campaign. I'm speaking today on behalf of myself and three of my fellow RAPP community leaders: Nawanna Tucker, Lisette Nieves, and Jeannie Colon.

The crisis of mass incarceration is at a boiling point, with people dying in New York state prisons once every three days, on average. Academics have called long sentences and perpetual parole denials New York's new death penalty.

The path forward is clear. Give incarcerated people who have rehabilitated themselves a pathway to return home.

As of -- all of us -- me, Nawanna, Lisette, and Jeannie have a loved one in a New York State prison. My husband is 67 years old, 17 years into his 40-year sentence, and suffering from severe chronic illness. These men have grown into mature adults who bear no resemblance to the people who entered prison so long ago.

But under existing laws, the prison
system doesn't care about that. Even when
they do become eligible for parole, research
shows the Parole Board will likely ignore
their rehabilitation and deny their release
based solely on one thing that can never
change: their original conviction.

Worse, data shows they are even more
likely to get denied because they are all
Black or brown. Every day we live in fear
that our loved once will become, to the
state, another death statistic. The average
age of death in state prisons is only 58.

Governor Hochul included valuable
policies and programs to serve currently
formerly incarcerated people in her Executive
Budget, but there is a glaring omission. The
proposal falls into two categories of prison
programs and reentry supports. What's
missing is a bridge between them --
meaningful opportunities for those who have
transformed to actually get released.

If the prison system remains addicted
to endless punishment, much of the potential
of Governor Hochul's reforms will perish
behind bars.

Parole reform will give community-driven and transformed people a chance at freedom on a case-by-case basis, and an opportunity to serve as mentors, nonprofit leaders, and drug counselors for young people in their home communities.

One report found a violence interrupter program led by formerly incarcerated people led to 20 percent less gun violence.

A Columbia University report found passage of elder parole, and fair and timely parole, would save $522 million annually -- money that could be invested in mentor programs, services for crime survivors, quality mental health care, education, and more. Together these bills would expand eligibility for case-by-case parole consideration and make the process more fair. And they may save our loved ones' lives.

The bills are also backed by some of the largest victim and survivor advocacy groups in the state, including the Crime
Victims Treatment Center and the New York State Coalition Against Sexual Assault, who prioritize rehabilitation over endless punishment.

It is time for lawmakers to act to give our loved ones and countless others who have transformed their lives a pathway to return home.

Thank you.

CHAIRWOMAN KRUEGER: Thank you very much. Perfect timing also. Thank you.

(Laughter.)

CHAIRWOMAN KRUEGER: Our next testifier is Sirena Sharpe, Center for Community Alternatives.

Good evening.

MS. SHARPE: Hi. Good evening.

My name is Sirena Sharpe, a leader with the Center for Community Alternatives and a resident of Syracuse. I'm testifying in support of including the Clean Slate Act in the Senate and Assembly one-house budgets.

I am one of more than 2 million New Yorkers who have experienced perpetual
punishment because of a conviction record,
even though I finished serving my time over a
decade ago.

When I was 16, I became homeless and
struggled with drug use. A year later I was
convicted of a drug charge and spent a year
and a half incarcerated. I was released at
the age of 19 and was eager rebuild my life.

I applied for dozens of jobs but was
turned down repeatedly. More than 70
employers rejected me because of my record.
Finally I got a job as a cashier. I thought
I could finally move forward with my life, so
I put all my energy into applying for
college. But again, my conviction history
came up and the college didn't want to admit
me.

New York should not be systematically
blocking college access to the people who
need it most. A Brennan Center report
estimates that people with conviction
histories collectively lose hundreds of
billions of dollars in earnings every year.

This is particularly urgent in low-income
communities and communities of color, which have borne the brunt of mass incarceration and which are disproportionately affected by old conviction records.

And what about women across our state who are trying to overcome these barriers to build stable lives for our families and ourselves? As a survivor of domestic violence with a conviction history, I struggled to leave an abusive relationship because landlords hesitated to rent to me due to my record.

The mechanics of the bill are simple. Once someone like me has completed their sentence, is off of probation and parole, and after a three- or seven-year waiting period, our records would be automatically sealed. Those who have new convictions or pending charges would not be eligible.

For me and so many others, a clean slate is a real chance at redemption. Those of us who have served our time want the same thing everyone else does: A stable job, a roof over our heads, and the ability to
provide for our loved ones.

The Governor's inclusion of Clean Slate in the 2023 budget is a testament to the advocacy of directly impacted individuals and the broad coalition of supporters who have fought tirelessly for this vital relief. We appreciate Governor Hochul's support for the key principles that underpin Clean Slate, but the proposed language in her Executive Budget includes changes that significantly weaken the existing bill, including dramatically delaying when an individual becomes eligible for sealing and thereby limiting the legislation's effectiveness.

We ask you to include in your one-house budgets the full Clean Slate bill as is. Clean Slate is a jobs bill, a housing bill, and an anti-poverty bill. Automatically sealing past conviction records is also a matter of simple fairness. We urge you to include the Clean Slate Act in the budget without weakening amendments and bring real relief to all New Yorkers.
Thank you.

CHAIRWOMAN KRUEGER: Thank you very much.

And our last of the panel, Nan Gibson.

MS. GIBSON: Thank you, Senator Krueger, Assemblymember Weinstein, and committee members.

My name is Nan Gibson, and I'm executive director of the JPMorgan Chase PolicyCenter.

JPMorgan Chase is probably one of the largest employers and contributors to the economy of the State of New York. We appreciate the opportunity to provide testimony in support of the Clean Slate Act, which would implement automatic record expungement in New York State.

One in three Americans has an arrest or conviction record that can significantly impact their ability to get a job, housing, or an education. The petition-based expungement system is costly, complicated, and time-consuming.

In New York State, it's estimated that
more than 600,000 people are today eligible
to have their records cleared, but very few
pursue the complex process. This means that
even after fulfilling their justice system
obligations, people with criminal records
often continue to be blocked from fully
participating in the economy.

The drag on the earnings potential of
tens of millions of Americans are costs not
only borne by individuals, their families,
and their communities, but they also have
larger economic consequences for business and
society.

This issue also disproportionately
affects people of color. Three-quarters of
New York State's formerly incarcerated
population is either Black or Latinx. Clean
Slate legislation can help change this.

As we continue to recover from the
pandemic, businesses are adapting to economic
conditions and resuming their search for
skilled workers. By reducing barriers to
employment for those with criminal records,
we will be able get more people back to work
more quickly.

JPMorgan Chase is committed to giving people across the country a second chance. In 2020, JPMorgan Chase hired more than 2100 people with criminal backgrounds -- about 10 percent of our new hires in the U.S. -- whose history had no bearing on the requirements of the job they were seeking. And with a workforce of more than 30,000 in New York State, the firm is always in need of local talent to fill open positions.

Last year, JPMorgan Chase helped launch the Second Chance Business Coalition, co-chaired by our chairman and CEO, Jamie Dimon. The coalition has grown to more than 40 large companies, many based in New York, with the goal of expanding hiring and advancement practices for people with criminal records within these companies and beyond.

If implemented, Clean Slate legislation will help bolster the state's economy by more fully tapping the talents of thousands of people who are currently
unemployed or underemployed because of their criminal records. When someone cannot get their foot in the door to compete for a job, it hurts businesses and communities by limiting access to opportunity.

The benefits of automatic record expungement are clear. We urge the New York State Legislature and Governor Hochul to enact Clean Slate legislation.

Thank you very much for your consideration.

CHAIRWOMAN KRUEGER: Thank you very much, all four of you.

And I'm going to call up Senator Zellnor Myrie first.

SENATOR MYRIE: Thank you, Madam Chair.

And again, thank you to the panelists for your incredible patience and endurance. I'm not sure you anticipated having to testify so late in the day, so I just want to offer my thanks.

Thank you for sharing your stories as well. Ms. Gibson, it is good to see you.
I'm hoping that you can convey to any reticent business owner or businesses throughout the state who say that this is not a population that I can tap into -- if you can just -- and you already alluded to some of this in your testimony, but just sort of talk to the economic benefits and to the businesses across the state -- being that JP Morgan is one of the largest, as you have already communicated.

MS. GIBSON: Sure. And thanks for the question, and thanks for your leadership on this legislation.

Well, so as I said in the testimony, JPMorgan Chase is committed to giving people with criminal backgrounds an opportunity to succeed and be part of our inclusive workforce strategy.

We have gone and created community hiring models where we work with nonprofit partners in the communities, and legal services partners, to help get more people through what is a very complex process, the hiring process, in and of itself.
And given the regulatory framework that we operate in -- regulations through the FDIC that have to be met -- we have worked diligently to find a way to expand the number of people who we can bring on board who have a criminal background, as I said, but that criminal background has no bearing on the job that they're going to be performing.

So we have -- I think as evidence of the success of the work that we've been doing, our business leaders in markets across the country are interested in having this community hiring model in their markets, because it's a very committed workforce. We see very low turnover in the folks who we're bringing on and, you know -- and we see dedicated workers.

So I hope that answers your question.

SENATOR MYRIE: It does. Thank you,

Ms. Gibson.

And again, thank you to rest of the panel for your time and your patience and for being vulnerable.

Thank you.
CHAIRWOMAN KRUEGER: Thank you.

And Assemblywoman Weinstein?

CHAIRWOMAN WEINSTEIN: Right. We have several Assemblymembers. Let's start with Assemblyman Lawler.

ASSEMBLYMAN LAWLER: Thank you, Chairwoman.

I guess my question is probably directed more towards Theresa, but certainly I would be interested in everybody else's opinions if they wish to opine.

It is really more of a -- just a -- one question, straightforward. You know, I know there is a push for elder parole. I'm just curious, is there any offense or crime that you believe would not warrant release for somebody who's over the age of 55?

(Phone interruption.)

MS. GRADY: Excuse me. I've got to get this -- one second.

ASSEMBLYMAN LAWLER: No problem.

MS. GRADY: I'm sorry, Senator (sic).

ASSEMBLYMAN LAWLER: That's okay.

MS. GRADY: No. No. My belief is
that everybody is due a chance at redemption.
I mean, you know, it could be a police
officer, it could be a doctor or nurse.

These people 55 and older, the
recidivism rate for them is like 1 percent,
if that.

So I just believe that everybody is
due that respect. You know, most of them are
aged out. Ailed out. The recidivism for
them is so low that no, I don't believe that,
you know, there should be a limit to it.

And, you know, elder people today in
prison age by two years on a daily basis.
For instance, I'll say to you my husband, who
is 67, who's ailing -- very much so -- when I
see my husband today, he's shaking and
trembling from what's ailing him. So he
looks more to me like 72 years old instead of
67.

So what I'm trying to say is that no,
I don't believe there's a limit. Can you
understand that for me?

ASSEMBLYMAN LAWLER: I do. And I
appreciate your sincerity in that, I do.
MS. GRADY: Okay.

ASSEMBLYMAN LAWLER: Okay.

Karen or Sirena, if either of you wanted to respond to that, you're welcome to. If not, that's fine.

Okay. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

MS. SHARPE: Oh, I'm sorry. I was going to answer. I was trying to find the --

ASSEMBLYMAN LAWLER: So sorry. Go ahead.

MS. SHARPE: For the Clean Slate bill, I know one of the things that makes -- you don't qualify if you have a sex crime. So that's all I wanted to add, if that answers your question.

ASSEMBLYMAN LAWLER: Okay. No, I appreciate that.

Okay. Thank you very much.

CHAIRWOMAN WEINSTEIN: We go to the Senate, then.

CHAIRWOMAN KRUEGER: Thank you. And I believe we have Senator Hoylman.

SENATOR HOYLMAN: Good evening.
And let me echo my colleagues in our gratitude for you staying so late and your heartfelt and insightful testimony.

I wanted to ask Karen from Prisoners' Legal Services of New York just to get down to brass tacks in terms of your funding and the gap that you are likely to experience in the coming year. What does it look like?

And what do we need to do to make certain that your services are as widespread as possible throughout the state?

MS. MURTAGH: Well, you know, we really are very appreciative of Governor Hochul's including us in her first Executive Budget, but the problem is it was for 2.2 million -- which is the same amount that we have received from the Executive for the past six years.

And in the past the Legislature has always come through for us and has added to that amount. But we're always behind the eight ball.

We have never been funded at the level that we need to be funded to provide the
services that are required. So we triage.

You know, we receive an average of 10,000
letters a year, and we can't take all of
those cases. So we take the worst cases.

So our proposal this year is to ask
for the Senate and the Assembly to both pitch
in an equal amount of 1.2 million, which
would get PLS to a final budget of 4.6.

Currently this year our budget is 3.55. The
4.6 would allow us to finally adequately
staff our existing offices.

And we just recently opened a very
tiny office in the Bronx. We have one person
working there, a social worker, who is
setting up our entire Pre-Release and
Re-Entry Project where we are working with
people that are maxing out of prison.

So earlier we heard from
Commissioner Annucci and a number of people
about the different safety nets when people
get out and parole is there. That isn't --
that doesn't exist for people that max out of
prison. They're given $40 and a bus ticket
and a pat on the back, "Hope you make it."
So our PREP program meets people in prison for the year before they're released, and then when they come home we work with them for three years upon release to help them reintegrate into the community. But right now we can only accept, you know, 20 or 30 clients.

We have a small foundation funding to do this, and if we could get the funding we're requesting, we could expand the whole PREP program to all five boroughs of New York City, which have the highest percentage of people maxing out of prison.

SENATOR HOYLMAN: Thank you. That was very clear, and I really appreciate it.

And a special hello to Ms. Grady from RAPP. I look forward to working with you on the elder parole legislation in the coming weeks and months.

Thank you, Madam Chair.

CHAIRWOMAN KRUEGER: Thank you.

And I think we're handing it back to the Assembly. I think we're done with Senators.
CHAIRWOMAN WEINSTEIN: Okay. We have a number of Assemblymembers. We will start with Assemblyman Weprin.

ASSEMBLYMAN WEPRIN: Thank you, Madam Chair.

And thank you, panelists, for being -- coming this late in the day. And I know you've experienced it in the past, even in person. So again, thank you for coming.

My first year as chair of Corrections was 2017. And Karen Murtagh, you may remember that you were one of the first advocates to meet with me and explain how important the work that you have done -- that you do for those that really have no other alternative. And I found out firsthand, and I've referred you a number of cases during my tenure. And every dollar that you get is not enough. I mean, you do so much, such God-sent work for people that really have no other alternative, and I have seen it firsthand.

And anything I can do in my power to make you whole -- and I know it's always a
catch-up -- but a $4.6 million request, half from the Assembly, half from the Senate, plus the 2.2 from the Governor, seems very reasonable, and I know you will put that to good work.

And again, I want to thank RAPP for all of their advocacy, and I'm hoping that this year is going to be the year that we can get fair and timely parole done as well as elder parole. And I'm hoping to put elder parole on an upcoming agenda very soon.

Thank you for coming.

MS. MURTAGH: Thank you, Assemblyman.

CHAIRWOMAN WEINSTEIN: Assemblyman Burdick.

I'm sorry. I mean, Assemblyman -- Senator Bailey, have you --

SENATOR BAILEY: Yes. I just --

CHAIRWOMAN KRUEGER: He went.

SENATOR BAILEY: No, I didn't go yet, Liz.

CHAIRWOMAN KRUEGER: Oh, I'm sorry, Senator Bailey. I didn't realize -- for this panel. Excuse me.
SENATOR BAILEY: No, no problem.

Sorry. Just really, really briefly.

Ms. Grady and Ms. Sharpe, thank you for your stories. Ms. Sharpe, especially speaking about the issues that many individuals who have the best of intentions in terms of making sure they procure employment and do everything that they, quote, unquote, are supposed do, and then they are effectively disregarded by society -- and I thank you for, you know, continuing to, you know, to fight and show that.

You know, everybody's life is valuable. And that the economic sustenance will be what eventually brings us to prosperity. So that brings me to Ms. Gibson. I didn't forget you, Karen, I'll get to you in a second.

But Ms. Gibson, I would just ask you that -- I guess from your experience, from your personal experience implementing something like Clean Slate, how quickly would we as a state be able to reap the benefits of
this expanded economic pool?

MS. GIBSON: Well, I would say that

depends on how quickly you can implement it, right?

But I think what we have seen in other

states is that by reducing the friction in

the labor market, it allows people to take

advantage of employment opportunities, you

know, housing opportunities, and education

opportunities. So it is, you know -- we have

already seen in the work that we have done,

you know, separately outside of the Clean

Slate legislation, just in our work with the

FDIC to encourage them to change some of the

regulations around the types of, you know,

cries that someone might have in their past

or record that they might have in their past,

whether or not we would need to get a waiver

to hire them -- and just with changes to FDIC

regulations which all banks are able to take

advantage of.

You know, anecdotally, we have seen

that even those types of small changes have

made a meaningful difference in our ability
to hire. So, you know, when we have seen it in a highly regulated environment, you could imagine that the benefits, you know, will also cascade in less-regulated settings.

SENATOR BAILEY: Again, I just imagine that, you know, especially for a successful organization like Chase to be able to see that and to be able to see the benefits that will be able to come from an economic perspective, I would imagine that, as Senator Myrie said, this would cascade, I think you mentioned, all the way up and down the state.

So I wanted to thank you, Senator Myrie and Assemblymember Cruz for their work on this piece of legislation.

And Karen, I just wanted to thank you for everything that you do with PLS in terms of being incredibly responsive and having conversations with the chair -- with Chair Hoylman in terms of, you know, that possible expansion. That would be excellent.

You have been nothing but excellent in terms of some of the serious -- and to the minute things that some -- or
apparently seemingly minute things that some folks face in correction facilities. And PLS has always been there every step of the way.

So I just wanted to show my appreciation for you what do and again, as many colleagues have said, thank you all for your incredible patience and your testimony.

MS. MURTAGH: Thank you, Senator.

CHAIRWOMAN KRUEGER: Okay. Now back to the Assembly. Thank you.

CHAIRWOMAN WEINSTEIN: Assemblyman Burdick.

ASSEMBLYMAN BURDICK: Thank you, and I join my colleagues in thanking you all for your perseverance and patience with us.

And Ms. Sharpe, thank you for sharing with us your personal story and account.

And I follow very closely the work of RAPP, and in fact a member of RAPP is on my own internal advisory committee on the work that I do on the Correction Committee.

And I appreciate your mentioning your concerns about the iteration of Clean Slate that's in the Executive Budget. And I have
not had a chance to read the Article VII yet, and I'm just wondering -- Ms. Gibson, I first want to commend JPMorgan for endorsing Clean Slate. And last year JPMorgan endorsed Clean Slate in the form that Ms. Sharpe had described.

And I'm wondering whether you have had a chance to review the Article VII iteration of it, and whether you're going to be urging the Legislature as well to take action on Clean Slate in its original form.

MS. GIBSON: Well, thank you for the question.

And our -- as we understand it, there are efforts underway to -- discussions underway to try to come to some type of agreement about moving forward. And we would just encourage the Legislature and the Governor to work together to, you know, move a meaningful Clean Slate piece of legislation.

ASSEMBLYMAN BURDICK: Fair enough.

Thank you. I appreciate that.

And again, we really do appreciate
your advocacy. And keep up the good work
that you all are doing.

MS. GIBSON: Thank you. Appreciate

it.

CHAIRWOMAN WEINSTEIN: I -- let's see
if we -- we have two Assemblymembers,
Assemblywoman Kelles and then Assemblyman
Epstein.

ASSEMBLYWOMAN KELLES: Wonderful.

Thank you so much.

I want to shout out to both Theresa
Grady and Sirena Sharpe. Thank you both for
being here and the work that you do. I very
much enjoyed working with your organizations.

And I do -- I want to follow up.

Theresa, really quickly, one thing that you
said -- just to add my support. I think
there is lot of misrepresentation of the
Elder Parole bill. First of all, people are
eligible only after serving 15 years and
being beyond the age of 55.

And I have been hearing people talk
about today that it would allow people who
committed a crime later on in life to be
eligible. That's why the 15 years is there.

So that's a clarification.

The second clarification is that it gives them the opportunity to be eligible for parole. There is lot of manipulation of this, that it is an instantaneous allowing them out of prison if they're over 55 years old. That is a tremendous manipulation of the actual details of the bill.

So, Theresa, you have been a wonderful person in educating on the details of that. I highly appreciate the distinction that this creates the opportunity to enter back into the community, to prove the rehabilitation and transformation. So thank you for your work on that.

MS. GRADY: Thank you.

ASSEMBLYWOMAN KELLES: Absolutely.

And Karen -- there you are, Karen.

Thank you so much for your work.

There are two things that I wanted to just bring up. One -- and it's good to see you again, I look forward to continuing to work with you -- with respect to staffing.
From conversations that I have had with PLS, the recommendation from the American Bar Association is for one representative to every 400.

We have 31,000 in our state, which means that even by the national recommendation, we are thousands, right -- we're hundreds of representatives short. How many short of what we actually need?

MS. MURTAGH: I haven't done the numbers lately, but that -- that whole -- that math problem is on our website where we lay out the American Bar Association recommendations.

And we now have approximately 27 employees in core PLS. We have an immigration unit too, but the immigration unit does something completely separate from conditions of confinement.

So we are way over.

ASSEMBLYWOMAN KELLES: So it's 27 for those 31,000 -- which is way under the 400 recommendation rate. So that is what you're referring to when you're asking for
this additional funding.

With my last few seconds, if you could talk about what you're not able to provide. And specifically you mentioned issues with good time, and not -- for people not being given appropriate good time or being allowed. Can you talk briefly about that? Maybe I missed something.

CHAIRWOMAN WEINSTEIN: You know -- Assemblywoman, you know, the time is up. So perhaps you could send that information to us and we would share --

ASSEMBLYWOMAN KELLES: Yes, I'm good.

CHAIRWOMAN WEINSTEIN: -- that with all of the members who have been here.

So we're going to move on to Assemblyman Epstein to close this panel.

ASSEMBLYMAN EPSTEIN: Thank you, Chair. And I'll be quick.

I also want to appreciate Theresa for all you do, it really -- time and time again, you keep coming back and talking to us.

Sirena, thank you for your advocacy.

MS. GRADY: Thank you.
ASSEMBLYMAN EPSTEIN: These are critical conversations that we're having, and it's good to hear that you may get some movement on elder parole from Chair Weprin. That would be -- that's great.

And so, Karen, I heard the budget request. And I'm wondering, have you had conversations with the Executive about it? What are they saying about this increase in funding? And obviously it's, you know, having stable funding over a longer period of time and how critical that is for a legal services program because of hiring and retention issues. I'm wondering what they've said around kind of ongoing support.

MS. MURTAGH: Well, I did have a number of discussions with people in the Executive prior to the budget coming out, and there was extensive support for getting PLS up to the level where we should be.

But that didn't seem to come through in the budget when it was issued. Now, I don't know if that is because perhaps there's other money that was provided for -- our
pass-through agency is DCJS, and perhaps there's money in there that they're going to RFP down the road. But none of that was communicated to me yet.

So all I know is that we got what we have gotten, you know, for the past six years.

And I completely agree with you. I don't like coming to the Legislature to try to get an add for this, because PLS is much more like a state agency than a typical nonprofit. We have six offices across the state. We are tasked with providing civil legal services to all incarcerated people in New York State prisons.

So, you know, trying to piecemeal this and saying you add this and you add that, it really should be a complete Executive item. It was, under Hugh Carey and under Mario Cuomo, in its beginnings. But then slowly, when more prisons were built and more money was needed, then the Assembly pitched in and now the Senate has pitched in. And I -- I totally appreciate the support of the
Legislature, because we wouldn't exist if we didn't have your support.

But it really should be, in my opinion, my humble opinion, an Executive-funded item, because it is a state responsibility to provide civil legal services for people that are incarcerated.

ASSEMBLYMAN EPSTEIN: Thank you.

Thank you, Chair.

CHAIRWOMAN KRUEGER: Okay. So I think we have now completed this panel.

Thank you very much, all of you, for your work and your advocacy.

I'm going to shift to Panel D, for those of us still keeping track.

(Zoom interruption.)

CHAIRWOMAN KRUEGER: Okay, sorry.

Everyone else mute, please.

Assigned Counsel Association of New York State, Brian Zimmerman, vice president, and New York State Defenders Association, Susan Bryant, executive director.

Good evening, both of you. Why don't
we start with Brian Zimmerman.

            MR. ZIMMERMAN: Thank you for this
opportunity to address you. My name is Brian
Zimmerman. I'm the vice president of the
Assigned Counsel Association, a group formed
to advocate for assigned counsel, who provide
legal representation for indigent adults and
children in family, criminal, Supreme and
Appellate courts.

            Representing our most vulnerable
citizens in these courts is a privilege we
have chosen, and one we do not take for
granted. I'm here because of a growing
crisis in all these courts. There are too
few attorneys to represent the numbers in
need, whether a domestic violence victim, a
parent or child separated by state action, a
parent fighting to see their children, or a
criminal defendant seeking to defend their
innocence while languishing in jail or
seeking appellate redress.

            Statewide, there are approximately 30
to 50 percent less attorneys available to
handle this ever-increasing number of cases.
Why the exodus? First and foremost, the legislatively set compensation rate has remained at $75 per hour since 2004, while the costs to practice have risen every year for 18 years. It is simply unaffordable for our attorneys to continue this work, and even harder to recruit new attorneys. No job in New York State has seen no raise in over 18 years.

As a voice for the underserved we represent, too many cases and too few attorneys equates to an inability to provide high-quality representation. Court proceedings are needlessly delayed, and decisions for these most vulnerable people -- the poor, the underserved, often in our Black and brown communities, do not get public protection. The lasting trauma inflicted on those indigent communities is immeasurable and repeats itself year after year.

In 2003, inadequate rates then resolved when a court imposed a rate of $90 per hour, admonishing the Legislature to act then and not repeat this crisis. Sadly,
the crisis has repeated. Chief Judge DiFiore, multiple state commissions, and the New York State Bar Association have urged action. You heard ILS today urge action. Nine major New York City bar associations have taken legal action, challenging New York's failure to provide constitutionally required access to justice.

We thank Senator Bailey, Assemblyman Magnarelli, and former Assemblyman Lentol for sponsoring legislation to increase those rates that's been introduced for the last three years under Senate 3527 and Assembly 6013. This is an upstate and downstate issue.

We are advocating for attorneys to be compensated at the federal defender hourly rate of $158 per hour, with a cost-of-living provision. We are asking that the costs above $75 per hour be a state, not a county expenditure.

We applaud the Senate and Assembly for introducing legislation, but this crisis will not end until the money to fund the
legislation is part of the final budget. We ask the Senate and Assembly to make ending this crisis a legislative priority and include appropriations in the budgets of each house to support the above legislation.

Our society is judged by what it does to meet its responsibility to the least fortunate, and never more importantly than when their liberty and equal access to justice is at stake. The time to act is now.

Thank you for your time and support.

CHAIRWOMAN KRUEGER: Thank you very much.

And our next speaker is Susan Bryant.

MS. BRYANT: Good evening, Chair Krueger and Chair Weinstein and members of the Public Protection budget committee.

My name is Susan Bryant. I'm the executive director of the New York State Defenders Association, also known as NYSDA. Thank you for the opportunity to testify this evening about funding for NYSDA's Public Defense Backup Center and Veterans Defense Program. Continued survival of both will
improve racial justice, public defense, and community safety.

For over 40 years NYSDA has received yearly grants from the state to operate the Public Defense Backup Center, which helps the state meet its constitutional obligation to provide quality public defense. Our staff provide essential legal and technical support services to public defenders around the state, from training programs to our case management system to our publications and legal hotline.

I'm here to ask both the Senate and the Assembly to ensure that this year's budget includes 2,989,000 for NYSDA's Public Defense Backup Center. This includes 2,089,000 -- which is the same amount we received last year and since 2012. We're also asking for an additional $900,000 in order to meet a critical need to establish the statewide Defender Discovery & Forensic Support Unit.

In the brief time I have left, I want to describe what we need for that unit. And
that unit comes out of the fabulous discovery
laws that you passed several years ago, which
removed the blindfold and have allowed
defenders to receive the information that
they so desperately need to advise their
clients and to provide representation.

The state's invested $40 million each
year to meet the needs of prosecutors, police
and other law enforcement with regard to the
discovery law, but no funding has been
provided to help public defenders. Public
defenders and their clients cannot continue
be left behind.

The $900,000 we have requested would
be a modest and cost-effective way to help
public defenders throughout the state. As we
have shown for the last four decades, our
Public Defense Backup Center's centralized
services have created efficiencies. The new
unit would also improve statewide efficiency
by centralizing resources, and staff with
forensic science and discovery expertise can
provide high-quality technical and legal
support and training.
It would also help us enhance our public defense case management system, and it would provide assistance to family defenders as well who are significantly underresourced, as you heard from Patricia Warth from the Office of Indigent Legal Services a little while ago.

Our budget testimony includes much more details on the need for the unit and the funding for it.

I also want to mention our Veterans Defense Program, which we're asking for last year's funding level of $720,000, and we'll be submitting testimony with regard to VDP to the Human Services budget committee members as well.

Thank you for your support, and I appreciate your time and appreciate the support that we've received from the Legislature over the years.

CHAIRWOMAN KRUEGER: Thank you both for your time and your testimony.

And I see Jamaal Bailey, chair of Codes, with his hand up.
SENATOR BAILEY: Very brief.

Susan, thank you so much for what you do with the defenders and your constant communication and correspondence with us and our amazing staff. And so this is the portion where we make sure we shout out to our amazing staff here that does so much incredible work in helping us get those legislative accomplishments done. So I just wanted to make sure I thank you for that.

Brian, thank you for the shout out, but also the 18-B. These are definitely things that are critically important that we've heard about.

I think both of you have raised salient arguments as to why, you know, each of what you've spoken about should be accomplished. I just, again, want to thank you for your patience.

And we're at that point of the program where I yield my time. Thank you,

Madam Chair.

CHAIRWOMAN KRUEGER: Thank you, Sir Chair.
Chairwoman Weinstein, do you have any
Assemblymembers?

CHAIRWOMAN WEINSTEIN: We do not have
any members waiting to ask a question. So
it's all yours.

CHAIRWOMAN KRUEGER: Well, then thank
you very much for having made your points so
clearly, both of you. We will now release
you for the evening.

And I will be calling up the next
panel, which is Panel E: Police Benevolent
Association of New York, Troy Caupain, PBA
secretary; New York State Police
Investigators Association, Timothy Dymond,
president; New York State Correctional
Officers & Police Benevolent Association,
Michael Powers, president.

Good evening, gentlemen. I guess
we'll take you in the order I just read your
names, so the State PBA first.

DIRECTOR CAUPAIN: Good evening,
Madam Chair and respected panel. I
appreciate the opportunity to speak to you
again this evening.
Two years ago I addressed the panel for the Park Police members after an executive memorandum was submitted, sent out by the former governor and state operations director, which basically gave operational control to the State Police of the Park Police as well as basically stopped all hiring, transfers and promotions for the Park Police within the agency.

And it's been two years of frustration, anxiety and just unanswered questions that we've received from the agency regarding our futures. Obviously my written testimony goes into more detail with that.

And I would just like to state that this past Friday, ironically, the agency put out a memorandum stating that they are now going to put on an academy class for the fall of 2022. Which is again ironic, because we sat down with the Commissioner on December 7th, which was supposedly a meeting about his conversations with the Executive Chamber, and there was no information passed on at all regarding hiring or anything to do
with the Park Police. Basically it was: We have nothing for you.

So again, it's very ironic that that came out. We appreciate that it came out.

Obviously, according to the Commissioner, the same day that our memorandum was sent regarding the Park Police, he sent a memorandum to the executive staff which talked about the game-changing budget that Governor Kathy Hochul has now submitted on behalf of OPRHP, where in fact the agency is going to receive -- will have an operating budget of $199.3 million.

And in bold print he states on his Executive Budget summary that the agency will be in full hiring mode for 2022 and they're bringing their ETFs to the number 2,087, which is the highest level they've had since 2009.

So our questions today are -- obviously this is a budget hearing. So the first thing we would ask the panel and the legislative body is to please assist us in rescinding that executive memorandum that put
the Park Police basically in extinction,
through the agency.

And secondly, we would ask for more
transparency as it relates to the budget and
the money that was appropriated to the Office
of Parks and Recreation. If they're
receiving almost $200 million, how much money
is being allocated for the Park Police? Is
it just one academy class? Is it going to be
multiple academy classes?

And with that, we're going to need
help from the Legislature to ask the Governor
to pass the 20-year retirement bill that she
vetoed several weeks ago, and make that part
of the budget. And we also need additional
funding where we can have a geographic
package submitted on behalf of the
Legislature to, again, address the retention
problem. We've lost over 140 members since
2014, 79 in the last year and a half since
this executive order came out, two years
since this executive order came out.

So we would need those two things from
the Legislature, along with that memorandum
being rescinded, in order for us to get some
kind of real direction as it relates to the
Park Police within OPRHP.

So I thank you for your time. Again, my testimony was submitted. And I look forward to any questions you have regarding our future and what we need from the Legislature moving forward. Thank you so much.

CHAIRWOMAN KRUEGER: Thank you.

And our next testifier -- sorry, it's not Michael Powers, it was the one, I'm sorry, just above. Excuse me. Sorry.

Timothy Dymond, president of the New York State Police Investigators Association.

PRESIDENT DYMOND: Thank you.

Good evening, Senate and Assembly members. My name is Tim Dymond, and I am a Senior Investigator for the New York State Police. I am currently the elected president of the New York State Police Investigators Association.

I represent roughly 1100 Investigators and Senior Investigators across the State of
New York, and several thousand retirees. I am incredibly proud to represent this elite group of men and women in the State Police that handle the most serious of cases. Day in and day out, these folks go out and do their job at a high level, and without them, this state would certainly suffer.

Our members buy the illegal handguns undercover. Our members investigate and infiltrate street gangs that are committing many of the shootings that we're seeing today. Our members go out and work on the murders that these gangs commit. Those are our people, and I'm very proud.

We continue to deal with historic policy change and job expectations that seem to increase by the day. But there are a few topics I would like to touch on and have the Legislature consider for the pending budget.

Our highest priority, as it was last year, is replacement of retiring members in our ranks. We continue to lose members at an alarming pace. Last year I spoke of the shortage we were dealing with with Senior
Investigators. I'm pleased to report today
that the Division has filled most of those
open senior positions, and for that we are
thankful. Now we need to backfill the
Investigator positions.

Nearly every special detail and
station is running on a reduced manpower
level, while the workload continues to
increase with the rise in violent crime. The
Legislature can debate the causes for the
increase in crime, but there's no debating
the fact that these crimes need to be
investigated to prevent future crimes from
being committed.

As Superintendent Bruen explained
earlier, it takes a while for us to get a
good Trooper candidate out and into the
field. It takes many, many more years to get
an Investigator out into the field. So we
need to get that process going this year. We
ask that the Legislature provide a
substantial new recruit class to help us
replenish the ranks and keep New Yorkers
safe.
We were pleased to hear this year the Governor is supporting increased funding to be used in the battle against gun violence that is occurring across the state. I think it's very important to note that we are seeing violent crime increases not only in New York City -- New York City gets the headlines -- we are seeing the same problems in Buffalo, Syracuse, Albany, Newburgh, Poughkeepsie.

The expansion of our Community Stabilization Units and Anti-Gun Task Force and different technologies will help reduce gun crime, but it's not enough. We must get the trigger-pullers off the street, period.

We ask the Legislature to support expanding these units and every other BCI unit that investigates gun crime.

Lastly, last year during the budget hearings we asked the Legislature to consider supporting a safer, more appropriate firearm for use by the 300 BCI members working undercover in the most dangerous conditions across New York. With your support, the
Division has explored this concept, and approval of the updated concept is imminent. For this we are thankful.

However, final approval for the undercover weapons is the first phase. We respectfully request that the Legislature conclude this process by providing to the Division the funding necessary to purchase the firearms and related equipment to complete the project. The estimated cost is approximately $150,000, and it will be a small investment in the safety of our undercover police officers.

Lastly, thank you for allowing me the opportunity to bring these important issues to your attention on behalf of my membership, and I appreciate it and I appreciate what you guys do.

CHAIRWOMAN KRUEGER: Thank you very much.

And next, Michael Powers.

Oops. I think your voice is not coming through. Try to unmute yourself.

Okay, try again. I think he froze this time.
CHAIRWOMAN WEINSTEIN: We can't hear you. But we can see you, that nice smile.
CHAIRWOMAN KRUEGER: Yes, we do see the nice smile.
CHAIRWOMAN WEINSTEIN: Not frozen.
CHAIRWOMAN KRUEGER: Try one more time.
You know, I'm sorry, Mr. Powers, we cannot hear you speaking.
CHAIRWOMAN WEINSTEIN: Should we go to some members' questions and --
CHAIRWOMAN KRUEGER: What a good idea.
CHAIRWOMAN WEINSTEIN: And then you can come back.
CHAIRWOMAN KRUEGER: So let's go to questions. And maybe what you can do, Mr. Powers, is close yourself out of Zoom and reopen it. Sometimes just that works.
All right. And we'll start with, I guess, Assemblymembers. Helene Weinstein, who would you like?
CHAIRWOMAN WEINSTEIN: I do see that Senator Savino has her hand raised.
CHAIRWOMAN KRUEGER: Oh, okay. Hello,
Senator Savino. I thought you were off for the evening. What would you like to ask?

SENATOR SAVINO: I am here, Senator Krueger, ever-present, no matter where I am.

(Laughter.)

CHAIRWOMAN KRUEGER: Fair enough.

SENATOR SAVINO: Actually, I wanted to ask -- I'll start with Troy from the Parks Police, because he referenced a piece of legislation that the Governor recently vetoed, it was a 20-year pension bill that the Legislature passed last year, I think it was unanimously in both houses. And in her veto message she made some reference to the fact that it should be negotiated before it comes to her desk. But in fact, it should be negotiated at the bargaining table.

And I was just wondering if she had raised that issue, because quite honestly, you can't negotiate pensions, they are a prohibitive subject of collective bargaining.

But since she referenced it in her veto message, I was wondering if in fact that you had brought it up in discussions with the
Park Police.

DIRECTOR CAUPAIN: Thank you, Senator, for that question. I hope you can still hear me; I don't see myself.

SENATOR SAVINO: I can hear you.

DIRECTOR CAUPAIN: Yes, we did bring that to the attention of the executive chamber. It was -- obviously we cannot do that in contract negotiations. It's against the law. It's actually against several laws. And we did bring that to their attention.

Obviously we're hoping to have conversation with the second floor and the executive chamber to somehow clarify that, and hope that if there was -- if the Governor felt that we could do it in collective bargaining, even though we couldn't, then it seems to us that there was some type of appetite, if you will, or feeling that if we did get it done, that she would be okay in passing it or putting it through in the budget or through the Legislature.

So we're hoping that we can have some real conversation regarding that and hope
that we can get the 20-year bill included in
this year's budget, because it is much
needed, not only for the Park Police but for
the other units within our PBA, because it
will help us with our retention. And it
helps us become, you know, competitive in
today's market when we're being poached from
every other municipality, and even the
State Police, all across the State of
New York.

SENATOR SAVINO: Thank you.

I'm happy to hear that hiring is going
on with the Police Investigators as well.
And I was hoping that Mike Powers would be
able to testify. If we can get him through,
the question I would ask him is we've heard
Commissioner Annucci speak about the training
has been put in place to help implement the
HALT legislation that goes into effect, and I
just wanted to hear from him if in fact that
training is taking place and whether or not
the union was consulted and other members
involved in the training.

As always, I'm always concerned when
the workers, whether it's the Park Police, whether it's the New York State Police Investigators or NYSCOPBA, is not included as part of the implementation of policies that we adopt and the agencies are supposed to implement.

So hopefully Mike will be able to get on board and tell us a bit of what's happening at DOCCS and maybe share what's happening with respect to the implementation of HALT, and are his members being properly prepared and trained.

CHAIRWOMAN KRUEGER: Great. I believe that Michael Powers has rejoined us. And with any luck, we are now going to be able to hear him.

SENATOR SAVINO: Great. Thank you.

CHAIRWOMAN WEINSTEIN: So your presentation now.

CHAIRWOMAN KRUEGER: Hi, Michael. Are you ready to testify?

PRESIDENT POWERS: Yes. Yes, I am.

Can you hear me?

CHAIRWOMAN KRUEGER: We can hear you.
Excellent.

PRESIDENT POWERS: Wonderful. Thank you for your patience.

Again, good evening, esteemed members of the Legislature. I'm Michael Powers, president of NYSCOPBA. On behalf of more than 30,000 active and retired members, thank you for the opportunity to appear in front of you.

For years the State of New York has touted itself as the progressive capital of the world. The process of decarcerating New York's prisons is viewed as a victory for social justice. Sadly, though, this effort has also drastically changed the state's rehabilitation model, which has resulted in significant human costs.

Over the last decade, the working environment inside correctional facilities has become increasingly more violent. Despite a prison population being at its lowest point in nearly 40 years, violent attacks on staff by incarcerated --

CHAIRWOMAN KRUEGER: Oh, we've lost
your voice again. Let's see. Try it one more time.

PRESIDENT POWERS: Can you hear me now?

CHAIRWOMAN KRUEGER: Yes, now I can.

PRESIDENT POWERS: Thank you.

So as I mentioned, we're at 1173 assaults recorded this past year. Every one of these assaults on staff has its own story. The one that sent a shiver down my spine was the story of Correction Officer Adrea Adamczyk out at Mid-State. Officer Adamczyk required 70 stitches to her forehead after she was viciously assaulted by a man she was charged to oversee, for simply directing him to take a shower.

This was an unprovoked, violent assault upon an employee of the state. But don't be fooled -- this terrible incident was inevitable. Today in New York State prison facilities, more than three correction officers like Adrea are injured at the hands of inmates. Three more will be hurt tomorrow, and three more will be hurt the
next day.

As a result of the overhaul of the disciplinary system within correctional facilities, there are very few deterrents in place to dissuade inmates from attacking staff. HALT is fully implemented, the ability to remove and separate violent individuals will be severely hampered. The incarcerated population is well aware of this. After an attack, the chants of 15 days, 15 days" echo the hallways and cell blocks.

Our prisons will soon be consequence-free environments, allowing dangerous individuals to thrive in chaos and hurt anyone who attempts to stand in their way.

We have promoted a bill pending in the Legislature that will bring stakeholders to the table and partake in a violence study. Until that legislation is passed and that violence study is complete, we demand that any changes in policies that alter the disciplinary system be put on hold, including
the implementation of HALT.

There are ways to protect everyone.
The state just needs to implement them with
the same urgency that they enacted polices to
improve the well-being of the incarcerated
community. The pandemic has only made
staffing and morale issues worse. Correction
officers are physically and mentally
exhausted, mandated to work --

(Zoom audio dropped.)

CHAIRWOMAN KRUEGER: You're faded out
again, sorry.

Try doing that trick you seem to know
to come back.

(Pause.)

PRESIDENT POWERS: How's that?
CHAIRWOMAN KRUEGER: You're back.
PRESIDENT POWERS: We're back.
CHAIRWOMAN KRUEGER: Yes, you are.
PRESIDENT POWERS: Now the hardworking
men and women of NYSCOPBA should be properly
recognized and equally compensated as their
healthcare counterparts, whom they escort
around the blocks every day. Simply put, all
correction officers must be included in a financial incentive program to make up for the --

(Zoom audio dropped.)

CHAIRWOMAN KRUEGER: Sorry, Michael, we've lost you again.

ASSEMBLYMAN EPSTEIN: Can he not use that mic? Is there a way to take the mic off? Because there might be a short in the mic.

CHAIRWOMAN KRUEGER: It could be a short in the mic, but I don't know how he goes --

PRESIDENT POWERS: Can you hear me now?

CHAIRWOMAN KRUEGER: Yes.

PRESIDENT POWERS: Yes, we're back.

CHAIRWOMAN KRUEGER: Sometimes if you take your visual off, it improves the mic. So you could try that also.

PRESIDENT POWERS: We're just checking one thing here real quick. I apologize.

CHAIRWOMAN KRUEGER: Sure.

PRESIDENT POWERS: As I mentioned, we
demand that correction officers be included
in the worker retention bonuses proposed in
the Executive Budget.

   For years we've talked about
contraband in our facilities, and it's as
prevalent as ever. Now is the time to fund
our Secure Vendor Package Program, as well as
utilize full-body scanners. There is no
sugar-coating the current situation in our
facilities. Conditions are abysmal, and
these violence issues must be addressed
immediately.

   Thank you for the opportunity. I
welcome any questions you may have.

   CHAIRWOMAN KRUEGER: Thank you very
much.

   And now, looking for hands up, and I
believe it's the Assembly's turn.

   CHAIRWOMAN WEINSTEIN: We will go to
Assemblyman Palmesano first.

   ASSEMBLYMAN PALMESANO: Yes, thank
you.

   First I just want to say briefly thank
you to all of you for -- you and your
members, for what you do for us in our
communities and your jobs each and every day
to keep us safe. So thank you.

My question is for Mr. Powers.

Mr. Powers, I know you talked about the
violence and assaults that are going on in
our correctional facilities. I've mentioned
that too. I know over the past six years
it's an increase of 55 percent,
inmate-on-staff assaults. You know, you
mentioned about HALT and the restrictions on
the special housing units. I think that's an
issue that needs to be addressed. You know,
obviously I don't think we're ready for it.

On that issue, you mentioned the
violence study bill that NYSCOPBA and others
are pushing. Earlier today Commissioner
Annucci talked about a violence task force
that DOCCS is forming to investigate violence
in the prisons. I know, obviously, those two
aren't the same. So is what DOCCS is
promoting, the violence study bill, compared
to -- like what's the differences? And this
DOCCS task force, is it sufficient enough,
and how is the study bill better?

PRESIDENT POWERS: Well, the violence task force was presented to us a couple of weeks ago, a little over a month ago, and we haven't even scheduled -- we haven't even had our first meeting here.

As you're well aware, Assemblyman, we've had many issues -- you know, this is a subject matter that quite frankly for this last seven years as -- my tenure as president of NYSCOPBA, we've been dealing with this since Jump Street. A task force is between the administration, some superintendents and some --

(Zoom audio dropped.)

CHAIRWOMAN KRUEGER: We lost you, Michael.

PRESIDENT POWERS: Can you hear me?

ASSEMBLYMAN PALMESANO: Yes.

CHAIRWOMAN KRUEGER: Now, yes.

PRESIDENT POWERS: The violence study includes stakeholders such as members of the Legislature, policyholders, administrators, union officials and many others that we feel
is vital in addressing this violence study.

ASSEMBLYMAN PALMESANO: Mr. Powers, I know you mentioned the compensation package. I know, you know, from talking to correction officers in my district, that the morale is really down with the closures and everything else, the working conditions, the mandated overtimes.

And then when this came up earlier about the two and-a-half-times overtime pay being paid to nurses working in our correctional facilities, whereas the corrections officers working side by side with them are not getting that same compensation -- when your members see that, what does that do for the morale of those who are working a dangerous job?

PRESIDENT POWERS: Well, it's been very difficult for our staff, especially from a morale standpoint. In the height of the initial pandemic in 2020, it became a very difficult time. Many members got caught up in some of the quarantine issues, as the acting commissioner talked about earlier, you
know, and some of them unfortunately having to --

(Zoom audio dropped.)

CHAIRWOMAN KRUEGER: We lost you again.

PRESIDENT POWERS: The morale in our facilities has been very, very low since -- well, the last year and a half. And it's been very difficult to -- it's been very difficult to bring that morale around in any fashion with the department as of late. And we feel it's necessary, as you mentioned, to be categorized as the essential employees that they are and that they --

(Zoom audio dropped.)

CHAIRWOMAN KRUEGER: Sorry, Michael, you both ran out of time and you ran out of sound.

ASSEMBLYMAN PALMESANO: Madam Chair, I would just ask if I could just indulge -- maybe give him a chance, you know, because he got cut off a couple of times, you know, on an important issue.

CHAIRWOMAN KRUEGER: Sure.
ASSEMBLYMAN PALMESANO: I'd like to ask one more question, hopefully, if I could. I'd appreciate your indulgence in that, and my fellow committee members.

Mr. Powers, the other question I was going to ask you is -- I mean, the commissioner talked about regarding the Secure Vendor Program. He said he's waiting for the right time. I would argue the right time was several years ago.

How much is the drug contraband problem contributing to this rising violence that's going on in our prisons? You know, what do you say about the Secure Vendor Program, and what can we be doing right now for it?

PRESIDENT POWERS: It's significant. You know, a majority of the contraband is coming in through the packages and through the visit room. And, you know, to be able to -- to hinder that in any capacity I feel strongly would reduce the amount of contraband coming into the facility, which would ultimately reduce the amount of
violence that we're dealing with.

And, you know, the numbers don't lie, right? I mean, you know, we're dealing with a much smaller inmate population and more acts of violence.

(Zoom audio dropped.)

CHAIRWOMAN KRUEGER: Thank you.

I think we don't -- oh, we do have an additional Senator, excuse me.

Senator Sue Serino.

SENATOR SERRANO: Thank you, Chairwoman.

And thank you to the panel for coming here today and for everything that you do. I really appreciate it.

And Mike, you know, sometimes it's a little too easy for lawmakers to evaluate the issues that are discussed today from the comfort of our offices, but you did a really good job I think helping legislators understand the challenges that your members are facing every single day.

And having said that, can you talk a little bit about the prison closures and how
they've impacted your members? Because I'm sure that your members have shared some personal stories with you that really might help lawmakers understand that there are very real people and families at the other end of these decisions.

PRESIDENT POWERS: Yes, Senator, without question. You know, it's very -- it's a very difficult time when a facility closes regardless of where it is in the State of New York --

(Zoom audio dropped.)

CHAIRWOMAN KRUEGER: No --

PRESIDENT POWERS: Can you hear me?

CHAIRWOMAN KRUEGER: I have to say I think it's unfair to ask Mr. Powers questions when we can't really hear him answer. So maybe just -- if it's okay, perhaps Michael could reach out to Senator Serino, perhaps tomorrow during daytime, from a working phone. I just -- it's very -- it's unfair to him, and it's not his fault that his equipment isn't working correctly.

ASSEMBLYMAN PALMESANO: Yeah, but I
think, Madam Chair, that he's trying and I think we should, you know, keep giving him a little bit of indulgence. I mean, these individuals that he represents are going through a very difficult time with the violence that's going --

CHAIRWOMAN WEINSTEIN: I would make this suggestion. I would make this suggestion, that the member ask the question and if Mr. Powers has a problem with his mic, I'd like him to be able to give us, in writing, the answers to the question so we can circulate that. Because I think we'd all like to hear the answers.

CHAIRWOMAN KRUEGER: That's a good answer. Thank you.

SENATOR SERRANO: Chairwoman, I just had another part of that too that I was just -- my question, maybe they can answer it, is do you believe DOCCS needs to reevaluate its procedure for designating prisons for closure? Because I'd like to see what they have to say about that.

And then for just for Troy, you know,
Troy, your frustration is totally understandable, and we'll do what we can to ensure that your concerns are heard. Transparency is the least the state can do for members who do so much to protect such a key part of this state.

So thank you very much to the whole panel. And thank you, Chairwoman.

DIRECTOR CAUPAIN: Thank you, ma'am.

Appreciate that.

CHAIRWOMAN KRUEGER: Thank you. So Troy thanks you. And let's see if Mr. Powers can speak to us again to answer your last question, Senator Serino.

(Pause.)

CHAIRWOMAN KRUEGER: I don't think so.

PRESIDENT POWERS: We tried switching to a new microphone.

CHAIRWOMAN WEINSTEIN: Oh, okay.

PRESIDENT POWERS: We tried.

CHAIRWOMAN KRUEGER: We tried? Is that better?

PRESIDENT POWERS: I hope so.

CHAIRWOMAN KRUEGER: Okay.
SENATOR SERINO: We can hear you now.

PRESIDENT POWERS: So to answer your question, Senator, yes, it's very difficult on our staff. And many have to uproot their families, uproot out of the communities in which they reside. It creates a burden.

And this round of closure was pretty significant in numbers as far as it affected across the State of New York. And, you know, obviously it has an impact on not only the community but, you know, in the state workforce as well. And it falls outside the lines of security as well, because it impacts civilian staff as well.

SENATOR SERINO: And the other part of that, Mike, was do you believe that DOCCS needs to reevaluate its procedure for designating prisons for closure?

PRESIDENT POWERS: Oh, yeah. You know, a good heads up would be, you know, a good idea, you know, because of the impact that it has. And unfortunately in the last two years, you know, we had to deal with that during the holiday season, you know, in
rounds of closures. So it's -- yeah, it became quite difficult for many of our staff.

And, you know, we've been assured that going forward there will be a better communication mechanism in place.

CHAIRWOMAN KRUEGER: Thank you. Thank you. I think we've gone far beyond the three minutes.

Assemblywoman?

CHAIRWOMAN WEINSTEIN: Yes, we have a number of members. So just so people know their order, Assemblyman Reilly, then Assemblyman Walczyk, Assemblyman Lawler, Assemblyman Ra and Assemblyman Weprin.

But we'll start with Assemblyman Reilly.

ASSEMBLYMAN REILLY: Thank you, Madam Chair.

Thank you to the panel.

I have a question directed at Mr. Diamond. With the investigations of the firearms and how many incidents are happening throughout the state, especially that the New York State Police Investigators are involved
in, I know that we talked about, during the
day, firearm possession by those under
18 years old as it appears under Raise the
Age.

How many -- do you know the number or
how prevalent it is where those that are
under 16 -- under 18 are arrested with a
firearm, a loaded firearm.

PRESIDENT DYMOND: I don't have exact
numbers to present to you today, but I can
tell you that much like gangs did 10 or 15
years ago with drugs, where they had the
younger crowd hold for them for the lesser
penalty, we're seeing the same pattern in
urban areas now where younger members of
gangs are carrying the guns, holding the
guns, because they are inevitably going to
Family Court, which is just not really the
solution for the problems we're having.

ASSEMBLYMAN REILLY: I know under
Raise the Age now, currently, that if they're
in possession of a firearm and they display
it, there's a possibility they can go to
Youth Part Criminal if there's extenuating
circumstances and the judge accepts it from
the DA.

I actually introduced legislation that
would require a loaded firearm, mere
possession by a 16- or 17-year-old, make that
qualification. I'm hoping that we'll be able
to make that happen, because I think that's
something you nailed there on the head with
gangs using these underage kids to hold the
firearms.

Do you think that's something that you
guys could support? And hopefully we can get
the DAs Association on board as well.

PRESIDENT DYMOND: Yes, we would
absolutely support that. I think it's
important that everyone listening tonight
knows that, you know, there's a small number
of shooters out there. And you -- I'm sure
you know this from your career, there's a
small number in these communities.

But that number can do a lot of damage
if there's no consequences for their actions.

ASSEMBLYMAN REILLY: So in the unit
that you talk about at the state level -- I
know from the NYPD, we have similar units --
we have those that follow shooters that have
participated in multiple trigger-pulls.

    Do you keep that record? And is it
possible that we can expand -- if you have
those records, and of course not publicly --
but to monitor how many are under age 18?

    PRESIDENT DYMOND: We would have to
work on that. Our community stabilization
units, which are very similar to the teams
that New York City is about to roll out,
under Mayor Adams' plan yesterday, they
target our violent areas, areas that are
seeing a spike in shootings.

    So we could track that, but that's
something to definitely look into so we can
take some of these more prevalent shooters
off the street.

    ASSEMBLYMAN REILLY: Thank you, sir.

    PRESIDENT DYMOND: Thank you.

    CHAIRWOMAN KRUEGER: Thank you.

    Senator Jamaal Bailey.

    SENATOR BAILEY: Thank you,

    Madam Chair.
I want to thank you all for your
testimony and, most importantly, for your
service and those that you represent, for
what you do.

Let me say that the door is always
open to discuss justice-related items. As
the chair of the Codes Committee, I welcome
further discussion on what your opinions may
be on these important justice-related
matters -- not necessarily in these three
minutes that we have here, but you should
feel free to reach out to me.

I would love to speak to you in
furtherance of some of the discussions that
Assemblymember Reilly had mentioned in
relation to some of the conversations about
Raise the Age. They can't be appropriately
fleshed out here, but I would hope that we
could have a more in-depth conversation at a
later time.

To Mr. Dymond, I wanted to ask you a
question. In your written testimony, you
spoke about the need for more equipment.
Could you like illuminate a little bit more
about what equipment is required? And it was
said $150,000. How far would that go and how
many investigators would that be able to
assist?

PRESIDENT DYMOND: So the equipment
we're specifying in that is not just the
firearms we're looking to get, it's the
holsters, concealed holsters, and ammunition.
And that would be concealed for the 300,
roughly, working undercovers we have
throughout the state. And they're doing, you
know, not just gang work, they're doing
antiterrorism work. They're in pretty much
every area of the state, from down on
Long Island out to Buffalo and over to
Plattsburgh.

SENATOR BAILEY: Okay. I was just
reviewing the written testimony. I just
wanted to illuminate that.

PRESIDENT DYMOND: Thank you.

SENATOR BAILEY: And to Troy Caupain,
I understand about the inclusion and the
desire be included, and I think that's a
laudable goal that we should all continue to
have for the conversation.

Mr. Powers, we've heard you loud and clear in terms -- well, as loud as we can. I didn't mean that. But thank you for -- but seriously, thank you for sticking with this and thank you for the women and men that you represent and what you do. I truly appreciate you.

And with that being said, I yield the rest of my time.

DIRECTOR CAUPAIN: Appreciate you, Senator.

CHAIRWOMAN KRUEGER: Thank you very much, Senator.

Assemblywoman.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Walczyk.

ASSEMBLYMAN WALCZYK: Gentlemen, to you and your members, thanks for protecting and thanks for serving.

To Mr. Powers, do we have corrections officers in the State of New York who are still paying off student loans?

PRESIDENT POWERS: I would imagine.
ASSEMBLYMAN WALCZYK: What's that going to be like for morale in the facility if the Governor's TAP plan goes through in this budget?

PRESIDENT POWERS: It won't be -- it probably won't be received very well.

ASSEMBLYMAN WALCZYK: I'm just -- I mean, you represent -- I also represent and know personally a bunch of COs, some of them who are still paying for college, some of them who went to the State University of New York and are still paying for college, and they have a job as a correction officer to do so.

And it's just -- it's amazing to me -- I mean, I know the CO talk, right? And there's going to be free college for the -- some of them inmates who they're afraid that will assault them in our facilities. It just -- it blows my mind.

The Secure Vendor Program, what's stopping DOCCS from finally implementing this thing? What do we gotta do?

PRESIDENT POWERS: Pull the trigger.
You know, I mean, we've been talking about this for what, four or five years now. You know, they started a pilot program, it got pulled out from under them. They needed to make some amendments to it. And we haven't seen what that looks like yet.

ASSEMBLYMAN WALCZYK: Was there anything actually wrong with that pilot program?

PRESIDENT POWERS: In our opinion, no. You know. But, you know, there was a lot of politics involved in it and a lot of advocate concerns. And, you know, they shelved it. And I just -- I'm just as curious as you are as to where it is.

ASSEMBLYMAN WALCZYK: Yeah, me too.

If we were to implement the Secure Vendor Program and some of the other recommendations that you put forward -- and I know this has been a challenge in our facilities for a long time -- do you think by doing some of these things we could actually eliminate drugs or in large part eliminate drugs in our facilities?
PRESIDENT POWERS: I think it would significantly reduce the amount of drugs and contraband in our facilities, without question.

ASSEMBLYMAN WALCZYK: Thanks, Mr. Powers.

Mr. Dymond, I notice that vehicle theft has doubled. Nobody's really reported on this thing; it's probably not as interesting to talk about as gun violence every day. But vehicle theft has doubled in the State of New York. Is that something we should be concerned about?

PRESIDENT DYMOND: Yes. I think the vehicle theft in the State of New York, there's so many other violent, more serious crimes that are increasing across the state, that vehicle theft or any type of theft, which you're seeing everywhere, is kind of being pushed to the back.

As sad as that is, that's kind of the situation we're in with triaging the levels of importance by the crimes.

ASSEMBLYMAN WALCZYK: I hear you.
And Chairwoman, just with the remainder of my time, I want to just tell the membership that the Secure Vendor Program in our correctional facilities, this is going to help protect employees, this is going to help protect inmates or incarcerated individuals, those college students that we're concerned about their safety.

This will literally save lives and, for many, is the only way, if we're able to eliminate drugs coming into our facilities, the only way that they're actually going to beat addiction. If we continue to allow these drugs to get into our facilities, nobody is better off. Nobody is safe. The public isn't better off, the individuals aren't more rehabilitated.

The time has come and gone -- we need to put the Secure Vendor Program in now.

PRESIDENT POWERS: Thank you, Assemblyman.

CHAIRWOMAN KRUEGER: I think it's still yours, Assemblywoman.

CHAIRWOMAN WEINSTEIN: We go to
Assemblyman Lawler, followed by Assemblyman Ra.

ASSEMBLYMAN LAWLER: Thank you, Chairwoman.

Mr. Powers, I had the opportunity to tour Sing Sing over the summer, and I just want to commend NYSCOPBA, I toured it with them, along with the superintendent of Sing Sing. And I want to commend NYSCOPBA and your members. They do a professional job, they go to work every day under difficult circumstances. And one of my biggest takeaways from meeting with your members was the concern that they have for their own safety and the safety of their fellow corrections officers.

And I think it is our responsibility to ensure that your members have the resources and support that they need to, first and foremost, ensure the safety of those that are in their care, but themselves, to ensure that they go home at night.

I think the number of attacks and assaults that have occurred in the jails, in
our prisons across the state is outrageous.
I had the chance to visit Rikers in the fall.
And even though that's, you know, New York
City, the concerns were the same, in many
respects heightened, given what has gone on
over in Rikers.

And I think, you know, punitive
segregation is necessary when you're looking
at what has occurred inside the prisons and
the violent attacks that your officers have
faced. And, you know, we will see, as HALT
is fully implemented, the impact that will
have on your members. But I can assure you
that we will not be silent, you know, as that
program is fully implemented and we see the
consequence of it.

So I just want you to know we do
support your efforts and those of your
members. And I also want to just point
something out for you as well as your
colleagues on the panel. I've introduced
legislation so that anyone who participates
in the death of a law enforcement officer,
first responder or corrections officer gets
life in prison without the possibility of parole. And I think there needs to be severe consequences for those who would commit such a crime. And your officers and that of Mr. Dymond and Troy, your officers all deserve our support. And so I just want you to know that. I appreciate your work. I don't really have a question for you, but I wanted you to know that we support you.

PRESIDENT POWERS: I appreciate the words, sir, and --

DIRECTOR CAUPAIN: Thank you.

PRESIDENT POWERS: -- I appreciate the fact that you've gone into the facility, as many legislators should.

And I'll be sure to convey that sentiment to our front line, and we thank you.

ASSEMBLYMAN LAWLER: Absolutely.

CHAIRWOMAN WEINSTEIN: We now go to Assemblyman Ra.

ASSEMBLYMAN RA: Thank you, Chair.

Just for the Police Benevolent Association of New York, Mr. -- I apologize,
Cow-pain, Ca-pain? I'm sorry.

DIRECTOR CAUPAIN: That's fine, sir,
thank you.

ASSEMBLYMAN RA: Sorry, I have a
two-letter last name, so anything longer than
that I have trouble with.

(Laughter.)

ASSEMBLYMAN RA: It was great to hear
that news about a class coming in and
everything. But I'm wondering if you can
just elaborate -- I know -- certainly I share
your concern for transparency in terms of,
you know, what portion of that budget will go
towards officers. But A, you know, my
understanding is that you're down like
50 percent. So what is the number of
officers you need to really be at full
strength?

And then also, you know, how do we
make sure that -- having classes is great,
but what do we need to do to make sure that
those that are going through those academy
classes stay within your ranks and don't --
and we're not just training people for other
DIRECTOR CAUPAIN: Great question, sir. I appreciate those.

DCJS recognizes our tour strength should be statewide, somewhere around 387. And that was several years ago when we submitted a staffing bill -- obviously, the PBA pushed that back in 2014 or '15. But 387 would be a huge number for us to get to, you know, provide the police services across the state with the increased acreage and properties that we're given every year. I know in the Executive Budget the Governor talks about a new park in inner-city Rochester, and those things. So that number would be ideal for us.

Secondly, in order to stop the revolving door, if you will -- again, I'm 22 years on and I've watched 498 members graduate the academy, and our number is 192. Again, over the last seven years we've watched over 150 walk out the door.

So I'd say we need several things from the agency as well as the state. We need to
be competitive. Obviously we work in -- you
know, I'm from Long Island, I work out of
Jones Beach -- I see your Nassau County flag.
you know, we have Suffolk and Nassau, you
know, right beside us. We have a lot of our
members throughout the state that work, you
know, in -- around municipalities where their
benefits are greater, their salaries are
greater, they have opportunities for
promotions and transfers and things like
that. And we address all of those things
within the Park Police.

So first would be the 20-year bill.
That would be huge for our members in order
to obviously give them something to look
forward to after a year -- excuse me, a
career in law enforcement.

We need to have, you know, a
geographic put in place for -- obviously, to
be competitive in the downstate areas. And I
attached the agency's geographic plan that
they submitted back in November of 2019 but
never pushed for that to continue on.

And then thirdly, obviously, again, we
need to be able to increase our base 

salaries, honestly. I mean, we haven't had 
an upgrade since 2001. So again, we're not 
competitive in this world of law enforcement, 
and that's a problem for us.

And those academy classes are going to 
bring a lot of those members downstate, sir, 
and we need to be able to get them back home. 
Because if we don't then, again, they're 
going to walk out the door. So we need to 
have continued classes, we need to offer 
competitive salaries and pension and 
retirement packages, and that will enhance 
our staffing levels -- and it will keep 
people here.

ASSEMBLYMAN RA: Great. Well, thank 
you. Thank you for all you do, you know, not 
just with -- you know, people have -- seek 
outdoor recreation; you guys are keeping 
those facilities safe. And certainly we've 
taken advantage of so many facilities that 
you guys work in, you know, as testing sites 
and vaccine sites over the last couple of 
years. So thank you, sir.
DIRECTOR CAUPAIN: I appreciate you.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

I just have one quick question before I think I close this panel down, for Tim Dymond.

So we heard about shortages of new officers, the new class -- Troy is pointing out real concerns about whether any of them do end up going to and staying in the Park Police division of State Police.

And I asked the head of the State Police earlier today whether there was a real need to have 250 State Troopers in New York City at this time. Not that I don't like running into them in my city, but we also have, I think, 35,000 NYPD members. And I hear from my upstate colleagues that they're frustrated they don't have enough State Police and Park Police.

So I'm just curious, from your perspective, do you think 250 of you should be assigned to New York City at a time?

PRESIDENT DYMOND: I don't know what
the appropriate number is. That is not my skill set.

I can tell you that anywhere you can have New York State Troopers, you want to have them, with the level of professionalism and the way they carry themselves. I know our members do terrific work down there with the DEA, ATF, FBI task force. We offer a very dynamic skill set that's utilized daily down there. So that's where I'll go with that.

CHAIRWOMAN KRUEGER: Thank you very much. And then I want to thank --

DIRECTOR CAUPAIN: Senator, if I can --

CHAIRWOMAN KRUEGER: Yes, please.

DIRECTOR CAUPAIN: If I can address that question just for the Park Police members, we do obviously have state parks within the city -- Riverbank State Park and Roberto Clemente and Gantry and Clay Pits and so many others. And they're acquiring new property, you know, every year.

Unfortunately, our New York City
region, we are woefully down in membership because, again, the members that do sign up and are sent to New York City, most of them are from upstate and then they want to go home. And obviously not having the ability to go home, they leave us.

Another issue that we can -- the Legislature can help us with is the diversifying of our recruitment. Because again, I don't believe the agency is truly taking a really good look at how to recruit New York City and the downstate area, and that's obviously to their detriment and we're losing a lot of members out of the New York City zone.

So I would say we do have a footprint because of the environments that we work in. We just need to be able to recruit in and around those areas so we can keep those members downstate.

CHAIRWOMAN KRUEGER: Well, I want to thank all three of you again for joining us tonight, and we look forward to continuing to work with all of you and your members.
And I'm going to call up the next and last panel --

DIRECTOR CAUPAIN: Thank you, Madam Chair.

PRESIDENT DYMOND: Thank you.

PRESIDENT POWERS: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

DIRECTOR CAUPAIN: Thank you,

Chairwoman Weinstein.

CHAIRWOMAN KRUEGER: We have the District Attorneys Association of New York, Anthony Jordan; We have the New York State Court Clerks Association, Imogene Jones; we have the Center for Judicial Accountability, Elena Sassower.

So in the order that I called you, Anthony Jordan.

DAASNY PRESIDENT JORDAN: Great.

Thank you, Madam Chairwoman. And Chairwoman Weinstein, thank you, and the esteemed members who've persevered today. I saw you start at 9:30, so it's been a long day.

Thanks for the opportunity to speak to you briefly, and I think I would start with
saying that there are some things certainly
in the Executive Budget that are encouraging,
including ITAP and NIBIN. Those are
certainly important initiatives and ones that
we hope continue to be pushed forward.

What I want to touch on, though, is
what this Executive Budget really is lacking.
And I think most importantly, it's lacking
adequate resources to bring about the stated
goals that you all worked so hard and pushed,
beginning really in 2019 and even before, in
terms of criminal justice transformation, for
lack of the better word, and what has
occurred since.

And the budget -- this budget I think,
for one, really grossly underfunds pretrial
services. And that problem, that lack of
funding continues to contribute to a
significant resource gap throughout the
state, and something that ought to be and we
would encourage this body to consider.

But I think most importantly, this
budget continues to ignore the funding needs
and the costs of discovery. We've repeatedly
cautioned, beginning when these discussions were beginning in earnest in 2019, that there were going to be significant costs and significant burdens associated with honoring the spirit of that law and maintaining compliance.

Counties have certainly been advocating that they can't afford the significant costs. And the result of this, I think you're compromising victims, witnesses and ultimately really harming the very communities that you're charged with protecting.

I think I would close -- and then open for any questions, certainly. But if the goal of the changes to discovery was to improve the exchange of information, that is something that the state should step up and fund. And that is something that is lacking in this budget. And we would certainly ask and encourage that this body, both Senate and Assembly, look to add important funding to address those needs.

So thank you very much for giving us
this opportunity, and I'll answer any
questions or let you move on to the next
panelist.

CHAIRWOMAN KRUEGER: Thank you. We'll
take all three of you and then we'll ask
questions. So thank you.

DAASNY PRESIDENT JORDAN: Thank you,
Senator.

CHAIRWOMAN KRUEGER: Thank you.

Imogene Jones.

NYSCCA PRESIDENT JONES: Good evening,
everyone. My name is Imogene V. Jones, and I
have the pleasure of being the president of
the New York State Court Clerks Association.
It's truly an honor to be before this august
body.

The Court Clerks Association is
composed of women and men working for the
Unified Court System in one of 19 supervisory
peace officer titles, including senior court
clerk and going up to deputy chief clerk,
located within the City of New York. With
over 1300 active and well over 1,000 retired
members, the Court Clerks Association is one
of the largest of the 11 employee
associations within the Unified Court System
of the State of New York. Our office is
located in Tribeca, at the core of the Big
Apple.

I've been employed by the New York
State court system for 32 years, and a civil
servant for 38. Today I urge you to look
favorably on the budget bills affecting the
court system. The system is suffering from
years of a starvation budget. The COVID-19
pandemic has wreaked havoc on the entire
court system.

As with many of our society's
institutions, years of neglect, the failure
to maintain infrastructure, and the failure
to cohesively implement modern technology has
made it very difficult for the courts to
deliver service as expected and deserved.

Despite the circumstances throughout
the pandemic, court clerks have done their
jobs. Our foremost challenge has been the
loss of employees. The courts are currently
suffering from unacceptable backlogs because
no one is there to do the work. Please remember, as we prioritize cases involving life and death, justice delayed is justice denied.

In 2020 our membership was just under 1600 members, and as of today's date our active members total 1332. In recent years we've had over 1700 members. This incredible loss of personnel, coupled with the salary compression of our titles with those of lower civil service titles, has led to incredibly bad morale. It is long past time for the UCS to reallocate our titles and pay us accordingly.

The basic infrastructure, the courthouses and courtrooms in New York City, are in deplorable condition. The buildings are crumbling, the basements where records are often stored are dank, there is old and broken furniture needing to be replaced. The HVAC systems are wholly inadequate. These buildings are the responsibility of the City of New York. The State of New York should hold the city accountable for these failures
and, if necessary, make the improvements and charge-back the city, the same as the city would do to a homeowner for a dangerous sidewalk condition.

The court system's technology consists of outdated computers, printers, scanners and other equipment. The wifi service, which modern civilization takes for granted, is spotty, slow and inadequate. The video formats for remote hearings, although they are to be secure, are clunky compared to available freeware. Which leads me to comment on the software. Too many applications are incapable of cross-referencing and communicating with each other. An address updated in Family Court should automatically update a record in Criminal Court.

It is probably easy for you to listen to this and think, Well, this is government, what do you expect? I will tell you what I expect. I expect the equipment to do my job. I expect to work in a safe environment. And I expect to be paid for the full value of my
work.

Thank you very much for the opportunity to be heard.

CHAIRWOMAN KRUEGER: Thank you very much.

And then the last person on the panel, Elena Sassower, from Center for Judicial Accountability.

Hmm. Is Elena not with us? Or is she just not --

CJA DIRECTOR SASSOWER: Hi. I'm sorry --

CHAIRWOMAN KRUEGER: Ah, there you are. Okay.

CJA DIRECTOR SASSOWER: Yes. My statement is three minutes. I would ask your indulgence if I go over perhaps a couple of seconds so that I don't have to race through it. Thank you.

I am Elena Sassower, director and cofounder of the nonpartisan, nonprofit citizens' organization Center for Judicial Accountability.

By two citizen taxpayer actions we've
sued New York's three government branches for corrupting the state budget. Each was "thrown," by fraudulent decisions of self-interested judges of the Unified Court System, whose chief administrative judge, Lawrence Marks, was your first witness and was, with them, protected from accountability by the Commission on Judicial Conduct, whose administrator/counsel, Robert Tembeckjian, was your second witness.

Andrew Cuomo may be gone as governor, and Sheldon Silver long gone as Assembly speaker and now dead, but Governor Hochul's Executive Budget, with its included legislative and judiciary budgets, is just as flagrantly unconstitutional and rife with unlawfulness, fraud, and larceny.

Thus far, the Legislature's response has been of the same ilk. Look at how these legislative hearings are being conducted -- not as hearings for each of Governor Hochul's five appropriations bills, plus a revenue bill -- consistent with the constitutional scheme of a rolling budget, enacted bill by
bill. Rather, they are organized by so-called "programmatic areas," with testimony and questioning mostly not about numbers, but about non-fiscal policy, such as Governor Hochul has loaded into so-called Article VII legislation, not bills -- which the Legislature, by fraud, has converted into budget bills, in the Governor's name, including for "public protection."

And the 10 minutes that citizens used to have for their testimony, as recently as 2018, is now three minutes.

Suffice to bullet point that the unconstitutionality, fraud, and larceny of the state budget have been enabled and perpetuated by New York's corrupt "public protection" entities funded in the budget. The Commission on Judicial Conduct is a prime example. Others include the Judiciary's attorney grievance committees, the Judiciary's Inspector General, the Joint Commission on Public Ethics, the Legislative Ethics Commission, and the State Inspector General.
It is not a heavy lift to fix their corruption. Indeed, it does not necessarily require emendation of existing laws -- because, in many respects, the laws establishing them are perfectly fine, even exemplary. Rather, the laws are being violated by those appointed to operate them, such as Mr. Tembeckjian. In other words, the personnel needs to be investigated, prosecuted, and removed. And this is obvious from comparing the laws with how the "public protection" entities have handled complaints filed pursuant thereto.

I look forward to discussing with you the mountain of fully-documented complaints pertaining to the budget that I have filed with all the aforesaid "public protection" entities -- and others. When are you available?

Our website is www.judgewatch.org, and from its prominent center panel entitled "Comparing New York's Legislature Before & After its Fraudulent Pay Raise," you can find the evidentiary substantiation of this
testimony.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

All right, Senator Bailey, I saw your hand up.

SENATOR BAILEY: Thank you, Madam Chair. I thank you all for your indulgence in staying up to the final panel.

DA ASNY PRESIDENT JORDAN: Thank you, Senator.

What we have looked at in terms of ongoing needs are -- you're probably looking statewide at $100 million, is what we're -- best estimates based on technology, human need, storage, training, and then additional staffing for the review, especially -- I think a very important initiative was the implementation of body cameras for State Police.

The consequence of that is they have a
very expansive policy for the length of time
that the cameras are on, which is ultimately
a very good positive, but that means
significantly more visual time to be
reviewing that.

So all of that comes with a benefit
and a cost. So that's roughly the number
we're probably looking at. Some of that
could be trimmed down, I think, if there were
some -- well, I know it could be reduced if
we were able to provide some modification not
in the ultimate delivery of documents, but
the timing within which that had to happen.

So I think there is room to work
for -- without ever compromising the
intention and goal of the changes to
discovery, but try to balance limited
budgets, right, with accomplishing the goal
of making sure defendants have everything
they need to make a balanced and intelligent
decision.

SENATOR BAILEY: Understood,
DA Jordan.

So when you say $100 million, do you
mean $100 million per year, $100 million in totality, or phased over what period of time?

DAASNY PRESIDENT JORDAN: I think that is our initial estimate per year, based on all-in costs to do it right.

But again, I think because that can be -- you know, that is a number that we have been discussing and kicking around. I think until you actually look at where do we end and how do we balance it out -- I think as we've looked at addressing the need for discovery, one of the benefits, and I know it was a problem for the court administration, as they testified earlier, but the shutdown of courts gave us time to get caught up, and that is now gone.

So I think what we're looking at is a significant need for increasing bodies just to push through discovery.

SENATOR BAILEY: And I guess the last question related to -- and having prior conversations, I think that you were there physically at one of the hearings that we had and speaking about the regional differences
in county versus county. Some DA's offices have been updated more recently, for lack of a better term, and some unfortunately are still running on relatively antiquated equipment.

Does that also factor into the $100 million figure? Or is that just the global scale? And I think I've run out of time, sorry.

DAASNY PRESIDENT JORDAN: I think one of the resource gaps we see is the have and the have-nots. And that's something we should always look to address.

But technology is definitely a gap where those that have current technology, it's a little bit easier, because they can be more dynamic in their ability to review things.

So yeah, that's definitely something that we see as a challenge.

SENATOR BAILEY: Okay. And we can follow up at a later time in relation to other things.

I just want to thank you for your
patience and everybody for your patience in
this respect. And thank you --

DAASNY PRESIDENT JORDAN: Please do.

I look forward to working with you, Senator.

SENATOR BAILEY: Thank you, DA Jordan,

Mr. President.

Thank you, Madam Chair.

CHAIRWOMAN KRUEGER: Thank you.

Assemblywoman?

CHAIRWOMAN WEINSTEIN: Assemblyman

Lawler.

ASSEMBLYMAN LAWLER: Thank you,

Madam Chair.

Tony, I hope you're doing well. I'm
sure when you left the Assembly you didn't
envision being back on these budget hearings,
but here you are.

So I just want to address really one,

if you would, concern that I have. And it
really comes down to this. I certainly
believe that district attorneys should have
discretion in the charges that they bring,
based on evidence or lack thereof. But I do
not believe that district attorneys should be
blanketly saying "I will not enforce this law because I don't agree with it." If they don't like the law, they should run for the State Legislature.

I'd like to know what the official position of the District Attorneys Association is with respect to members openly defying the State Legislature and deciding that their judgment is better than that of the members who are elected to set the laws of the State of New York and to blanketly say, We will not enforce laws or to downgrade those laws across the board.

DAASNY PRESIDENT JORDAN: So much like you all, the DAs Association consists of 62 independently elected district attorneys who represent their particular counties. And we're all tasked with delivering criminal justice in the way that we feel best represents our communities.

The association is not in a position to criticize or condemn someone who is, in their mind, reflecting the values and the desires of their county. I'm assuming -- you
know, in this particular instance DA Bragg is new, DA Bragg is attempting to navigate challenging waters. And, you know, what I would suggest is that we all give him time to find where he has hit the right message and is addressing the right problems. And I think we already heard him looking to say, you know, there's things that we need to address.

And so much like in your chamber, you all have different constituents and different needs, and I think that's very similar with the 62 DAs.

ASSEMBLYMAN LAWLER: And there's no question there's different parts of the state. I just think it is deeply concerning when a district attorney who is sworn to uphold all of the laws of the State of New York openly defies those laws and says: I will not enforce them, I will not -- regardless of the evidence, regardless of the facts, regardless of the circumstances, I'm not going to enforce that.

I just think that's deeply troubling.
And I certainly hope within the DAs
Association internally -- you don't have to
share those discussions -- I do hope that
there is some level of pushback against that,
because it's a very dangerous precedent to
set across our state.

CHAIRWOMAN KRUEGER: Thank you.
Senator Brad Hoylman.

SENATOR HOYLMAN: Thank you,
Madam Chair. We've almost made it to the
end, and I can see the finish line. So thank
you to the two chairwomen for this really
robust conversation that we've been having
today.

I just wanted to note that DA Bragg is
not the first district attorney to say that
he won't prosecute certain crimes. There's a
long history of that.

But I wanted to ask a question to our
court clerk representative, Ms. Jones. Thank
you for being here, really appreciate it. I
don't know if you heard, but Judge Marks
earlier today, the first person to testify,
alluded to the fact that the Chief Judge is
going to seek, again, consideration of a
court consolidation proposal.

And I was wondering what your thoughts
about that were, if you've been consulted on
anything up to now, and if your members have
communications you want to share with us.

NYSCCA PRESIDENT JONES: Thank you so
very much, Mr. Hoylman for your question.

No, we have not been consulted in
regards to the consolidation. We've had no
input whatsoever. We would like some.

The problem that we see -- one of the
problems we see is the lack of people to
implement these items.

I want to say -- to Mr. Jordan, I want
to say that you were incorrect to say that
the courts were shut down. Truly, let me say
that myself and my fellow coworkers were
there at the courthouse every day from the
beginning of this pandemic, especially when
you consider talking about criminal court
cases, where there's a time frame and people
must be processed. And so the courts were
open every day in regards to that.
And we have some concerns about the consolidation because of the fact of the lack of manpower that we have. And as I said in my statement, that we're down to 1300 members, and we need way more than that if you want to consolidate a court.

SENATOR HOYLMAN: Thank you very much. Thank you for your service.

And thank you, Chair Krueger.

CHAIRWOMAN KRUEGER: Thank you.

Assemblymember Weinstein.

CHAIRWOMAN WEINSTEIN: Assemblyman Palmesano.

ASSEMBLYMAN PALMESANO: Thank you.

Hey, Tony, it's good to see you. It's been a long time. Hope you're doing well.

My question is around the issue of discovery. When we talk about the bail -- a lot of time -- there's always talk about the bail laws, but the discovery laws come up a lot when we talk about it.

My first question on that issue is have you seen -- have our counties and our DAs had to dismiss cases due to the inability
to comply with the discovery laws and
potentially releasing dangerous individuals
back onto the street, and to what extent?

DAASNY PRESIDENT JORDAN: And if I
could, Assemblyman -- Ms. Jones, I apologize.
I meant not to have suggested that your staff
wasn't coming in, but that the functioning of
processing cases -- or not processing, but
actually moving cases was delayed.

So I apologize, I certainly didn't
mean to imply that you folks weren't coming
in and working, because I certainly know that
you were.

Relative to dismissing of cases --
sorry, Phil -- absolutely. I know there's
been a significant number of cases around the
state that have had to be dismissed because
law enforcement couldn't get the material to
the prosecutor's office timely in order to
then be able to turn over, in compliance with
the requirements of the statute.

And much of that has been well-covered
and well-documented. But hundreds and
hundreds of misdemeanor cases in our city
courts have had to be dismissed by DAs around the state. And that's unfortunate, because that's not justice, that's not being able to fit a widget through a particular-sized hole. And that's not the way -- I don't think that was the goal of the legislation when it was passed, and it's certainly not something that we want to see happen.

ASSEMBLYMAN PALMESANO: Great. Also on the issue on discovery is your timing and your releasing of that information -- you know, when it's released, how early compared to how it used to be. Have these changes in the discovery laws impacted witness and victim cooperation? And if so, how?

DAASNY PRESIDENT JORDAN: It has. I certainly couldn't tell you percentages or the extent. But we do hear on a regular basis concerns from witnesses and victims when we can't assure them that their identities won't be disclosed. We used to be able to control that fact or that part of the process much easier, and now it is dependent
upon a motion in front of a court. And
that's just a different conversation with the
witness or a victim that, well, we'll do our
best to protect your identity for as long as
we can, but -- and once you say the "but,"
depending on the nature of the crime, what
they witnessed, their own sensibilities or
sense of self-confidence is going to dictate
whether or not they cooperate at that point.
And we see it from simple vehicle and
traffic matters to street shootings.

ASSEMBLYMAN PALMESANO: (Muted.)
CHAIRWOMAN WEINSTEIN: Phil, we can't
hear, but the time is up. So I don't know if
that was --

CHAIRWOMAN KRUEGER: Yes, I think
that's -- the time is up.

Senator Tom O'Mara.

SENATOR O'MARA: Thank you. Palmesano
got the hook, huh? For the end of the night.
That's appropriate for Phil. Sorry, Phil.

DA Jordan, Assemblyman, it's great to
see you, be with you. We still miss you in
the Legislature.
I have a couple of follow-up questions on discovery. I think you maybe intimated a bit in some of your initial comments that some changes to some of the timing of the discovery requirements might be helpful in the flow, in the management of your offices, to be able to better handle the discovery.

Could you comment on that?

DAASNY PRESIDENT JORDAN: I think the objective of that would be to try to take the critical pieces of the discovery and get them out as quickly as possible.

But when it comes to the, you know, 13th memo book of the officer directing traffic and those types of items that don't go to the merits of the case, and all of the lab, the background of the lab work, all of the different material that goes with that, those would be the things, if we could find a way to create a staggering of what's due and when it's due.

Also, quite frankly, allow defendants to waive delivery of certain discovery in order to pursue a plea negotiation. Not
allow us to make plea negotiations contingent upon that -- but if they choose to want to move the case along, because there's a lot of value in that, and certainty and understanding, that would be the stuff that we're thinking about.

To give you a sense, when they estimated how much data we would use, the estimate -- what we ultimately did just in the first year, so 2020 -- and that was during -- when crime numbers were down, we were four and a half times the amount of storage that was anticipated based on historical use. Just so you can get a sense of how much is really out there but doesn't really go to the merits of the case in terms of plea discussions.

Certainly trial, all of that should be delivered. And delivered well before trial.

SENATOR O'MARA: I agree. And as a former prosecutor myself, I welcomed a lot of these discovery changes to move things up, just out of basic fairness, because some of stuff was so last-minute being provided.
Now, this is -- these changes have been in effect, you said, really starting in 2020, and we've pretty much been in COVID throughout that entire period, and courts have slowed down in handling cases in jury trials and things like that.

Do you have any sense yet at this point, because of the COVID situation, what the impacts of the discovery and the bail reforms have been on the general disposition of cases? And how much is this going to prolong cases? Or is it going to, you think, force more cases to trial or just have later plea bargain discussions on these?

You know, it's just too early to tell because of COVID and the whole situation that we've had for two years.

DAASNY PRESIDENT JORDAN: COVID --

I'll be quick, Chairwoman. COVID has made it difficult to say with any kind of degree of certainty. But what we are definitely seeing is a significant increase in litigation. Just look at the types of decisions that are being -- or issues that are being litigated.
And the more litigation you have, the longer
the case will be delayed and the longer that
justice is prolonged.

And it's not litigation over merits,
over probable cause, over suppression. It's
litigation over whether did the failure to
provide this memo book constitute bad faith
and the case should be dismissed? And when
you get that type of distraction from judges
being able to manage cases and make important
decisions, that I think is where we would
like to see some guidance.

And certainly when you read the
decisions, that's what these judges are
saying: You know, it would be nice to have
better guidance or clarity as to what this
all means.

SENATOR O'MARA: Thank you.

DAASNY PRESIDENT JORDAN: Thank you,
Tom.

CHAIRWOMAN KRUEGER: Thank you.

Assemblywoman Weinstein.

CHAIRWOMAN WEINSTEIN: Yes, we go to
Assemblyman Ra.
ASSEMBLYMAN RA: Thank you, Chair.

Tony, good to see you. But I have a question actually for Ms. Jones.

Earlier we discussed somewhat with Chief Administrative Judge Marks regarding the adequacy of funding within OCA for -- you know, we have the new judges that were added last year, and obviously funding for adequate staff is important. And you did talk about, you know, funding being needed to get rid of the backlogs that we now have.

I was wondering if you can address what you're seeing with regard to that.

NYSCCA PRESIDENT JONES: Well, we have mounds and mounds of work that is backing up and less equipment to do it. It seems that they want us to do more with less. And we have less staffing.

As I said, the equipments are outdated. You know, we don't -- the state does not buy top-of-the-line equipment on anything, as we all know. So it's already two years behind, usually, when they purchase it in the first place.
And so it's just difficult. And with lack of -- our members leaving, resigning or retiring because of whatever reasons, attrition, that it's just less people there to get the work done. Hiring more judges, but you don't have clerks to cover judges. You have judges who are sitting in chambers because there's no clerk to cover their parts.

So it's very difficult to correct backlog when you don't -- are not given all the efficient equipment and personnel that you need to get it done.

ASSEMBLYMAN RA: Thank you.

Just quickly with my remaining time, Tony, I wanted to bring up -- there was that decision back in the fall regarding the requirement of, you know, potentially turning over information about crime victims and the ability to visit the scene of a crime -- in particular, a person's home. And I know the DAs Association had kind of weighed in with regard to that.

I'm just wondering your thoughts as to
whether that provision, you know, has caused fear for crime victims in reporting crimes, especially when it's their home that's, you know, the setting of a crime.

DAASNY PRESIDENT JORDAN: Well, if it's -- I don't know whether it's caused fear about reporting a crime, because typically it's going to be in the instance of a violent crime, a home invasion, which is -- you know, causes lifetime damage. It's the anxiety and angst of the victim when they find out that that motion is pending. Right? That now this person wants to come back, and all of the uncertainty.

One of the challenges, what will be interesting is to see how the Appellate Divisions work all of this out in the coming years if that provision isn't stricken. Certainly that decision was a very powerful statement as to the damage that such a provision can cause, but that's something that we'll just have to continue to monitor.

ASSEMBLYMAN RA: Thanks.

CHAIRWOMAN KRUEGER: Thank you.
All right, to close us out for this hearing, Senator Sue Serino.

SENATOR SERINO: Thank you, Chairwoman. I know it's been a long day, and I appreciate both you and Assemblymember -- Chairman Weinstein.

First I just want to say to Imogene that I know that our court clerks play such a critical role, and I really appreciate everything that you do, so thank you so much.

And for DA Jordan, Senator O'Mara and Assemblyman Palmesano asked a few of the questions that I had, but I just have one more with regard to the discovery reforms that went into effect in 2020 had really increased the amount of materials that are required to be turned over while significantly decreasing the amount of time the prosecutors have to turn over those materials. Right?

So I hear from my DAs in my area about these challenges, and I know that the funding that you're seeking is not only reasonable but necessary to ensure that you can comply
and still effectively seek justice for the
victims.

But can you describe some of the
logistical challenges that these reforms have
posed for the district attorneys' offices?
Kind of to give folks an idea of the human
impact that these changes have had.

DAASNY PRESIDENT JORDAN: It glitched.
I think you said "technical challenges,"
Senator?

SENATOR SERINO: Some of the
logistical challenges.

DAASNY PRESIDENT JORDAN: Logistical,
okay. Sure.

Well, some of the things that
Ms. Jones was saying about technology within
the court clerks' offices are very real
problems that we have to face. We have law
enforcement agencies around the state that
some are still using some version of DOS, I
think, in terms of their computer system, and
they have to find a way to get us the
material.

And so what we've had to do is we've
taken hundreds of police agencies that all
use different software programs, have
different technology, and we have to find a
way to have them get all of their information
to us. And then once we have it, this is
where -- you know, so some of it is
technology, but then this information all has
to be reviewed by human eyes because you want
to make sure that confidential information
isn't inadvertently disclosed. A
grandmother's Social Security number. The
phone number for -- you know, a home phone
number for the victim of a crime.

So those are all things that have to
be reviewed. And all of that within, you
know, 20 days, has to come in, be reviewed
and pushed out the door. And there was some
lengthening of that, I think, to 35 days,
30 days. But we've always tried to stick
with the shorter turn-around to get all of
that in. And it's very difficult, especially
with cases that are crimes in progress where
the police have to make the arrest for public
safety, but then the investigation is
ongoing. So you have that constant pull and tug.

And this is happening hundreds of times a day in larger counties and dozens of times a day in our office, which is a smaller office and with fewer people. So I think it's that -- trying to find that balance. Oh, by the way, we have to get the local court, we have to cover hearings, we have to cover trials, we have to meet with victims, et cetera. And I think that's where the staffing needs to really come in and -- to address that challenge.

CHAIRWOMAN KRUEGER: Thank you very much for your answers.

And with that, I am going to officially close the Public Protection hearing of 2022. I want to thank my friend and partner in government, Helene Weinstein, from the Assembly Ways and Means Committee.

And you'll be excited to know, in case you really don't know what else to do past a few hours from now, you can come right back for the Education hearing, starting at 9:30
in the morning.

I want to thank all of our panelists today throughout the day. I want to thank all my colleagues, from both houses, both parties, who sat through a 13-hour hearing. And this is just the first of 13 of them.

So with that, I wish everyone a safe home and we'll all -- many of us will be back here at 9:30 in the morning.

Thank you very much, everyone. Good night.

CHAIRWOMAN WEINSTEIN: Thank you, Liz. Ditto.

NYSCCA PRESIDENT JONES: Thank you, and good night, everyone.

(Whereupon, at 10:29 p.m., the budget hearing concluded.)